STATUTORY INSTRUMENTS

1976 No. 1170

COUNTER-INFLATION

The Counter-Inflation (Price Code) Order 1976

Made - - - -	*26th July* 1976
Laid before Parliament	*29th July* 1976
Coming into Operation	*1st August* 1976

The Secretary of State in exercise of the powers conferred by section 2 of the Counter-Inflation Act 1973(**a**) as amended(**b**) and by section 3 of the Remuneration, Charges and Grants Act 1975(**c**) and of all other powers enabling her in that behalf, and having consulted the Price Commission and representatives of consumers, persons experienced in the supply of goods or services, employers and employees and other persons in accordance with subsection (4) of the said section 2, hereby makes the following Order:—

1.—(1) This Order may be cited as the Counter-Inflation (Price Code) Order 1976 and shall come into operation on 1st August 1976.

(2) The Interpretation Act 1889(**d**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 38 of that Act this Order were an Act of Parliament and the Orders revoked by Article 3 of this Order were Acts of Parliament thereby repealed.

2. The Price Code prepared by the Secretary of State and set out in Schedule 1 to this Order shall be the code for the purposes of the Counter-Inflation Act 1973.

3.—(1) Subject to paragraphs (2) and (3) below, the orders set out in Schedule 2 to this Order are hereby revoked.

(2) Where notice of an increase in a price or charge given to the Price Commission under the Counter-Inflation (Notification of Increases in Prices and Charges) (No. 2) Order 1974(**e**) as varied(**f**) and received at the offices of the Commission before the date when this Order comes into operation falls to be considered by the Commission on or after that date, the Commission shall, in considering the increase, have regard to the code set out in the Schedule to the Counter-Inflation (Price Code) Order 1974(**g**) as varied(**h**) as if this Order had not been made.

(**a**) 1973 c. 9.
(**b**) S.I. 1974/1218 (1974 II, p. 4631).
(**c**) 1975 c. 57.
(**d**) 1889 c. 63.
(**e**) S.I. 1974/2114 (1974 III, p. 8291).
(**f**) S.I. 1975/1294, 1583, 1947, 2208; 1976/73, 496 (1975 II, p. 4403; III, pp. 5473, 7240, 8308; 1976 I, pp. 253, 1463).
(**g**) S.I. 1974/2113 (1974 III, p. 8253).
(**h**) See orders listed in Schedule 2.

(3) Where, in relation to any product, a certificate has been given by the Secretary of State under paragraph 83 of the code set out in the Schedule to the Counter-Inflation (Price Code) Order 1974 (as inserted by the Counter-Inflation (Price Code) (Amendment) Order 1975(**a**)) and is in force when this Order comes into operation, that certificate shall continue to have effect for so long as it remains in force as if it were given under paragraph 103 of the Code set out in the Schedule to this Order and as if references therein to any provision of the first-mentioned code were references to the corresponding provision of the Code set out in Schedule 1 to this Order.

Shirley Williams,
Secretary of State
for Prices and Consumer Protection.

26th July 1976.

(**a**) S.I. 1975/864 (1975 II, p. 3072).

(Article 2)

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THE PRICE CODE

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Purpose

Purpose of the Code

1. The Code has a dual purpose. First, the Price Commission are required to exercise their functions so as to ensure that it is implemented. Secondly, all those concerned with the determination of prices and charges should have regard to it.

Who is concerned with the Code?

2. The Code is therefore addressed both to the Commission and to all those concerned with price and charge determination.

Principles

General principles

3. The general principles are—

(*a*) to limit the extent to which prices may be increased on account of increased costs, and to secure reductions as a result of reduced costs;

(*b*) to reinforce the control of prices by a control on profit margins while safeguarding and encouraging investment;

(*c*) to reinforce the effects of competition, and to secure its full benefits in the general level of prices.

Scope

Scope of control

4. With the exceptions specified in paragraphs 5 to 11 below the prices of goods and services supplied to the United Kingdom home market are within the scope of the control.

Exports to be outside control

5. The prices of goods and services exported (whether directly or through an agent or merchant) are not controlled.

Domestic sales

6. The following are not controlled—

(*a*) prices paid on first sale into the United Kingdom of imported goods and services;

(*b*) prices of goods and services where the application of the control would be inconsistent with an international agreement or arrangement between states or organisations of states;

(*c*) prices at sales by auction, where such sales are a normal practice in the particular trade;

(*d*) prices of goods at the point of sale on a commodity market in the United Kingdom such as the London Metal Exchange or prices directly determined by reference to such markets;

(*e*) prices of second-hand goods (other than second-hand road vehicles sold by distributors);

(*f*) charges for—

(i) the carriage of goods or passengers on international journeys;

(ii) the carriage of goods or passengers on other journeys by sea, excluding charges which are determined by a tariff of general application;

(iii) air navigation relating wholly or mainly to international traffic, and the provision of landing and related facilities for aircraft;

(iv) harbour operations within the harbour area (other than charges mentioned in head (v) below) made by a harbour authority within the meaning of the Harbours Act 1964(**a**) and relating wholly or mainly to international traffic;

(v) ship, passenger and goods dues in relation to which an objection may be made to the National Ports Council under section 31 of that Act; and

(vi) international mail, giro, remittance and telecommunications services.

(*g*) charges for package holidays taken outside the United Kingdom;

(*h*) prices of ethical medicines supplied to the United Kingdom market to the extent that regulation of their prices is within the scope of any agreement relating to those prices made between the Secretary of State for Social Services and representatives of manufacturers of those medicines; but only so long as such an agreement is in force;

(*i*) prices in Government contracts for warlike and other stores and services which are within the agreement between Her Majesty's Government and industry governing the pricing of, and control of profit from, non-competitive contracts; these prices will be subject to the controls provided in that agreement;

(*j*) insurance premiums, which are subject to restriction by the Secretary of State for Trade;

(*k*) taxi fares, where subject to control by the Home Secretary or the Secretary of State for Scotland;

(*l*) charges payable to returning officers in connection with Parliamentary elections, determined under the Representation of the People Act 1949(**b**);

(*m*) prices determined by a statutory body which, as a result of an order made under section 8 of the Counter-Inflation Act 1973(**c**), is required to apply the Code to the determination of those prices;

(*n*) subscriptions and certain prices charged by non-profit-making organisations as in paragraphs 150 to 152;

(*o*) charges being payments in respect of services provided under or pursuant to Part IV of the National Health Service Act 1946(**d**) or Part IV of the National Health Service (Scotland) Act 1947(**e**) to persons providing such services;

(*p*) charges for services to the Post Office by sub-postmasters;

(*q*) prices for the sale of tops of wool and other fine animal hair.

(**a**) 1964 c. 40.
(**b**) 1949 c. 68.
(**c**) 1973 c. 9.
(**d**) 1946 c. 81.
(**e**) 1947 c. 27.

Food

7. The prices of manufactured food and drink, like those of manufactured products generally, are within the scope of the control as are those of semi-processed foodstuffs such as butter, cheese and quick-frozen vegetables.

Agriculture

8.—(1) The prices paid to United Kingdom producers or producers' organisations or to overseas suppliers for fresh foods and similar products, which are subject to fluctuations on world and United Kingdom markets because of seasonal factors or changes in the relationship between supply and demand, are not controlled. This applies in particular to meat, including bacon and poultry, fish, eggs, fruit and vegetables. However, enterprises which resell these products, whether home-produced or imported, at any subsequent stage will be subject to control.

(2) The price for the sale of raw beet sugar for further refining is not controlled.

(3) The price for the sale of whole hams in cans is not controlled.

Milk for liquid consumption

9. The retail price of milk for liquid consumption and the margins of milk distributors will continue to be subject to the existing controls by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Scotland. So long as these controls apply, the price of milk for liquid consumption and distributors' margins on milk for liquid consumption will not be subject to the Code.

Milk for manufacture

10. The prices for milk for manufacture of products for sale in the United Kingdom will, however, be subject to the following requirements. Except where a Milk Marketing Board incurs additional allowable cost increases in marketing milk:

(*a*) the price for the sale of milk for the manufacture of butter and skimmed milk powder may not be increased above the level prevailing at 30th April 1973 (adjusted as necessary to reflect later changes in the intervention prices); and

(*b*) the price for the sale of milk for the manufacture of other products may not be increased above the sum of the maximum price permissible under sub-paragraph (*a*) above and half the sum of:

(i) the average premium received by the Board in respect of the product concerned in the year ending 30th April 1973 over the price of milk; and

(ii) an amount found by applying to the maximum price permissible under sub-paragraph (*a*) above the percentage which the average premium referred to in (i) above bears to the price of milk;

being, in either case, the price of the milk for the manufacture of butter and skimmed milk powder in the year ending 30th April 1973.

Other animal and vegetable products

11. What is said in paragraph 8(1) in relation to prices paid for fresh foods applies also to prices of other primary products of animal or vegetable origin which are subject to similar fluctuations.

Charges

12. References in the Code to prices include references to charges, unless there is explicit provision to the contrary.

Goods and services

13. References in the Code to goods or products include references to services, unless there is explicit provision to the contrary.

Definition of "the 1974 Code"

14. In the Code, "the 1974 Code" means the code set out in the Counter-Inflation (Price Code) Order 1974(a) as amended from time to time.

Definition of enterprise

15. With the exceptions described in paragraph 16, for the purposes of the Code an enterprise means either an enterprise as a whole or a separate constituent company or sub-division provided that in the latter case separate accounts for such sub-divisions—

(*a*) are or can be made available for all relevant periods,

(*b*) are not materially distorted by transactions conducted otherwise than on arm's length terms, and

(*c*) would, if combined with one another and with the accounts of all other activities or transactions of the enterprise, produce results consistent with those shown by the accounts of the enterprise taken as a whole.

Application of definition of enterprise

16. The definition in paragraph 15 does not apply where the unit for net profit margin control as defined in paragraphs 84 and 85 is the relevant one. Accordingly the definition in paragraph 15 does not apply in paragraphs 48, 50, 76, 80 to 100, 102 and 104; or, where they deal with net profit margins, in paragraphs 25, 52, 65, 101, 103, 109, 114 and 115; or in other paragraphs which refer to these.

Co-operatives, etc.

17. A reference to an enterprise includes a reference to a co-operative, a partnership or to an individual carrying on a business.

Mixed enterprises

18.—(1) Where the activities of an enterprise are not confined to manufacturing, distribution, or the provision of services, but include more than one of these, each of these activities must be treated separately for the purposes of allowable cost increases and gross percentage margins unless separate accounts satisfying paragraph 15 cannot be made available for each of them. Where these activities are not treated separately, the main activity of the enterprise will determine whether the provisions of the Code relating to manufacturing, distribution or services apply.

(2) For the purposes of this paragraph, the carrying on of manufacturing activities and the provision of services may be treated as a single activity.

(a) See Schedule 2.

Interest

19.—(1) Except where an enterprise as a whole within the meaning of paragraph 85 elects under sub-paragraph (2), interest shall be taken into account in determining total costs and allowable cost increases and for the purposes of the net profit margin control, except interest which—

(*a*) represents a distribution of profits rather than a true interest charge, or

(*b*) arises on loans between related undertakings which are not strictly required for the business or the interest on which is in excess of that which would be charged in a transaction at arm's length, or

(*c*) represents interest which would properly be regarded as capital expenditure in the period in which it is incurred, or

(*d*) relates to the acquisition after 29th April 1973 of a new member in a group of companies;

and sub-paragraphs (3) to (5) shall not apply.

(2) An enterprise, other than an enterprise within paragraphs 119, 130, 131 or 133 to 140, may elect to apply the following provisions of this paragraph in place of sub-paragraph (1), and such election—

(*a*) shall be irrevocable,

(*b*) shall apply to all units of the enterprise, and

(*c*) shall be exercised, in the case of an enterprise required by an order under section 15 of the Counter-Inflation Act 1973 to furnish periodical returns to the Commission, not later than the date when it first furnishes such a return after 30th September 1976, and, in any case, not later than 31st December 1976.

(3) Subject to sub-paragraphs (4) and (5), interest shall not be taken into account for any purposes of any provision of the Code without prejudice to paragraph 149(2).

(4) For the purposes of paragraphs 49, 80(2), 94(1)(*b*) and (2)(*b*) and 114, interest, other than interest such as is mentioned in heads (*a*) to (*d*) of sub-paragraph (1) above, shall be taken into account in determining total costs, allowable cost increases and net profit margins.

(5) The reference level determined under paragraph 80(2) shall be adjusted by the addition or subtraction, as the case may require, of the percentage which interest relating to trading operations within the control for the latest complete year of account bears to turnover for the same period.

PART II

COSTS AND PRICES

Prices to be increased only if total costs increase

20.—(1) Prices which are within the control may not be increased unless there is an increase in total costs per unit of output.

(2) For the purposes of the Code, "total costs" means all costs including depreciation and all other costs except:

(*a*) disbursements or expenses not wholly and exclusively laid out or expended for the purposes of the business;

(*b*) any capital withdrawn from or any sum employed or intended to be employed as capital in the business;

(*c*) save as provided by paragraph 19, interest; and

(*d*) additional payments in accordance with section 26 (which relates to rental payments by television programme contractors to the Independent Broadcasting Authority) of the Independent Broadcasting Authority Act 1973(**a**) (as substituted by section 1 of the Independent Broadcasting Authority Act 1974(**b**)).

