STATUTORY RULES OF NORTHERN IRELAND

2000 No. 63

CONSUMER PROTECTION

Price Marking Order (Northern Ireland) 2000

Made - - - -	*8th March 2000*
Coming into operation	*7th April 2000*

The Department of Enterprise, Trade and Investment, in exercise of the powers conferred by section 4 of the Prices Act 1974(**1**) and now vested in it(**2**) and of every other power enabling it in that behalf, having consulted(**3**), in such manner as appeared to it to be appropriate having regard to the subject-matter and urgency of the Order, with such organisations representative of interests substantially affected by the Order as appeared to it, having regard to those matters, to be appropriate, hereby makes the following Order:—

Citation, commencement and revocation

1.—(1) This Order may be cited as the Price Marking Order (Northern Ireland) 2000 and shall come into operation on 7th April 2000.

(2) The Price Marking (Pre-packed Milk in Vending Machines) Order (Northern Ireland) 1979(**4**), the Price Marking Order (Northern Ireland) 1992(**5**), the Price Marking (Amendment) Order (Northern Ireland) 1995(**6**) and the Price Marking (Amendment) Order (Northern Ireland) 1996(**7**) are hereby revoked.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to this Order as it applies to an Act of the Northern Ireland Assembly.

(2) In this Order—

"advertisement" means any form of advertisement which is made in order to promote the sale of a product, but does not include any advertisement by means of which the trader intends to

(**1**) 1974 c. 24; section 4 was amended by the Price Commission Act 1977 (c. 33), section 16(1) to (3)
(**2**) By S.I.1982/846 (N.I. 11)Art. 4; *see* also S.I. 1999/283 (N.I. 1) Art. 3(5)
(**3**) *See*1974 c. 24 sections 2(6), 4(3) and (5)
(**4**) S.R. 1979 No. 405 as amended by S.R. 1992 No. 59 and S.R.1995 No. 231
(**5**) S.R. 1992 No. 59 as amended by S.R. 1995 No. 231 and S.R. 1996 No. 17
(**6**) S.R. 1995 No. 231
(**7**) S.R. 1996 No. 17
(**8**) 1954 c. 33 (N.I.)

encourage a consumer to enter into a distance contract, a catalogue, a price list, a container or a label;

"consumer" means any individual who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;

"distance contract" means any contract concerning products concluded between a trader and a consumer, by any means, without the simultaneous physical presence of the trader and the consumer;

"foreign currency" means any currency other than sterling;

"itinerant trader" means any trader who, as a pedestrian, or from a train, aircraft, vessel, vehicle, stall, barrow, or other mobile sales unit, offers products to consumers other than by means of pre-printed material;

"net drained weight" means the weight of a solid food product when it is presented in a "liquid medium", as that expression is defined for the purposes of paragraph 4 of Article 8 of Council Directive 79/112/EEC relating to the labelling and presentation of foodstuffs(**9**);

"products sold from bulk" means products which are not pre-packaged and are weighed or measured at the request of the consumer;

"relevant floor area" in relation to a shop means the internal floor area of the shop, excluding any area not used for the retail sale of products or for the display of such products for retail sale;

"selling price" means the final price for a unit of a product, or a given quantity of a product, including Value Added Tax and all other taxes;

"shop" includes a store, a kiosk and a franchise or concession within a shop;

"small shop" means any shop which has a "relevant floor area" not exceeding 280 square metres;

"trader" means any person who sells or offers or exposes for sale products which fall within his commercial or professional activity;

"unit price" means the final price, including Value Added Tax and all other taxes, for one kilogram, one litre, one metre, one square metre or one cubic metre of a product, or, in respect of the products specified in Schedule 1, the final price for the corresponding unit of quantity set out in that Schedule, or, where products are sold by number, the final price for one individual item of the product.

Exclusion from application of the Order

3. This Order shall not apply to—

(a) products which are supplied in the course of the provision of a service; or

(b) sales by auction or sales of works of art or antiques.

Obligation to indicate selling price

4.—(1) Subject to paragraph (2), where a trader indicates that any product is or may be for sale to a consumer, he shall indicate the selling price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) shall not apply in respect of—

(a) products sold from bulk; and

(b) an advertisement for a product.

