

Revised by
S.I. 52 (1952)

THE FLOUR CONFECTIONERY (MAXIMUM PRICES) (BAILLIWICK OF GUERNSEY) ORDER, 1951.

As Competent Authorities as regards the Bailiwick of Guernsey excluding the Island of Alderney and as regards the Island of Alderney respectively in relation to Regulation 55 of the Defence (General) (Guernsey) Regulations, 1945, we hereby make the following Order:-

Interpretation.

1. (1) In this Order -

"The Committee" means the States of Guernsey Committee for the Control of Essential Commodities;

"By retail" means, in relation to a sale of flour confectionery, a sale to a person buying otherwise than for the purpose of resale, and includes a sale to a caterer for the purposes of his catering business;

"Catering business" includes the business or undertaking of an inn, public house, hotel, restaurant, café, tea-shop, buffet, coffee-stall or of any place of refreshment open to the public, or of a club, boarding-house, apartment-house, refreshment contractor, school feeding-centre, staff dining-room or canteen; and the word "caterer" shall be construed accordingly;

"Consumer price" means the price at which any flour confectionery is sold by retail or intended to be so sold, being a price not exceeding the maximum price applicable thereto under the provisions of this Order exclusive of any addition which may be permitted in respect of containers;

"Flour confectionery" means cake, ready-made puddings (other than canned puddings), trifles, pastry (cooked or uncooked), confectionery with a cereal breakfast food or similar product as one of its principal ingredients, fruit loaves, bun loaves, and any other description of flour confectionery, other than -

- (a) bread (except fruit loaves and bun loaves);
- (b) biscuits, within the meaning of The Biscuits (Prices) Order, 1951, of the United Kingdom;
- (c) any product containing a filling that has as an ingredient meat or fish of any description;
- (d) Christmas puddings and uncooked pudding mixtures;
- (e) any "classified product" within the meaning of The Chocolate, Sugar Confectionery and Cocoa Products Order, 1951, of the United Kingdom; and
- (f) black puddings and white (or nealy) puddings.

"Institution" includes any hospital, sanatorium, convalescent home, nursing home, orphanage, poor law institution, infirmary, mental hospital, residential educational establishment serving meals, and any other similar establishment;

"Sell" includes offer or agree to sell or expose for sale.

- (2) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of this Order as it applies to the interpretation of a Guernsey enactment.

Ingredients of uncooked pastry.

2. No person shall, in the course of any trade or business, manufacture or sell any uncooked pastry containing less than 25 per cent of oils and fats:

Provided that this restriction shall not apply to any institution or catering business, other than the business of a catering establishment in respect of which a licence has been granted under The Food (Licensing of Establishment) (Bailiwick of Guernsey) Order, 1948.

Maximum prices.

3. (1) No person shall sell any flour confectionery at a price exceeding the price applicable in accordance with the Schedule to this Order.
- (2) For the purpose of ascertaining the maximum price, the cost of the ingredients means the cost to the manufacturer (or in the case of any substance added after manufacture, to the person making the addition), including any costs or charges incurred in respect of the transport of such ingredients:

Provided that in calculating such cost, the cost of any ingredient in respect of which a maximum or fixed price is prescribed under any Order under the Defence (General) (Guernsey) Regulations, 1945, shall not exceed the lesser of the following two amounts -

- (a) the actual cost of the ingredients to him; or
- (b) the prescribed maximum or fixed price applicable to that ingredient on a sale to him at the time of the sale by him of the flour confectionery, together with any addition lawfully made to such price in respect of transport:

Provided also that where any ingredients were supplied by the person to whom the flour confectionery is sold by the manufacturer, such cost shall also include the value of the ingredients so supplied; such value to be determined -

- (a) in the case of any ingredient in respect of which a maximum or fixed price is prescribed under any Order under the Defence (General) (Guernsey) Regulations, 1945, by being deemed to be equal to the maximum or fixed price of a like quantity of that ingredient on a sale to the manufacturer at the time when it was so supplied; and
- (b) in any other case, by being deemed to be equal to the price that the manufacturer might reasonably have been expected to pay for a like quantity of that ingredient if he had bought it in the ordinary course of his business at the time when it was so supplied.
- (3) The cost of the ingredients of any flour confectionery shall be deemed to amount to less than 1s. for every pound thereof until the contrary is proved.
- (4) If the maximum price calculated in accordance with the provisions of this Order includes any fraction of a farthing, such fraction shall be regarded as one farthing.

Statements.