Temporary employment subsidy and regional employment premium etc.

21. In any calculation under the Code in relation to any period since the date of the last price increase before 1st August 1976 no account shall be taken of—

(*a*) grant made pursuant to arrangements under section 5(1) of the Employment and Training Act 1973(**c**) as amended(**d**); and

(*b*) payments made under section 26(1) of the Finance Act 1967(**e**) as amended(**f**).

Assistance under the Highlands and Islands Shipping Services Act 1960

22. In the application of the Code to any enterprise being a person to whom an advance by way of grant is made under the Highlands and Islands Shipping Services Act 1960(**g**), no account shall be taken of any such grant.

Only allowable cost increases to be taken into account

23. Where there is an increase in total costs per unit, only those increases defined in the Code as "allowable cost increases" may be taken into account in arriving at the permitted price increase.

Food subsidies included in price

24. A subsidy received or to be received by an enterprise on any food under section 1 of the Prices Act 1974(**h**) shall for all the purposes of this Code be treated as part of the price received by the enterprise for that food or for any product of which that food is an ingredient.

Price reductions

25.—(1) Prices should be reduced whenever possible. Subject to paragraphs 29, 30 and 53(3), where there is a net reduction in allowable costs per unit of output, prices should be reduced by an amount equal to any percentage reduction in allowable costs calculated in a similar manner to that prescribed for calculation of permitted price increases under paragraph 28. Reductions are, however, not required to exceed the percentage fall in total costs per unit of output. In addition prices should be reduced as required in paragraphs 83 and 115 where, in the case of a distributor, its gross percentage margin, and, in the case of any enterprise, its profit margin reference level is exceeded, or is likely to be exceeded.

(2) A reduction in a price permitted under the 1974 Code before 1st August 1976 need not be made under this paragraph by reason that under the Code—

(*a*) any interest is left out of account for the purposes of determining total costs or allowable cost increases; or

(*b*) the additional payments mentioned in paragraph 20(2)(*d*) are not included in total costs.

(**a**) 1973 c. 19.
(**b**) 1974 c. 16.
(**c**) 1973 c. 50.
(**d**) See 1975 c. 71.
(**e**) 1967 c. 54.
(**f**) See 1972 c. 41.
(**g**) 1960 c. 31.
(**h**) 1974 c. 24.

(3) In a case where an enterprise applies paragraph 49 or 51 in relation to the price of any product, sub-paragraph (1) above shall have effect in relation to that price as if for the references therein to allowable costs there were substituted references to total costs.

Base date

26. The starting point for the calculation of permitted price increases is the level of costs per unit of output at 30th April 1973. In calculating permitted price increases, cost increases first incurred after 30th April 1973 may be taken into account. Where the price of a particular product or of a range of related products has not been increased since 30th September 1972, that date may, at the option of the enterprise, be substituted for 30th April 1973 in paragraphs 28 and 40 below. However, except as in paragraph 27, the permitted price increase may not include any element of retrospective recovery of costs incurred before the date on which the price increase takes effect.

Retrospective recovery of costs

27.—(1) A permitted price increase may include recovery in cash terms of cost increases first incurred at any time between 1st January 1975 and the date of the permitted price increase provided that:

(*a*) the amount included for such costs is such as to recover the costs over a period of not less than six months beginning with the date of implementation of the permitted price increase;

(*b*) the costs were allowable cost increases under the provisions of the code in force at the time they were incurred, a deduction being made for any productivity deduction required by that Code in respect of any costs incurred before the date of the last price increase before 1st August 1976; and

(*c*) in the calculation of any subsequent price increase under the Code, the "selling price" referred to in paragraph 28(1)(*c*) should exclude any element which represents a recovery of costs under this paragraph.

(2) An enterprise may take full account of cost increases which have not been fully recovered before the date of the price increase under this paragraph.

Calculation of permitted price increase

28.—(1) The maximum permitted price increase should be arrived at as follows:

(*a*) calculate the change in total costs per unit and allowable cost increases per unit between the base date and the date of the price increase; any productivity deduction required to have been made in relation to any previous price increase by the Code in operation at the date of that increase must be deducted, and cost increases which have already been reflected in prices should be excluded;

(*b*) express allowable cost increases per unit as a percentage of total costs per unit at the base date;

(*c*) apply the resulting percentage to the selling price at the base date and add the result to the current selling price in order to establish the new permitted price level.

(2) Where at any date after 1st August 1976 an enterprise implements part only of a permitted price increase, nothing in this paragraph shall prevent the enterprise from implementing the balance of the increase, or part of the balance,

at a later date or dates so that the sum of the amounts of the increases so implemented is equal to the amount of the maximum permitted price increase if that increase had been implemented in full at the first-mentioned date.

(3) In this paragraph, "base date" means 30th April 1973, or, at the option of the enterprise, the date of any subsequent price increase.

Savings in fuel costs

29. In determining changes in total costs and allowable cost increases in relation to fuel and power within head (iv) of paragraph 40(1)(*b*), there shall be left out of account any reduction in cost per unit since the date of the last price increase before 1st August 1976.

Products of which sales have increased

30. In determining changes in total costs and allowable cost increases in relation to items within heads (ii), (v) to (viii) and (x) to (xiii) of paragraph 40(1)(*b*), no account shall be taken of half the increase in volume of output (or volume of sales, where costs per £ of sales value are used in place of a volume measure under paragraph 34) since the date of the last price increase before 1st August 1976.

Application of paragraphs 29, 30 and 53(3) to ranges of products

31. Paragraphs 29, 30 and 53(3) each has effect in relation to a range of products within the meaning of paragraph 34 as it has effect in relation to a single product; and a product shall not be treated as a single product for the purposes of any of those paragraphs if it has normally been treated as one of a range of related products for the calculation of permitted price increases since 30th April 1973.

Calculation of costs

32. Calculation of the level of costs per unit referred to in paragraph 28(1)(*a*) should be based on the levels of pay and other costs ruling at the base date and on the level of output over recent representative periods completed by that date (e.g. the previous quarter) for which adequate records are available. Similarly the calculation of costs per unit at the date of the price increase may take account, in accordance with the normal practice of the enterprise, of increases in raw material prices and other allowable cost increases up to the date of the price increase and should reflect the output level achieved in recent representative periods (e.g. the quarter preceding the date of the price increase). Where calculations under this paragraph are made by reference to dates after 31st July 1976, paragraphs 29, 30 and 53(3) apply.

Provisions supplemental to paragraph 32

33. The levels of unit costs calculated in this way will not necessarily be the same as the average figures recorded for the whole of the period chosen, e.g. if pay or other costs changed during the period. If output in the period was materially affected by abnormal factors such as holidays, an appropriate adjustment should be made. If this is impossible, the previous normal operating period should be chosen with appropriate adjustments to allow for changes in the level of pay or other costs.

Costs of related products

34. Where price increases are being made not on a single product but on a range of related products (under paragraphs 61 and 62) the procedure in paragraphs 28 to 33 still applies. But in this case the group of related products should be considered as a single product; the costs per unit can be expressed either as costs per unit of volume of output or if a volume measure is impracticable as costs per £ of sales value. Where the calculated permitted percentage price increase is not applied uniformly to the whole range of products, the weighted average percentage price increase made on the selling prices of the products within the group may not exceed this percentage.

Indirect taxes

35.—(1) Where after 25th March 1974 an indirect tax has been increased an addition not exceeding the cash amount of the increase borne by the vendor may be made to the prices permitted by other provisions of the Code for goods bearing the increased tax. Where an indirect tax is reduced the reduction must be fully reflected in prices.

(2) This paragraph applies also to the effects of changes in the coverage of indirect taxes.

(3) In calculating maximum permitted price increases after 25th March 1974, the figures for total costs per unit and the selling price at the base date must exclude any additions or reductions under this paragraph.

(4) VAT is not regarded as part of the price for calculating prices and price increases for manufacturing and service enterprises, and this paragraph does not affect the treatment of VAT for this purpose.

Frequency of price increases

36. The price of a product to which the provisions on allowable cost increases apply may not be increased within three months or, at the option of the enterprise, within 13 weeks of its last increase, unless—

(*a*) the price increase permitted by the Code is at least 10 per cent; or

(*b*) the costs of materials, fuel and power in the product account for at least 75 per cent of total costs at the time of the price increase; or

(*c*) the price increase permitted by the Code is at least 5 per cent and the costs of materials, fuel and power account for at least 50 per cent of total costs at the time of the price increase; or

(*d*) the price increase is permitted under paragraphs 49 to 51 (safeguards), paragraph 77(2) (special offers), paragraph 94 (low profits), paragraphs 98, 101 or 102 (investment), or paragraph 103 (shortages etc.); or

(*e*) the last price increase was an increase under paragraph 138 of the 1974 Code or under paragraph 64.

Provision supplemental to paragraph 36

37. In applying paragraph 36 price increases under paragraph 35 attributable solely to increases in indirect taxes should be disregarded.

Transitional provisions

38.—(1) Where an increase in a price or charge was implemented while the Code set out in the Counter-Inflation (Price and Pay Code) Order 1973(**a**) or the Code set out in the Counter-Inflation (Price and Pay Code) (No. 2) Order 1973(**b**) as amended(**c**) or the 1974 Code was in force and was not permissible under whichever of those Codes was for the time being in force, the price or charge in question should be reduced to the level that would have been permitted under the appropriate Code and this lower price should then be taken as the "selling price at the base date" in calculating any price increase permitted under paragraph 28 of this Code on account of subsequent cost increases.

(2) In the case of an increase of which notice was required to be given under the Counter-Inflation (Notification of Increases in Prices and Charges) (No. 2) Order 1974(**d**) as amended(**e**), references in paragraphs 21, 27, 29, 30, 53 and 55 to the last price increase before 1st August 1976 shall include references to the last price increase before 29th August 1976.

(3) Where in any particular case an increase in a price or charge was impermissible under the Code in force at the time, the revocation of that Code does not of itself make the increase permissible.

(4) Sub-paragraph (3) shall not operate so as to require the repayment of any sum paid before 1st August 1976.

Products affected by Price Check Scheme

39. Where, under paragraphs 138 to 141 of the 1974 Code, an enterprise has implemented an increased price in respect of any transferred revenue product (as defined in the said paragraph 141) the enterprise shall not later than six months after the increased price was implemented—

(*a*) reduce the price of that product by the amount of any increase under sub-paragraph (2)(*a*) of the said paragraph 138, and

(*b*) cease to treat the gross percentage margin in respect of its distribution activities as increased by an amount referred to in sub-paragraph (2)(*b*) of that paragraph;

and may, notwithstanding paragraph 36 (frequency of price increases), increase the price of that product and of any corresponding restricted price product (as so defined) by an amount permitted under the Code.

Allowable cost increases

40.—(1) Subject to the following paragraphs, a cost increase may be regarded as an allowable cost increase for the purpose of paragraph 23 if—

(*a*) it was first incurred after 30th April 1973;

(*b*) it was incurred for one of the following:

(i) labour, other than for an item specified in sub-paragraph (3);

(ii) labour, for an item specified in sub-paragraph (3);

(iii) materials, components, consumable stores and supplies;

(**a**) S.I. 1973/658 (1973 I, p. 2106).
(**b**) S.I. 1973/1785 (1973 III, p. 5445).
(**c**) S.I. 1974/661, 785 (1974 I, p. 2632, II, p. 3033).
(**d**) S.I. 1974/2114 (1974 III, p. 8291).
(**e**) S.I. 1975/1294, 1583, 1747, 2208; 1976/73, 496 (1975 II, p. 4403; III, pp. 5473, 7240, 8308; 1976 I, pp. 253, 1463).

(iv) fuel and power;

(v) rent of premises, payment for licences over or in respect of land;

(vi) rates;

(vii) depreciation;

(viii) certain bought-in services, not of a capital nature, that is; transport, hire of equipment, insurance, storage, postage, maintenance, telephone and engineering services, research and development, security services, computer services, editorial contributions, waste disposal services;

(ix) commission processing and other subcontracted operations on materials or components incorporated into the product;

(x) fees for professional services, payments by the Post Office to sub-postmasters;

(xi) royalties;

(xii) duty chargeable under the Vehicles (Excise) Act 1971(**a**) after 15th April 1975; and

(xiii) interest within paragraph 19(1), where an election has not been made under paragraph 19(2); and

(*c*) any corresponding reduction in cost since 30th April 1973 is deducted.

(2) Sub-paragraph (1) does not apply to cost increases if they were first incurred before 1st November 1974 for—

payment for licences over or in respect of land; bought-in research and development, computer services, security services, editorial contributions and waste disposal services; and items referred to in sub-paragraph (1)(*b*)(x) and (xi).

