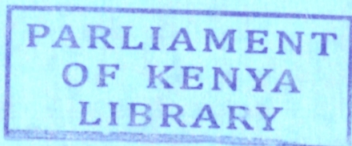


SPECIAL ISSUE

Kenya Gazette Supplement No. 146 (Senate Bills No. 41)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 26th July, 2024

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**THE PRICE CONTROL (ESSENTIAL GOODS)
(AMENDMENT) BILL, 2024**

A Bill for

**AN ACT of Parliament to amend the Price Control
(Essential Goods) Act; and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Price Control (Essential Goods) (Amendment) Act, 2024.

Short title.

2. The Price Control (Essential Goods) Act, in this Act referred to as the “principal Act”, is amended by inserting the following new sections immediately after section 1 —

Insertion of new section 1A in No. 26 of 2011.

Interpretation.

1A. In this Act, “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to finance.

Object.

1B. The object of this Act is to—

- (a) to prevent essential goods and services from becoming unaffordable to the public;
- (b) to stabilise prices of essential goods in order to ensure that the cost of living remains manageable for the public;
- (c) to prevent sudden variations in price of essential goods that may lead to a decrease in purchasing power and a decline in overall consumer welfare;
- (d) to prevent market actors such as monopolies and oligopolies from exploiting their dominant position to artificially inflate prices and take advantage of consumers’ lack of alternatives;
- (e) to guarantee access to crucial goods during times of crisis such

as natural disasters or public health emergencies; and

- (f) to contribute to social stability and mitigate the effects of economic inequality.

3. The principal Act is amended by deleting section 2 and substituting therefor the following new sections —

Amendment of section 2 of No. 26 of 2011.

Declaration of essential commodities.

2(1) The Cabinet Secretary shall, by order in the *Gazette* fix the minimum and the maximum retail and wholesale prices for the following essential goods —

- (a) maize;
- (b) maize flour;
- (c) wheat;
- (d) wheat flour;
- (e) rice;
- (f) cooking fat (or oil);
- (g) sugar; and
- (h) prescribed pharmaceutical drugs.

(2) Despite the provisions of subsection (1), the Cabinet Secretary may, from time to time, by order in the *Gazette* —

- (a) declare any goods to be essential commodities for the purposes of this Act;
- (b) determine the minimum and maximum prices of the commodities in consultation with the industry;
- (c) determine the category of persons to whom the minimum and maximum prices of the commodities shall apply;

(d) determine the period of time in which the prescribed minimum and maximum price of the commodities shall apply; and

(e) in consultation with relevant ministries prescribe various financial and tax incentives for farmers, manufacturers and retailers growing, manufacturing and retailing prescribed essential commodities.

(3) In making a declaration under subsection (2), the Cabinet Secretary shall take into account any relevant treaty or convention ratified by Kenya.

4. The principal Act is amended by deleting section 3 and substituting therefor the following new sections —

Amendment of
section 3 of
No. 26 of
2011.

Setting of prices.

3 (1) An order made under section 2 may contain the minimum and maximum price taking into account related costs of essential commodities in any area in Kenya.

(2) In setting the minimum and maximum prices of essential goods under this Act, the Cabinet Secretary shall have regard to the following measures —

- (a) the minimum possible restrictions on competition;
- (b) the normal market conditions;
- (c) severe disturbances on the market that justifiably lead to fluctuation of prices;
- (d) the significance of the particular essential goods in ensuring economic development;
- (e) the strengthening of the competitive capabilities of the domestic market;

- (f) the implementation of stricter environmental and health requirements in the production and use of goods; and
- (g) consumer purchasing power, particularly with regard to goods that are used by all consumers for which there is no possibility of choosing the supplier or provider.

The Principal Act is amended by inserting the following newsections immediately after section 3—

Amendment of
section 3 of No.
26 of 2011.

Price Control Unit.

3A. The Cabinet Secretary shall by notice in the *Gazette* designate a section or department within the Ministry for purposes of monitoring and enforcement of price controls under this Act.

3B. The Unit shall be headed by a Director of Price Control appointed by the Cabinet Secretary and published by notice in the *Gazette*.

3C. The functions of the Price Control Unitshall be to—

- (a) monitor compliance with prescribed maximum and minimum prices of essential commodities;
- (b) monitor the prices of essential commodities and services to identify any significant fluctuations or abnormal priceincreases;
- (c) collect and analyze data from various markets to assess the overall pricing trends and market dynamics;
- (d) enforce and implement price control directives by the Cabinet Secretary;
- (e) collaborate with other regulatory agencies to enforce existing

competition law and prevent market manipulation;

(f) make recommendations to the government based on the analysis of market trends, consumer needs, and the impact of price controls;

(g) engage with various stakeholders, including producers, retailers, consumer groups, and other government agencies, to gather feedback, address concerns, and foster cooperation in implementing effective price control measures;

(h) educate the public about price control policies, their importance, and the implications for consumers and businesses;

(i) maintain comprehensive data on price fluctuations, market trends, and the impact of price control policies; and

(j) prepare quarterly reports for outlining the effectiveness of price control measures and suggesting potential adjustments or improvements.

3D. The Cabinet Secretary shall designate such public officers as are necessary to serve as price control officers in the Unit for the proper and efficient discharge of the functions of the Unit under this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

This Bill seeks to amend the Price Control (Essential Goods) Act, 2011 to regulate the prices of essential commodities in order to secure their availability at reasonable prices for all Kenyans especially the low-income earners. The enactment of this law will also ensure that Kenyans are protected from exploitative and unscrupulous business persons.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments as set out in Part II of the Fourth Schedule to the Constitution. The regulation of trade practices in particular price controls by the Governments has a direct impact on the functioning of the County Governments as it affects the trade practices within the counties and the economic welfare of residents in the counties.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill in terms of Article 114 of the Constitution.

Dated the 24th November, 2023.

TABITHA MUTINDA,
Senator,

Section 2 of No. 26 of 2011 which it is proposed to amend —

Declaration of essential commodities

1. (1) The Minister may, from time to time, by order in the Gazette, declare any goods to be essential commodities for the purposes of this Act and determine the maximum prices of the commodities in consultation with the industry.

(2) In making a declaration under subsection (1), the Minister shall take into account any relevant treaty or convention ratified by Kenya.

Section 3 of No. 26 of 2011 which it is proposed to amend —

Content of order under section 2

2. An order made under section 2 may contain the maximum price taking into account related costs of essential commodities in any area in Kenya.