

## TOPIC

What are the legal consequences if you're caught overpricing basic commodities such as rice, vitamins etc?

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### I. INTRODUCTION

The outbreak of the *Coronavirus Disease 2019* (“**COVID-19**” for brevity) has caused the Philippine Government to implement an *Enhanced Community Quarantine* (“**ECQ**” for brevity) to prevent the further spread of **COVID-19**. As a result, shelves in various grocery stores were emptied because many Filipinos went panic buying and stocked up on basic commodities to ensure their family’s survival during the period of **ECQ**.

In order to prevent business establishment from exploiting the situation by hiking the price of commodities, *Joint Memorandum Circular No. 2020-01* (“**JMC 2020-01**” for brevity) was issued reiterating the implementation of a nationwide price freeze. The basis of **JMC 2020-01** is *Republic Act (RA) No. 7581* or the *Price Act* which ensures the availability of basic necessities and prime commodities at reasonable prices at all times without denying legitimate business a fair return on investment. It also provides for an effective and sufficient protection to consumers against hoarding, profiteering and cartels with respect to the supply, distribution, marketing and pricing of said goods, especially during periods of calamity, emergency, widespread illegal price manipulation and other similar situations.

Department of Trade and Industry (“**DTI**” for brevity) Secretary Ramon M. Lopez clarified that, *“The JMC further enhances our existing measures for ensuring sellers’ compliance with the price freeze of basic goods. The Circular does not distinguish between an individual seller and a business entity, or if they are operating in either physical or virtual stores. We made it very clear that as long as you are selling any basic good to the public, you must strictly abide by the price freeze. We have likewise intensified the monitoring and enforcement powers of our agencies through the creation of composite teams that would prevent and control any incident of overpricing/profitteering, hoarding, and cartel observed in the market.”*

The Department of Trade and Industry (“**DTI**” for brevity), Department of Agriculture (“**DA**” for brevity), and Department of Health (“**DOH**” for brevity) issued a tripartite directive saying that “There will be no increases in the prices of all basic necessities, whether in the physical stores or in the internet, while price freeze is in effect throughout the country.” Consumers may report business establishments that sell basic necessities beyond the frozen prevailing prices during the imposed state of calamity by calling the One-DTI (1-384) Hotline or by sending an email to [ConsumerCare@dti.gov](mailto:ConsumerCare@dti.gov).

## II. THINGS TO KNOW ABOUT THE PRICE ACT

### What is "*Panic-buying*"?

*Panic Buying* is the abnormal phenomenon where consumers buy basic necessities and prime commodities grossly in excess of their normal requirement resulting in undue shortages of such goods to the prejudice of less privileged consumers.

### What are considered as "*Basic necessities*"?

*Basic necessities* are goods vital to the needs of consumers for their sustenance and existence in times of any of the cases provided under Section 6 or 7 of this Act such as :

1. Rice;
2. Corn;
3. Root crops;
4. Bread;
5. Fresh, dried or canned fish and other marine products;
6. Fresh pork, beef and poultry meat;
7. Fresh eggs;
8. Potable water in bottles and containers;
9. Fresh and processed milk;
10. Fresh vegetables and fruits;
11. Locally manufactured instant noodles;
12. Coffee;
13. Sugar;
14. Cooking oil;
15. Salt;
16. Laundry soap and detergents;
17. Firewood;
18. Charcoal;
19. Household liquefied petroleum gas (LPG) and kerosene;
20. Candles;
21. Drugs classified as essential by the Department of Health; and
22. Such other goods as may be included under Section 4 of the Price Act.

**What are considered as “Prime commodities”?**

Prime Commodities are goods not considered as basic necessities but are essential to consumers in times of any of the cases provided under Section 7 of the Price Act such as :

1. Flour;
2. Dried, processed or canned pork, beef and poultry meat;
3. Dairy products not falling under basic necessities
4. Onions, garlic, vinegar, patis, soy sauce;
5. Toilet soap; Fertilizer, pesticides and herbicides;
6. Poultry, livestock and fishery feeds and veterinary products;
7. Paper;
8. School supplies;
9. Nipa shingles;
10. Sawali;
11. Cement;
12. Clinker;
13. GI sheets;
14. Hollow blocks;
15. Plywood;
16. Plyboard;
17. Construction nails;
18. Batteries;
19. Electrical supplies;
20. Light bulbs;
21. Steel wire;
22. All drugs not classified as essential drugs by the Department of Health; and
23. Such other goods as may be included under Section 4 of the Price Act.

**What measures can the government take to ensure the availability of basic necessities and prime commodities at reasonable prices at all times without denying legitimate business a fair return on investment?**

The Government can impose either or both of the following :

1. Automatic Price Control; and/or
2. Mandated Price Ceiling.

**What does *Automatic Price Control* mean?**

When the *Automatic Price Control* is imposed, prices of basic necessities in an area shall automatically be frozen at their prevailing prices or placed under automatic price control.