(3) The items referred to in sub-paragraph (1)(*b*)(ii) are—

(*a*) employers' national insurance contributions;

(*b*) training costs;

(*c*) the cost of improvements in respect of progress towards the achievement of the requirements of the Equal Pay Act 1970(**b**);

(*d*) the cost of improvements to meet the purposes of section 8 of the Terms and Conditions of Employment Act 1959(**c**), the Road Haulage Wages Act 1938(**d**) and similar legislation, and the Fair Wages Resolution of 1946;

(*e*) new or improved benefits under occupational pension or death benefit schemes which are tax approved, or under comparable schemes not requiring tax approval, any deficiency payments to such schemes, and any reimbursement of a corresponding increase in employee contributions. However, where a change in a pension scheme has the effect of increasing the pay, net of any pension contribution, of a substantial proportion of the group of employees covered by the scheme, that increase shall be treated as a labour cost increase under sub-paragraph (1)(*b*)(i) unless—

(i) a revaluation of the scheme, made in accordance with generally accepted principles for such revaluations, has shown a surplus in respect of those receiving the increase, the value of which equals or exceeds the increase; or

(**a**) 1971 c. 10. (**b**) 1970 c. 41. (**c**) 1959 c. 26. (**d**) 1938 c.44.

(ii) there has been a corresponding reduction in benefits of those receiving the increase; or

(iii) the change had been proposed before 6th November 1972;

(*f*) new or improved benefits under schemes which—

(i) provide payments to employees who leave an employer's service or are redeployed to a job with lower earnings because of redundancy in the circumstances described in (*a*) and (*b*) of section 1(2) of the Redundancy Payments Act 1965(**a**); and

(ii) require a minimum of at least 52 weeks continuous service as a condition of such payments; and

(*g*) benefits which become payable after six months of incapacity.

Depreciation

41. For the purposes of the Code, "depreciation" means the aggregate amount of depreciation for the period to which the calculation relates in respect of assets of the enterprise which were used in the activity concerned in that period based—

(*a*) where the calculation of depreciation is made by reference to a date after 31st July 1976, on, at the option of the enterprise, either—

(i) the historic cost of the asset calculated in accordance with generally accepted accounting principles consistently applied by the enterprise or a revaluation of the asset calculated in accordance with generally accepted accounting principles and which has appeared in annual accounts for a period ending on or before 30th September 1972 increased, in either case, by a multiple of 1·4, or

(ii) a revaluation of the asset calculated in accordance with generally accepted accounting principles, and having appeared in annual accounts; and

(*b*) where that calculation is made by reference to a date before 1st August 1976—

(i) on the historic cost of the asset calculated in accordance with generally accepted accounting principles consistently applied by the enterprise, or

(ii) on a revaluation of the asset calculated in accordance with generally accepted accounting principles and having appeared in annual accounts for a period ending on or before 30th September 1972.

Pay sanction

Sanction against payment of remuneration in excess of pay limits

42. For the purpose of providing a sanction against the payment of remuneration in excess of the limits mentioned in section 1 of the Remuneration, Charges and Grants Act 1975(**b**) the provisions of the Code shall have effect subject to paragraphs 43 to 47.

Disallowance of excessive remuneration

43.—(1) An enterprise shall not under any provision of the Code reflect in prices any part of an increase in remuneration arising after 11th July 1975 where that increased remuneration is in excess of the limits mentioned in section 1 of the Remuneration, Charges and Grants Act 1975.

(**a**) 1965 c. 62. (**b**) 1975 c. 57.

(2) Where the share of labour costs expressed as a percentage of total costs is less than 15 per cent, the amount disallowed under sub-paragraph (1) above shall be increased by the proportion which 15 per cent bears to that share.

(3) Before taking steps to ensure that, in the computation of any price charged or proposed to be charged by an enterprise, there shall be excluded any costs represented by an increase in remuneration arising after 11th July 1975 where the increased remuneration is in excess of the limits mentioned in section 1 of the Remuneration, Charges and Grants Act 1975, the Commission shall refer the question whether such increased remuneration exceeds those limits to the Secretary of State for Employment and shall accept his determination as certified to them.

Modification of safeguard provisions

44.—(1) In determining—

(*a*) total costs per unit for the purposes of paragraph 49 (safeguard against low profits on products), and paragraph 51 (safeguard against erosion of profit margins on products);

(*b*) the net profit margin for the purposes of paragraph 50, paragraph 76 (safeguard against erosion of profit margins on contracts), paragraph 109 (safeguard for distributors' net profit margins); and

(*c*) total costs for the purpose of paragraph 114 (safeguard for distributors making low profits);

no account shall be taken of any increase in remuneration to the extent that it is disallowed under paragraph 43.

(2) Notwithstanding the provisions of paragraph 94, in determining the net profit margin for the purposes of that paragraph (which relates to relief for low profits), no account shall be taken of any increase in remuneration to the extent that it is disallowed under paragraph 43.

Escalation and variation of price clauses and prime cost and cost reimbursement contracts

45.—(1) In calculating an increase in price under an escalation or variation of price clause in accordance with paragraph 70 (which makes special provision for such clauses) and any element in a claim for payment under a prime cost or cost reimbursement arrangement in accordance with paragraph 73 (which makes special provisions for such arrangements) no account shall be taken of any increase in remuneration to the extent that it is disallowed under paragraph 43.

(2) Where any price, or part thereof, falls, under an agreement between the seller and the purchaser, to be varied in accordance with a formula incorporating any index or comparison (however calculated) relating to any remuneration, no account shall be taken of any amount resulting under the formula from any change in the index or comparison to the extent that the index or comparison reflects any increase in remuneration arising after 11th July 1975 where the increased remuneration is in excess of the limits mentioned in section 1 of the Remuneration, Charges and Grants Act 1975.

Recovery of costs previously incurred

46. In calculating a permitted price increase in accordance with paragraph 27 (which relates to recovery of costs previously incurred), no account shall be taken of any increase in remuneration to the extent that it is disallowed under paragraph 43.

Nationalised industries

47. Paragraph 43 applies to the nationalised industries listed in paragraph 119 as it applies to other enterprises; and accordingly, in determining increases in prices with a view to providing revenue sufficient to ensure the surplus on turnover or the return on net assets referred to in paragraph 120(2)(*b*), no account shall be taken of any increase in remuneration to the extent that it is disallowed under paragraph 43.

Safeguards

Relief in certain cases

48.—(1) A unit of an enterprise for profit margin control may have relief under paragraphs 49 to 51 provided that if it applies paragraph 49 or paragraph 51, it shall not at any time apply paragraph 50; and references in this paragraph to paragraphs 49, 50 and 51 include references to paragraphs 37, 38 and 39 respectively of the 1974 Code.

(2) Paragraphs 49 to 51 shall have effect in relation to enterprises providing professional services whose prices are determined by reference to a scale of general application as if, for the purposes of this paragraph, the unit for profit margin control comprised only the service or services to which the scale applies.

Safeguard against low profits on products

49. Subject to paragraph 52, where the price of a product (excluding any increase under paragraph 98) does not afford a margin over total costs per unit of output of $2\frac{1}{2}$ per cent, an enterprise may increase the price of the product concerned to the extent required to give such a margin.

Safeguard to limit reduction of profit margins

50.—(1) Where the effect of one or more of the provisions listed in sub-paragraph (2) below would be to reduce the net profit margin of the enterprise, as defined in paragraphs 84 and 85, by more than one-tenth below the level in the period before the base date used in calculating a permitted price increase under paragraphs 26 to 31, the enterprise may limit that reduction to one-tenth in calculating permitted price increases for the purposes of the Code.

(2) The provisions referred to in sub-paragraph (1) are—

(*a*) paragraph 32(1)(*b*) and (2) of the 1974 Code and paragraph 40(1)(*b*) and (2), and

(*b*) any provisions providing for a productivity deduction referred to in paragraph 28(1)(*a*).

(3) This paragraph does not apply where the profit margin reference level is or is likely to be exceeded; or where prices are being reduced (or price increases restricted) to eliminate the excess over profit margin reference levels in an earlier period.

Safeguard against erosion of profit margins on products

51.—(1) Subject to paragraph 52, where the price of a product (excluding any increase under paragraph 98) does not afford a margin over total costs per unit of output of four-fifths of the percentage margin at 30th April 1973, or at 30th September 1972 where the margin has declined by one-quarter or more between 30th September 1972 and 30th April 1973, an enterprise may increase the price of the product concerned to the extent required to give such a margin.

(2) For the purposes of this paragraph, the calculation of total costs per unit of output (including any modification permitted under paragraph 102) shall be based on the levels of pay and other costs at the relevant dates and the level of output over the most recent representative period completed by those dates.

Additional provisions relating to paragraphs 49 *and* 51

52.—(1) The provisions of this paragraph shall have effect for the purposes of paragraph 49 and of paragraph 51.

(2) Any increase shall be limited so far as is necessary to ensure that the reference level is not exceeded.

(3) Once an increase has been made, no further increase shall at any time be made in respect of cost increases incurred before the increase was made under any provision of the Code other than either of those parargaphs: provided that an increased price permitted under either of those paragraphs may be implemented in more than one stage.

(4) Paragraph 49 and paragraph 51 each has effect in relation to a range of products within the meaning of paragraph 34 as it has effect in relation to a single product; and a product shall not be treated as a single product for the purposes of either of those paragraphs if it has normally been treated as one of a range of related products for the calculation of permitted price increases since 30th April 1973.

(5) Paragraphs 29, 30 and 53(3) apply for the determination of total costs per unit of output for the purposes of paragraphs 49 and 51.

Further provisions relating to costs and prices

Allocation of costs to controlled prices

53.—(1) Allocation of costs to particular controlled goods or services for the calculation of allowable cost increases or increases in total costs may be necessary where an enterprise—

(*a*) sells in both home and overseas markets; or

(*b*) makes sales at home, some of which are within and some outside the scope of the control; or

(*c*) makes sales of different products or groups of products which are within the control, and has to divide costs between them for the purposes of the Code.

(2) Where such an enterprise—

(*a*) has made allocations which represent a fair division of costs in its circumstances, over part or all of the field; and

(*b*) has done so on a consistent basis;

it should continue to use this basis for all calculations relevant to the Code. In other cases enterprises may make such allocations by dividing costs in proportion to the value of sales in each area, or on any other basis which represents good accounting practice, provided that it adheres to the chosen basis for all calculations relevant to the Code.

(3) In a case where under sub-paragraph (1)(*a*) costs relating to items within heads (ii), (v) to (viii) and (x) to (xiii) of paragraph 40(1)(*b*) are to be allocated between sales in the home and in overseas markets, no account shall be taken

of half the increase, since the date of the last price increase before 1st August 1976, in the volume of sales in overseas markets brought into account for the purposes of an allocation in accordance with sub-paragraph (2).

(4) Where an allocation is made under this paragraph, it shall be made before the provisions of paragraph 30 are applied in relation to any controlled goods or services.

Stocks

54. In calculating the cost of current production or sales, enterprises may need to include an element for stocks of raw materials, of components or of finished goods, used for production or sales. When making such calculations in order to arrive at costs per unit of output and at any allowable cost increases, except when they apply paragraph 55 enterprises should adhere to the practice they have followed consistently for pricing purposes.

Materials etc.

55.—(1) In determining changes in total costs per unit and allowable cost increases, an enterprise may, in respect of any increase in price of a product or prices of products within a range of products, notwithstanding paragraph 54 change its practice so as to calculate the cost of materials at the date of the price increase in accordance with this paragraph; and the enterprise shall so calculate such cost in respect of any subsequent price increase of the product or products.

(2) The cost of materials at the date of the price increase may be taken to be the cost of similar materials at that date, that is to say, the price—provided that it is representative of the current level of costs for the material and is not an exceptional price—paid or to be paid by the enterprise for such materials last delivered to the enterprise before that date and purchased under a contract negotiated at arm's length and in a quantity customarily purchased by the enterprise.

(3) This paragraph may be applied only where the base date (as defined in paragraph 28(3)) is not earlier than the date of the last price increase before 1st August 1976.

(4) Calculations under this paragraph must be consistent with management accounts and must be those used by the enterprise for pricing purposes.

(5) In this paragraph, "materials" means materials, components, consumable stores and supplies within paragraph 40(1)(*b*)(iii).

Transfer prices

56. Where the Commission are satisfied that prices, either of purchases or of sales which an enterprise proposes to regard as a basis for the calculation of allowable cost increases or of net profit margins, differ from what they would be if the goods or services had been transferred on an arm's length basis, they may substitute modified cost increases or profit margins which in their judgement fairly reflect what would be appropriate on that basis.

Costs of sectors including small enterprises

57. Where the Commission are satisfied that—

(*a*) significant reductions or increases in allowable costs have occurred or are about to occur in a sector of industry or commerce which includes

a considerable number of small enterprises, especially those providing services; and

(*b*) the information available to them indicates that these changes in costs are likely to be of broadly the same order for a substantial number of such enterprises, in respect either of some or all of the goods or services which they supply;

the Commission, after consulting any body or persons which they regard as representative of enterprises affected and after taking into account information supplied by them, may calculate average allowable cost increases or reductions for the relevant goods or services. In the case of cost increases, these increases should then be taken as the allowable cost increases for the relevant goods or services; in the case of cost reductions, the Commission may specify reductions under paragraph 25 in the prices of the relevant goods or services which should then be made by all the enterprises concerned.

Provisions supplemental to paragraph 57

58. In calculating average allowable cost changes under paragraph 57 the Commission will take account of—

(*a*) all relevant information available to them on cost changes for the goods or services concerned, including information supplied by any trade association or other body which they consider is representative of the enterprises concerned; and

(*b*) any other relevant provision of the Code.

