

POLICY ADVISORY No. 23-02
Series of 2023

**RE: PRICE FREEZE PERIOD COMPUTATIONS
UPON THE DECLARATION OF A STATE OF CALAMITY**

The Department of Trade and Industry (DTI) Consumer Protection Group (CPG) issues this Policy Advisory for the guidance of all concerned:


Republic Act No. 7581 (RA7581), or the Price Act, as amended, states that it is the policy of the State to ensure the availability of Basic Necessities and Prime Commodities (BNPC) at reasonable prices at all times without denying legitimate businesses a fair return on investment.

It is also a declared policy to provide 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.

Section 16 of the Republic Act No. 10121 (RA10121), or the Philippine Disaster Risk Reduction and Management Act of 2010, states that the National Disaster Risk Reduction and Management Council (NDRRMC) shall recommend to the President of the Philippines the declaration of a cluster of barangays, municipalities, cities, provinces, and regions under a State of Calamity (SOC), and the lifting thereof, based on the criteria set by the NDRRMC.

According to Memorandum Order No. 60, s. 2019, issued by the NDRRMC, "(t)he declaration of a SOC may be enforced either by the President as recommended by NDRRMC or the Local Chief Executive (LCE) upon the issuance of the Resolution by the local *Sanggunian* as recommended of the Local Disaster Risk Reduction and Management Council (LDRRMC). (T)he declaration of a SOC shall be terminated or lifted by the local *Sanggunian* through a Resolution, or by the President through the recommendation of the NDRRMC, as the case may be."

RA7581 provides that the prices of Basic Necessities shall be automatically frozen at their prevailing prices whenever an area is proclaimed or declared as a disaster area or under a state of calamity, disaster, emergency, rebellion, war, martial law or when the privilege of the writ of habeas corpus has been suspended. The Price Freeze shall be automatically in effect for sixty (60) days upon the declaration or proclamation until sooner lifted by the President. No other authority can lift the Price Freeze within this sixty (60) day period aside from the President.

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Human Resource and Administrative Services
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The President or the declarant may include other areas in the declaration of SOC, if warranted, taking into consideration the continuing damage assessment in affected areas, based on the recommendation of the National Disaster Risk Reduction and Management Council (NDRRMC) or the LDRRMC, whichever is applicable, and the conditions provided by law and issuances.

Thus, the DTI recognizes the need to clarify the effect of the declaration of an SOC, and the automatic imposition of the Price Freeze. This will ensure that all concerned sectors are guided properly on the proper declaration, compliance, execution, and implementation of these guidelines on basic services and facilities.

DECLARATION OF STATE OF CALAMITY AND PRICE FREEZE

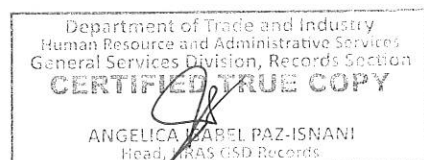
SOC is a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads, and normal way of life of people in the affected areas as a result of the occurrence of a natural or human-induced hazard.

A declaration of an SOC will effectively control the prices of Basic Necessities, and afford the National Government, as well as Local Government Units (LGUs), ample latitude to utilize appropriate funds for rescue, recovery, relief, and rehabilitation efforts, and for the continuous provision of basic services to the affected populations, in accordance with the law.

According to Sec. 6 of RA7581, 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: (a) That area is proclaimed or declared a disaster area or under a state of calamity; or, (b) That area is declared under an emergency, among others. 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.

Implementation of price freeze in calamity-stricken area aims to stabilize prices, make goods affordable, and for businesses to avoid overpricing. If the implementation of SOC is to be extended, the remedial measures set forth in RA 10121 shall benefit the people of the affected areas since the National Government Agencies/LGUs can access the Calamity Fund and Quick Response Funds to further support the repairs of public infrastructure, post-disaster social welfare projects, and implement the build-back-better principle of the SENDAI framework for disaster risk reduction.

On the other hand, to protect the businesses and manufacturers, price control or price freeze should not exceed the sixty (60) days period. Extending the period may cause the disruption of flow of commodities and principles of the free market. Arguably, it is unavoidable for manufacturers to also incur higher production costs during times of emergencies and disasters. However, should the situation require and the effect of calamities still lingers, the National Price Coordinating Council (NPCC), Local Price Coordinating Council (LPCC), or the implementing agencies of the Price Act may



recommend to the President to impose Price Ceiling only to commodities seen with price and supply issues.

