STATUTORY INSTRUMENTS

1977 No. 1282

PRICES

The Prices and Charges (Safeguard for basic profits) Regulations 1977

Made - - - -	*27th July* 1977
Laid before Parliament	*29th July* 1977
Coming into Operation	*1st August* 1977

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The Secretary of State, after consulting in accordance with subsection (2) of section 9 of the Price Commission Act 1977(**a**) with the Price Commission and representatives of persons therein referred to, in exercise of his powers under subsection (1) of that section and section 22(3) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Preliminary

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Prices and Charges (Safeguard for basic profits) Regulations 1977 and shall come into operation on 1st August 1977.

(2) In these Regulations—

'the 1973 Act' means the Counter-Inflation Act 1973(**b**);

'the 1977 Act' means the Price Commission Act 1977;

'bank, finance house or similar enterprise' means a person (other than a building society incorporated under the Building Societies Act 1962(**c**) or under the enactments repealed by that Act) whose ordinary business includes the business of banking, the business of lending money, the letting of goods under hire purchase agreements, or the selling of goods under conditional sale agreements;

'base profit margin' has the meaning given by regulation 8;

'the 1976 code' means the code set out in Schedule 1 to the Counter-Inflation (Price Code) Order 1976(**d**) as amended (**e**);

'the 1977 code' means the code set out in the Schedule to the Counter-Inflation (Price Code) Order 1977(**f**);

'current profit margin' has the meaning given by regulation 9;

'depreciation' has the meaning given by regulation 14;

'distributor' means a person who carries on in the course of business activities falling within Order XXIII (other than the wholesale slaughtering of animals for human consumption, leasing industrial or office machinery, the hiring of furniture, radio and television sets and other domestic appliances or the activity of bakers or processors of scrap metals) or falling within minimum list heading 894 of Order XXVI (other than the repairing of motor vehicles) of the Standard Industrial Classification;

'goods' includes services;

'investigation safeguard' has the meaning given by regulation 2(3);

'manufacturer' means a person who carries on in the course of business activities falling within Orders II, III (other than the quick freezing of meat, poultry or fish, the curing of bacon or ham and the preparation of oven-ready poultry), IV to XXI and XXII (other than travel ticket agents) of the Standard Industrial Classification and bakers;

(**a**) 1977 c. 33. (**b**) 1973 c. 9. (**c**) 1962 c. 37.
(**d**) S.I. 1976/1170 (1976 II, p. 3226). (**e**) S.I. 1976/2207 (1976 III, p. 6190).
(**f**) S.I. 1977/1272 (1977 II, p. 3541).

'the notification order' means the Prices and Charges (Notification of Increases and Information) Order 1977(**a**);

'price' includes charge;

'principal safeguard' has the meaning given by regulation 2(3);

'product' has the meaning given by regulation 3(2);

'provider of services' means a person who carries on in the course of business activities falling within minimum list headings 864 and 865 of Order XXIV or within Order XXV (other than the provision of school meals) or within Order XXVI (other than minimum list heading 894) of the Standard Industrial Classification or the hiring of furniture, radio and television sets and other domestic appliances, or the leasing of industrial and office machinery or the repairing of motor vehicles or the activities of a travel ticket agent;

'the Standard Industrial Classification' means the edition thereof published by Her Majesty's Stationery Office in 1968, as amended by Amendment List No. 1 so published in 1977, together with the alphabetical list of industries so published in 1968 as amended by Amendment Lists Nos. 1 and 2 so published in 1970 and 1977 respectively;

'total costs' has the meaning given by regulation 13;

'turnover' has the meaning given by regulation 15;

'turnover/capital ratio' means the proportion which the amount of turnover of a unit of an enterprise bears to the amount of capital, determined in accordance with regulation 16, employed in it; and

'unit' means an undertaking or part of it described in paragraph (1) of regulation 12.

(3) For the purposes of these Regulations, the amount of any price shall be the net amount of that price.

(4) The Interpretation Act 1889(**b**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Application of Regulations

2.—(1) The investigation safeguard is relevant to the considerations of the Commission concerning a manufacturer, a provider of services, a bank, finance house or similar institution and any person in respect of a contract within article 5 of the notification order, under paragraph (*b*) of section 4(5) of the 1977 Act and of that paragraph as applied by section 5(4) of that Act.