Publicity about allowable cost changes

59. The Commission will publish information about any average allowable cost changes which they have determined under paragraphs 57 and 58 together with an indication of any price changes which they regard as justified or required under the Code on the basis of those average allowable cost changes.

Application to particular enterprises

60. Where the allowable cost changes of a particular enterprise differ from those published by the Commission under paragraph 59 that enterprise may apply the normal provisions of the Code relating to allowable cost increases or price reductions. It will be the responsibility of the enterprise to satisfy the Commission if required that this was justified.

Product costs and allowable cost increases

Single product enterprises

61. Where an enterprise makes a single product or a single range of products the calculations required by the Code may be carried out by reference to the costs and prices of that enterprise as a whole.

Multi-product enterprises—related products

62.—(1) Where an enterprise makes a range of related products and a price increase is permitted for one or more of them, the enterprise may increase prices for products in the range by amounts the average of which, weighted by the value of sales in a recent period, does not exceed what is permitted under the Code for the range: Provided that in respect of any product the increase does not exceed twice the average percentage price increase for the range permitted under the Code.

(2) Subject to sub-paragraph (1) but excluding the proviso, a price increase in respect of any product in the range may, in any case, be of an amount which does not exceed the higher of—

(*a*) 5 per cent; and

(*b*) the increase which would be permitted under the Code if the product were not in a range.

(3) Subject to sub-paragraph (1) but excluding the proviso, a price resulting from the application of this paragraph may be rounded up to a price which facilitates the rounding of the retail price to the nearest halfpenny if it is the established practice of the enterprise so to do.

(4) The Commission may, subject to sub-paragraph (1) but excluding the proviso, permit an increase greater than that permitted by sub-paragraph (2) or (3) if they are satisfied that—

(*a*) the increase conforms with the established practice of the enterprise relating to price increases for products in the range; or

(*b*) having regard to increases previously implemented in respect of products in the range, a greater increase should be permitted in respect of one or more products in the range.

(5) In the case of a product in relation to which paragraph 64 has effect, references in this paragraph to the price of a product are references to the average price referred to in sub-paragraph (2)(*b*) of that paragraph.

(6) This paragraph applies to—

(*a*) a nationalised industry listed in paragraph 119 and which is in deficit,

(*b*) any other enterprise which applies any of paragraphs 49, 50, 51 and 94, and

(*c*) any product which is of a description that was separately designated in a certificate under paragraph 137 of the 1974 Code and which is within a range of products to the whole of which the certificate related,

as if the proviso to sub-paragraph (1) and sub-paragraphs (2) to (5) were omitted.

Other multi-product enterprises

63. In cases not covered by paragraphs 61 and 62 the calculations required by the Code should be made by reference to individual products.

Monopolies and Mergers Commission reports

64.—(1) In relation to any enterprise, this paragraph applies to the price of any product—

(*a*) specified or described in an order under section 56 (which enables the appropriate Minister by order to make provisions in consequence of a report of the Monopolies and Mergers Commission) of the Fair Trading Act 1973(**a**), or

(*b*) referred to in an undertaking given by the enterprise under section 88 (which makes provision for the giving of undertakings in consequence of such a report) of that Act,

relating to the prices charged for one or more products or for the same product in different circumstances or to different persons.

(**a**) 1973 c. 41.

(2) An enterprise may under this paragraph charge a price for a product to which this paragraph applies—

(*a*) which complies with the order or undertaking, and

(*b*) in a case where, in compliance with the order or undertaking, different prices may be charged for different products or for the same product in different circumstances or to different persons, of which the average does not exceed the average of the prices permitted under the Code apart from this paragraph;

and for the purposes of (*b*) above, an average of prices is the average price of all products to which this paragraph applies weighted by quantity or value of sales, or of estimated sales, of the enterprise in a 12 month period chosen by the enterprise.

(3) A price may be increased under this paragraph within three months after the date on which an order or undertaking comes into operation notwithstanding paragraph 36 (frequency of price increases).

Common pricing agreements upheld by the Restrictive Practices Court

65.—(1) Where a number of enterprises are parties to a common pricing agreement which has been declared by the Restrictive Practices Court to be not contrary to the public interest, they may increase prices for products to which the agreement applies by not more than the average (weighted by quantity delivered or value of sales in a recent representative period) of the increases otherwise permitted by the Code (except paragraph 98 and without any restriction imposed by the provisions relating to net profit margins) to each enterprise which is party to the agreement, notwithstanding that, in the case of any enterprise, the increase exceeds its permitted price increase. Cost increases reflected in price increases implemented under this paragraph may not be taken into account in calculating any subsequent price increases under any provision of the Code.

(2) If any enterprise which is party to an agreement is entitled to relief under paragraph 98(1)(*c*), each of the increases of which the average falls to be determined under sub-paragraph (1) may be augmented by the amount of the increase which would be permitted under the said paragraph 98(1)(*c*) if—

(*a*) the relevant expenditure were reduced by the amount of the relevant expenditure so far as it relates to products other than those to which the agreement relates, and

(*b*) the words after the semicolon were omitted:

Provided that—

(i) the amount by which the average increase may be augmented shall not exceed a percentage equal to four times the percentage points found by expressing as a percentage the proportion which the relevant expenditure (reduced as provided by head (*a*) above) of all the enterprises bears to the total of the turnover in the relief year of each of the units for profit margin control in respect of products to which the agreement relates, and

(ii) where that amount is less than a whole number of pence, it may be rounded up to the next halfpenny.

(3) The weighted average increase permitted under sub-paragraphs (1) and (2) should not be applied in full if the profit margin reference level of any of the enterprises concerned is exceeded or, in the light of interim accounts or other evidence, is likely to be exceeded.

(4) An enterprise shall not implement an increased price under paragraph 98—

(*a*) for products to which the agreement relates, on account of any expenditure which is not taken into account under sub-paragraph (2);

(*b*) for other products, on account of expenditure which is so taken into account.

(5) The provisions of sub-paragraphs (2) to (4) may be applied in a relief year under paragraph 79 or 79A of the 1974 Code current on 1st August 1976 in respect of the proportion of the relevant expenditure (reduced in accordance with sub-paragraph 2(*a*)) which has not been recovered before the date on which this sub-paragraph is first applied.

Anticipation of cost increases

Anticipation of cost increases not generally permitted

66.—(1) Prices may not be increased in anticipation of cost increases, except as described in paragraphs 67 to 69. However—

(*a*) an enterprise may determine and announce a price increase consistent with the Code which takes account of future allowable cost increases which are already known as to both date and amount, provided that the price increase is not implemented before the allowable cost increases are incurred; and

(*b*) an enterprise required to pre-notify an intended price increase to the Commission may seek the agreement of the Commission to a price increase consistent with the Code which takes account of such known future cost increases, subject to the same proviso as in (*a*).

(2) An enterprise may, in applying this paragraph, paragraph 67 or paragraph 68, calculate the cost of materials in accordance with paragraph 55.

Future cost increases of known amount

67. Where—

(*a*) a future allowable cost increase is already known, as to both date and amount; and

(*b*) it is proposed to quote a price for supply on demand which will not be increased for at least three months from the date on which it takes effect,

an enterprise may average the future allowable cost increase over the period of not less than three months for which it quotes the price in arriving at a price increase for that period, provided that—

(i) the total amount raised will not be increased by the averaging; and

(ii) the averaging is in accordance with a well-established practice in the trade concerned.

Special situations

68. Paragraph 67(*a*) may be read as applying to an estimated future cost increase if—

(*a*) it relates to a material which fluctuates frequently and unpredictably in price; and

(*b*) the use of estimates of such cost increases is a well-established practice of the trade; and

(*c*) in framing the estimates the enterprise adheres to the methods it has consistently used for the treatment of such costs for pricing purposes.

Tenders

69. This paragraph applies to tenders to the extent that they are at fixed prices. In framing such tenders, those concerned should have regard to the Code, but where tenders are the custom of the trade, they may provide for estimated future cost increases.

Escalation and variation of price clauses and prime cost and cost reimbursement arrangements

Treatment of allowable cost increases

70.—(1) Price increases made under an escalation or variation of price clause may reflect cost increases for items listed in paragraph 40(1)(*b*) to the extent that the increase is permitted under the contract.

(2) In addition to new contracts, this paragraph applies to existing contracts and to increases in prices under those contracts, to the extent that they relate to cost increases after 6th November 1972.

Productivity deduction under escalation and variation of price clauses

71.—(1) This paragraph applies to a contract of which the date of making is before 1st August 1976 and which contains an escalation or variation of price clause.

(2) The productivity deduction specified in paragraph 75 must be applied to any labour cost increase under any such clause but only in respect of work executed before 1st August 1976. There may be subtracted from any deduction required to be made under that paragraph any similar deduction required to be made under the contract calculated by reference to any such labour cost increase. But if the application of the productivity deduction (modified, if appropriate, under this sub-paragraph) causes or increases a loss on a particular contract taken as a whole, the terms of the clause may be applied to the extent necessary to avoid the loss or the increase in it.

Provisions supplemental to paragraph 70

72. Price increases under an escalation or variation of price clause should be taken into account in applying paragraph 36 only if they are pre-notifiable to the Commission under an order under section 5 of the Counter-Inflation Act 1973(**a**).

Productivity deduction under prime cost and cost reimbursement arrangements

73.—(1) This paragraph applies to a contract of which the date of making is before 1st August 1976 and to which any form of prime cost or cost reimbursement arrangement applies.

(2) Where a claim for a payment by a contractor under a contract to which this paragraph applies includes an element for increased labour cost levels since the start of the contract or since 6th November 1972, whichever is the later, the productivity deduction specified in paragraph 75 must be applied but subject to paragraph 71(2).

Provisions supplemental to paragraph 73

74. Paragraph 73 does not apply where the terms of a prime cost or cost reimbursement arrangement ensure that the benefit of economies in the use

(**a**) 1973 c. 9.

of labour pass directly to the client. For non-competitive contracts of this type placed after 1st November 1973 the contractor may not quote a rate of fee which is higher than that which he has charged since 30th April 1973 for the same service or a similar one.

Productivity deduction under paragraphs 71 *and* 73

75.—(1) This paragraph has effect only as provided by paragraphs 71 and 73.

(2) Enterprises are required to absorb 20 per cent of increases in the costs of labour which are allowable cost increases within paragraph 40(1)(*b*)(i) except that—

(*a*) where the share of labour costs in total costs exceeds 35 per cent enterprises are required to absorb an amount equal to the percentage of total costs which would apply if labour costs represented 35 per cent of total costs;

(*b*) where the share of labour costs in total costs is less than 15 per cent enterprises are required to absorb an amount equal to the percentage of total costs which would apply if labour costs represented 15 per cent of total costs.

(3) The rate of productivity deduction shall in no case exceed 35 per cent.

(4) Where, however, the increase in labour costs applied to any period—

(*a*) before the date of the last price increase which was implemented before 1st November 1974, this paragraph shall have effect with the substitution of 50 per cent for 20 per cent in sub-paragraph (2) and for 35 per cent in sub-paragraph (3);

(*b*) after the date of the last price increase which was implemented before 1st November 1974 but before 1st November 1974, this paragraph shall have effect with the substitution of 35 per cent for 20 per cent in sub-paragraph (2) and of 50 per cent for 35 per cent in sub-paragraph (3).

Safeguard against erosion of profit margins on contracts

76. Where, in the case of a contract to which paragraph 70 or 73 applies, the net profit margin (excluding the amount of any increase in the reference level permitted under paragraph 98) of the unit for profit margin control as defined in paragraphs 84 and 85 is more than three-tenths below the reference level, the productivity deduction need not be applied for so long as the net profit margin remains below seven-tenths of the reference level.

Discounts and rebates

Withdrawal etc of discounts to be treated as price increase

77.—(1) The withdrawal or reduction of a discount or rebate, including a discount or rebate to a particular customer, is equivalent for the purposes of the Code to an increase in the price.

(2) Sub-paragraph (1) does not apply to a discount or rebate directly related to the promotion of one or more products or services for a limited period or in a limited area.

Changes in products

Quantity or quality change and new products

78. A change in the quantity or quality of goods is equivalent for the purposes of the Code to a change in the price. Quality change in goods or services, quantity

change in sales units, or artificial creation of new products should not be used as a means of avoiding the requirements of the Code. Where the Commission form the opinion that this has been done, they may seek price reductions, or disallow or reduce price increases.

Test marketing

79. However, where a new product is marketed on an experimental and restricted basis for a period of not more than 12 months, the price charged by the manufacturer need not be treated for the purposes of the Code as establishing a price for the product.

PART III

PRICES AND PROFIT MARGINS

Reference level

80.—(1) Prices should be determined so as to secure that net profit margins, as defined in paragraph 81, do not in any period of 12 months exceed the reference level.

(2) For the purposes of the Code, subject to sub-paragraph (3), the "reference level" means the simple average level of the net profit margins in either—

(*a*) the best two of the last five years of account of the unit for profit margin control ending not later than 30th April 1973, or

(*b*) the best two of the last eight years of account for that unit ending not later than 31st July 1976,

as the enterprise may choose; and where an enterprise applies a reference level determined under head (*b*) in any period, subject to the provisions of the Code apart from this sub-paragraph, it shall apply that reference level in each subsequent period.

