



STATUTORY INSTRUMENTS

S.I. No. 689 of 2007



CONSUMER PROTECTION (FIXED PAYMENT NOTICE)
REGULATIONS 2007

(Prn. A7/1795)

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CONSUMER PROTECTION (FIXED PAYMENT NOTICE)
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I, MICHEÁL MARTIN, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by sections 3 and 85 of the Consumer Protection Act 2007 (No. 19 of 2007) hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Consumer Protection (Fixed Payment Notice) Regulations 2007.

(2) These Regulations shall come into effect on the day immediately following the day on which notice of their making is published in the *Iris Oifigiúil*.

Fixed payment notice (s. 85(3))

2. The form set out in the Schedule is prescribed for the purposes of section 85(3) of the Consumer Protection Act 2007.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 12th October, 2007.*

SCHEDULE

FORM OF FIXED PAYMENT NOTICE

Part 1

BASIC FORM

CONSUMER PROTECTION ACT 2007

Section 85(3)

FIXED PAYMENT NOTICE

To *[full name]*

of *[address]*

It is alleged that, at *[place]* on *[date]*, you committed the following offence:

[Description of offence, as specified in the appropriate item in Part 2]

Particulars of offence:

[Description of factual situation constituting the contravention alleged]

A prosecution in respect of the alleged offence will not be instituted during the period of 28 days beginning on the date of this Notice. If, during that period, you pay to the National Consumer Agency at *[current address]*, the sum of €300, accompanied by the original or a copy of this Notice, a prosecution will not be instituted at any time in respect of the alleged offence.

However, you will be prosecuted for the alleged offence if you do not make payment as mentioned above.

[Signature]
Authorised Officer
[Date]

IMPORTANT:

Cheques etc. should be made payable to “National Consumer Agency”. A receipt will be issued.

Refund of a payment made pursuant to this Notice will not be made in any circumstance.

Section 86(1) of the Consumer Protection Act 2007 requires the National Consumer Agency to maintain a Consumer Protection List of, among other things, the details of each person who makes a payment to the Agency pursuant to a fixed payment notice and the matter occasioning the fixed payment notice. The

National Consumer Agency may publish the information in the Consumer Protection List relating to persons making payments pursuant to fixed payment notices.

You are entitled to disregard this Notice and defend the prosecution of the alleged offence in court.

Part 2

SPECIFICATION OF OFFENCES

1. Offences under section 22(a) of the Prices Act 1958 (contravention of a retail price display order made under section 19 of that Act)

(1) ***Prices and Charges (Tax-Inclusive Statements) Order 1973***

(a) *Article 3:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3 of the Prices and Charges (Tax-Inclusive Statements) Order 1973 (S.I. No. 9 of 1973) — requirement, where a price is stated, to state the price of a commodity for sale by retail as a single amount inclusive of any tax payable in respect of the commodity.

(b) *Article 4:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4 of the Prices and Charges (Tax-Inclusive Statements) Order 1973 (S.I. No. 9 of 1973) — requirement, where a charge is stated, to state the charge for a service as a single amount inclusive of any tax payable in respect of the service.

(2) ***Charges (Hairdressing) Display Order 1976***

(a) *Article 3:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3 of the Charges (Hairdressing) Display Order 1976 (S.I. No. 156 of 1976) — requirement on a hairdresser to display a notice setting out the charges for every service rendered by him in his capacity as hairdresser.

(b) *Article 4(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4(1) of the Charges (Hairdressing) Display Order 1976 (S.I. No. 156 of 1976) — requirement to display a notice of hairdressing charges:

- (a) in case any part of the premises used for the purposes of the business of rendering the services to which the notice relates is situated on the ground floor of any building and adjoins the public thoroughfare, in such a position outside the premises as to be clearly visible to and capable of being easily read by all persons on the public thoroughfare adjoining that part of the premises, and
- (b) in any other case, in such a position at or immediately inside each of the entrances to the premises as to be clearly visible to and capable of being easily read by all persons using such entrances.

(c) *Article 4(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4(2) of the Charges (Hairdressing) Display Order 1976 (S.I. No. 156 of 1976) — requirement, where a single notice cannot be displayed in such a position as to comply with Article 4(1) of that Order, to display such number of notices as may be necessary to secure such compliance.