**What does "Prevailing price" mean?**

*Prevailing price* means the average price at which any basic necessity has been sold in a given time within a month from the occurrence of any of the conditions enumerated under Section 6 of the Price Act.

**What prompts *Automatic Price Control*?**

Automatic Price Control may be imposed in any of the following circumstances:

1. That area is proclaimed or declared a disaster area or under a state of calamity;
2. That area is declared under an emergency;
3. The privilege of the writ of habeas corpus is suspended in that area;
4. That area is placed under martial law;
5. That area is declared to be in a state of rebellion; or
6. A state of war is declared in that area.

**When can the government impose *Mandatory Price Ceiling*?**

The President may impose a price ceiling on any basic necessity or prime commodity in any of the following conditions :

1. The impendency, existence, or effects of a calamity;
2. The threat, existence, or effect of an emergency;
3. The prevalence or widespread acts of illegal price manipulation;
4. The impendency, existence, or effect of any event that causes artificial and unreasonable increase in the price of the basic necessity or prime-commodity; and
5. Whenever the prevailing price of any basic necessity or prime commodity has risen to unreasonable levels.

**What is "*Price Ceiling*"?**

*Price Ceiling* means the maximum price at which any basic necessity or prime commodity may be sold to the general public.

**Can the President alone impose a *Mandatory Price Ceiling*?**

No. The President may only impose a *Mandatory Price Ceiling* upon the recommendation of the implementing agency or the *Price Coordinating Council*.

**For how long will the *Automatic Price Control* and/or *Mandatory Price Ceiling* last?**

Price control of basic necessities shall remain effective for the duration of the condition that brought it about, but not for more than sixty (60) days. UNLESS, sooner lifted by the President.

HOWEVER, in the case of basic necessities that are wholly imported and deregulated (like household LPG and kerosene) price control thereon shall remain effective for a period of not more than fifteen (15) days, taking into consideration the current inventory or supply levels thereof.

**What are the legal consequences if the *Automatic Price Control* or *Mandated Price Ceiling* is violated?**

Any person who violates the Automatic Price Control (Sec. 6 of Price Act) shall suffer the penalty of imprisonment for a period of not less than five (5) year nor more than fifteen (15) years of a fine of note less than Five thousand pesos (P5,000) nor more than Two million pesos (P2,000,000), or both, at the discretion of the court.

### III. LEGAL BASES

#### PRICE ACT OR REPUBLIC ACT (RA) NO. 7581

**Sec. 6. *Automatic Price Control.*** - Unless otherwise declared by the President, **prices of basic necessities in an area shall automatically be frozen at their prevailing prices or placed under automatic price control** whenever:

- (1) That area is proclaimed or declared a disaster area or under a state of calamity;
- (2) That area is declared under an emergency;
- (3) The privilege of the writ of habeas corpus is suspended in that area;
- (4) That area is placed under martial law;
- (5) That area is declared to be in a state of rebellion; or
- (6) A state of war is declared in that area.

If the prevailing price of any basic necessity is excessive or unreasonable, the implementing agency may recommend to the President the imposition of a price ceiling for the sale of the basic necessity at a price other than its prevailing price.

Unless sooner lifted by the President, price control of basic necessities under this section shall remain effective for the duration of the condition that brought it about, but not for more than sixty (60) days.

The terms "*disaster*" and "*calamity*" shall include those brought about by natural or man-made causes, whether local or foreign.

**Sec. 16. Penalty for Violation of Price Ceiling.** - Any person who violates Section 6 or 7 of this Act shall suffer the penalty **of imprisonment for a period of not less than one (1) year nor more than ten (10) years of a fine of note less than Five thousand pesos (P5,000) nor more than One million pesos (P1,000,000), or both, at the discretion of the court.**

**REPUBLIC ACT NO. 10623**

**SEC. 4.** Section 6 of Republic Act No. 7581 is hereby amended to read as follows:

“SEC. 6. *Automatic Price Control.* –

“x x x

“Unless sooner lifted by the President, price control of basic necessities under this section shall remain effective for the duration of the condition that brought it about, but not for more than sixty (60) days: ***Provided, That, in the case of basic necessities that are wholly imported and deregulated under existing laws such as, but not limited to, household LPG and kerosene, price control thereon shall remain effective for a period of not more than fifteen (15) days, taking into consideration the current inventory or supply levels thereof.***”

**JOINT MEMORANDUM CIRCULAR (JMC) NO. 2020-01**

issued on 18 March 2020

Reiterates the implementation of a nationwide price freeze on all agricultural and manufactured basic goods, essential medicines, and other medical supplies following the declaration of a State of Public Health Emergency and a State of Calamity last 08 and 16 March 2020, respectively.

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