(2) The principal safeguard is relevant to any person who is a distributor or a person mentioned in paragraph (1) above and who is subject to any restriction under section 7 or 13 of the 1977 Act.

(3) In these Regulations—

'the investigation safeguard' means a safeguard for basic profits which is relevant for the purposes of paragraph (*b*) of sub-section (5) of section 4 of the 1977 Act and that paragraph as applied by sub-section (4) of section 5 of that Act, being a safeguard which has effect for the period

(**a**) S.I. 1977/1281 (1977 II, p. 3577). (**b**) 1889 c. 63.

beginning with the giving by the Commission pursuant to sub-section (1) of the said section 4 of a notification relating to an increase or the giving by them pursuant to sub-section (1) of the said section 5 of a notification relating to a price, as the case may be, and ending with the effective date of the report by the Commission relating to the increase or the price or the giving by the Secretary of State of notice to the Commission pursuant to sub-section (3) of the said section 4 or sub-section (5) of the said section 5 or the giving by the Commission to the Secretary of State of notice pursuant to sub-section (4) of the said section 4; and

'the principal safeguard' means a safeguard for basic profits which persons are not to be prevented from earning by virtue of any provision of section 7 of the 1977 Act or of such a notice as is mentioned in section 13(1) of that Act.

(4) Nothing in these Regulations affords a safeguard for the profits of any unit other than the unit in the course of the business of which the increase or price in question is proposed or is charged, as the case may be, or to which the margin in question relates.

The Safeguards

Investigation safeguard for manufacturers and providers of services

3.—(1) The investigation safeguard in relation to a manufacturer or a provider of services is, in relation to a product, the greatest of—

(*a*) except as otherwise provided by regulation 7, a current profit margin of 3 per cent; and

(*b*) a current profit margin of 80 per cent of the base margin; and

(*c*) a current profit margin equal to the base profit margin—

(i) in the case of a person who is required under section 15 of the 1973 Act to furnish periodical returns to the Commission, if, at the date when the investigation safeguard is to be applied, the margin of the unit in which the product is supplied in the period to which the most recent such return is required to relate is not more than 3 per cent of turnover in that period or 12½ per cent of capital employed in the unit at the end of that period, and

(ii) in any other case, if the margin of the unit in which the product is supplied in the year of account of that unit completed last before the date on which the investigation safeguard falls to be applied is not more than 3 per cent of turnover in that year or 12½ per cent of capital employed in the unit at the end of that year.

(2) Subject to paragraph (3) below, in these Regulations 'product' means—

(*a*) a single description of goods; or

(*b*) more than one description of goods.

(3) In the case—

(*a*) of a person who is required under section 5 of the 1973 Act to give notice to the Commission of an increase, sub-paragraph (*a*) of the preceding paragraph shall not have effect in relation to any goods for the sale of which he is required to give notice of a single increase and accordingly in

paragraph (1) above 'product' means all the goods to which such an increase relates; and

(*b*) of any other person, 'product' means the goods to which the price specified in a notification pursuant to sub-section (1) of section 5 of the 1977 Act, or a direction pursuant to sub-section (1) of section 10 of that Act, relates.

(4) In heads (i) and (ii) of paragraph (1)(*c*), 'margin' means a margin on turnover after deduction of expenses; and subject to regulation 7 'expenses' shall be ascertained in the like manner as total costs but as if sub-paragraph (*d*) of paragraph (1) of regulation 13 and paragraphs (2) and (3) of that regulation were omitted.

Modification of investigation safeguard for capital intensive units

4. In relation to a product supplied in a unit of which the turnover/capital ratio for the period or year of account referred to in head (i) or head (ii) of regulation 3(1)(*c*), as the case may be, does not exceed 3.75 : 1, for the reference in regulation 3(1)(*a*) to 3 per cent there shall be substituted a reference to the percentage specified in column 2 of the following table as applicable to the range of ratios specified in column 1 of that table within which the turnover/capital ratio of the unit falls.