(d) *Article 4(4):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4(4) of the Charges (Hairdressing) Display Order 1976 (S.I. No. 156 of 1976) — requirement that the letters and figures on a notice displaying hairdressing charges be at least 6 millimetres in height and of proportionate width.

(3) ***Retail Prices (Food in Catering Establishments) Display Order 1984***

(a) *Article 3(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(1) of the Retail Prices (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984) — requirement on a person carrying on the business of selling foods by retail to display a notice or notices at the premises where the foods are sold:

- (a) specifying each such food, and
- (b) specifying in relation to each such food the price or prices charged therefor at the premises, and, if the person charges a minimum price for any such food not included or not fully included in the prices aforesaid or makes (as a separate charge) a charge commonly known as a service charge or a charge commonly known as a cover charge or a charge for entry into the premises or for entertainment at the premises or any similar charge, specifying the amount of any such price or of any such charge (whether stated as a percentage of an amount or otherwise) and the matters to which it relates and, if the said service charge is fully included

in the prices so specified in the notice or notices, specifying the fact of such inclusion.

(b) *Article 3(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(2) of the Retail Prices (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984) — requirement on a person selling foods by retail that, where the person has on sale a group of foods intended to be sold together at a single inclusive price, the notice or notices displayed by the person pursuant to Article 3(1) of that Order shall specify those foods and shall specify in relation thereto the single inclusive price charged therefor (except that, in the case of any of those foods that are not on sale as aforesaid separately from the others of those foods, it shall not be necessary for the notice or notices to specify them or their prices separately).

(c) *Article 3(4):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(4) of the Retail Prices (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984) — requirement on a person selling foods by retail that, where the person has on sale any food, or group of foods intended to be sold together at a single inclusive price, for which different prices are charged at different times or on different days, the notice or notices displayed by the person pursuant to Article 3(1) of that Order shall specify the different prices and the circumstances in which they are chargeable.

(d) *Article 4:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4 of the Retail Prices (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984) — requirement on a person selling foods by retail to display a notice specifying the price of, or charges for, food:

- (a) either immediately outside or immediately inside each entrance to the premises open to the public where the whole of the premises is used for the purposes of the business of selling food by retail (whether or not any other part of the premises is also used for any other purpose);
- (b) either immediately outside or immediately inside each entrance open to the public to the part of the premises used for the purposes of the business of selling food by retail where part only of the premises is used for that purpose; and
- (c) in either case, in such a position as to be clearly visible and easily accessible to, and in such form and manner as to be capable of

being easily read by, persons using the entrances to the premises where the notice or notices are displayed.

(4) ***Retail Prices (Diesel and Petrol) Display Order 1997***

(a) *Article 3(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(1) of the Retail Prices (Diesel and Petrol) Display Order 1997 (S.I. No. 178 of 1997) — requirement on a person carrying on the business of selling diesel, petrol or 95 unleaded by retail to exhibit a notice at the premises where the business is carried on specifying the retail price per litre charged for each of those commodities.

(b) *Article 3(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(2) of the Retail Prices (Diesel and Petrol) Display Order 1997 (S.I. No. 178 of 1997) — requirement that a notice specifying the retail price of diesel, petrol and 95 unleaded be legible and visible from the side of the road nearest the premises to a person intending to purchase any of those commodities at the premises.

(c) *Article 3(3):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(3) of the Retail Prices (Diesel and Petrol) Display Order 1997 (S.I. No. 178 of 1997) — requirement that, in a notice specifying the retail price of diesel, petrol and 95 unleaded, a number appearing to the left of a decimal point be not less than 20 centimetres in height.

(5) ***Retail Price (Beverages in Licensed Premises) Display Order 1999***

(a) *Article 3(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of paragraph (1) of Article 3 of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement on a person carrying on the business of selling intoxicating liquor by retail for consumption on the premises where the business is carried on, unless paragraph (2) of that Article applies, to display a notice inside those premises specifying:

- (a) each kind of beverage (whether alcoholic or non-alcoholic) on sale at the premises, and the quantities, measures or units thereof by reference to which the price therefor at the premises is calculated, and

- (b) opposite the mention of each such kind of beverage, the price charged at the premises for the quantities, measures or units specified of each such kind of beverage.