(3) For the purposes of sub-paragraph (2)(*b*) there shall be left out of account any excess of the net profit margin over the reference level determined under the code in force at the time.

(4) For the purposes of this paragraph and paragraphs 81 to 83, 107, 110 and 115, references to any period of 12 months shall, in relation to an enterprise which has an accounting period of, or periods which in the aggregate amount to, other than 12 months, be construed as a reference to the accounting period or, as the case may be, the aggregate of the accounting periods of that enterprise which is nearest to 12 months.

Net profit margin

81.—(1) "Net profit margin" means the margin of net profit expressed as a percentage of sales or turnover. "Net profit" means the net profit, determined in accordance with generally accepted accounting principles consistently applied by the enterprise concerned, which arises from trading operations within the control after taking into account all expenses of conducting and financing them, including the additional payments mentioned in paragraph 20(2)(*d*), depreciation as provided in sub-paragraph (2) and, in the case of enterprises applying paragraph 19(1), interest within that paragraph, but before deducting corporation tax or income tax.

(2) For the purposes of this paragraph, depreciation—

(*a*) in relation to any period of 12 months ending after 31st July 1976, shall be calculated on the basis provided in paragraph 41(*a*),

(*b*) in relation to any earlier period, shall be calculated on the basis provided in paragraph 41(*b*).

Stock relief

82.—(1) In determining net profit for the purposes of the Code (except paragraph 50(1) and, in so far as they relate to the calculation of margins over total costs, paragraphs 49, 51 and 114) in relation to any period of 12 months ending after 31st July 1976, an enterprise may deduct an amount in respect of increases in the value of stock ("stock value increase") determined under this paragraph; and where an enterprise has obtained relief under this paragraph in any period it shall also apply this paragraph in each similar period ending within the 13 months following the first such period and, for that purpose, references to stock value increase include references to a decrease in the value of stock and references to the deduction of stock value increase include references to the addition of such a decrease: provided that no account shall be taken of any decrease in the value of stock below the value of stock at the beginning of the first period by reference to which the enterprise has applied this paragraph.

(2) Stock value increase, in the case of any enterprise, is 70 per cent of the excess of the value of stock at the end of a period of 12 months chosen by the enterprise for the purpose of calculating the net profit margin under paragraph 81 over the value of stock at the beginning of that period; and decrease in the value of stock shall be determined in a similar manner.

(3) For the purposes of this paragraph, "stock" does not include any description of security, and the value of stock shall be determined in accordance with generally accepted accounting principles consistently applied by the enterprise.

Action where profit margin is likely to be exceeded

83.—(1) Where, in any period of 12 months—

(*a*) the reference level has been exceeded; or

(*b*) in the light of interim accounts or other evidence, is likely to be exceeded;

abatements in allowable cost increases or price reductions should be made, provided that in either case account has been taken of distorting factors. The abatements or reductions should be sufficient to eliminate the actual or expected excess over the reference level as soon as reasonably possible, and to offset any excess which has already arisen in a period subsequent to 30th April 1973 over the level determined from time to time under such of the orders referred to in paragraph 38 as were in force at the time in question.

(2) Abatements and reductions required under sub-paragraph (1) need not be made until an amount has been recovered which corresponds with the amount giving rise to any deficiency in any period of 12 months ending after 31st July 1976 below either of the returns mentioned in paragraph 94(1).

Unit for profit margins

84. In calculating the net profit margin under paragraph 80, the unit for profit margin control shall be either—

(*a*) the enterprise as a whole; or

(*b*) an activity treated separately under paragraph 18; or

(*c*) a unit of an enterprise, being a separate constituent company or sub-division, provided that the Commission are satisfied that:

(i) the unit constituted, before 30th April 1973, and still constitutes a separate unit immediately below the level of the main Board of the enterprise as a whole for management, operational and accounting purposes. In applying the test in this sub-paragraph the Commission may disregard an intermediate non-trading company; and

(ii) the accounts of all such units, if combined with one another, can be reconciled with those of the enterprise as a whole; and are not materially distorted by transactions conducted otherwise than on arm's length terms.

The same unit should then be adhered to for all the purposes of the Code to which the net profit margin is relevant, except paragraphs 49, 51 and 114(1).

Meaning of "enterprise as a whole"

85. For the purpose of paragraph 84, where the enterprise is a company, "the enterprise as a whole" means the company or (where the company is a member of a group) all the companies in the group, but includes only members of the group carrying on business in the United Kingdom; and in this paragraph—

(*a*) "company" includes any body corporate; and

(*b*) "group" means the person (including a company) having control of a company together with all companies directly or indirectly controlled by him.

Allocation of profits to controlled prices

86. Allocation of profits between prices within the control and those which are not may be necessary for the calculation of net profit margins. The requirements of paragraph 53 except sub-paragraph (3) apply to such allocations of profits as they do to allocations of costs.

Indirect taxes

Profit margins and indirect taxes

87.—(1) In making comparisons between net profit margins as a percentage of sales and the reference level, due account must be taken of the effect on margins of changes in indirect tax on goods and services sold, so that the comparison is not materially distorted. The comparison with earlier years should be made on a basis which excludes purchase tax from sales in the period up to the end of March 1973 and excludes VAT from 1st April 1973 onwards. Where customs and excise duties have been included in the sales figures, these duties should be included throughout, adjusted as necessary to take account of the partial replacement of excise duties by VAT and of other changes in those duties.

(2) In determining margins for the purposes of sub-paragraph (1), in cases where indirect taxes (other than VAT) have been paid—

(*a*) the value of sales—

(i) of alcoholic beverages shall be taken to be 85 per cent, and

(ii) of tobacco and tobacco products shall be taken to be 80 per cent,

of the value of sales in each case; and

(*b*) for other products, where indirect taxes have been increased after 25th March 1974, a deduction should be made from the value of sales corresponding to the cash value of the extra tax borne by the goods sold: conversely, where indirect taxes have been reduced after 25th March 1974, a corresponding addition should be made to the value of sales.

(3) Where the Commission are satisfied, having regard to the sales mix of the enterprise in respect of the products within sub-paragraph (2)(*a*), that a higher percentage than is specified in that sub-paragraph is appropriate, they may, in the case of any enterprise, substitute that higher percentage.

Purchase tax

88. Where an enterprise does not already have accounts showing separately the purchase tax element in the turnover of previous years, or which permit the precise calculation of the amount of excise duty abatement from records of duty paid, such elements should be estimated on the basis of the best available information. Where total purchase tax can be ascertained from purchase invoices this total can be deducted from tax inclusive sales. Where such purchase invoices are not available, the purchase tax element may be estimated by applying to the value of purchases of goods charged to different rates of purchase tax appropriate factors derived from those rates.

Enterprises not trading for five years before 1st May 1973

Modified base period for profit margin calculation

89. Where an enterprise has traded for less than five complete years of account before 1st May 1973, or has traded at a loss in one or more of those years, the reference level determined under paragraph 80(2)(*a*) may be calculated as follows—

(*a*) if there have been four years of trading before 1st May 1973, the average of the best two; if three or two years, the best year;

(*b*) if there have been less than two years of trading before 1st May 1973, the limitations on profit margins will not apply except where the enterprise chooses to apply paragraph 80(2)(*b*); and

(*c*) any year in which an enterprise made a loss may be treated as equivalent to a year of no trading and sub-paragraphs (*a*) and (*b*) may be applied accordingly.

Changes in membership of groups of companies etc.

New enterprises

90. For a new enterprise formed from a reconstruction or amalgamation of existing enterprises the reference level will be calculated as defined in paragraph 80 by using the aggregate net trading profits of the constituent enterprises expressed as a percentage of their aggregate sales. The same principles will be applied to an amalgamation of partnerships and to partnerships successively carrying on the same business.

Acquisitions and disposals

91. Where at any time before or after this Code comes into operation the membership of a group of companies has changed by the acquisition of a new member company or the disposal of an existing member company, then, subject

to paragraph 92, in calculating net profit margins and reference levels in relation to the group and its members after the acquisition or disposal, the sales and profits or losses of the member acquired (before and after the acquisition) shall be included and the sales and profits or losses of the member disposed of (before and after the disposal) shall be excluded.

Acquisitions since 29th April 1973

92.—(1) Where the membership of a group of companies has changed by the acquisition of a new member company after 29th April 1973—

(*a*) the words "constituted, before 30th April 1973, and still" in paragraph 84(*c*) will not apply in relation to the new member company; and

(*b*) the new member company may be integrated into a unit for profit margin control which has been or could have been established under paragraph 84, so long as the conditions of paragraph 84(*b*) or (*c*) are or continue to be met where applicable.

(2) Where the new member company is integrated into such a unit, the unit's reference level may be adjusted to include an element reflecting any relief which the new member could have obtained under paragraph 94 immediately before the acquisition (paragraph 94 being assumed, in the case of an acquisition before the date when this Code comes into operation, to have been in force at the relevant time).

(3) This paragraph will not apply unless—

(*a*) the acquisition of the new member company is the result of a transaction at arm's length; and

(*b*) the new member company existed outside the group before the transaction.

PART IV

RELIEFS

Modification of reference levels

93.—(1) The Commission may permit a modification of the reference level if they are satisfied that, in the circumstances of the enterprise, a modification is justified.

(2) When considering whether a modification is justified the Commission shall have regard to all relevant factors, including such of the following as may apply—

(*a*) the enterprise was substantially reconstructed in or since the base period;

(*b*) the base period was not representative for the enterprise;

(*c*) there has been a substantial change in the character or activities of the enterprise since the base period;

(*d*) there has been a substantial change in the relationship between the unit for profit margin control concerned and the enterprise as a whole.

Relief for low profits

94.—(1) In a case where the Commission are satisfied that the net profit margin of an enterprise (excluding any increase arising from the application of paragraph 98) in any period ending after 31st July 1976 represents less than the greater of—

(*a*) a return on capital of 10 per cent, and

(*b*) a return on turnover of 2 per cent,

none of the provisions of the Code shall be applied so as to prevent such return from being obtained.

(2) In a case where the Commission are satisfied that an enterprise cannot, without exceeding its reference level and excluding any increase arising from the application of paragraph 98, obtain the greater of—

(*a*) a return on capital of $12\frac{1}{2}$ per cent, and

(*b*) a return on turnover of $2\frac{1}{2}$ per cent,

the reference level shall, for so long as may be necessary, be taken to be such a level as would permit such return to be obtained.

(3) In this paragraph, "capital" means the net assets employed, excluding any part of them which is represented by borrowings on which interest is to be taken into account under paragraph 19 and excluding goodwill. The value of the assets concerned shall be determined in accordance with generally accepted accounting principles consistently applied by the enterprise concerned but should be based on the historic costs of the assets except that where, in annual accounts for a year ended on or before 30th September 1972, the enterprise has revalued an asset, the value may be based on the value of the asset shown in those accounts.

Investment

Relief for investment

95. Enterprises may increase net profit margin reference levels, the levels of gross percentage margins and prices, by reference to their estimated capital expenditure on investment in assets physically located (or, in the case of road vehicles, based) in the United Kingdom, in accordance with the provisions of paragraphs 96 to 99.

Meaning of "expenditure on investment"

96.—(1) "Expenditure on investment" means expenditure, approved in the case of a company by the board of directors, which it is estimated will actually become due and payable in the investment year (any estimate being revised from time to time on the basis of fact or of revised estimates, as circumstances may require) being—

(*a*) in the case of the owner, capital expenditure on new and second-hand plant and machinery except—

(i) plant and machinery which is let under a leasing or hiring agreement for not less than one year and on which the benefit of relief under paragraph 98 is transferred by the owner to the lessee or hirer, and

(ii) plant and machinery which is let under a hire-purchase agreement or sold under a conditional sale agreement;

(*b*) in the case of a lessee or hirer under a leasing or hiring agreement for not less than one year, capital expenditure by the owner on plant and machinery in a case where the owner has transferred to him the benefit of relief under paragraph 98;

(*c*) in the case of a hirer under a hire-purchase agreement or the purchaser under a conditional sale agreement, an amount equal to the capital expenditure by the owner on the plant and machinery covered by the agreement; and

(*d*) capital expenditure on the construction of buildings,

less, in any case, the disposal value of such plant, machinery and buildings disposed of in the investment year by the person who would be entitled to relief under paragraph 98 if the asset were acquired by him at the time of its disposal; and, where relief has been obtained by virtue of head (*b*) or (*c*) above, the termination of the agreement in question shall be treated as a disposal by the lessee, hirer or purchaser as the case may be:

Provided that—

(i) expenditure relating to trading operations outside the control (except by virtue only of paragraph 5) shall be left out of account;

(ii) expenditure relating to ethical medicines of which the prices are outside the control by virtue of paragraph 5 shall be left out of account if their prices would, if they were sold in the United Kingdom market, be outside the control by virtue of paragraph 6(*h*); and

(iii) expenditure which cannot be appropriated to each activity within the meaning of paragraph 18 shall be apportioned in proportion to the turnover of all the activities concerned in the year of account ended not more than 12 months before the beginning of the investment year.

