

STATUTORY INSTRUMENT

S.I. No. 422 of 2001

European Communities (Requirements to Indicate Product Prices) Regulations, 2001

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by [section 3 of the European Communities Act, 1972 \(No. 27 of 1972\)](#), and for the purpose of giving effect to Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers¹, hereby make the following regulations:

¹ O.J. No. L 80, 18.3.98, p. 27

1 (1) These Regulations may be cited as the European Communities (Requirements to Indicate Product Prices) Regulations, 2001.

(2) These Regulations shall come into operation on 1 October 2001.

2.(1) In these Regulations –

"advertisement" means an advertisement promoting the sale of a product but does not include an advertisement promoting the sale of a product by means of a distant contract, catalogue, price list, container or label;

"authorised officer" means a person who, for the time being, stands appointed under Regulation 9;

"consumer" means a natural person who buys a product for purposes that do not fall within the sphere of his or her commercial or professional activity;

"cosmetic product" means any substance or preparation intended to be placed in contact with the various external parts of the human body or with the teeth and the inside of the mouth or throat with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting body odours or protecting them or keeping them in good condition;

"cosmetic product" means any substance or preparation intended to be placed in contact with the various external parts of the human body or with the teeth and the inside of the mouth or throat with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting body odours or protecting them or keeping them in good condition;

"Directive" means Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers;

"Director" means the Director of Consumer Affairs;

"distance contract" means a contract for the sale of a product entered into by a trader and a consumer by any means, or in any manner, not involving these persons being present together;

"itinerant trader" means a trader who, as a pedestrian, or from a train, aircraft, vehicle, ship, stall, barrow or other mobile sales unit, offers products to consumers other than by means of pre-printed material;

"make-up products" means cosmetic products intended solely to change temporarily the appearance of the face or nails, including (but not limited to) lipsticks, mascaras, eye shadows, blushers and concealers;

"net drained weight" means the weight of a solid food product contained in a liquid medium (within the meaning of paragraph 4 of Article 8 of Directive 2000/13/EC of the European Parliament and of the Council relating to the labelling, presentation and advertising of foodstuffs²);

² O.J. No. L 109, 6.5.2000, p. 29

"premises" includes any building, shop, store, dwelling, kiosk, temporary construction, or an area in any of the foregoing in which trading is carried on pursuant to a franchise or concession;

"products sold in bulk" means products which are not pre-packaged and are weighed or measured in the presence of the consumer;

"selling price" means the final price for a unit of a product, or a given quantity of a product, including value-added tax and all other taxes;

"trader" means any natural or legal person who sells or offers for sale products which fall within his or her commercial or professional activity;

"unit price" means the final price, including value-added tax and all other taxes, for one kilogramme, one litre, one metre, one square metre or one cubic metre of a product or, in respect of a product mentioned in the first column of Schedule 1, the final price for the number of units specified in the second column of that Schedule opposite such mention, or, where products are sold by the individual item or by number, the final price for one individual item of the product.

(2) In these Regulations –

- (a) a reference to a Regulation or a Schedule is a reference to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other provision is intended, and
- (b) a reference to a paragraph or a subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

3.(1) These Regulations do not apply to –

- (a) products supplied in the course of the provision of a service, and
- (b) sales by auction or sales of works of art and antiques

(2) For the purposes of paragraph (1)(a), food and drink prepared or heated at the request of a consumer shall be treated as products supplied in the course of the provision of a service.

4.(1) Subject to paragraph (2), where a trader indicates that a product is or may be for sale to a consumer, he or she shall indicate the selling price of that product in accordance with these Regulations.

(2) Paragraph (1) shall not apply in respect of –

- (a) products sold in bulk, or
- (b) an advertisement for a product.

(3) A person who contravenes this Regulation is guilty of an offence.

5. (1) Subject to paragraphs (2) and (3), where a trader indicates that a product is or may be for sale to a consumer, he or she shall indicate the unit price of the product in accordance with these Regulations.

