

## Draft Regulations

### Draft Regulation

Consumer Protection Act  
(R.S.Q., c. P-40.1)

#### Policy on accurate pricing for merchants who use optical scanner technology — Extended voluntary undertaking

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that upon the expiry of 45 days following this publication, the Government may by order extend for all of the territory of Québec the voluntary undertaking, the text of which appears below, to all merchants who use the universal product code optical scanning technology and take advantage of the exemption provided for in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r.1) amended by the Regulation to amend the Regulation respecting the application of the Consumer Protection Act the draft of which is published on page 3426 of this issue of the *Gazette officielle du Québec* exempting, on certain conditions, the merchants who use this technology to fulfil the unit price marking requirement prescribed in section 223 of the Act.

The purpose of the voluntary undertaking, signed by various merchants wanting to use the prescribed exemption, is to ensure the accurate pricing of the goods sold in their establishments, in particular requiring that they adopt and apply an accurate pricing policy offering consumers compensation in the case of an unfavourable error corresponding to the minimum standards specified and providing for the reimbursement of the costs of investigation incurred to verify the pricing accuracy.

This measure will impose requirements on all merchants who use the optical scanning technology insofar as they choose to use the prescribed exemption, even if they are not signatories of the voluntary undertaking.

Further information may be obtained by contacting André Allard, Office de la protection du consommateur, 5199, rue Sherbrooke Est, bureau 3721, Montréal (Québec) H1T 3X2, telephone: (514) 873-3203; fax: (514) 864-2400.

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Relations with the

Citizens and Immigration, 360, rue McGill, 4<sup>e</sup> étage, Montréal (Québec) H2Y 2E9.

ROBERT PERREAULT,  
*Minister of Relations  
with the Citizens and Immigration*

### Voluntary Undertaking

Consumer Protection Act  
(R.S.Q., c. P-40.1, s. 315.1; 1999, c. 40, s. 234)

The merchant shall undertake the implementation of the mechanisms necessary to achieve and maintain the accurate pricing of the goods sold in his establishments and, without restricting the scope of the preceding, THE MERCHANT UNDERTAKES AS FOLLOWS:

#### ACCURATE PRICING POLICY

1. The merchant must adopt and apply, for each establishment in which he intends to use the exemption provided for in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r.1), amended by the Regulation to amend the Regulation respecting the application of the Consumer Protection Act the draft of which is published on page 3426 of this issue of the *Gazette officielle du Québec*, an accurate pricing policy offering consumers compensation in the case of an unfavourable error corresponding to the following minimum standards:

(1) where the price of the good rung in at the cash register is higher than the price advertised, the lower price shall be honoured and:

(a) the merchant shall give the good to the consumer free of charge, if the exact price of the good is \$10 or less; or

(b) the merchant shall correct the price and grant the consumer a discount of \$10 on the corrected price, if the exact price of the good is higher than \$10;

(2) where the same error occurs in respect of identical goods during the same transaction, the merchant shall correct each of the errors but compensate the consumer in accordance with paragraph *a* for only one of those goods;

(3) the accurate pricing policy shall apply even if the error is noticed before the transaction is completed, on the condition however that the consumer buys the good;

(4) the accurate pricing policy shall not apply in respect of a specific good if its application contravenes an act or regulation.

2. The merchant must post in a conspicuous place, near each cash register in the establishment and near each optical scanner made available to consumers, his pricing accuracy policy in dark, easily legible letters on the white background of a sign measuring at least 387 square centimetres and on which only the policy appears. Where the area of the establishment open to the public is 697 square metres or more, the merchant must also post the policy in a conspicuous place in his establishment in dark, easily legible letters on the white background of a sign measuring at least 0.56 square metres and on which only the policy appears.

3. The merchant must disclose his pricing accuracy policy in his flyer at least once during each trimester of publication of the flyer.

#### REIMBURSEMENT OF THE COSTS OF INVESTIGATION

4. The merchant must reimburse the Office de la protection du consommateur for the costs of any investigation carried out under the authority of the president of the Office under the powers conferred on him by the Act, to verify the pricing accuracy rate in his establishment up to:

- (1) \$250 upon the first investigation;
- (2) \$1000 upon the second investigation if that second investigation is carried out within six months following a notice given by the president of the Office according to which the first investigation showed a pricing error rate of more than 2 % in his establishment.

#### INTERPRETATION

5. For the purposes of this voluntary undertaking:

“pricing accuracy” means the conformity of prices rung in at the cash register with the advertised price in respect of a good sold in the establishment;

“pricing accuracy rate” means the percentage of goods that are part of a transaction in which the price rung in at the cash register is identical to the advertised price;

“pricing error rate” means the percentage of goods that are part of a transaction in which the price rung in at the cash register is higher than the advertised price.

6. For the purposes of this voluntary undertaking, the pricing error of a good in an advertisement shall not be taken into account in the calculation of the pricing error rate nor for the application of the pricing accuracy policy described in section 1 as of the moment when the merchant posts, in a conspicuous place, a mention of the error and the correction made, near the place where the good is sold and near the cash registers in the establishment. This provision does not restrict the scope of paragraph *c* of section 224 of the Consumer Protection Act.

#### FINAL PROVISIONS

7. A merchant who contravenes any provision of this voluntary undertaking commits an offence under paragraph *d* of section 277 of the Act.

8. The provisions of this undertaking shall take effect once the merchant begins to use the exemption provided for in section 91.4 of the Regulation and they shall cease to apply on the date on which the merchant ceases to use that exemption provided that he notifies the president of the Office de la protection du consommateur of that fact in writing at least 15 days before that date.

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### Draft Regulation

Consumer Protection Act  
(R.S.Q., c. P-40.1; 1999, c. 40)

#### Application of the Act — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the application of the Consumer Protection Act, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The main purpose of the draft Regulation is to exempt, on certain conditions, merchants who use the universal product code optical scanning technology from the requirement under section 223 of the Consumer Protection Act to indicate the selling price on each item. The draft Regulation also adds certain categories to the list of goods already exempt from the application of that section and removes the exemption relating to 2 % of the categories of goods sold in an establishment.