1952 No. 1227

The Barley Order, 1952

Made - - - -	*24th June*, 1952
Laid before Parliament	*25th June*, 1952
Coming into Operation	*1st July*, 1952

The Minister of Food, in pursuance of the powers conferred upon him by Regulations 55, 55AA and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945(a) (as extended by the Supplies and Services (Extended Purposes) Act, 1947(b) and the Supplies and Services (Defence Purposes) Act, 1951(c), and continued in force by the Supplies and Services (Continuance) Order, 1951(d)), and of all other powers him enabling in that behalf, hereby orders as follows :—

Commencement and citation

1. This Order shall come into operation on the 1st day of July, 1952, and may be cited as the Barley Order, 1952.

Interpretation

2. In this Order—

" The Minister " means the Minister of Food.

" The Ministry " means the Ministry of Agriculture for Northern Ireland.

" Approved buyer " means a person licensed as such under this Order and includes any person who, immediately before the coming into force of this Order, was licensed as an approved buyer under the Barley Order, 1950, as amended(e).

" Barley " means threshed barley or threshed bere and includes barley half corns, barley screenings and tailings and any processed barley other than barley processed for human food, malt or by-products of the manufacture of human food or malt.

" Barley for human consumption " means barley which is sold—

(i) to an ultimate user for the manufacture by him of malt, processed barley or barley products for use in brewing or distilling, or human food ; or

(ii) to an approved buyer for resale for any of the purposes mentioned in paragraph (i) of this definition.

" Buy ", " obtain ", " sell " or " supply " include offer or agree to buy, obtain, sell or supply, as the case may be.

" Grower " means a grower of barley in Great Britain or Northern Ireland and includes the seller or supplier thereof on the first sale or disposition after threshing, but, for the purposes of the Schedule to this Order, shall not include an approved buyer.

" Home grown barley " means barley grown in the United Kingdom.

" Isle of Man barley " means barley grown in the Isle of Man.

" Local Wheat Committee " has the meaning assigned to it in the Wheat Bye-Laws, 1932(f).

(a) 9 & 10 Geo. 6. c. 10; and S.R. & O. 1945/1611, 1615–25; 1945 II, pp. 39, 45–56.
(b) 10 & 11 Geo. 6. c. 55. (c) 14 & 15 Geo. 6. c. 25.
(d) S.I. 1951/2116; 1951 III, p. 27.
(e) S.I. 1950/1077; 1951/1117, 1572: 1950 III, p. 641; 1951 III, pp. 286–7.
(f) S.R. & O. 1932/588; Rev. I, p. 750; 1932, p. 1735.

"M.A.F. sack" means a sack sold to a grower by the Minister of Agriculture and Fisheries and made from 11 ounce/45 inch standard Hessian and measuring when empty approximately 25 inches by 44 inches.

"Processed barley and barley products" means—

(*a*) any barley product (sold for use as an animal feeding stuff or for resale for such use) for which a maximum price is prescribed by the Feeding Stuffs (Prices) Order, 1952(a), or by any other Order of the Minister for the time being in force prescribing prices for animal feeding stuffs, and

(*b*) any barley product or processed barley manufactured by an ultimate user.

"Screenings" means grains separated from the bulk by a mechanical process of sifting (in the course of threshing or subsequently) and which are smaller or lighter than the average size or weight of the grains in the bulk.

"Seed barley merchant" means a person licensed as such under this Order and includes any person who, immediately before the coming into force of this Order, was licensed as a seed barley merchant under the Barley Order, 1950, as amended.

"Tailings" means broken, small or immature barley grains with or without other material separated in the course of threshing barley.

"Ultimate buyer" in relation to any barley means a person buying the same otherwise than for the purpose of resale or of sale after processing and manufacture.

"Ultimate user" means any person licensed as such under this Order and includes

(*a*) any person who, immediately before the coming into force of this Order, was licensed as an ultimate user under the Barley Order, 1950, as amended; or

(*b*) a "maltster" licensed as such under the Malt (Restriction) Order, 1940(b), or any Order replacing that Order.