(2) Paragraph (1) shall not apply in relation to a product:

- (a) which is listed in Schedule 2;
- (b) the unit price of which is identical to its selling price; or

- (c) which is either pre-packaged in a constant quantity, or consists of bread unwrapped or made up in open packs, and is sold -
 - (i) in premises as respects which the trader can show to the satisfaction of an authorised officer that he or she has not access to equipment for printing shelf edge labels or for point of sale scanning;
 - (ii) by an itinerant trader; or
 - (iii) from an automatic dispenser or a vending machine where different products are offered for sale in the same dispenser or machine.

(3) Paragraph (1) shall apply in relation to an advertisement for a product only if the selling price of the product is indicated in the advertisement.

(4) A person who contravenes this Regulation is guilty of an offence.

6.(1) A trader shall ensure that the indication of the selling price and where appropriate, the unit price of a product offered by him or her to consumers or to prospective consumers is –

- (a) unambiguous, easily identifiable and clearly visible and legible; and
- (b) in proximity to the product, or, in the case of a product for sale by distance contract, to the description of the product;

(2) Where a trader offers products for sale at less than the selling price or the unit price previously applicable the indication of the reduced prices in accordance with the Regulations may be effected by reference to a reduction of the prices by a fraction or percentage of the previous prices indicated by a general notice or any other visible means if the particulars of the reduction are –

- (a) unambiguous and easily identifiable as referring to those products; and
- (b) clearly visible and legible to prospective consumers.

(3) A person who contravenes paragraph (1) is guilty of an offence.

7.(1) Where a pre-packaged solid food product is offered for sale in a liquid medium

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(a) it shall be sufficient to indicate in accordance with these Regulations the unit price of the net drained weight; and

(b) if the unit price of the net weight is also indicated in accordance with these Regulations, the trader concerned shall ensure that it shall be clear to which weight each unit price refers.

(2) A person who fails to comply with this Regulation is guilty of an offence.

8.(1) The Director may appoint persons to be authorised officers for the purposes of these Regulations.

(2) An authorised officer when exercising a power under these Regulations shall, if requested by a person affected, produce to the person evidence in writing of his or her appointment as an authorised officer.

(3) The Director may revoke the appointment of an authorised officer.

(4) An authorised officer may, for the purposes of these Regulations and the Directive-

- (a) at all reasonable times enter a premises, if there are reasonable grounds for believing that any trade, business or profession involving the sale of products to consumers is carried on there and search the premises and inspect any products, indications of selling prices or unit prices or records found there,

- (b) secure for later inspection any such records or any part of the premises in which such records are kept or there are reasonable grounds for believing that such records are kept.
 - (c) inspect and take copies of or of extracts from any such records (including in the case of such records in a non-legible form a copy of, or of an extract, from such records in a permanent, legible form),
 - (d) require any person who is carrying on the trade, business or profession or any of his or her employees to produce to the officer any such records relating to the trade business or profession in his or her possession or procurement and, in the case of any such records in a non-legible form, to reproduce them in a permanent, legible form or to give to the officer such information within his or her knowledge or procurement as he or she may reasonably require in relation to any entries in such records,
 - (e) inspect and copy or extract information from any data (within the meaning of the [Data Protection Act, 1988 \(No. 25 of 1988\)](#)), found or produced to the officer under this Regulation,
 - (f) remove and retain any such records for such period as may be reasonable for further examination and copying,
 - (g) require a person found on the premises to give to the officer any information within his or her knowledge or procurement which the officer may reasonably require in regard to the trade, business or profession being carried on there or in regard to the persons carrying it on or their employees,
 - (h) require any person by or on whose behalf data equipment is or has been used on the premises or any person having charge of, or otherwise concerned with the operation of, such data equipment or any associated apparatus or material, to afford to the officer all reasonable assistance in relation thereto,
 - (i) require any other person employed in connection with the trade, business or profession to give to the officer any information within his or her knowledge or procurement which the officer may reasonably require in regard to the trade, business or profession and to produce to the officer any records which are in that person's possession or control,
- (5) An authorised officer shall not, without the consent of the occupier, enter a premises, or a part of a premises, used as a dwelling unless he or she has obtained a warrant from the District Court under Regulation 10 authorising such entry.
- (6) An authorised officer may, if he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any powers conferred on an authorised officer by these Regulations.
- (7) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives to an authorised officer information that is, to his or her knowledge, false or misleading or who does not comply with a requirement of such an officer under these Regulations is guilty of an offence.
9. If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that information required by an authorised officer under these Regulations is held on any premises, or a part of any premises, occupied as a dwelling, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers, or a member or members of the Garda Síochána at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by the use of reasonable force the premises or the part of the premises and there exercise all or any of the powers conferred on an authorised officer under Regulation 8.
10. Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

11.(1) An offence under these Regulations may be prosecuted by the Director.

