1992 No. 59

CONSUMER PROTECTION

Price Marking Order (Northern Ireland) 1992

Made . . . . . 20th February 1992
Coming into operation . . 1st April 1992

ARRANGEMENT OF ORDER

Article

1. Citation, commencement and revocation.
2. Interpretation.
3. Application of Order.
4. Obligation to indicate selling price.
5. Obligation to indicate unit price and exemptions.
6. Obligation to indicate unit price for cheese, meat and milk pre-packed in pre-established quantities.
7. Units of measurement to be used for unit pricing.
8. Special provisions relating to unit prices of food sold by reference to metric units of measurement.
9. Manner of indication of selling price or unit price of goods.
10. Value added tax and other taxes.
11. Ancillary goods and services.
12. Price marking and different methods of payment.
13. Special definitions in relation to sales of motor fuel.
14. Prices for sale of motor fuel to be indicated on pumps.
15. Prices for sale of motor fuel to be indicated on price display premises.
16. Prices of motor fuel sold by reference to the litre.
17. Price indication for motor fuel at point of payment.
18. Special provisions relating to jewellery and precious metals.
19. Special provisions relating to general reductions.
20. Transitional provisions.

Schedule 1 Pre-packed goods
Part I — Ranges of Nominal Quantities
Part II — Ranges of Container Capacities
Part III — Ranges of Volumes for Goods sold in Aerosols

Schedule 2 Motor Fuel

Part I — Provisions applicable to any indication of price of motor fuel

Part II — Provisions applicable to indication of price of motor fuel on pumps on any premises

Part III — Provisions applicable to indication of price of motor fuel on price display premises

Schedule 3 Revocations

Schedule 4 Units of Measurement for Unit Pricing

Part I — Items of food to be unit priced in kilograms or pounds

Part II — Metric and imperial units of measurement to be used in the case of other items of food

Part III — Items of goods (not being food) permitted to be unit priced in fractions of units

Part IV — Metric and imperial units of measurement to be used in the case of other items of goods

The Department of Economic Development, in exercise of the powers conferred by section 4 of the Prices Act 1974(**a**) and now vested in it(**b**) and of every other power enabling it in that behalf, having consulted(**c**), 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) 1992 and, subject to Article 20, shall come into operation on 1st April 1992.

(2) The Orders specified in Article 6(1) and in Schedule 3 are hereby revoked.

Interpretation

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

(2) In this Order—

"advertisement", in relation to goods, means any form of representation (including a catalogue, a circular and a price list but not a container or a label) which promotes the sale by retail of those goods;

(**a**) 1974 c. 24; section 4 was amended by the Price Commission Act 1977 (c. 33), section 16(1) to (3)
(**b**) By S.I. 1982/846 (N.I. 11) Art. 4
(**c**) *See* 1974 c. 24 sections 2(6), 4(3) and (5)
(**d**) 1954 c. 33 (N.I.)

"food" has the meaning given by Article 2(2) of the Food Safety (Northern Ireland) Order 1991(**a**) save that it shall include feeding stuffs for dogs and cats as well as any imitation of any food which is displayed in order to indicate that that food is available for sale by retail;

"goods" has the meaning given by section 61(1) of the Sale of Goods Act 1979(**b**), and shall include any imitation of any goods which are displayed in order to indicate that those goods are available for sale by retail and, unless otherwise expressed, includes food but does not include gas supplied through pipes;

"goods sold from bulk" means goods which are not pre-packed or are not weighed or otherwise measured or counted for sale except in the presence of the buyer, within the meaning of Article 29(4) of the Weights and Measures (Northern Ireland) Order 1981(**c**), and "food sold from bulk" shall be construed accordingly;

"goods pre-packed in pre-established quantities" means goods pre-packed in such a way that the quantity of goods in the container corresponds to a previously selected quantity (and shall include whole birds and poultry portions that are pre-packed within defined weight grades, all the birds or portions in each such grade being marked with the same weight); "food pre-packed in pre-established quantities" shall be construed accordingly;

"goods pre-packed in variable quantities" means goods pre-packed in such a way that the quantity of goods in the container does not correspond to a previously selected quantity, and "food pre-packed in variable quantities" shall be construed accordingly;

"motor fuel" means fuel of any kind supplied for use in a motor vehicle;

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"premises" includes any shop, stall, kiosk or barrow and any vehicle, train, aircraft or vessel; and where a person indicates that goods are available for sale by retail from him in a part of larger premises owned or occupied by another, that part of those premises shall be treated as separate premises;