PART I—CONTROL

Restriction on growers

3. No grower shall sell or supply any barley grown by him except to an approved buyer, a seed barley merchant or an ultimate user and no person other than an approved buyer, a seed barley merchant or an ultimate user shall buy or obtain barley from a grower.

Isle of Man barley

4. No person other than an approved buyer shall buy any Isle of Man barley for delivery in the United Kingdom from any person in the Isle of Man.

Restriction on dealings for seed

5.—(1) No person shall buy or obtain or sell or supply any barley for use as seed or for resale for such use except in accordance with the following provisions:—

(*a*) a seed barley merchant may buy or obtain barley for resale as seed from a grower, an approved buyer or a seed barley merchant; and a grower, an approved buyer or a seed barley merchant may sell or supply barley for resale as seed to a seed barley merchant;

(a) S.I. 1952/1203.

(b) S.R. & O. 1940/1668; 1940 II, p. 671.

(*b*) an approved buyer who is also a seed barley merchant may buy any Isle of Man barley for resale as seed from any person in the Isle of Man ;

(*c*) an ultimate buyer may buy any barley for use as seed from a seed barley merchant and a seed barley merchant may sell any barley for use as seed to an ultimate buyer ;

(*d*) a grower in Northern Ireland may sell or supply any barley for use as seed to an ultimate buyer and an ultimate buyer may buy or obtain barley for use as seed from a grower in Northern Ireland.

(2) No ultimate buyer, who has purchased barley for use as seed, shall use or dispose of it or permit it to be used or disposed of, otherwise than by sowing as seed.

PART II—PRICES

Maximum and Minimum Prices

6.—(1) No person shall buy or sell any barley at a price exceeding the maximum price applicable in accordance with the provisions of the Schedule to this Order or at a price less than the minimum price so applicable.

(2) The provisions of paragraph (1) of this Article shall not apply to—

(*a*) barley sold for use as seed, or for resale for such use ; or

(*b*) processed barley or barley products.

(3) The minimum price prescribed by this Order shall not apply to barley which is not sound, sweet and in fair merchantable condition, commercially clean as regards admixture and tailings, and commercially free from heated, mouldy, green or abnormally small grains or objectionable taint, provided that, where such barley is capable of being converted into barley which is sound, sweet and in fair merchantable condition, commercially clean as regards admixture and tailings, and commercially free from heated, mouldy, green or abnormally small grains or objectionable taint at a cost not exceeding 2s. 0d. per cwt., the price on a sale by a grower shall be not less than the minimum price specified in Part II of the Schedule to this Order less an amount equal to the cost of such conversion, such amount to include proper allowance for loss of weight and not to exceed 2s. 0d. per cwt.

7. If in relation to a sale or proposed sale of any barley by a grower at less than the minimum price prescribed by this Order any difference shall arise as to whether the barley is, or is capable, at a cost not exceeding 2s. 0d. per cwt., of being converted into barley which is sound, sweet and in fair merchantable condition, commercially clean as regards admixture and tailings, and commercially free from heated, mouldy, green or abnormally small grains or objectionable taint, the matter shall be referred—

(i) in Great Britain to the Local Wheat Committee in whose area the barley is situate ;

(ii) in Northern Ireland to the Ministry ;

and the decision of such Committee, or of the Ministry, as the case may be, shall be final and conclusive.

Price of M.A.F. Sacks

8.—(1) Where barley is sold in an M.A.F. sack each sack shall on every sale be charged by the seller as non-returnable and the price to be charged and paid therefor shall be 1s. 8d.

(2) The provisions of paragraph (1) of this Article shall not apply unless the said sack is at the time of sale in a suitable condition for the commercial transport of barley, has not been emptied since being originally filled with barley by the grower and was in a new condition at the time of being so filled.

PART III—GENERAL

Notification that barley artificially dried

9. Where barley (other than processed barley and barley products) has been artificially dried before sale the seller shall, at or before the time of sale, notify the buyer in writing that the barley has been artificially dried: provided that it shall be a defence in any proceedings for an infringement of this Article for the defendant to prove that he had no reason to believe that the barley had been artificially dried.

