7. CHOCOLATE, SUGAR CONFECTIONERY AND COCOA PRODUCTS

The Chocolate, Sugar Confectionery and Cocoa Products Order, 1949

1949 No. 781

Made - - - -	21*st April*, 1949
Laid before Parliament	23*rd April*, 1949
Coming into Operation	24*th April*, 1949

In exercise 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 of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

" The Minister " means the Minister of Food.

" Approved mark " means in respect of the manufacturer of any product a name, number, or other mark approved by or on behalf of the Minister or by the appropriate Association under the authority of the Minister, for the purpose of identifying such manufacturer.

" Approved name " means in respect of any product a name or description approved by or on behalf of the Minister or by the appropriate Association under the authority of the Minister, for the purpose of identifying such product.

" Buy " includes offer or agree to buy and " sell " includes offer or agree to sell or expose for sale.

" Chocolate and chocolate confectionery " includes medicated chocolate confectionery but does not include chocolate prepared for use in making a beverage, chocolate couverture, any product of a description specified in the First Schedule to this Order or any product which would not be regarded in the confectionery industry as suitable for retail sale without further processing.

" Chocolate couverture " means a chocolate product sold in accordance with trade usage in the chocolate industry under the trade descriptions of chocolate couverture, bakers' covering compounds, unsweetened chocolate, neatwork, chocolate vermicelli or chocolate granulettes.

" Classified product " means a variety or description of confectionery or chocolate couverture which has for the purposes of this Order been classified by or on behalf of the Minister or by the appropriate Association under the authority of the Minister.

" Confectionery " means chocolate and chocolate confectionery and sugar confectionery.

(a) 9 & 10 Geo. 6. c. 10; and S.R. & O. 1945 (Nos. 1611 and 1615–25) II, pp. 39 and 45–56.
(b) 10 & 11 Geo. 6. c. 55.

"Consumer price" means the price at which any confectionery is sold or offered for sale by retail or at which it is intended to be so sold, being a price not exceeding the maximum price applicable thereto under the provisions of this Order.

"Sale by retail" means any sale to a person buying otherwise than for the purpose of resale, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

"Sugar confectionery" includes boiled sugar goods, toffees, panned goods and lozenges, liquorice and cream paste goods, pastilles, clear gums and chewing gum and any other sweet and medicated sugar confectionery, but does not include candy (or fairy) floss, any product of a description specified in the said First Schedule or any product which would not be regarded in the confectionery industry as suitable for retail sale without further processing.

"The appropriate Association" means, in relation to chocolate and chocolate confectionery and chocolate couverture, the Cocoa and Chocolate (War Time) Association, and, in relation to sugar confectionery, the Sugar Confectionery (War Time) Association.

2.—(1) Except under and in accordance with the terms of a licence (including a provisional licence) granted by or on behalf of the Minister for the purposes of this Article no person shall by way of trade or business engage in the manufacture of—

(*a*) confectionery;
(*b*) chocolate couverture;
(*c*) cocoa and drinking chocolate;
(*d*) cocoa butter:

Provided that nothing in this Article shall prohibit the manufacturer during the period of twelve months beginning on the date of the coming into force of this Order or during any successive period of twelve months thereafter of a total quantity of all such products not exceeding 25 tons by any person who was engaged in the manufacture of any such products during the year 1940 and who manufacturered during that year a total quantity of all such products not exceeding 25 tons.

(2) In the event of the transfer of a business in respect of which a licence is held under this Article or in the event of the death of the holder of such a licence, the transferee or other person succeeding to the business shall, on having duly made an application for a licence under this Article and pending the decision of the Minister upon such application, be deemed to hold a provisional licence under this Article whereby he shall be entitled, unless the Minister shall otherwise direct, to manufacture such products as were authorised to be manufactured under the first-mentioned licence, subject to any conditions contained in such first-mentioned licence.

(3) Every licence (including every provisional licence) granted under this Article shall be deemed to be granted upon and shall take effect subject to the condition set out in the Third Schedule to this Order, save as the Minister may otherwise authorise or direct; so however that a licence granted under this Article may contain such other conditions as the Minister may consider expedient.

(4) Save as the Minister may otherwise authorise or direct, any licence granted under this Article—

(*a*) shall extend only to authorise the manufacture of any product by the licensee or by any servant of the licensee; and

(*b*) shall not extend to authorise the manufacturer of any product either on behalf of the licensee by any person other than such a servant, or by the licensee when acting as an agent for any other person unless such other person is licensed under this Article to produce the same.

(5) A person licensed under this Article shall, before ceasing to carry on business as a manufacturer of any product to which his licence relates, give to the Minister not less than 14 days' notice in writing of his intention so to do and shall return to the Minister any licence held by him under this Article.

Provided that where in any proceedings a person is charged with contravention of this paragraph it shall be a defence for the defendant to prove that it was not practicable for him to give such notice or that he gave notice as soon as it was practicable for him to do so.

(6) Where confectionery, chocolate couverture, cocoa or drinking chocolate or cocoa butter is no longer being manufactured in connection with any business owing to the death of a person licensed under this Article, without notice thereof having been given under the preceding paragraph, the licensee's personal representative shall forthwith give such notice to the Minister and shall return to the Minister any licence granted in respect of such business under this Article.

