

PARTIAL REGULATIONS ON THE NATIONAL SUPERINTENDENCE OF COSTS AND PRICES AND THE NATIONAL INTEGRATED SYSTEM OF PRICE ADMINISTRATION AND CONTROL

The Partial Regulations on the National Superintendence of Costs and Prices and the National Integrated System of Price Administration and Control (the “Regulations”), was published in Official Gazette No. 39.802 of November 17, 2011 and became effective on said date. The Regulations rule the matters referred to the National Superintendence of Costs and Prices (the “Superintendence”), as governing body of the National Integrated System of Price Administration and Control. The most relevant aspects of the same are the following:

Scope of Application:

- It will be applied in all of the national territory and to all public or private, national or foreign, natural and legal persons.

Structure and Organization of the Superintendence:

- The organizational structure for the operation of the Superintendence is established as follows: Superintendant’s Office; Supervision and Inspection Intendance; Management Intendance; Fair Cost and Price Intendance; Internal Auditing Unit; Management and Risk Follow-up and Control Unit; Legal Advisory Unit; Information Technology and System Unit; Popular Participation Unit; and Integrated Communications Unit.

National Registry of Prices of Goods and Services (the “Registry”):

- The Registry is created as an entity of the Fair Cost and Price Intendance. Its purpose is to compile the information related to the subjects regulated by the Decree with the Status, Value, and Force of Law on Fair Costs and Prices (the “Decree”) and to the prices of goods and services.
- The Registry will have, among others, the following powers: To accept or deny the registration and to grant the Electronic Registration Certificate (the “Certificate”) or its updating, after verification of the requirements established in the relevant administrative ruling; to review on a permanent basis the data provided by the natural or legal persons requesting for their registration; to require from the subjects regulated by the Decree the necessary documentation for its application.
- The regulated subjects are under the obligation to be registered with the Registry at the time and under the conditions determined by the Superintendence.
- The Superintendence, at the time established by the relevant administrative ruling, will establish the requirements, conditions, stage, categories, and priorities that are necessary to accept the registration, updating, and to issue the Certificate.
- For purposes of registration with the Registry, the interested party must access the Registration System (the “System”) on line through its web page and provide the information required by the

Superintendence, following the instructions to be established in the manuals, instructions, and administrative rulings.

- After completing the entry of the information into the System, if such were the case, and when the Superintendence so establishes, the regulated subjects must appear before the offices of the Registry with the necessary requirements or documents.
- After the regulated subjects meet the requirements established in the relevant administrative ruling, the Registry must issue the Certificate.
- The regulated subjects will be under the obligation to update their data on a monthly, quarterly, half-yearly, or annual basis, as the case may be, at the time or under the conditions established by the Superintendence.
- The subjects registered with the Registry must give notice to the latter of any amendment to their memorandum of incorporation or by-laws, change in their corporate capital, duration and extinction of companies, change or substitution of their representatives or shareholders, acts of appointment, revocation of attorneys-in-fact, and they must also exhibit the books, documentation required, and data of interest for the Registry at the time established by the relevant administrative ruling.
- Failure to comply with the requirements established by the Superintendence will constitute grounds for denying the registration. Also, having provided false or insufficient information to the Registry and having been subject to temporary disqualification or suspension will constitute grounds for denial of the registration and updating, according to the relevant administrative ruling.
- In case of denial of registration, the subject may file, at his/her discretion, an appeal for reconsideration with the Fair Cost and Price Intendence, or a hierarchical appeal with the Superintendant, or an administrative-contentious appeal with the judicial authorities.
- The Certificate will be required by the entities of the Public Administration coordinately with the Superintendence, according to the guidelines and categorization established in the administrative rulings.

Categorization of Goods and Services:

- The Superintendence, through administrative rulings, will categorize the goods and services of the sector that produces, transforms, distributes or commercializes the goods or that provides the services.