"sale by retail" does not include sales of goods between private persons nor sales of goods which are bought for the purposes of a trade or commercial activity or which are supplied in the course of the provision of a service;

"selling price" means, in relation to any goods which are or may be for sale by retail, the aggregate sums that the purchaser is required to pay in order to obtain the goods excluding, in the case of motor vehicles, vehicle excise duty;

(**a**) S.I. 1991/762 (N.I. 7)
(**b**) 1979 c. 54
(**c**) S.I. 1981/231 (N.I. 10)

"unit price" means, in relation to any goods which are or may be for sale by retail, the price expressed by reference to any one of the units of measurement that are referred to in Article 7 or in Schedule 4; and other expressions used have the same respective meanings as given in the Weights and Measures (Northern Ireland) Order 1981.

(3) For the purposes of any reference in this Order to the sale by retail of any goods where a person ("the ostensible supplier") supplies goods to another person ("the customer") under a hire-purchase agreement, conditional sale agreement or credit-sale agreement within the meaning in each case of the Consumer Credit Act 1974(**a**) and where the ostensible supplier—

(*a*) carries on the business of financing the provision of goods for others by means of such agreements, and

(*b*) in the course of that business acquired his interest in the goods supplied to the customer as a means of financing the provision of them for the customer by a further person ("the effective supplier"),

the effective supplier and not the ostensible supplier shall be treated as selling by retail the goods to the customer.

Application of Order

3.—(1) Subject to the provisions of this Article, this Order apples to—

(*a*) goods which a person, or someone else on his behalf, indicates are or may be for sale by retail by him, and

(*b*) advertisements in which he, or someone else on his behalf, indicates the selling price or the unit price of goods which are or may be for sale by retail by him;

and references in this Order to "goods" are references to goods to which this Order applies.

(2) Advertisements to which paragraph (1)(*b*) applies shall not include those advertisements which do no more than indicate a price at which a person who supplies goods to another person (whether to be sold by retail by that person or by some other person) recommends that they be sold by retail or which give no more than a general indication of the price or a range of prices at which he expects they may be sold by retail.

(3) Where a person uses or adopts an advertisement such as is mentioned in paragraph (2) as a means of indicating the price at which goods are or may be for sale by retail by him, that advertisement shall comply with the provisions of this Order.

(4) In an advertisement to which this Order applies the indication of the selling price or the unit price shall be made in accordance with the provisions of this Order except that in the case of an advertisement which is not a written advertisement (including an advertisement broadcast by radio or television or

(**a**) 1974 c. 39

transmitted by cable programme service, public address system or displayed by film projection or disseminated by any similar system), such indication need not be given in written or printed form if in all other respects it complies with the provisions of this Order.

(5) This Order shall not apply to—

(*a*) food which is sold and consumed in hotels, restaurants, cafes, public houses, hospitals, canteens or similar establishments;

(*b*) sales of goods (not being food) by auction and sales of works of art, or

(*c*) antiques whether or not of an age exceeding one hundred years.

(6) This Order shall not apply to goods ordered by telephone or post where a purchaser has agreed before or when placing the order that there need be no written indication of the price before the goods are supplied to him.

(7) This Order shall not require a person who is merely demonstrating goods to indicate the selling price or the unit price of those goods, nor shall it require a person who, acting in a market place, is determining the range of prices within which he will invite offers for purchase to indicate the selling price or the unit price of those goods until such time as he has determined the point in that range at which he will invite offers for them.

Obligation to indicate selling price

4.—(1) Where a person indicates that any goods (being goods other than motor fuel) are or may be for sale by retail, he shall indicate in writing the selling price of those goods in accordance with the following provisions of this Order.

(2) (*a*) The selling price shall be indicated either—

(i) in the case of goods sold from bulk, by reference either to a unit of measurement or to a single item or to a specified quantity of the goods, or

(ii) in the case of other goods, by reference to a single item or to a specified quantity of the goods.

(*b*) Where the selling prices at which different quantities of goods may be purchased do not vary in the same proportion to each other as the quantity of the goods, the indication of the selling price shall include sufficient information to enable the purchaser to calculate what the selling price of any quantity of the goods is.

Obligation to indicate unit price and exemptions

5.—(1) Where a person indicates that any of the goods referred to in paragraph (2) are or may be for sale by retail, he shall, except where exempted pursuant to paragraphs (3) and (4), indicate in writing the unit price of those goods in accordance with the following provisions of this Order.

(2) The goods referred to in paragraph (1) are—

(*a*) goods sold from bulk;

(*b*) goods pre-packed in variable quantities; and

(*c*) on or after 7th June 1995, goods pre-packed in pre-established quantities which—