If SOC is lifted prior to the end price freeze, the NGAs and LGUs will not fully maximize the benefit of the remedial measures of SOC declaration unless the situation does not require it. Early lifting of the SOC also signals that the situation is generally stable and will ensure the normal resumption of economic activities in the area. Although the early lifting of SOC does not automatically follow the lifting of price freeze as the Price Act states that only the President can lift the price freeze early than sixty (60) days.

OUTLINE OF ENFORCEMENT OF THE STATE OF CALAMITY

In times of disasters, emergencies, or pandemics, it is crucial for governments to act swiftly to mitigate the effects of such crises on their citizens. One of the measures that can be taken is to declare a SOC. In most countries, it is the prerogative of the head of state or government to declare a SOC. However, some countries have laws that specify which officials have the power to make such declarations. For instance, in the Philippine, the Local Chief Executives of Local Government Units are vested of such power to declare SOC through a *Sanggunian* Resolution with the recommendation of the Local Disaster Risk Reduction and Management Council (LPCC) or Provincial/City/Municipal Disaster Risk Reduction and Management Office (DRRMO).

Once a SOC is declared, the implementing agencies of the government can take necessary actions to address the situation. The declaration usually allows the government to access emergency funds and resources that are necessary to support relief and recovery efforts. In some cases, the declaration may also give the government additional powers to enforce certain measures that are deemed necessary for public health and safety, such as lockdowns, curfews, and mandatory evacuations.

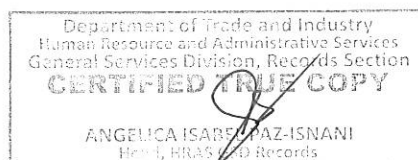
The power to declare and implement an SOC lies with the government officials who have been given the mandate to do so by their respective laws and constitutions. It is important for these officials to act decisively and responsibly in times of crisis to protect the lives and welfare of their citizens.

PERIOD OF EFFECTIVITY

The Price Freeze starts on the day of the SOC declaration or proclamation. The end of the sixty (60) day period shall be determined based on Article 13 (3) of Republic Act No. 386 (RA386), or the Civil Code of the Philippines, which states, "in computing a period, the first day shall be excluded, and the last day included":

Example:

- 01 March 2023 : Day of SOC Declaration; Price Freeze automatically in effect
- 02 March 2023 : Day 1 of the sixty (60) day countdown lifting the Price Freeze



30 April 2023 : Day 60 (last day) of the sixty (60) day countdown lifting the Price Freeze, unless sooner lifted by the President

01 May 2023 : No Price Freeze in effect

In the example above, the 60-day price freeze ends on 30 April 2023 unless sooner or earlier lifted by the President (Sec. 6, RA7581).

In case of overlapping declarations of an SOC by various governing units: National Government (NG), Provincial Government (PG), and Municipal Government (MG), the Price Freezes shall run simultaneously, and shall be lifted accordingly based on Sec. 6 of RA7581 (please refer to the immediately preceding paragraph), unless sooner lifted by the President.

Example: (If the MG, PG and NG SOC Declarations all cover or include the same area/jurisdiction)

01 March 2023 : Day of MG SOC Declaration; Price Freeze automatically in effect based on the MG SOC Declaration

02 March 2023 : Day of PG SOC Declaration; Price Freeze automatically in effect based on the PG SOC Declaration

Day 1 of the sixty (60) day countdown lifting the Price Freeze (based on MG SOC Declaration)

03 March 2023 : Day of NG SOC Declaration; Price Freeze automatically in effect based on the NG SOC Declaration

Day 1 of the sixty (60) day countdown lifting the Price Freeze (based on PG SOC Declaration)

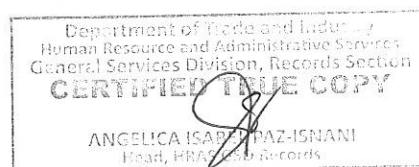
Day 2 of the sixty (60) day countdown lifting the Price Freeze (based on MG SOC Declaration)

30 April 2023 : Day 60 of the sixty (60) day countdown lifting the Price Freeze based on the MG SOC Declaration, unless sooner lifted by the President

Day 59 of the sixty (60) day countdown lifting the Price Freeze based on the PG SOC Declaration, unless sooner lifted by the President

Day 58 of the sixty (60) day countdown lifting the Price Freeze based on the MG SOC Declaration, unless sooner lifted by the President

01 May 2023 : No Price Freeze based on the MG SOC Declaration



Price Freeze still in effect because this is Day 60 of the sixty (60) day countdown lifting the Price Freeze based on the PG SOC Declaration, unless sooner lifted by the President