TABLE

Column 1 Range of turnover/capital ratios	Column 2 Margin over total costs
Under 3.75 : 1 and not under 3.25 : 1	3.5 per cent
Under 3.25 : 1 and not under 2.75 : 1	4 per cent
Under 2.75 : 1 and not under 2.25 : 1	5 per cent
Under 2.25 : 1 and not under 1.875 : 1	6 per cent
Under 1.875 : 1 and not under 1.625 : 1	7 per cent
Under 1.625 : 1 and not under 1.375 : 1	8 per cent
Under 1.375 : 1 and not under 1.125 : 1	10 per cent
Under 1.125 : 1	12.5 per cent

Principal safeguard for manufacturers and providers of services

5. The principal safeguard in the case of a manufacturer or provider of services is, in relation to a product, the greater of—

(*a*) except as provided by regulation 7, a current profit margin of 3 per cent; and

(*b*) a current profit margin of 50 per cent of the base profit margin.

Safeguard for distributors

6.—(1) The principal safeguard in the case of a distributor is the greater of—

(*a*) a margin of 2 per cent of turnover; and

(*b*) a margin of 80 per cent of the following margin, that is to say—

(i) in the case of a person who is required under section 15 of the 1973 Act to furnish periodical returns to the Commission, the margin for the latest period of 12 months ending before 1st June 1977 for which such a report relating to the relevant unit was required to be furnished, and

(ii) in the case of any other person, the margin for the latest year of account ending before 1st June 1977.

(2) If at any time a person's profit affords a margin in the then latest period of 12 months or year of account, as the case may be, which is less than the margin referred to in sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph (1) above, as the case may be, nothing in, or done under, section 7 or section 13 of the 1977 Act shall have effect so as to restrict the prices or margins of that person.

(3) In this regulation, except as provided by regulation 7, 'margin' means a margin on turnover after deduction of expenses; and subject to regulation 7 'expenses' shall be ascertained in the like manner as total costs but as if sub-paragraph (*d*) of paragraph (1) of regulation 13 and paragraph (2) and (3) of that regulation were omitted.

(4) In the case of a distributor of whom the proportion which his sales in the relevant unit in the period or year of account referred to in head (i) or (ii) of paragraph (1)(*b*), as the case may require, bears to the average of the stock of that unit at the beginning of that period or year and at the end of that period or year does not exceed 10:1, for the reference in paragraph (1)(*a*) above to 2 per cent there shall be substituted a reference to the percentage specified in column 2 of the following table as applicable to the range of proportions specified in column 1 of that table within which that proportion falls.

TABLE

Column 1 Proportion of sales to stock	Column 2 Margin of turnover
Under 10: 1 and not under 9: 1	2.5 per cent
Under 9:1 and not under 8:1	3 per cent
Under 8:1 and not under 7:1	3.5 per cent
Under 7:1 and not under 6:1	4 per cent
Under 6:1 and not under 5:1	4.5 per cent
Under 5:1	5 per cent

Adaptation of regulations 3 *to* 6 *for unincorporated enterprises*

7.—(1) Except in their application to a body corporate, regulations 3 to 6 shall have effect as if—

(*a*) total costs for the purposes of determining the current profit margin referred to in regulations 3(1)(*a*) and 5(*a*) and expenses for the purpose of determining the margin referred to in regulation 6(1)(*a*) included

the amount determined under paragraph (2) below in respect of the year of account last ended before the date when the safeguard in question falls to be applied; and

(*b*) expenses for the purpose of determining the margins referred to in heads (i) and (ii) of regulation 3(1)(*c*) included the amount determined under paragraph (2) below in respect of the period or year of account in question.

(2) The amount referred to in paragraph (1) above is 50 per cent of the greater of—

(*a*) the amount shown in audited accounts as available for distribution as net profit in respect of a period or year of account; and

(*b*) the amount withdrawn in that period or year of account on account of net profit in respect of that or any previous period or year of account,

apportioned as necessary; and for the purposes of this paragraph, net profit includes any sum (other than a contribution to a pension fund) paid for the benefit of any person entitled to participate in profits or to any other person at his request or to the wife or husband of any such person and the value of any benefit provided for any such person or the wife or husband of any such person otherwise than in money.