(2) In this paragraph, "buildings" means industrial buildings and warehouses and, in the case of an enterprise carrying on a distribution activity, buildings occupied by it for the purpose of storing goods and retail shops occupied by it, and "plant and machinery" does not include television sets for domestic use or mechanically propelled vehicles other than—

(*a*) vehicles of a construction primarily suited for the conveyance of goods or burden of any description;

(*b*) vehicles of a type not commonly used as private vehicles and unsuitable to be so used; and

(*c*) vehicles provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade.

Other definitions relating to investment relief

97.—(1) "Investment year" means a period of 12 months chosen by the enterprise—

(*a*) in the case of an enterprise which has not obtained relief under paragraph 79 or 79A of the 1974 Code, beginning after 31st December 1975 and not later than the beginning of the relief year; and

(*b*) in the case of any other enterprise, beginning immediately after its investment year under the said paragraph 79 or 79A;

and, in either case, any consecutive period of 12 months.

(2) "Relief year" means a period of 12 months chosen by the enterprise—

(*a*) in the case of an enterprise which is required to furnish periodical returns pursuant to an order under section 15 of the Counter-Inflation Act 1973 and which has not obtained relief under paragraph 79 or 79A of the 1974 Code, beginning not earlier than 56 days after the enterprise concerned has informed the Commission (whether before or after the Code comes into operation) that it intends to apply this paragraph;

(*b*) in the case of an enterprise which is required to furnish such returns and which has obtained relief under paragraph 79 or 79A of the 1974 Code or under paragraph 98, consecutive upon the relief year under

that paragraph, provided that no relief shall be taken under paragraph 98 earlier than 28 days after the enterprise concerned has informed the Commission that it intends to apply that paragraph; and

(*c*) in any other case, beginning at any time;

and any later consecutive period of 12 months.

(3) "Relevant expenditure" means an amount (revised from time to time to take account of revision of expenditure on investment) which is represented by the appropriate percentage of expenditure on investment; and "the appropriate percentage" is—

(*a*) where the relief year begins after 31st July 1976, 50 per cent; and

(*b*) where the relief year begins before 1st August 1976—

(i) 20 per cent in relation to so much of the expenditure on investment which bears the same proportion to the whole of expenditure on investment as the part of the relief year falling before 1st August 1976 bears to the whole of the relief year; and

(ii) 50 per cent in relation to the remainder;

(iii) in relation to expenditure by an enterprise carrying on a distribution activity on the construction of buildings occupied by it for the purpose of storing goods and retail shops occupied by it, 50 per cent of that proportion of the expenditure which the part of the relief year falling after 31st July 1976 bears to the whole of the relief year;

(iv) 20 per cent in relation to the whole of the expenditure on investment in television sets for domestic use;

and for this purpose "relief year" includes any relief year current on 1st August 1976 under paragraph 79 or 79A of the 1974 Code, and for the purposes of heads (i) and (ii) above "expenditure on investment" shall exclude expenditure under head (iv) above.

(4) "Turnover", in relation to a relief year, means the turnover on trading operations within the control which may reasonably be expected to be achieved in the year in question, revised from time to time on the basis of fact or as circumstances may require.

Calculation of relief

98.—(1) The permitted increases in net profit margin reference levels, the levels of gross percentage margins and prices shall be calculated in accordance with the following provisions of this paragraph. An enterprise—

(*a*) may, for a relief year, treat the net profit margin reference level as increased by the addition of a figure found by expressing the relevant expenditure as a percentage of turnover;

(*b*) in respect of its distribution activities, may, for a relief year, treat the level of the gross percentage margin from time to time ascertained under paragraph 107 as increased by the addition of a figure found by expressing the relevant expenditure as a percentage of turnover; and

(*c*) in respect of its manufacturing and service activities, may increase any price within control for a period of 12 months beginning in a relief year by an amount the additional yield from which, taken with the additional yield from all other such increases, will not exceed the relevant expenditure; and the total increase under this head in the price for any individual product shall not exceed a percentage equal

to four times the percentage points by which the net profit margin reference level may be increased under head (*a*) above but, where an increase to be made in any price under this head is less than a whole number of pence, the increased price may be rounded up to the next halfpenny.

(2) If the application of sub-paragraph (1) has not caused the relevant expenditure to be recovered in sales in the relief year, without prejudice to the obtaining of relief in any subsequent year, an enterprise for as long as may be necessary—

(*a*) may, in respect of its manufacturing and service activities, treat the reference level as increased by an amount sufficient to permit the recovery of any part of the relevant expenditure which has not been recovered;

(*b*) may, in respect of its distribution activities, treat the reference level and the level of the gross percentage margin ascertained under paragraph 107 as increased by an amount sufficient to permit the recovery of any part of the relevant expenditure which has not been recovered; and

(*c*) may, in respect of its manufacturing and service activities, charge prices at levels calculated under sub-paragraph (1)(*c*) as if the words "beginning in a relief year" were omitted, until the relevant expenditure has been recovered:

Provided that, where in the case of an enterprise which has obtained relief under paragraph 79 or 79A of the 1974 Code the amount of the relevent expenditure has been recovered (and any adjustments required under paragraph 100 to the amount actually recovered have had effect), net profit margin reference levels, gross percentage margins and prices may until 30th September 1976 continue at levels determined under sub-paragraph (1).

(3) Investment expenditure in respect of which the enterprise has benefited from a modification under paragraph 101 or any provision which it replaces may not be included in the calculation of relevant expenditure—

(*a*) where the modification is to the provisions relating to profit margins, for the purposes of sub-paragraph (1)(*a*): Provided that for the purposes of sub-paragraph (1)(*c*), sub-paragraph (1)(*a*) shall have effect without adaption; and

(*b*) where the modification is to the provisions relating to allowable cost increases or to increases in total costs, for the purposes of sub-paragraph (1)(*b*) and (*c*).

(4) Increases in prices under this paragraph and under paragraphs 79 and 79A of the 1974 Code must be disregarded in determining increases in any price under any other provisions of this Code and in determining the date of the last price increase before 1st August 1976 for the purposes of paragraphs 21, 27, 29, 30, 53 and 55.

(5) In this paragraph "relief year" includes any relief year applied under the 1974 Code.

Transitional provisions relating to investment relief

99.—(1) An enterprise which has obtained relief under paragraph 79 or 79A of the 1974 Code may, notwithstanding the revocation of the 1974 Code, continue to apply sub-paragraph (3) of the said paragraph 79 (as applied, if that

be the case, by the said paragraph 79A), in the case of heads (*a*) and (*b*) of the said paragraph 79(3) until the end of the relief year and, in the case of head (*c*) of the said paragraph 79(3), until the end of the period of 12 months therein referred to.

(2) For the purposes of relief under this paragraph, the definition of "relevant expenditure" in paragraph 79(2) of the 1974 Code shall apply subject to the provisions of paragraph 97(3) (except sub-paragraph (*a*)); and for the purposes of this definition "investment year" and "relief year" means the investment year and the relief year respectively under paragraph 79 or 79A, as the case may be, of the 1974 Code.

(3) References in paragraphs 49, 51(1), 65, 76, 94, 101(*c*), 109 and 114 to paragraph 98 include references to paragraphs 79 and 79A of the 1974 Code.

Action where relief exceeded

100.—(1) If relief under paragraph 98 is likely to exceed the relevant expenditure, relief under paragraph 98 shall cease or shall be reduced to the extent necessary to ensure that no more than the relevant expenditure is recovered by its operation.

(2) If relief under paragraph 98 has exceeded the relevant expenditure then, notwithstanding any other provisions of the Code (except the proviso to paragraph 98(2)), net profit margin reference levels, the levels of gross percentage margins and prices shall each be reduced by an amount necessary to ensure that no more than the amount of the relevant expenditure is recovered.

(3) Where relief under paragraph 79 or 79A of the 1974 Code (as extended by paragraph 99) is likely to exceed, or has exceeded, the relevant expenditure for the purposes of the said paragraph 79 or 79A, sub-paragraphs (1) and (2) above shall have effect as if references therein to paragraph 98 included references to paragraph 79 or 79A, as the case may be, of the 1974 Code and references to the relevant expenditure were references to the relevant expenditure under whichever of these paragraphs is in question.

Special cases

101. Where the Commission are satisfied that in a particular case it is necessary in order to encourage or ensure investment to modify the application of the provisions relating to allowable cost increases or to increases in total costs or to profit margins, they may permit some modification of any of those provisions. In deciding whether, and to what extent, to permit such a departure the Commission should have regard to the following criteria—

(*a*) whether there is satisfactory evidence that if this is done expenditure on the investment will begin within 12 months of the date of the price being increased or the profit margin limit being modified; and

(*b*) whether—

(i) the application of the limits would deprive the enterprise of funds essential for investment which it could not reasonably be expected, or would not be able to raise in some other way, or would reduce the prospective rate of return on the investment to a level which would deter the enterprise from undertaking it; or

(ii) there is satisfactory evidence that the enterprise had absorbed cost increases to an exceptional degree as a result of voluntary price

restraint and in consequence had significantly reduced profit margins in the 12 months ending 30th September 1972; and

(*c*) the extent to which prices, gross percentage margins and net profit margin reference levels are modified by the application of paragraph 98.

Capital intensive enterprises

Special provision for capital intensive enterprises

102. Where the Commission are satisfied that—

(*a*) an enterprise as defined in paragraphs 84 and 85 has net tangible fixed assets, excluding land and buildings, per employee which exceed £2,000 per head; and

(*b*) has a plant or group of plants and facilities, employed in the manufacture of a group of related products, which had a fixed asset value at original cost of at least £10 million; and

(*c*) that the capacity of this plant or group of plants was seriously underused over the most recent representative period before 30th September 1972 or before the base date, as defined in paragraphs 26 and 28; and

(*d*) that the rate of utilisation has since risen by 12½ percentage points;

the Commission may, on application from the enterprise, modify the calculation of allowable and total costs per unit at the base date by substituting the figures for unit costs that, in the Commission's view, would have applied at that time if the plant had been operating at the average rate of capacity use which applied over the most recent representative period before the date of the application. Where, however, an enterprise has already received approval under this paragraph or any provision which it replaces, for a price increase after 1st November 1973, the date of that price increase shall be substituted for 30th September 1972 or the base date in sub-paragraph (*c*).

Special cases

Shortages and balance of payments

103. Where—

(*a*) having regard to the need to alleviate the shortage or threatened shortage referred to below, the Secretary of State has certified in relation to any product or commodity that—

(i) there is a severe shortage of supplies in the domestic market or serious threat of such shortage; and

(ii) significant damage is being thereby caused or threatened to the interests of particular industries or of consumers in the United Kingdom; or

(*b*) having regard to the need to remove or reduce a significant adverse effect on the United Kingdom balance of payments or a serious threat thereof, the Secretary of State has certified, in relation to any product or commodity, that such an adverse effect or threat exists;

then, for so long as the certificate remains in force, such departures from the provisions of the Code relating to allowable cost increases, increases in total costs and net profit margins shall be permitted by the Commission as the Secretary of State may specify in the certificate.

Mergers and acquisitions

104. Where, in relation to the acquisition of any company by any other company or of any merger between companies, the Secretary of State is of the opinion that the acquisition or merger is of special importance to a particular industry or to consumers in the United Kingdom and is satisfied that the provisions of the Code relating to net profit margins have, or might have, a significant adverse effect, the Secretary of State may so certify in relation to enterprises of any description or to any enterprise in circumstances of any description; and, for so long as the certificate remains in force, such departures from the provisions of the Code relating to net profit margins shall be permitted by the Commission as the Secretary of State may specify in the certificate.

PART V

PARTICULAR SECTORS

Application of paragraphs 106 to 152

105. The paragraphs which follow deal with the application of the Code to certain important sectors. Unless there is express provision to the contrary in those paragraphs however, paragraphs 3 to 104 must be taken as applying to all enterprises.

Manufacturing and mining

Application of paragraphs 3 to 104

106. Paragraphs 3 to 104 above apply in their entirety.

Distributors

Distribution

107.—(1) In the determination of prices for sales within the United Kingdom, wholesalers, retailers and other enterprises engaged in distribution should ensure that their gross percentage margins in any period of 12 months do not exceed the proportion specified in sub-paragraph (2) of the level of the gross percentage margin in either—

(*a*) the last complete account year of the enterprise ending on or before 30th April 1973; or

(*b*) a 12-month period ending between 30th October 1972 and 30th April 1973 for which separate accounts are or can be made available;

less in either case an appropriate reduction for the abolition of SET:

Provided that where an enterprise began trading after 30th April 1972, there shall be substituted the margin for any continuous period of 12 months falling within the first two years of trading and for which separate accounts are, or can be made, available.

(2) The proportion of the gross percentage margin referred to in sub-paragraph (1) will be:

(*a*) 100 per cent for any period before 6th May 1974;

(*b*) 90 per cent for any period beginning on or after 6th May 1974.