(**9**) O.J. No. L33, 8.2.79, p. 1 as amended by Council Directive 89/395/EEC, O.J. No. L186, 30.6.89, p. 17

Obligation to indicate unit price

5.—(1) Subject to paragraphs (2) to (4), where a trader indicates that any product is or may be for sale to a consumer, he shall indicate the unit price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) shall apply only in respect of any product sold from bulk or required by or under Part V or VI of the Weights and Measures (Northern Ireland) Order 1981(**10**) to be—

(a) marked with an indication of quantity; or

(b) made up in a quantity prescribed by or under that Order.

(3) The requirement in paragraph (1) shall not apply in relation to any product—

(a) which is listed in Schedule 2;

(b) the unit price of which is identical to its selling price; or

(c) which is pre-packaged in a constant quantity and sold—

(i) in a small shop;

(ii) by an itinerant trader; or

(iii) from a vending machine.

(4) The requirement in paragraph (1) shall apply in relation to an advertisement for a product only where the selling price of a product is indicated in the advertisement.

Manner of indication of selling price and unit price

6.—(1) The indication of selling price and unit price required by this Order shall be in sterling.

(2) If a trader indicates his willingness to accept foreign currency for the purchase of a product, he shall, in addition to the price indications in sterling, either—

(a) identify the selling price and the unit price of the product in the foreign currency in question, together with any commission to be charged; or

(b) clearly identify the conversion rate on the basis of which the foreign currency prices will be calculated, together with any commission to be charged.

(3) Where a trader identifies the selling price and the unit price of the product in a foreign currency or identifies the conversion rate on the basis of which the foreign currency prices will be calculated, he shall also indicate that such selling price, unit price or conversion rate does not apply to transactions (via payment card or Uniform Eurocheque) to be applied to accounts denominated in currencies other than sterling, the exchange rate for which will be that applied by the relevant payment scheme which processes the transaction.

7.—(1) The indication of selling price, unit price, commission, conversion rate or change in the rate of Value Added Tax shall be—

(a) unambiguous, easily identifiable and clearly legible;

(b) placed in proximity to the products to which it relates; and

(c) so placed as to be available to consumers without the need for them to seek assistance from the trader or someone else on his behalf in order to ascertain it.

(2) The indication of any charges for postage, package or delivery of a product shall be unambiguous, easily identifiable and clearly legible.

(**10**) S.I. 1981/231 (N.I. 10)

(3) Where, in addition to a unit price, a price per quantity is indicated in relation to a supplementary indication of quantity expressed in imperial units of measurement, the unit price shall predominate and the price per imperial quantity shall be expressed in characters no larger than the unit price.

8. In the case of a pre-packaged solid food product presented in a liquid medium, the unit price shall refer to the net drained weight of the product. Where a unit price is also given with reference to the net weight of the product, it shall be clearly indicated which unit price relates to net drained weight and which to net weight.

Change in Value Added Tax

9. The provisions of this Order shall be complied with notwithstanding any change in the rate or coverage of Value Added Tax or any other tax, provided that where there is any such change a retailer who adjusts his prices in consequence thereof may—

(a) by means of a general notice or notices for a period of 14 days from the date any such change takes effect, indicate that any products subject to that change are not for sale at the price indicated and that such price will be adjusted to take account of the change;

(b) continue to distribute any catalogue or sales literature printed or ordered to be printed before a change is announced if, but only if—

(i) there is firmly attached thereto a label which prominently states that some or all of the prices printed therein are to be adjusted to reflect the change, and

(ii) it includes sufficient information to enable prospective purchasers to establish the adjusted prices of any products listed, or

(iii) it refers to and is accompanied by a supplement which enables them to do so.

Decimal places and roundings of unit prices

10. Where the unit price of a product falls below £1 it shall be expressed to the nearest 0·1p. Where the figure denoting one hundredths of one penny in the unit price is 5 or higher, it shall be rounded up. Where it is 4 or lower it shall be rounded down.

11. Where the unit price of a product falls above £1 it shall be expressed to the nearest 1p. In such cases where the figure denoting tenths of one penny in the unit price is 5 or higher, it shall be rounded up. Where it is 4 or lower it shall be rounded down.

Enforcement

12.—(1) This Order shall be enforced under the Prices Act 1974.

(2) For the purpose of ascertaining whether any trader is exempt, under Article 5(3)(*c*)(i), from the requirement to unit price products which are pre-packaged in a constant quantity, the Department of Enterprise, Trade and Investment may require that trader to produce such documentary evidence relating to the shop in question as it considers necessary.