Base profit margin

8.—(1) The base profit margin shall be the excess of the price ascertained under paragraph (2) below over the total costs ascertained in accordance with paragraph (3) below expressed as a percentage of those costs.

(2) For the purposes of paragraph (1) above, a price shall be ascertained immediately after the implementation of the last increase in it—

(*a*) before 1st July 1977 in the case of a person required under section 5 of the 1973 Act to give notice to the Commission of an increase in that price; and

(*b*) before 1st June 1977 in the case of any other person.

(3) For the purposes of paragraph (1) above, total costs—

(*a*) in the case of a person referred to in sub-paragraph (*a*) of paragraph (2) above, shall be the total costs specified in relation to the increase in a notice in accordance with the section there mentioned; and

(*b*) in any other case, shall be ascertained at the date of implementation of such increase.

(4) Article 4 of the notification order shall have effect for ascertaining whether a price has been increased.

Current profit margin

9. For the purposes of these Regulations, the current profit margin at any time is the excess of the price in question over the total costs expressed as a percentage of those costs.

Loading of increases

10.—(1) In a case where an investigation under section 6 of the 1977 Act, a restriction under section 7 of that Act or a notice under section 13(1) of that Act relates to more than one price, a person may, subject to paragraph (2) below, under the investigation safeguard and, in any case, under the principal safeguard apply different increases to different prices.

(2) The Commission may in a variation notice specify such limitations as they consider appropriate on the operation of paragraph (1) above; and accordingly the investigation safeguard shall have effect subject to such limitation.

Escalation and variation of price clauses

11.—(1) In relation to any person in respect of a contract falling within article 5 of the notification order, the investigation safeguard and the principal safeguard are the greater of the safeguards provided by regulation 6; and that regulation shall have effect accordingly but as if for references to a distributor there were substituted references to such a person and as if for the reference in sub-paragraph (1)(*a*) to 2 per cent of turnover there were substituted a reference to 3 per cent of turnover and paragraph (4) were omitted.

(2) Regulations 3 to 5 shall not have effect in relation to a contract falling within the said article 5.

Calculation of safeguards

Meaning of 'unit'

12.—(1) For the purposes of these Regulations, 'unit' means—

(*a*) either—

(i) the undertaking of the person in question taken as a whole, or

(ii) his undertaking as a manufacturer, his undertaking as a provider of services, his undertaking as a distributor, his undertaking as a bank, finance house or similar institution or his undertaking as a manufacturer and as a provider of services,

as he may decide; or

(*b*) a part of his undertaking taken as a whole or of an undertaking within sub-paragraph (*a*)(ii) above if he so desires and the Commission are satisfied that the part constitutes an undertaking separate from other undertakings of the person and that the accounts of the parts can be reconciled with those of the person's undertaking taken as a whole and are not materially distorted by transactions conducted otherwise than at arm's length,

being, for so long as the Price Code set out in the Schedule to the Counter-Inflation (Price Code) Order 1977(**a**) is in operation, the unit ascertained under paragraph 14 of that Code.

(**a**) S.I. 1977/1272 (1977 II, p. 3541).

(2) For the purposes of this regulation, references to a person include all other persons with whom he is for the purposes of sections 5 and 6 of the 1973 Act to be treated as one by virtue of paragraph 2(1) of Schedule 3 to that Act: Provided that if a person ceases to be so treated as one with another person, no account shall be taken of any profits or costs of that other person.

Meaning of 'total costs'

13.—(1) In these Regulations, 'total costs' means all costs relating to a product including depreciation but not—

(*a*) disbursements or expenses not wholly and exclusively laid out or expended for the purposes of the business in the course of which they are incurred;

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

(*c*) save as provided by regulation 18 below, interest; and

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

(2) The calculation of total costs shall be made by reference to costs per unit of volume of output or, where the investigation safeguard or the principal safeguard is to be applied in the case of more than one description of goods, may be made by reference to costs per £ of sales value and, where the calculation has been made by reference to costs per unit of volume of output or by reference to costs per £ of sales value, it shall be so made for all purposes of these Regulations in relation to the same increase or price.