(3) A figure of 100 per cent and not 90 per cent applies—

(*a*) for any period beginning on or after 6th May 1974 to—

(i) distributors engaged mainly in retailing with total annual sales of less than £250,000;

(ii) other distributors with total annual sales of less than £500,000; and

(iii) all sales of goods exempted from restrictions on resale price maintenance by order under section 5 of the Resale Prices Act 1964(**a**); and

(*b*) for any period beginning on or after 1st August 1976 to—

(i) distributors engaged mainly in retailing with total annual sales of less than £500,000; and

(ii) other distributors with total annual sales of less than £1,000,000.

Indirect taxes

108. Where indirect taxes have been increased after 25th March 1974, an addition not exceeding the cash amount of the increase may be made to prices charged by distributors. Where indirect taxes are reduced, the reduction must be fully reflected in prices. The cash amount of the increase or reduction need not, however, be applied precisely to the goods bearing the indirect taxes.

Safeguard for net profit margins

109. Where the net profit margin of the enterprise as defined in paragraphs 84 and 85 is reduced or is likely to be reduced to a level more than one-fifth below the reference level, gross percentage margins may be increased (though not above 110 per cent of the figure determined under paragraph 107(1)) to the extent necessary to restore the net profit margin to a level one-fifth below the reference level. No increase under paragraph 98 shall be taken into account in applying this paragraph but an increase in the appropriate net profit margin reference level and level of gross percentage margin may also be made under that paragraph.

Gross percentage margin

110. For all the purposes of the Code "gross percentage margin" in the case of an enterprise which has traded for not less than two years means the aggregate difference between the cost to the distributor of all the goods he sells in the home market in any period of 12 months and the value of his sales of those goods in that period, expressed as a percentage of the sales value. The difference should be calculated according to the normal accounting practice consistently applied by the enterprise; but, where relief is obtained under paragraph 82, the amount of any increase or decrease in the value of stock determined under that paragraph for any period shall be taken into account. In arriving at sales and cost of sales, indirect taxes should be treated on the same basis as for calculating net profit margins in paragraph 87, and sub-paragraphs (2) and (3) of that paragraph shall have effect for the purposes of this paragraph as they have effect in relation to the determination of net profit margins.

Allowable cost provisions not to apply to distributors

111. The provisions of the Code relating to allowable cost increases do not apply to distribution.

(**a**) 1964 c. 58.

Distributors' stocks

112. In most cases prices determined by distributive enterprises will have to take account of the cost of goods used from stock for sale. Such enterprises should adhere to the practice they have followed consistently for pricing purposes in arriving at such costs and at the relevant gross percentage margins.

Repricing

113.—(1) Retailers should not increase the prices of goods that are or have been displayed for sale by reference to increases in replacement costs, even if such price increases would otherwise be permitted by the Code.

(2) This paragraph does not apply—

(*a*) to goods on which the average rate of annual stockturn is less than 10; or

(*b*) to price increases directly resulting from the withdrawal of special offers; or

(*c*) to goods exempted from restrictions on resale price maintenance by an order under section 5 of the Resale Prices Act 1964; or

(*d*) where the Commission are satisfied, after consulting representative bodies, that the effect on prices of applying the paragraph would be contrary to consumers' interests.

Distributors making low profits

114.—(1) An enterprise engaged in distribution may increase prices to cover its total costs plus a margin (excluding any increase under paragraph 98) of 2 per cent notwithstanding the limitation on gross percentage margins.

(2) Price increases may not be made under this paragraph if they cause the profit margin reference level referred to in paragraphs 80 to 94 to be exceeded.

Action where gross or net percentage margins are likely to be exceeded

115. Where, in any period of 12 months—

(*a*) a distributor's net profit margin or gross percentage margin has exceeded the level allowed under the Code; or

(*b*) in the light of interim accounts or other evidence, that level is likely to be exceeded;

price reductions should be made, provided that account is taken of distorting factors. The reduction should be sufficient to eliminate the actual or expected increase over the permitted level as soon as reasonably possible, and to offset any excess which has already arisen in a period subsequent to 30th April 1973 over the level determined from time to time under such of the orders referred to in paragraph 38 as were in force at the time in question.

Variation of gross percentage margins

116.—(1) Where in the judgement of the Commission the conditions in sub-paragraph (3) are met, they shall—

(*a*) consult any body or person whom they regard as representative of enterprises affected and take into account all relevant information supplied by them;

(*b*) consider whether the proportion of the gross percentage margin specified in paragraph 107(2)(*b*) should be varied accordingly whether by way of reduction or increase; and

(*c*) after consultation with the bodies or persons referred to in sub-paragraph (*a*) inform them of any variation in gross percentage margins which they consider appropriate in the light of the conditions in sub-paragraph (3) and notify this to any enterprise.

(2) Where a variation in gross percentage margins is notified under this paragraph, paragraph 107(2)(*b*) shall be modified accordingly in its application to that enterprise

(3) The conditions referred to in sub-paragraph (1) are that, as a result of changes in value of turnover or operating costs for any enterprise or group of enterprises, the gross percentage margin control in paragraph 107 affects net profit margins in a way that is substantially different from the general position in distribution, or which leads to widespread application of the safeguard in paragraph 109.

Modification of permitted gross percentage margins

117.—(1) The Commission may permit a modification of the gross percentage margin ascertained under paragraph 107 (modified, if such be the case, under paragraph 116), if they are satisfied that in the circumstances of the enterprise the modification is justified.

(2) When considering whether a modification is justified, the Commission shall have regard to all relevant factors, including such of the following as may apply—

(*a*) that the base period was not representative for the enterprise;

(*b*) that since the base period there has been a substantial change in—

(i) the character of the enterprise,

(ii) the description or descriptions of goods sold by it, or

(iii) the proportion which any description of such goods bears to any other description of such goods.

Agriculture

Agricultural enterprises

118. The Code does not apply to agricultural enterprises engaged in the production and sale of unprocessed agricultural produce. Where such enterprises are engaged in manufacturing or processing, however, their prices are controlled by reference to allowable cost increases and net profit margins. Where they are engaged in distribution, their prices are controlled by reference to gross percentage margins and net profit margins.

Nationalised Industries

Meaning of "nationalised industry"

119. Paragraphs 120 to 127 apply to the following nationalised industries—

National Coal Board;
Electricity Council;
Area Electricity Boards;
Central Electricity Generating Board;
North of Scotland Hydro-Electric Board;
South of Scotland Electricity Board;

Northern Ireland Electricity Service;
British Gas Corporation;
British Steel Corporation;
Post Office;
British Airways Board;
British Airports Authority;
British Railways Board;
British Transport Docks Board;
British Waterways Board.

Special provisions for nationalised industries

120.—(1) The provisions of the Code, except paragraphs 49 to 51 and 94 to 102, apply to the controlled activities of the nationalised industries listed in paragraph 119 according to the nature of the business of the industry as they apply to private sector undertakings, but they do not apply to the charges of the Post Office for services of a description provided only to a government department or to the charges of the British Airports Authority for the parking of vehicles. This paragraph and paragraphs 121 to 128 apply in addition, but they do not regulate the charges of the Post Office for its banking services which are regulated under paragraphs 133 to 140.

(2) (*a*) In particular, a nationalised industry may increase prices in accordance with the provisions of the Code except paragraphs 49 to 51 and 94 to 102.

(*b*) A nationalised industry may, in addition to any increase under sub-paragraph (*a*) above and paragraph 123 below, increase prices on controlled activities by such further amount necessary to provide sufficient revenue in the accounting year in question to ensure a surplus in that year of 2 per cent calculated on turnover on controlled activities in that year; or, at the option of the industry, a return of 10 per cent on net assets employed in controlled activities. Should the date on which the price increase takes effect fall within the second half of the accounting year, the amount of the price increase so calculated shall be restricted so that the additional revenue required to achieve this result shall be obtained over a period of six months from the date of the price increase. Allowance shall be made in either case for any change in the volume of sales which may reasonably be expected to result from increased prices and for any estimated cost increase during the remainder of the accounting year. In the case of any conflict between the provisions of this sub-paragraph and those of paragraphs 80 to 83 this sub-paragraph shall prevail.

(3) A nationalised industry may apply sub-paragraphs 2(*a*) and (*b*) separately to a separate activity as defined in paragraph 18 or to a separate unit as defined in paragraph 84(*c*).

(4) For the purpose of this paragraph—

(*a*) subject to the provisions of paragraph 126, in calculating a surplus, all trading costs and provision for interest and depreciation shall be deducted from revenue;

(*b*) return on net assets shall be calculated by expressing net revenue as a percentage of net assets, where—

(i) "net revenue" means revenue in the accounting year in which the price increase takes effect less trading costs and after making provision for depreciation, any adjustment on account of a change in the value of stock which would be appropriate if the industry

were to obtain relief under paragraph 82 and before taking account of interest and taxation; and

(ii) "net assets" means the net book value of total assets less current liabilities at the end of the industry's accounting year preceding the accounting year in question based, when annual accounts are not available, on estimates; and

(*c*) no account shall be taken of Government compensation or grants taken directly to revenue account.

(5) In sub-paragraph (4) and in paragraphs 81 and 124, "depreciation" means the aggregate amount of provision for the writing off of displaced plant and deferred charges and either—

(*a*) depreciation of each of the other assets of the industry determined in accordance with paragraph 41, or

(*b*) in a case where provision for supplemental depreciation is made at replacement cost by the British Transport Docks Board and the Post Office, such supplemental provision.

Value of sales of nationalised industries

121. In determining sales value for the purpose of paragraph 34, no account shall, in the case of a nationalised industry, be taken of Government compensation or grants taken directly to revenue account.

Gas and electricity—statutory obligations

122. The calculation of permitted tariff increases in the gas and electricity supply industries should be made having regard to the likely demand and consumption in the light of their statutory obligation to meet that demand.

Gas and electricity—multi-part tariffs

123.—(1) If the operation of a system of multi-part tariffs in the gas and electricity supply industries reduces the average revenue per unit, the following additional provisions apply. In this paragraph, "revenue" means average revenue per unit and "costs" means average costs per unit.

(2) Where, since the base date—

(*a*) revenue has fallen more than costs, prices may be increased by an amount sufficient to restore the average cash margin per unit at the base date;

(*b*) revenue has fallen and costs have risen, prices may be increased to the extent needed to restore revenue to the level at the base date and also by allowable cost increases; and

(*c*) prices have been increased and revenue has risen by less than costs have risen, prices may be increased to the extent needed to produce a revenue which is equivalent to the revenue at the base date plus allowable cost increases incurred since the base date (including any cost increases already reflected in prices but excluding those which are to be reflected in future price increases to be made under any formula which allows for increases in the industry's prices on account of variation in costs).

Powers of responsible Ministers

124. Where the responsible Minister notifies the Commission that a price increase resulting from the application of paragraph 120 would have an unacceptable effect on the general level of prices, the Commission will limit the

permitted price increase to the amount specified as acceptable by the Minister, but not to a level which would prevent the industry concerned from breaking even in the accounting year in which the increase is implemented or, if the increase is implemented in the second half of the accounting year, in the 12 month period ending 6 months after the date of implementation of the price increase, the specified increase taking depreciation into account and being otherwise calculated in accordance with accounting principles consistently applied by the industry concerned: but the responsible Minister—

(*a*) may from time to time direct that any such increase shall, after the end of that accounting year or of that period, as the case may be, be reduced by such amount or amounts as he shall specify; and

(*b*) may direct that any such increase shall be extinguished on such date at or after the end of that accounting year or of that period, as the case may be, as he shall specify.

Certain other industries

125. The application of the Code is subject to paragraph 128 in the case of the National Coal Board and the British Steel Corporation. In the case of the Post Office and those industries concerned with air and sea transport, it is subject to the exclusion from control under paragraph 6 of charges for international traffic. The prices of subsidiary companies of nationalised industries, including subsidiaries of the National Bus Company, National Freight Corporation and the Scottish Transport Group, are governed by paragraph 130(1)(*b*). The prices charged for electricity by Area Electricity Boards and the Scottish Boards will be subject to the provisions of the Code applying to manufacturers.

Financial reconstruction

126. Where the finances of a nationalised industry are, as a result of any statute, reconstructed in or after 1974, the following provisions apply—

(*a*) where the base date for the purpose of calculating the allowable cost increases of the industry precedes the reconstruction and the date of implementation of the increased price follows the reconstruction, it shall be assumed for the purposes of the calculation that the reconstruction had taken effect on a date one year before the date on which it actually came into effect; and

(*b*) any changes arising from the reconstruction in the accounting practices of the industry or in the value of its assets and liabilities shall be taken into account in calculations under this Code.

Northern Ireland Electricity Service

127. Subject to paragraphs 120 to 123, the principles set out in paragraph 130 apply also to the Northern Ireland Electricity Service.

Coal and steel

128. Prices charged by producers for coal, coal-based solid fuels, and most iron and steel products are outside the scope of the control by virtue of paragraph 6(*b*). They are subject to international obligations through United Kingdom membership of the European Coal and Steel Community. Prices of non-ECSC iron and steel products are controlled like those of other manufactured products. Enterprises which produce both ECSC and non-ECSC iron and steel products will be subject to price control on the latter only. Prices

of coal merchants and iron and steel merchants in the United Kingdom will be subject to the control on gross percentage margins and net profit margins applied to wholesaling and retailing enterprises.