Determination and Modification of Prices:

- For purposes of determination of the prices, the Superintendence will acknowledge the costs and expenses that are directly related to the production, transformation, distribution, commercialization of goods or provision of the service. Likewise, the relation between the goods produced and services provided and the ownership of the regulated subjects will be considered. Also, the Superintendence, through an administrative ruling, will establish the guidelines on the itemization of the costs that it will acknowledge and the criteria to establish profit margins.
- For purposes of determination of the costs and prices, the practices or artifices implying manipulation of prices, simulation of fragmentation of ownership, outsourcing of substantive operations, or change in the type of presentation of goods and services with the purpose of distributing expenses or avoiding controls or regulations will not be allowed. The practices that favor the overestimation or underestimation of the costs and expenses of goods and services related to international transactions will not be allowed.

- In order to prepare the guidelines and criteria for the determination of prices, the Superintendence will use statistical, economic, and accounting methods as a basis.
- The Superintendence, through an administrative ruling, will impose on the regulated subjects, the obligation to provide, within the periods of time and stages established, all information relating to national or foreign suppliers, national or imported consumable supplies, international technical assistance, technology transfer, and any other information.
- The Superintendence, through an administrative ruling, will establish the time at which the regulated subjects must notify the prices determined by them prior to the entry into force of the Decree and the time for requesting the inclusion of new goods and services.
- The prices notified will be subject to review and modification by the Superintendence, even on its own initiative.
- The interested third parties will participate in the price adjustment and modification procedures in accordance with the guidelines determined by the Superintendence in its administrative rulings.

Supervisión y Control:

- The officers authorized by the Superintendence to develop supervision and control activities may stamp, seal, or mark documents, goods, files, offices, warehouses, commercial or industrial premises, storehouses, vehicles, vessels, aircraft and other means of transportation where the inspection and supervision takes place, and it may also take them as deposit, after making an inventory, in order to assure the conditions of the place, goods, or documents.
- The information obtained in the inspection and supervision procedures, as well as that required by the Superintendence, will be used as a basis to fix or determine the prices, modify or authorize price adjustments, impose penalties, and adopt the necessary measures.
- The information obtained from foreign public administrations or with the cooperation of the same will be valid and efficacious as long as the regulated subject does not prove its irrelevance or invalidity.

Specific Obligations of the Individuals in the Inspection and Supervision Procedures:

- To mandatorily register with the registries created by the Superintendence and to exhibit the relevant documents.
- To keep current the data and information required by the Superintendence.
- To provide the documents and written evidence required by the legal system for the control of the activities performed by them.
- To cooperate with the authorized officers in the performance of the inspections and supervision.
- To sign the records of proceedings of the acts of the Superintendence's officers.
- To make statements or exhibit the documents or reports requested by the officers in charge of the inspection or supervision.
- To denounce the situations or facts that lead to presume a violation of the Decree and the Regulations.
- To comply with the resolutions, administrative rulings, decisions, and other administrative acts and rules on fair costs and prices.

Popular Participation:

- The Communal Councils and any other form of popular organization and participation may take part, after coordinating with the Superintendence, in the activities prescribed in the Decree and the Regulations, according to the guidelines established in the Administrative Rulings.

Development of the Procedure:

The Superintendence will establish the sectors, stages, procedures, documents, and conditions to be complied with by the regulated subjects for the development of procedures for determination of prices, registration, and inclusion of new goods and services.

- The Superintendence will gradually assume the competence over price fixing attributed to other entities prior to the entry into force of the Decree, in a period of time not exceeding 90 days.
- The inspections and supervision will be conducted by the Superintendence with the cooperation of SENIAT and INDEPABIS and the mechanisms for coordination and rendering of accounts of the actions will be established with said entities.
- A period of 90 business days as from November 17, 2011 is established in order for the Superintendence to implement and develop the procedures of inspection and supervision prescribed in the Decree, favoring the incorporation of the Communal Councils.