4. Every person who sells flour confectionery except uncooked pastry otherwise than by retail, shall clearly indicate in a statement upon the wrapper or container in which it is delivered to the purchaser, or upon a label attached to it, or upon an invoice, price list or similar document delivered at or before the time of its delivery, the consumer price of such flour confectionery.

Exemption for caterers.

5. Articles 3 and 4 of this Order shall not apply to a sale of flour confectionery by a caterer as a meal or part of a meal served in the course of his catering business.

Percentages by weight.

6. For the purposes of this Order, percentages shall be determined in accordance with the following provisions:-
 - (a) the percentage shall be determined by reference to the weight of an article taken at any time;
 - (b) the percentage shall be ascertained by analysis of a sample representing a fair average of the whole article;
 - (c) all oils, fats, sugar and dry egg solids contained in or added to such article shall be taken into account in whatever form they have been introduced;
 - (d) the percentage of sugar in the sample shall be determined by adding the percentage of sucrose to the percentage of the total reducing sugars expressed in terms of dextrose; and
 - (e) the percentage of oils and fats shall be determined by ascertaining the percentage of the sample which is extractable with ether or other appropriate solvent after the sample has been suitably digested with diluted hydrochloric acid.

Certificate of States Analyst.

7. (1) In any proceedings in respect of an infringement of this Order, the production by one of the parties of (i) a document purporting to be a certificate of the States Analyst, or (ii) a document supplied to him by the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated therein unless in the case mentioned under (i) above the other party requires that the person making the analysis shall be called as a witness.
- (2) In any such proceedings -
 - (a) if the prosecution intends to produce a certificate of the States Analyst, a copy of such certificate shall be served with the summons; and
 - (b) if a defendant intends to produce a certificate of the States Analyst or to require that the person making the analysis shall be called as a witness, he shall give the other party at least three clear days' notice of his intention;

and if any of these requirements is not complied with the Court may, if it thinks fit, adjourn the hearing on such terms as it deems proper.

Defences.

8. (1) If in any prosecution a person is charged with an infringement of this Order by reason of his having sold flour confectionery containing less than the required proportion of oils and fats, it shall be a defence for him to prove that the infringement was due to a bona fide mistake or accident, or to other causes beyond his control, and that he took all reasonable precautions and exercised all due diligence to prevent the infringement.
- (2) If in any prosecution a person is charged with an infringement of this Order by reason of his having sold flour confectionery at a price exceeding the maximum price, and each unit of flour confectionery alleged to have been so sold does not exceed 4 oz. in weight, the Court shall disregard any inconsiderable excess in the price charged for a single unit and shall have regard to the average price charged for a reasonable number of other units of flour confectionery of the same kind (if any) sold by the defendant or in his possession for the purpose of sale on the same occasion, and generally to all the circumstances of the case.
- (3) If in any prosecution a person is charged with an infringement of this Order by reason of his having sold flour confectionery at a price exceeding the maximum price, it shall be a defence for him to prove -
 - (a) that the price at which the flour confectionery was sold did not exceed the price stated to be the consumer price on a statement delivered to him in accordance with Article 4 of this Order by the person from whom he bought the flour confectionery; and
 - (b) that he had no reason to believe and could not reasonably have ascertained, at the time of the commission of the alleged offence, that the price at which he sold the flour confectionery exceeded the maximum price.
- (4) A statement shall be a defence to such proceedings only if the defendant has within seven days of the service of the summons sent the prosecutor a copy of the statement, with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person.
- (5) If the defendant is a servant of the person who purchased the flour confectionery with such statement as aforesaid, he shall be entitled to rely upon the provisions of this Article in the same way as his employer would have been entitled to do if he had been the person charged.
- (6) The person by whom the statement is alleged to have been delivered shall be entitled to appear at the hearing and give evidence.

Artificial transactions.

9. No person shall in connection with the sale or disposition or proposed sale or disposition of any flour confectionery enter or offer to enter into any artificial transaction or make or demand any unreasonable charge.

Directions, authorisations and licences.

10. (1) The provisions of this Order are subject to any directions that may at any time be given by or on behalf of the Committee, and to any licence or authorisation that may be granted by or on behalf of the Committee under this Order.
- (2) Every person holding a licence or authorisation granted under this Order shall comply with every condition imposed by such licence or authorisation.

- (3) Every licence or authorisation granted under this Order is and shall remain the property of the Committee; and the licensee or any person being in possession of any such licence or authorisation shall, if requested to do so by or on behalf of the Committee, produce or deliver it to such person or to a person of such class or description, and within such time, as may be specified in the request.