Keeping of Records

10.—(1) Every approved buyer, seed barley merchant and ultimate user shall keep or cause to be kept an accurate record of all his purchases and sales of barley specifying, in respect of each purchase and sale —

(*a*) the date thereof;

(*b*) whether the barley in question was sold as barley for human consumption or for use as seed or for resale for such use, as the case may be:

(*c*) the name and address of the person from whom it was purchased or to whom it was sold;

(*d*) the quantity purchased or sold, and the price paid or charged.

(2) The retention by any person of an invoice or a copy of an invoice shall, as respects the particulars mentioned in such document, be a sufficient compliance by him with the provisions of this Article.

(3) Every person who is required by this Article to keep any record shall retain the same for not less than one year from the date of the transaction to which it relates.

Particulars of additions to be furnished

11. On any sale of barley the seller shall, on demand being made of him in writing by the buyer within 14 days of the date of the invoice, furnish to the buyer forthwith such written particulars as the buyer may require of any additional charges made on that sale in accordance with Part III of the Schedule to this Order.

Artificial transactions: unreasonable charges

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

Directions, licences and authorisations

13.—(1) The provisions of this Order are subject to any directions that may at any time be given by or on behalf of the Minister, or in respect of Northern Ireland by or on behalf of the Minister or the Ministry, and to any licence or authorisation that may be granted by or on behalf of the Minister, or in respect of Northern Ireland by or on behalf of the Minister or the Ministry, under this Order; and the Minister hereby delegates to the Ministry the function of giving or granting any such directions, licence or authorisation in respect of Northern Ireland.

(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 granted under this Order is and shall remain the property of the Minister or the Ministry; and the licensee or any person in possession of any such licence or authorisation shall, if requested to do so by or on behalf of the Minister or the Ministry, 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

14. Infringements of this Order are offences against the Defence (General) Regulations, 1939.

Revocation

15.—(1) The Barley Order, 1950, as amended(a), is hereby revoked but without prejudice to any proceedings in respect of any contravention thereof.

(2) Any licence granted under the said Order, or continuing in force by virtue of the said Order, and subsisting immediately before the date of the coming into force of this Order shall continue to have effect as if it had been granted under this Order.

(3) Every person shall notwithstanding the revocation of the said Order retain any record required to be kept by him thereunder until the expiration of one year from the date of the transaction to which it relates.

Application

16.—(1) This Order shall not, with the exception of the provisions relating to Isle of Man barley, apply to any barley grown outside the United Kingdom.

(2) This Order shall not apply to the supply of barley for use as seed by way of export from the United Kingdom.

G. Lloyd-George,
Minister of Food.

Dated the 24th day of June, 1952.

THE SCHEDULE

PART I

Maximum Prices of Barley other than Barley for Human Consumption

Column 1	Column 2
	At the rate of:— s. d.
I. Home Grown Barley:	
1. On a sale by a grower	26 0 per cwt. net
2. On a sale to any person other than an ultimate buyer by an approved buyer who has bought the barley from a grower or who is the first seller thereof after threshing	26 7½ per cwt. net
3. On any other sale	27 1½ per cwt. net
II. Isle of Man Barley:	
4. On any sale	27 1½ per cwt. net

(a) S.I. 1950/1077; 1951/1117, 1572: 1950 III, p. 641; 1951 III, pp. 286–7.

PART II

Minimum Price

The minimum price of Home Grown Barley on a sale by a grower shall be at the rate of 23s. 6d. per cwt. net.

PART III

Charges which may be made by the Seller in Addition to the Maximum Prices

1. *Credit*

The maximum prices prescribed by this Order are fixed on the basis of net cash; where credit is given by the seller to the buyer a reasonable charge may be made therefor provided that the amount of such charge is quoted by the seller on the invoice.

2. *Storage and Handling Charges*

(1) Where barley which has been taken into and delivered out of the seller's store has:—

(*a*) at the request of the buyer been delivered by the seller in a quantity of 80 cwt. or less; or

(*b*) been both re-bagged and re-weighed by the seller,

a charge at a rate not exceeding 3½d. per cwt. may be made by the seller in respect thereof.