(3) Total costs shall be calculated at the date when the investigation safeguard or the principal safeguard is to be applied and shall be determined by reference to the volume of output or value of sales, as the case may require—

(*a*) where that date falls within the first half of an accounting year, over the preceding accounting year; and

(*b*) where that date falls within the second half of an accounting year, over the period comprising the second half of the preceding accounting year and the first half of the current accounting year.

Meaning of 'depreciation'

14. In these Regulations, 'depreciation' means the aggregate amount of depreciation, calculated in accordance with generally accepted accounting principles consistently applied by the person concerned, for the period to which

(**a**) 1973 c. 19. (**b**) 1974 c. 16.

the calculation relates in respect of each asset used in the relevant unit in that period based—

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

(i) the historic cost of the asset or a revaluation of the asset, determined in accordance with generally accepted accounting principles, 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, determined in accordance with generally accepted accounting principles, which has appeared in annual accounts; and

(*b*) where that calculation is made by reference to a period ending before 1st August 1976, on either—

(i) the historic cost of the asset, or

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

Ascertainment of 'turnover'

15. For the purposes of these Regulations, 'turnover' is the turnover of the relevant unit during the period or year of account in question, no account being taken of any revenue arising from transactions at prices to which by virtue of Section 22(2) of the 1977 Act section 10(1) or 12(3) of that Act does not apply.

Ascertainment of amount of capital

16.—(1) The amount of capital for the purposes of regulations 3 and 4 shall be ascertained at the end of the period referred to in head (i) or in head (ii) of regulation 3(1)(*c*), as the case may be, and shall, in any such case, be the value of net assets (excluding the value of goodwill and after deducting borrowings in respect of which interest is to be taken into account under regulation 18) and shall be based on the historic cost of assets save that where, in annual accounts for a year ended on or before 30th September 1972, an asset has been re-valued, the value of that asset may be based on such value.

(2) In ascertaining the amount of capital, there shall be left out of account any capital relating to goods revenue relating to which is to be left out of account under regulation 15.

Treatment of stocks

17.—(1) In determining total costs for the purposes of regulations 8 and 9, the cost of materials (that is to say, materials, components, consumable stores and supplies) may, at the option of the person to or by whom the safeguard is to be applied, be taken to be the cost of the materials in question or the cost of

similar materials at the date by reference to which the calculation is made, that is to say, the price paid or to be paid by that person for materials last delivered to him before that date in a quantity customarily purchased by him for the purposes of the unit concerned, being a price negotiated at arm's length and representative of the current level of prices under similar transactions.

(2) In determining a margin under regulations 3 and 6, in relation to any period of 12 months ending after 31st July 1976, a person may deduct an amount in respect of increases in the value of stock ('stock value increase') determined under this regulation; and if he does so—

(*a*) he shall apply this paragraph in each similar period ending within the 13 months following the first such period; and

(*b*) after the expiry of the last period mentioned in (*a*) above, he may apply this paragraph as if he had not previously done so;

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.

(3) In the preceding paragraph, 'stock value increase', in the case of any unit, means 70 per cent of the excess of the value of the stock at the end of a period of 12 months over the value of stock at the beginning of that period and a decrease in the value of stock shall be an amount determined in a similar manner; and for the purposes of paragraph (2) above no account shall be taken of—

(*a*) any decrease in the value of stock below the value of stock at the beginning of the first period by reference to which the said paragraph (2) is applied in respect of that unit; and

(*b*) any amount by which the sum of decreases in the value of stock exceeds the sum of increases in the value of stock, being increases in respect of which the said paragraph (2) has been so applied to that unit.

(4) In the two preceding paragraphs, 'stock' includes work in progress but does not include any description of security; and for the purposes of these Regulations the value of stock shall be determined in accordance with generally accepted accounting principles consistently applied by the person concerned.

(5) A person who has exercised an option—

(*a*) under paragraph (1) above in relation to a price shall apply it in all calculations under these Regulations in relation to that price; and

(*b*) under paragraph (2) above in relation to a margin shall apply it in all calculations under these Regulations but without prejudice to sub-paragraph (*b*) of that paragraph.