Infringements.

11. Infringements of this Order are offences against the Defence (General) (Guernsey) Regulations, 1945.

Revocations.

12. The following Orders are hereby revoked but without prejudice to any proceedings in respect of any contravention thereof:-

- (1) The Flour Confectionery (Control and Maximum Prices) (Bailiwick of Guernsey) Order, 1947, dated 8th September, 1947.
- (2) The Flour Confectionery (Control and Maximum Prices) (Bailiwick of Guernsey) (Amendment No. 4) Order, 1950, dated 14th November, 1950 (a).

Provided that -

- (a) any licence having effect under those Orders and subsisting immediately before the coming into force of this Order shall continue to have effect as though granted under this Order; and
- (b) any statement delivered pursuant to Article 5 of that Order shall have effect as though delivered pursuant to Article 4 of this Order.

Citation and commencement.

13. This Order may be cited as The Flour Confectionery (Maximum Prices) (Bailiwick of Guernsey) Order, 1951, and shall come into operation on the 1st day of July, 1951.

Dated this 30th day of June, 1951.

R. P. WALKER.

Chairman,
Alderney Committee for the Control
of Essential Commodities.

A. FALLA.

President,
States' Committee for the Control
of Essential Commodities.

THE SCHEDULE.

MAXIMUM PRICES OF FLOUR CONFECTIONERY.

PART I.

Maximum Prices of Flour Confectionery other than Uncooked Pastry.

1. If any article of flour confectionery contains less than 15 per cent by weight of farinaceous materials, the maximum price shall be at the rate of 6s. per lb. net.

THE SCHEDULE.

MAXIMUM PRICES OF FLOUR CONFECTIONERY.

PART I (CONTD.)

Maximum Prices of Flour Confectionery other than Uncooked Pastry.

2. If any article of flour confectionery contains 15 per cent or more by weight of farinaceous materials, and -

(a) the combined fat, sugar and dry egg solids content (or the combined content of any two of these ingredients) of such article of flour confectionery is 45 per cent or more; or

(b) the cost of the ingredients for every pound of such article of flour confectionery is 1s. or more;

the maximum price (except in the case of uncooked pastry) shall be at the rate of 3s. 6d. per lb. net.

3. In all other cases (except in the case of uncooked pastry) the maximum price of flour confectionery shall be at the rate of 2s. per lb. net.

PART II.

Maximum Price of Uncooked Pastry.

The maximum price of uncooked pastry shall be at the rate of 1s. 7d. per lb. net.

PART III.

Additional Charges for Containers.

1. In this Part of this Schedule, references to the weight of any flour confectionery do not include the weight of the container.

2. On a sale of a ready-made pudding in a non-returnable basin supplied by the seller, a sum not exceeding -

(a) 3d. if the weight of the pudding is less than 3 lb.; or

(b) 1½d. for every complete pound that the pudding weights, if its weight is 3 lb. or more;

may be added to the maximum price.

3. On a sale of trifle in a non-returnable cardboard container supplied by the seller, a sum not exceeding the actual and reasonable cost of the container to the seller may be added to the maximum price.

4. On any sale, not provided for in paragraphs 2 or 3 of this Part of this Schedule, of flour confectionery in a non-returnable cardboard container supplied by the seller, a sum not exceeding the actual and reasonable cost of the container to the seller and not exceeding -

(a) 1½d. if the weight of the flour confectionery is not more than 1 lb.;

(b) 3d. if the weight of the flour confectionery is more than 1 lb. but not more than 2 lb.; or

(c) 4d. if the weight of the flour confectionery is more than 2 lb.;

may be added to the maximum price.

5. Except as provided in this Part of this Schedule, no charge shall be made for any wrapper or container on a sale of flour confectionery.

EXPLANATORY NOTE.

(This Note is not part of the Order, but is intended to indicate its general purport).

This Order replaces The Flour Confectionery (Control and Maximum Prices) (Bailiwick of Guernsey) Order, 1947, as amended. The principal changes are:-

- (1) licences to manufacture flour confectionery are no longer required; and
- (2) a new schedule of maximum prices of flour confectionery is prescribed, and provision has been made for a new maximum price of six shillings a pound for flour confectionery containing less than fifteen per cent of farinaceous materials.

The General Licence dated 4th February, 1950, issued under The Flour Confectionery (Control and Maximum Prices) (Bailiwick of Guernsey) Order, 1947, in regard to cakes supplied for use in connection with the celebration of a christening or a wedding, including a silver, golden or diamond wedding, is continued in force under this Order.