(2) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000 (£2,362.69).

12. In the table in Schedule 1, unless otherwise specified, a figure mentioned in the second column denotes units of quantity of the product mentioned in the first column opposite the mention of the figure, in -

(a) grams where the product is sold by weight;

(b) millilitres where the product is sold by volume; and

(c) either grams or millilitres, as indicated by the manufacturer of the product, where the product may be sold by either weight or volume.

13. The following Regulations are revoked:

(a) the European Communities (Indication of Prices of Foodstuffs and Non-Food Products) Regulations, 1991 ([S.I. No. 329 of 1991](#)),

(b) the European Communities (Indication of Prices of Foodstuffs and Non-Food Products) (Amendment) Regulations, 1993 ([S.I. No. 307 of 1993](#)), and

(c) the European Communities (Indications of Prices of Foodstuffs and Non-Food Products) (Amendment) Regulations, 1996 ([S.I. No. 124 of 1996](#)).

SCHEDULE 1

Regulation 2

Relevant units of quantity for specific products for the purpose of the definition of "unit price"

PRODUCT	UNITS OF QUANTITY
Herbs	10
Spices	10
Flavouring essences	10
Food colourings	10
Seeds other than pea and bean seeds	10
Make-up products	10 (except where sold by number)
Pickles	100
Sauces, edible oils	100
Fresh processed salad	100
Chilled desserts	100
Cream	100
Bread	100
Biscuits and shortbread	100 (except where sold by number)
Pies and flans indicating net quantity	100 (except where sold by number)
Ice cream and frozen desserts	100
Preserves including honey	100
Soups	100
Fruit juices, soft drinks	100
Coffee	100
Tea and other beverages prepared with liquid	100

Chocolate and sugar confectionery	100 (except where sold by number)
Potato crisps and similar products commonly known as snack foods	100
Breakfast cereal products	100 (except where required to be quantity marked by number)
Dry sauce mixes	100
Dips and spreads excluding edible fats	100
Cooked or ready-to-eat meat including game and poultry	100
Cooked or ready-to-eat fish, seafoods and crustacea	100
Waters, including spa waters and aerated waters	100
Cosmetic products other than make-up products	100
Lubricating oils rather than oils for internal combustion engines	100
Handrolling and pipe tobacco	100
Wines, sparkling wine, liquer wine, fortified wine	75cl
Coal, where sold by the kilogramme	50kg
Ballast, where sold by the kilogramme	1000kg

SCHEDULE 2

Regulation 5 (2)

Products in respect of which a trader is exempt from the requirement to indicate the unit price

(1). Any product which is offered for sale by traders to consumers by means of an advertisement which is:

- (a) solely aural,
- (b) broadcast on television, or
- (c) shown at a cinema

2 Any product the selling price of which has been reduced from the usual price at which it is sold, on account of:

- (a) its damaged condition; or
- (b) the danger of its deterioration.

3. Any product which comprises an assortment of different items sold in a single package.

4. Any product contained in a single package from which a mixture is to be prepared.

5. Any product which is offered for sale by traders to consumers in multipacks, within the meaning of the first [sub]paragraph of Article 4 of Council Directive No. 80/232/EEC of 15 January 1980.³

³ O.J. No. L 51, 25.2.1980, p. 1

GIVEN under my Official Seal,
20th September 2001.

MARY HARNEY

Minister for Enterprise, Trade and Employment

EXPLANATORY NOTE

These Regulations implement Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers. The Regulations apply to most products offered for sale by traders to consumers. Subject to the exceptions specified, where traders indicate that a product is or may be for sale to consumers, they are required to indicate the selling price and the unit price of that product in accordance with the provisions of the Regulations. The indication of the selling price and of the unit price must be clearly visible. The Regulations are enforced by the Director of Consumer Affairs.

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