(b) *Article 3(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 3(2) of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement on a person carrying on the business of selling intoxicating liquor by retail for consumption on the premises where the business is carried on, being premises in which different prices are charged in different parts of the premises for any quantity, measure or unit of one or more beverages, to display a notice in each such part specifying:

- (a) each kind of beverage (whether alcoholic or non-alcoholic) on sale in that part of the premises, and the quantities, measures or units thereof by reference to which the price therefor in that part of the premises is calculated, and
- (b) opposite the mention of each such kind of beverage, the price charged in that part of the premises for the quantities, measures or units specified of each such kind of beverage.

(c) *Article 4:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 4 of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement on a person carrying on the business of selling intoxicating liquor by retail for consumption on the premises:

- (1) to display a notice specifying the price charged at the premises or in that part of the premises, as the case may be:
- (a) per pint or 568 millilitres of at least one kind of draught stout, ale, lager and cider;
- (b) per bottle of a capacity of 330 millilitres of at least one kind of stout, ale, lager and cider;
- (c) per 35.5 millilitres of at least one kind of whiskey, vodka, and gin;
- (d) per bottle of at least one kind of carbonated beverage in bottles of capacity of 200 millilitres;
- (e) per bottle of at least one kind of carbonated beverage having a cola base in bottles of a capacity of 200 millilitres;

- (f) per bottle of at least one kind of mixer in bottles of a capacity of 113 millilitres;
- (g) per bottle of at least one kind of bottled water in bottles of a capacity of 250 millilitres; and
- (h) per bottle of at least one kind of wine in bottles of a capacity of 187 millilitres, and

(2) to display a notice or notices specifying the price of the above beverages:

- (a) immediately outside or immediately inside each entrance to the premises open to the public where the whole of the premises is used for the purpose of selling liquor by retail for consumption on the premises and the same price is charged in all parts of the premises per quantity, measure or unit of each of the beverages;
- (b) immediately outside or inside each entrance to each such part of the premises which is open to the public where the whole of the premises is used for the purpose of selling liquor by retail for consumption on the premises and different prices are charged in different parts of the premises per quantity, measure or unit of one or more of the beverages;
- (c) immediately outside or immediately inside each entrance to the part of the premises used for the purpose of selling liquor by retail where only part of the premises is used for the purpose of selling liquor by retail for consumption on the premises.

(d) *Article 5:*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 5 of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement on a person carrying on the business of selling any beverage by retail in any premises for consumption off the premises where it is a condition of the sale that, if the container in which the beverage is sold is returned to the seller, the seller will give a specified sum of money or deposit to the person returning the container, to display a notice inside the premises stating the price of the beverage, including the amount of the deposit, as a single amount and the price of the beverage, excluding the amount of the deposit, as a single amount.

(e) *Article 6(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 6(1) of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) —

requirement that a notice displayed in premises pursuant to that Order be in such a position as to be clearly visible and in a legible form.

(f) *Article 6(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of paragraph (2) of Article 6 of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement, where a single notice cannot be displayed in such a position as to comply with paragraph (1) of that Article, to display such number of notices as may be necessary to secure such compliance.

(g) *Article 7(1):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 7 (1) of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement that the letters and figures on a notice displayed pursuant to Article 3 or 5 of that Order be at least 3 millimetres in height and of proportionate width.

(h) *Article 7(2):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article (2) of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement that a notice displayed pursuant to Article 4 of that Order be at least A4 in size.

(i) *Article 7(3):*

An offence under section 22(a) of the Prices Act 1958 constituted by a contravention of Article 7 of the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999) — requirement that the letters and figures on a notice displayed pursuant to Article 4 of that Order be at least 4 millimetres in height and of proportionate width.

2. Offences under section 22(b) of the Prices Act 1958 (selling of a commodity at a greater price, or the rendering of a service for a greater charge, than the price or charge shown in a notice displayed pursuant to a retail price display order made under section 19 of that Act)

(1) ***Charges(Hairdressing) Display Order 1976***

An offence under section 22(b) of the Prices Act 1958 constituted by rendering a hairdressing service for a greater charge than the charge shown for that service in a notice displayed pursuant to the Charges (Hairdressing) Display Order 1976 (S.I. No. 156 of 1976).

(2) Retail Prices (Food in Catering Establishments) Display Order 1984

An offence under section 22(b) of the Prices Act 1958 constituted by selling food at a greater retail price than the price shown for that food in a notice displayed pursuant to the Retail Prices (Food in Catering Establishments) Order 1984 (S.I. No. 213 of 1984).