Other public sector trading enterprises

Nationalised industry principles to be applied

129. The Commission will apply to proposals for price increases which are referred to them by Government Departments engaged in substantial trading operations the same principles as to proposals by the nationalised industries.

Local authorities and other public bodies

130.—(1) The Code applies to the prices of the following enterprises, according to the nature of the business of the undertaking, as it applies to the prices of private sector enterprises:

(*a*) trading services (but not including charges for the parking of vehicles) of local authorities, local authority joint boards, public utility undertakings and other similar public sector undertakings (not being a nationalised industry listed in paragraph 119 or an undertaking to which paragraph 131 relates); and

(*b*) companies registered under the Companies Acts which are wholly or partly owned by Her Majesty's Government or by a nationalised industry;

except that the net profit margin control and paragraph 50 do not apply to the trading services of local authorities, but paragraphs 49 and 51 do apply to such authorities.

(2) The charges for local authority trading services shall be calculated with regard to the established accounting practices of the enterprise concerned and to changes in those practices resulting from reorganisation. Local authorities may adjust their charges taken as a whole in each activity within the overall levels permitted by the Code to take account of the steps which they may take towards the restructuring of charges within their areas.

(3) The principles set out in sub-paragraph (2) above apply also to Passenger Transport Executives and to the London Transport Executive.

(4) In the application of the Code to the Civil Aviation Authority, no account shall be taken of any grant made to the Authority in pursuance of section 10(1)(*a*) of the Civil Aviation Act 1971(**a**).

Water undertakings

131.—(1) Water authorities and water undertakers in England and Wales must comply with their obligations under statute (including, in the case of a statutory water company, any agreement between a water authority and the company under section 12 of the Water Act 1973(**b**)) but shall have regard to the principles of the Code and shall not make charges which, taken as a whole, are likely to result in a higher revenue in any accounting year than is required to comply with their duty under section 29(1) of the Water Act 1973, wherein the reference to outgoings shall include depreciation calculated in accordance with the provisions of the Code and such allocations to reserve as may be necessary to comply with any directions made under paragraph 32 of the Third Schedule to that Act.

(**a**) 1971 c. 75. (**b**) 1973 c. 37.

(2) Sub-paragraph (1) applies to water authorities in Scotland as it applies to water authorities in England and Wales, but in relation only to water supplied by meter.

(3) The principles set out in paragraph 130(2) above apply also to the enterprises covered by this paragraph.

Services

Application of Code

132. In general, paragraphs 3 to 101 of the Code apply to the prices of service enterprises as they apply to those of manufacturers, so that the system of allowable cost increases and the limitation on net profit margins as a percentage of sales or turnover apply to them. Paragraphs 57 to 59 permit the Commission to calculate average allowable cost changes for certain small service enterprises where the circumstances are appropriate. Paragraph 94 would permit service enterprises with low profits to calculate their reference levels for the limit on net profit margins by reference either to turnover or capital employed. Paragraphs 133 to 149 deal with the application of the Code to some particular service sectors, and explain any modifications of the general principles which apply to them.

Banks, finance houses and similar enterprises

Application of Code

133. Most banks, finance houses and similar financial enterprises are engaged partly in business for which the charge is a rate of interest and partly in business for which the charge is of a different nature. Interest charges are not within the control. The other charges of these enterprises are subject to control. It will therefore be necessary to allocate costs and profits between the two classes of business for the purpose of the control on non-interest charges. Paragraph 53 (except sub-paragraphs (3) and (4)) applies.

Extension of meaning of exports

134. For the purposes of the Code the enterprises described in paragraph 133 may treat as goods and services exported—

(*a*) transactions in sterling with any person or body corporate resident outside the United Kingdom; and

(*b*) dealings in foreign currencies.

Non-interest charges

135. The provisions of the Code relating to allowable cost increases and to the limitation on net profit margins, defined in the case of these enterprises as in paragraphs 138 and 139, apply to their non-interest charges. These include commissions, fees and all similar charges. Where *ad valorem* rates are charged and these rates are charged generally, they must be treated as maxima. Enterprises will, however, be free to adjust their rates to match the credit status of a client provided such adjustments are in accordance with normal practice in such cases. In calculating charges these enterprises should take fully into account all factors including customers' balances which enter the costing of the class of transaction for which the charge is made. They should treat changes in those factors as the basis for increases or reductions in the charges in accordance with the Code.

Hire purchase etc.

136.—(1) Paragraph 135 applies to charges (other than interest) added to the cash price under hire-purchase, credit sale and conditional sale agreements.

(2) The provisions of the Code apply in full to charges under plant and machinery leasing agreements.

(3) Changes in the monthly Finance Houses Base Rate may be taken as the measure of increases or reductions in interest costs for the calculation of allowable cost increases, provided that rate is used consistently for all the purposes of the Code.

Large leasing agreements

137. In the case of an agreement for the leasing of any equipment on which the lessor's capital expenditure is more than £5,000, increases in rentals may be made under a formula, specified in the agreement, providing for variation of rentals on account of changes in the rate of corporation tax to the extent that the rate of return to the lessor on his capital expenditure net of corporation tax is not greater than it would have been if the rate of corporation tax had remained at that in force at the date of the agreement or, if the formula specifies another date for that purpose, at that date.

Special definition of "net profit margin"

138. For the purposes of the Code "net profit margin" means—

(*a*) in the case of enterprises within paragraph 133 undertaking plant and machinery leasing contracts, where either the greater part of the business of the enterprise consists of such contracts, or separate accounts can be produced for such contracts, net income from charges for this business less associated costs, including overheads, expressed as a proportion of average resources employed;

(*b*) in the case of enterprises undertaking hire-purchase or conditional sale business where either the greater part of the business of the enterprise consists of such business or separate accounts can be produced for such business, and of all other enterprises within paragraph 133, net income from charges (that is, gross income less costs, including associated overheads) expressed as a percentage of gross income (that is total income from the transactions concerned); and, in any calculation under this head, no account shall be taken of interest included in the hire-purchase price or in the total purchase price in a conditional sale.

Comparison with reference levels

139. In comparing net profit margins, as defined in paragraph 138, with the reference level, account should be taken of the total profitability of the non-interest business of the enterprise concerned in determining the permitted level of charges.

National Giro

140.—(1) In the case of the banking services of the Post Office, the reference level for the purposes of paragraph 80 means the average level of the years of account ending in 1975 and 1976, the level for the year of account ending in 1975 being determined on the following assumptions—

(*a*) that the reduction of the liability of the Post Office under section 4 of the Post Office (Banking Services) Act 1976(**a**) should be deemed to have been effected on 1st April 1974 instead of on 1st April 1975; and

(**a**) 1976 c. 10.

(*b*) that from the amount of such reduction there were deducted any part of the liability of the Post Office to which the said section 4 applies which was incurred during the year to 31st March 1975.

(2) Notwithstanding paragraph 120(1), paragraph 126 applies to the banking services of the Post Office.

Construction industry

Application of Code

141. In determining prices for construction contracts enterprises should have regard to the Code as it applies to manufacturing enterprises. Of particular relevance to construction are paragraph 69, which applies to tenders for construction work to the extent that they are at fixed prices, and paragraphs 70 to 76 which apply to variation of price clauses, prime cost and cost reimbursement arrangements.

Transport

Application of Code

142. The Code applies to transport undertakings as it does to other service enterprises. Charges for international freight and passenger traffic are outside the control under paragraph 6(*f*). Charges of nationalised transport undertakings, passenger transport authorities, local authority transport undertakings and transport companies owned by nationalised industries and their subsidiaries are governed by paragraphs 119 to 126 and 130.

Private road haulage

143. Charges of private road haulage undertakings are subject to the provisions relating to allowable cost increases and to the limitations on net profit margins.

Vehicle sales and services

Application of Code

144. Charges for repair, maintenance and servicing of vehicles are subject to the provisions relating to allowable cost increases and to the limitation on net profit margins. The prices of vehicles sold by distributors, whether new or second-hand, are subject to the limitations on gross percentage margins and on net profit margins. Paragraph 18 applies to enterprises which both sell and maintain vehicles.

Hotels and catering enterprises

Application of Code

145. What is said in paragraph 132 applies to these enterprises also, in respect both of charges for food and drink and for accommodation.

Professional and other services

Application of Code

146. Fees and charges for professional or other services by firms or by individuals who are self-employed are governed as prices by the Code.

Scale fees

147. Where scales or rates of charges of general application, whether calculated per item, at an hourly rate or *ad valorem*, are in use in a profession under instructions or advice issued by a professional organisation, those scales or rates must be treated as maxima and may not be increased without the agreement of the Commission. Where rates above scale have normally been agreed and have become normal charges, such rates need not be reduced but the margin by which such rates exceed the scale may not be increased. The Commission will apply the provisions relating to allowable cost increases to increases in scales or rates, and to increases in fees or charges calculated on a time basis.

Other charges

148. Where there are no scales or rates of general application, the rates or scales charged for a professional service may not be increased except to reflect increases in allowable costs. Increases in labour costs under paragraph 40(1)(*b*)(i) and (ii) may not include any element in respect of proprietors' or partners', as distinct from employees', time.

Net profit margins

149.—(1) The limitation on net profit margins will apply to profits of firms or individuals providing professional or other services irrespective of the method by which fees are determined.

(2) For the purpose of paragraph 81, turnover and net profit include interest on money belonging to another person retained by solicitors and estate agents and other enterprises which retain such interest in the ordinary course of business.

(3) Where the number of partners in a professional practice has changed as a result of the substitution of a partner for an employee, or of an employee for a partner, the reference level may be recalculated by reference to the changed number of partners. Paragraph 90 applies to amalgamations of and successions to partnerships. In applying the provisions relating to allowable cost increases to scales or rates of charges, the Commission will have regard to profit margins in the profession generally and will apply paragraphs 48 to 52, 83 and 94 to firms or individuals in the profession as they think appropriate, notwithstanding that not all such firms or individuals could apart from this paragraph obtain relief under the paragraph in question.

Non-profit-making organisations

Charges outside control

150. Subscriptions charged by organisations which—

(*a*) exist for religious, charitable, educational, representational or recreational purposes; and

(*b*) are non-profit-making; and

(*c*) do not carry on a trade or business as their main activity;

will not be controlled.

Provisions supplemental to paragraph 150

151. The Code will not apply to prices charged by an organisation satisfying the tests in paragraph 150, or by any properly authorised person acting on behalf of that organisation, if they are charged in order to raise funds for the

purposes of the organisation, and involve no substantial or continuing competition with trading enterprises.

Charges within control

152. Except where they are outside the control under paragraph 151, prices charged in any trading activity carried on by an organisation which meets the requirements of paragraph 150 are governed by the Code, unless the customers of the trading activity are confined to members of the organisation.

PART VI

GENERAL

Modification etc. of particular provisions of the Code

153. Where the particular provisions of the Code cannot be directly applied to particular cases or sectors without modification, the Commission will, in exercising their functions, apply those provisions with such adaptations or modifications as appear to them to be necessary to give effect to the principles and objectives of the Code.

SCHEDULE 2

(Article 3(1))

Orders revoked	Reference
The Counter-Inflation (Price Code) Order 1974	S.I. 1974/2113 (1974 III, p. 8253)
The Counter-Inflation (Price Code) (Amendment) Order 1974	S.I. 1974/2158 (1974 III, p. 8441)
The Counter-Inflation (Price Code) (Amendment) Order 1975	S.I. 1975/864 (1975 II, p. 3072)
The Counter-Inflation (Price Code) (Amendment) (No. 2) Order 1975	S.I. 1975/1293 (1975 II, p. 4400)
The Counter-Inflation (Price Code) (Amendment) Order 1976	S.I. 1976/71 (1976 I, p. 224)
The Counter-Inflation (Price Code) (Amendment) (No. 2) Order 1976	S.I. 1976/630 (1976 I, p. 1777)

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order substitutes a new Price Code for the Code which has been in operation since 20th December 1974 (under the Counter-Inflation (Price Code) Order 1974 as amended). The new Code takes effect on 1st August 1976, but notifications of price increases received by the Price Commission before that date will be considered under the earlier Code.

The principal changes are—

(*a*) firms may elect that interest is not to be taken into account for the purposes of certain provisions of the Code (paragraph 19);

(*b*) firms may retain the benefit of reductions in fuel costs and in calculating certain specified costs may disregard half of any increase in output or exports (paragraphs 29, 30 and 53);

(*c*) additional provision is made for the treatment of depreciation of assets in the calculation of a permitted price increase (paragraph 41);

(*d*) in determining changes in total unit costs and allowable cost increases, firms may in certain circumstances calculate the cost of materials on the basis of the latest price payable for materials last delivered (paragraph 55);

(*e*) the deduction from allowable labour cost increases (the "productivity deduction") no longer applies, except in certain cases under escalation and variation of price clauses (paragraphs 71 to 75);

(*f*) provision is made for the abatement of net and gross profit margins in respect of increases in the value of stock (paragraph 82);

(*g*) the Price Commission may permit the modification of net profit margin reference levels and, in the case of distributors, gross percentage margins if they are satisfied that the modification is justified in the circumstances of the enterprise (paragraphs 93 and 117); and

(*h*) the rate of investment relief is increased and capital expenditure in respect of which relief may be claimed is extended (paragraphs 96 and 97).

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