THE PRICE CONTROL (ESSENTIAL GOODS) BILL, 2009
ARRANGEMENT OF CLAUSES

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THE PRICE CONTROL (ESSENTIAL GOODS) BILL, 2009

A Bill for

AN ACT of Parliament to provide for the mandatory control of the price of essential goods and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Price Control (Essential Goods) Bill. 2009.

2. Fixing of prices.

Notwithstanding any provision to the contrary in any other Act or written law, the Minister for the time being responsible for finance shall, by order, fix 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;
(h) paraffin;
(i) diesel; and
(j) petrol.

3. Orders under the Act.

An order made under this Act may -
(a) fix the maximum service charge that may be made for any service in relation to any such goods:

(b) prohibit any person carrying on any business or gainful occupation specified in the Order from increasing the price of any goods sold by him in the course of such business or occupation above the price which was ordinarily charged by him for like or similar goods, or the charge which was ordinarily made by him for any like or similar service, on a date or during a period specified in the order; and in any proceedings brought for failing to comply with an order made under this paragraph the burden of proving the price ordinarily charged or the charge ordinarily made on the date or during the period specified shall be upon the defendant;

(c) prescribe the type of packing, weight, size, quality, marking and the processing and ingredients of any such goods manufactured in Kenya;

(d) prescribe the amount of the deposit which any person selling any price-controlled goods subject to the condition that any container of those goods is to be returned may require in respect of any such container, and prescribe the amount (which may exceed the amount of the deposit) which such person shall, on the return of the container, refund to the person by whom the container is returned and the conditions subject to which the refund shall become payable.

4. Scope of Orders.

In the exercise of his powers under this Act, the Minister may—

(a) fix a maximum price or a maximum service charge for any area of Kenya which differs from the maximum price or maximum service charge fixed in respect of like or similar goods or services for another area or other areas:

(b) fix a maximum price for goods which includes any charge made for any service, whether a price controlled service or not, rendered in relation to the sale of those goods;

(c) fix a maximum service charge for any service which includes any price or charge for the sale of goods, whether price-controlled goods or not, sold in connection with that service.

5. Commencement of Orders.

Every order made under this Act shall come into operation on the day on which it is made, unless another date is specified, and every such order shall be published in the Gazette.

6. Offences and penalties

(1) A person who sells any price-controlled goods or penalties renders any price-controlled service at a price or charge which exceeds the maximum price or the maximum service charge, as the case may be, commits an offence.
(2) A person who purchases or offers to purchase any price-controlled goods at a price or charge which exceeds the maximum price for the goods, or who pays or offers to pay for any price-controlled service a charge which exceeds the maximum service charge fixed, commits an offence.

(3) A person who commits an offence under this Act is liable to imprisonment for a term of five years or to a fine of one million shillings, or both.

7. Regulations.

The Minister may make Regulations for the better carrying Out of the intent and purposes of this Act.

**MEMORANDUM OF OBJECTS AND REASONS**

The purpose of this Bill is to establish a legal framework to require the Minister responsible for finance to fix the maximum retail and wholesale prices for the essential goods listed in **Clause 2**. These goods are maize, maize flour, cooking fat or oil, sugar, paraffin, diesel and petrol.

**Clause 6** makes it an offence for a person to sell or to buy the essential goods at a price which exceeds the maximum price fixed for these goods.

This Bill has become necessary because attempts by the Government to use market forces to lower prices as well as Government exhortations to traders not to overcharge consumers of these essential goods have not borne fruit.

It has become critical to control the prices of the listed goods in order to protect Kenyans from exploitative and unscrupulous businesspersons. If enacted, this Bill will help to mitigate the effects of the food shortage with which the country’s ordinary citizens are grappling.

It is important to note that the market for most of these essential goods is dominated by a few market players who appear to work in cahoots to frustrate the forces of demand and supply. The result of this cartel like behaviour is that the prices of these goods has remained unreasonably high and out of the reach of most of our people even when these prices should be coming down in light of prevailing international prices and the global recession. We must not allow our citizens to be oppressed in this manner.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 17th June, 2009.

EPHRAIM M. MAINA,
Member of Parliament.