(3) Retail Prices (Diesel and Petrol) Display Order 1997

An offence under section 22(b) of the Prices Act 1958 constituted by selling diesel, petrol or 95 unleaded at a greater retail price than the price shown for that diesel, petrol or 95 unleaded in a notice displayed pursuant to the Retail Prices (Diesel and Petrol) Display Order 1997 (S.I. No. 178 of 1997).

(4) Retail Price (Beverages in Licensed Premises) Display Order 1999

An offence under section 22(b) of the Prices Act 1958 constituted by selling a quantity, measure or unit of a beverage at a greater retail price than the price shown for that quantity, measure or unit of that beverage in a notice displayed pursuant to the Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999).

3. Offences under European Communities (Requirements to Indicate Product Prices) Regulations 2002

(a) Regulation 4(3):

An offence under paragraph (3) of Regulation 4 of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002) constituted by a contravention of paragraph (1) of that Regulation — requirement, where a trader indicates that a product is or may be for sale to consumers, to indicate the selling price of that product in accordance with those Regulations.

(b) Regulation 5(5):

An offence under paragraph (5) of Regulation 5 of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002) constituted by a contravention of paragraph (1) of that Regulation — requirement, where a trader indicates that a product is or may be for sale to consumers, to indicate the unit price of the product in accordance with those Regulations.

(c) Regulation 6(3):

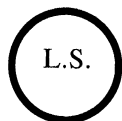
An offence under paragraph (3) of Regulation 6 of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002) constituted by a contravention of paragraph (1) of that Regulation — requirement that a trader ensure that the indication of the selling price, and where appropriate, the unit

price of a product offered by him or her to consumers or prospective consumers is—

- (a) unambiguous, easily identifiable as referring to that product,
- (b) clearly visible and legible to prospective customers, and
- (c) in proximity to the product or, in the case of a product for sale by distance contract, to the description of the product.

(d) *Regulation 7(2):*

An offence under paragraph (2) of Regulation 7 of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002) constituted by a contravention of paragraph (1)(b) of that Regulation — requirement that, where a pre-packaged solid food product is offered for sale in a liquid medium, if the unit price of the net weight and the net drained weight are each indicated in accordance with those Regulations, the trader ensure that it shall be clear to which weight each unit price refers.



GIVEN under my Official Seal,
4 October 2007

MICHEÁL MARTIN.
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations prescribe the form of fixed payment notice for the purposes of section 85(3) of the Consumer Protection Act 2007.

Section 85(2) of the Consumer Protection Act provides that an authorised officer of the National Consumer Agency may serve a fixed payment notice on a person whom the officer has reasonable grounds for believing to be committing, or to have committed, a relevant offence. Section 85(1) of the Act defines a relevant offence as any offence under the following enactments:

(a) section 58 of the Consumer Protection Act 2007 (respecting price display regulations);

(b) section 22(a) or (b) of the Prices Act 1958 (respecting price display orders);

(c) Regulation 4(3), 5(5), 6(3) or 7(2) of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002)..

No price display regulations have been made to date under section 58 of the Consumer Protection Act 2007 but, per section 92 of that Act, the following price display orders made under the Prices Act 1958 remain in force:

(a) Prices and Charges (Tax-Inclusive Statements) Order 1973 (S.I. No. 9 of 1973);

(b) Charges (Hairdressing Display) Order 1976 (S.I. No. 156 of 1976);

(c) Retail Prices (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984);

(d) Retail Prices (Diesel and Petrol) Display Order 1997 (S.I. No. 178 of 1997);

(e) Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999).

Section 85(3) of the Consumer Protection Act 2007 states that a fixed payment notice shall be in the prescribed form and section 2 of that Act defines “prescribed” as prescribed by regulations made by the Minister for Enterprise, Trade and Employment. Section 85(3) further provides that a fixed payment notice shall state—

(a) that the person on whom it is served is alleged to have committed the relevant offence concerned,

(b) when and where it is alleged to have been committed,

(c) that a prosecution for the alleged relevant offence will not be instituted if, during the period of 28 days beginning on the date of the notice, the person pays the amount of €300 to the National Consumer Agency (at the address stated in the notice) and submits the original or a copy of the fixed payment notice together with that payment, and

(d) that in default of such payment, the person will be prosecuted for the alleged relevant offence.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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