Treatment of interest

18.—(1) Subject to paragraph (2) below, for the purposes of these Regulations—

(*a*) interest paid by a person shall be treated as part of total costs and of expenses within the meaning of regulations 3(4) and 6(3); and

(*b*) interest received by a person shall be treated as part of the turnover of the unit by or for which it is received.

(2) In a case where a person has under paragraph 19(2) of the 1976 Code or paragraph 28 of the 1977 Code elected that interest shall not be taken into account for certain purposes, interest paid and interest received shall not be taken into account in ascertaining current profit margin for the purposes of regulations 3(1)(*b*) and (*c*) and 5(*b*), a return on capital for the purposes of regulation 3(1)(*c*), base profit margin for the purposes of regulation 8 and any calculation under regulation 6(1)(*b*) until, under paragraph 29(2) of the 1977 Code, he revokes any such election under the said paragraph 19(2); and the revocation of any provision of the 1976 Code or the 1977 Code shall not affect the operation of this regulation.

(3) There shall be left out of account, for the purposes of this regulation, any interest—

(*a*) which is a distribution of profits; or

(*b*) which is payable on a loan by another unit of the same enterprise and—

(i) which is not required for the purposes of the principal activity of the unit by or for which it is paid, or

(ii) which is at a rate higher than that which would have been charged if the transaction had been at arm's length; or

(*c*) which, although expressed as interest, is capital expenditure; or

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

(4) Notwithstanding the provisions of the two preceding paragraphs, interest received by a person on money belonging to another and retained by him in the ordinary course of business shall be treated as interest received within paragraph (1)(*b*) above.

Treatment of indirect taxes

19.—(1) In any calculation under these Regulations, there shall be left out of account the cash value of value added tax borne by the person to or by whom the safeguard is to be applied and, except as provided in paragraph (2) below, the effect of any change in other indirect taxes after 25th March 1974.

(2) In cases where indirect taxes other than value added tax would otherwise fall to be included in a calculation under this regulation, the value of sales—

(*a*) before 17th January 1977 shall be taken to be—

(i) in the case of alcoholic beverages, 85 per cent of the value of sales, and

(ii) in the case of tobacco and tobacco products, 80 per cent of the value of sales; and

(*b*) after 16th January 1977 shall be taken to be—

(i) in the case of alcoholic beverages, 80 per cent of the value of sales, and

(ii) in the case of tobacco and tobacco products, 75 per cent of the value of sales before 1st August 1977 and 73 per cent of the value of sales on and after that date:

Provided that, in relation to the investigation safeguard and the principal safeguard, if the Commission are satisfied, having regard to the proportion which the volume or value of a person's sales of goods to which sub-paragraph (*a*) or (*b*) above applies, as the case may require, bears to the volume or value of all sales of the unit as compared with the proportions which appear to them to be those which ordinarily obtain, that a percentage higher than that specified in head (i) or (ii) of the sub-paragraph in question is appropriate, they may specify that higher percentage and, in relation to the calculation in question, such sub-paragraph shall have effect accordingly.

Matters to be left out of account

20.—(1) For the purposes—

(*a*) of regulation 3(1)(*a*) and (*b*) and 5 and of the current profit margin mentioned in regulation 3(1)(*c*), there shall be left out of account any revenue arising from transactions at prices to which by virtue of section 22(2) of the 1977 Act section 5(1)(*d*) of that Act does not apply, and

(*b*) of the margins mentioned in regulations 3(1)(*c*)(i) and (ii) and 6, there shall be left out of account any revenue which is to be left out of account under regulation 15.

(2) For any purpose of these Regulations, there shall be left out of account in ascertaining any amount or value—

(*a*) an advance by way of grant under the Highlands and Islands Shipping Services Act 1960(**a**);

(*b*) payments made under section 26(1) of the Finance Act 1967(**b**);

(*c*) grant made under Part I or Part II of the Industry Act 1972(**c**); and

(*d*) grant made pursuant to arrangements under section 5(1) of the Employment and Training Act 1973(**d**).

Treatment of food subsidies

21. A subsidy received or to be received by a person on any food under section 1 of the Prices Act 1974(**e**) shall for all purposes of these Regulations be treated as part of the price received by the unit in question for that food or for any product of which that food is an ingredient.