Day 59 of the sixty (60) day countdown lifting the Price Freeze based on the NG SOC Declaration, unless sooner lifted by the President

02 May 2023 : No Price Freeze based on the PG SOC Declaration

Price Freeze still in effect because this is Day 60 of the sixty (60) day countdown lifting the Price Freeze based on the NG SOC Declaration, unless sooner lifted by the President

03 May 2023 : No Price Freeze based on the NG SOC declaration

In the example above, Price Freezes shall remain in effect so long as there is a corresponding 60-day countdown period lifting a Price Freeze automatically triggered by an SOC declaration or promulgation. In other words, an SOC declaration covering a given area shall automatically trigger a fresh period of sixty (60) days for the lifting of an automatic Price Freeze, unless the Price Freeze based on a particular SOC declaration is sooner lifted by the President.

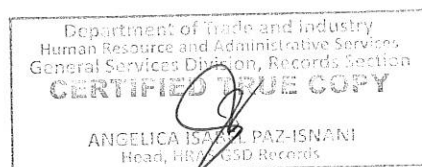
VIOLATION AND PENALTIES

The DTI keeps close watch over the price and supply of BNPCs amidst the automatic price freeze.

Thus, according to Section 15 of RA7581, any person who commits any act of illegal price manipulation of any Basic Necessity or Prime Commodity shall suffer the penalty of imprisonment of a period of not less than five (5) years nor more than fifteen (15) years, and shall be imposed a fine of not less than Five Thousand Pesos (PHP5,000.00) nor more than Two Million Pesos (PHP2,000,000.00), and other administrative penalties/sanctions in accordance with the provision of RA7581, as amended.

Further, any person who shall violate the provision of Article 52(e) of Republic Act No. 7394 (RA7394), or the Consumer Act of the Philippines, with acts that occur before, during, or after the consumer transaction, whenever the producer, manufacturer, distributor, supplier or seller, by taking advantage of the consumer's physical or mental infirmity, ignorance, illiteracy, lack of time or the general conditions of the environment or surroundings, induced the consumer to enter into was excessively one-sided in favor of the seller or supplier, shall, upon conviction, be subject to a fine of not less than Five Hundred Pesos (PHP500.00) but not more than Ten Thousand Pesos (PHP10,000.00), or imprisonment of not less than five (5) months but not more than one (1) year or both, upon the discretion of the court.

Moreover, in cases of consumer complaints or *motu proprio* by the DTI, violations of Article 52(e) of RA7394 may be imposed administrative fines in such amount as



deemed reasonable by the DTI Secretary, which shall in no case be less than Five Hundred Pesos (PHP500.00) nor more than Three Hundred Thousand Pesos (PHP300,000.00) depending on the gravity of the offense, and an additional fine of not more than One Thousand Pesos (PHP1,000.00) or each day of continuing violation.

Finally, the court may grant an injunction restraining the conduct constituting the contravention of the provisions of Articles 50 and 51 of RA7394 and/or actual damages, and such other orders as it thinks fit to redress injury to the person caused by such conduct.

CONSUMER RIGHTS

As mentioned in RA7581, the acts of hoarding, profiteering, cartelization by any person engaged in the production, manufacture, importation, storage, transport, distribution, sale, or other methods of disposition of goods and unreasonable increase or manipulation on prices of BNPCs, are unlawful. As such, the consumer is protected under the law, as the DTI adheres to the Eight (8) Basic Consumer Rights, along with other fair trade laws.

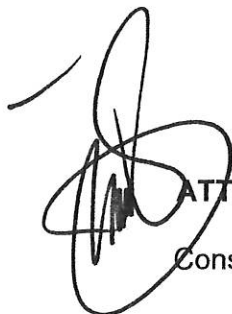
In DTI Policy Advisory No. 22-0,1 series of 2022, the consumer has the Right to Basic Needs, among others, to have access to basic, essential goods and services such as adequate food, clothing, shelter, health care, public utilities, water and sanitation.

The DTI urges consumers to report any manufacturer, distributor, or retailer, whether online or offline, selling BNPCs above their prevailing prices, or committing any illegal manipulation of the prices of BNPCs to the Consumer Care Hotline at DTI (1-384) or consumercare@dti.gov.ph.

Issued this 27th day of JULY 2023, Makati City.



APPROVED BY:

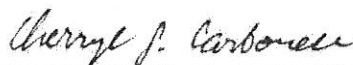


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