(2) No such charge shall be made on a sale by a grower or where the barley has been taken into the seller's store for the purpose of processing.

(3) On a sale of Isle of Man barley a charge may be made by the seller in respect of warehousing (including handling) both at the place of despatch in the Isle of Man and also at the place of arrival in the United Kingdom, provided that such charge in each case shall be reasonable and shall not exceed 2d. per cwt. and shall be properly incurred and paid or payable.

3. *Small Lots*

Where on a sale to an ultimate buyer barley is, at the request of the buyer, delivered by the seller in any of the undermentioned quantities, a charge may be made by the seller in accordance with the following scale:—

Quantity delivered	Charge at a rate not exceeding—
	s. d.
10 cwt. or more but less than 20 cwt. ...	3½ per cwt.
5 cwt. or more but less than 10 cwt. ...	7 per cwt.
1 cwt. or more but less than 5 cwt. ...	1 2 per cwt.
½ cwt. or more but less than 1 cwt. ...	1 10 per cwt. or 11d. per ½ cwt.
28 lb. or more but less than ½ cwt.	3 0 per cwt., 1s. 1½d. per 42lb. or 9d. per 28 lb.
14 lb. or more but less than 28 lb.	3 8 per cwt., 8½d. per 21 lb. or 5½d. per 14 lb.
Under 14 lb.	4 8 per cwt. or 3½d. per 7 lb.

4. *Transport Charges on a sale of Home Grown Barley*

The maximum prices for home grown barley prescribed by Part I of this Schedule are fixed on the basis that all transport charges after sale by the grower "ex-farm" are for the account of the ultimate buyer, and accordingly on a sale of any home grown barley there may be added to such maximum prices all transport charges after sale by the grower "ex-farm";

Provided that—

(*a*) such charges so added shall not exceed any reasonable amounts actually and properly paid or payable by the seller and any other reasonable sums representing transport costs properly incurred by him,

(*b*) the transport charges for barley half corns or barley screenings may only be added after the first sale of the half corns or screenings as such, and

(*c*) where on a sale of barley by the Minister an average or flat rate is charged in respect of transport the amount so charged shall be deemed to be a reasonable amount actually and properly paid or payable for transport.

5. *Sacks*

(1) Where the seller provides returnable sacks (owned or hired by him) he may make a reasonable charge therefor, provided that—

(*a*) he specifies on an invoice to be furnished to the buyer—

(i) the amount of such charge or the rate thereof;

(ii) whether or not such charge or any part thereof is made by way of deposit; and

(iii) if part of such charge is made by way of deposit, the amount thereof:

(*b*) any charge made by way of deposit shall be repaid by the seller to the buyer on the re-delivery by the buyer of the sack (carriage paid) in such condition as is reasonable having regard to its condition when supplied and to ordinary wear and tear.

(2) Where the seller provides non-returnable sacks, other than M.A.F. sacks, the seller may make a charge for each sack at a rate not exceeding 1s. 6d. per cwt. of the contents sold, or in the case of a sale of less than one cwt. at a rate not exceeding 1s. 9d. per cwt.

6. *Charges in respect of Transport, Insurance, Freight and Containers on a Sale of Isle of Man Barley*

The maximum price for Isle of Man barley prescribed by this Schedule is fixed on the basis of sale " ex-farm " in the Isle of Man and there may be added to such maximum price all reasonable costs and charges of and incidental to delivery to the buyer in the United Kingdom in respect of transport, insurance, freight and the provision of containers.

7. *Prohibition of Further Additions*

Except as provided in this Part of this Schedule no charge shall be made in addition to the maximum prices in respect of credit, breaking bulk, transport, freight, insurance, containers, storage or handling.

EXPLANATORY NOTE

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

This Order replaces the Barley Order, 1950, as amended. It—

(1) increases the minimum price of barley from 21s. 10d. to 23s. 6d. per cwt.

(2) reduces the price of M.A.F. sacks from 1s. 9d. to 1s. 8d.

(3) reduces the maximum permitted charge for other non-returnable sacks to 1s. 6d. per cwt. of contents, or on a sale of less than 1 cwt. to 1s. 9d. per cwt.