General provisions as to calculations

22. Save as otherwise expressly provided in these Regulations, any amount or value shall be determined and any apportionment shall be made in accordance with generally accepted accounting principles consistently applied by the person in question and shall be consistent with annual or management accounts and practices employed by that person in relation to the relevant unit.

(**a**) 1960 c. 31. (**b**) 1967 c. 54. (**c**) 1972 c. 63.
(**d**) 1973 c. 50. (**e**) 1974 c. 24.

Special cases

Banks, finance houses and similar institutions

23.—(1) In relation to a bank, finance house or similar institution, the investigation safeguard and the principal safeguard are the greater of the safeguards provided by regulation 6 (except paragraph (4)); and that regulation shall have effect accordingly but as if for references to a distributor there were substituted references to a bank, finance house or similar institution and as if for the reference in sub-paragraph (1)(*a*) to 2 per cent of turnover there were substituted a reference to 3 per cent of turnover.

(2) Notwithstanding the foregoing provisions of these Regulations, the margin referred to in regulation 6 as applied by this regulation—

(*a*) in the case of a unit of which the principal business is plant and machinery leasing transactions, shall in respect of such transactions be the net income from charges received in the period in question less associated costs, including overheads, expressed as a percentage of average resources employed for the purposes of such transactions;

(*b*) in the case of a unit of which the principal business is hire purchase, credit sale and conditional sale transactions, shall in respect of such transactions be net income from separately identifiable fees and charges (other than interest) expressed as a percentage of gross income; and

(*c*) in the case of any other unit and, in the case of a unit within either of the two preceding paragraphs in respect of any other transaction, shall be the excess of total income (including interest on customers' current account credit balances) received in the period in question over costs, including associated overheads, expressed as a percentage of total income, no account being taken of any interest relating to such transactions as are mentioned in the two preceding sub-paragraphs;

and in any determination under this regulation no account shall be taken of transactions in sterling with any person resident outside the United Kingdom or any dealings in a currency other than sterling.

Public sector

24.—(1) In any calculations under these regulations, no account shall be taken of any Government compensation or grant taken directly to revenue account by any Area Electricity Board, the British Airports Authority, the British Airways Board, the British Gas Corporation, the British Railways Board, the British Steel Corporation, the British Transport Docks Board, the British Waterways Board, the Central Electricity Generating Board, the Electricity Council, the National Coal Board, the North of Scotland Hydro-Electric Board, the Northern Ireland Electricity Service, the Post Office and the South of Scotland Electricity Board.

(2) No account shall be taken under these Regulations of any grant made to the Civil Aviation Authority in pursuance of section 10(1)(*a*) of the Civil Aviation Act 1971(**a**).

(**a**) 1971 c. 75.

(3) In the case of the British Transport Docks Board and the Post Office, 'depreciation' means depreciation within regulation 14 together with, in the case of an asset to which it relates, supplemental depreciation at replacement cost.

Roy Hattersley,
Secretary of State for
Prices and Consumer Protection.

27th July 1977.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide safeguards for the profits of enterprises whose proposals for price increases or whose prices are under investigation by the Price Commission or which are subject to restriction following a report on an investigation or on an examination carried out by the Price Commission under a direction by the Secretary of State.

The profit safeguard for manufacturers and providers of services during an investigation is a current profit margin in relation to a product or range of products of 3 per cent or, if higher, a current profit margin of 80 per cent of the profit margin at a base date (regulation 3), except where a higher safeguard is provided (regulations 3(1)(*c*) and 4). The Price Commission are under a duty under the Price Commission Act 1977 to allow price increases to permit such a profit to be obtained. The safeguard during the period of any restriction following a report is the same with the substitution of 50 per cent of the margin in a base period for 80 per cent (regulation 5).

Distributors are not subject to any restriction during an investigation. The profit safeguard during any subsequent period of restriction is the greater of a margin of 2 per cent of turnover, modified in certain circumstances by reference to the ratio between sales and stocks, or of 80 per cent of a margin a base period (regulation 6).

SI 1977/1282
ISBN 0-11-071282-X