3.—(1) No person shall—

(*a*) sell any confectionery by retail,

(*b*) sell any chocolate couverture,

(*c*) buy or sell any cocoa butter,

at a price exceeding the price applicable in accordance with the Second Schedule to this Order.

(2) No charge in addition to the maximum price shall be made on a sale of confectionery, chocolate couverture or cocoa butter in respect of packing or the provision of a wrapper or container.

(3) Where on a sale of any confectionery by retail the maximum price, calculated in accordance with the provisions of the Second Schedule to this Order and with the addition of any sum paid in respect of purchase tax, includes any fraction of one farthing such fraction shall be regarded as one farthing.

4. No person shall sell any chocolate couverture unless it is a classified product.

5.—(1) No person shall sell by retail any classified product (other than chocolate couverture) or any product specified in Table I or Table III in the Second Schedule to this Order, unless he shall indicate in distinctly legible words and figures and so as to be clearly visible to a purchaser or intending purchaser, either upon the wrapper or container of such product or upon a label attached to the product or to the wrapper or container thereof or by means of a label or ticket displayed in close proximity to the product, the following particulars—

(*a*) in the case of any such classified product—

(i) the number of the product group under which the product has been classified for the purposes of this Order;

(ii) the approved name of the product;

(iii) the name of the manufacturer thereof or his approved mark;

(iv) the consumer price;

(*b*) in the case of any product specified in the said Table I or Table III, the description of the product, the name of the manufacturer thereof or his approved mark, and the consumer price.

(2) Every trader (including a manufacturer) who delivers to any other trader any classified product (other than chocolate couverture) or any product specified in the said Table I or Table III shall deliver such product marked in such a way, or with such labels or price tickets, as may be necessary to enable a retail trader to comply with the provisions of paragraph (1) of this Article and shall also clearly indicate to such other trader, either—

(*a*) in the case of any such classified product—

(i) the particulars referred to in sub-paragraphs (i), (ii), (iii) and (iv) of paragraph (1) of this Article by means of distinctly legible words and figures upon, or upon a label attached to, the outside of the outer wrapper or container in which the product is delivered to such other trader; and

(ii) the particulars referred to in sub-paragraphs (ii) and (iv) of the said paragraph (1) by means of distinctly legible words and figures (subject to any reasonable abbreviation) upon an invoice furnished to such other trader; or

(*b*) in the case of any product specified in the said Table I or Table III—

(i) the description of the product, the name of the manufacturer thereof or his approved mark, and the consumer price by means of distinctly legible words and figures upon, or upon a label attached to, the outside of the outer wrapper or container in which the product is delivered to such other trader;

(ii) the description of the product and the consumer price by means of distinctly legible words and figures (subject to any reasonable abbreviation) upon an invoice furnished to such other trader.

(3) Every trader (including a manufacturer) who delivers to any other trader any chocolate couverture (being a classified product) shall clearly indicate to such other trader by means of distinctly legible words and figures upon, or upon a label attached to, the wrapper or container in which the product is delivered, and upon an invoice furnished to such other trader—

(*a*) the number of the product group under which the product has been classified for the purposes of this Order;

(*b*) the approved name of the product;

(*c*) the name of the manufacturer thereof, or his approved mark.

6. No person shall remove, add to, alter, deface, or render illegible any label, ticket or marking on or attached to or delivered or enclosed with any classified product or with any product specified in Table I or Table III in the Second Schedule to this Order.

Provided that it shall be a defence in any proceedings for an infringement of this Article for the defendant to prove either—

(*a*) that the product was in his possession at the time of the infringement otherwise than for sale; or

(*b*) that he acted without intent to deceive.

7. No trader (including a manufacturer) who delivers to any other trader any confectionery or chocolate couverture which is not a classified product shall deliver with it or supply in respect of it any label, price ticket or other indication purporting to show that it is a classified product.

8. Where a product has been classified for the purposes of this Order, such classification may be revoked or amended at any time by or on behalf of the Minister or by the appropriate Association under the authority of the Minister.

9. No person shall—

(*a*) sell any confectionery as supplied by the manufacturer thereof mixed with any other confectionery or with any other article; or

(*b*) for the purposes of sale alter the composition of any confectionery as supplied by the manufacturer thereof;

Provided that—

(i) where confectionery has been supplied to a manufacturer in accordance with trade usage in the confectionery industry for the purpose of further processing or manufacture, nothing in this Article shall prohibit the use of the confectionery for such purpose, or the sale of the confectionery after such further processing or manufacture;

(ii) the provisions of this Article shall not apply to the use of any confectionery by a person in the manufacture for sale of any product other than confectionery.

10. In any proceedings in respect of an infringement of paragraph (1) of Article 3 or Articles 4, 5 or 7 of this Order it shall be a defence for the defendant to prove that the infringement was due to the act or default of some person over whom the defendant had no control and that he had no reason to believe at the time of the commission of the alleged offence that such infringement had occurred.

11.—(1) Every person holding a licence under Article 2 of this Order shall keep an accurate record showing—

(*a*) the quantity and description of all products manufactured by him under the authority of such licence during the period of 4 weeks ending on the 21st day of May, 1949, and during each successive period of 4 weeks thereafter and of the quantity (if any) of each of the following ingredients used in the manufacture thereof, that is to say—

(i) any rationed foods within the meaning of the Food Rationing Orders, 1948(**a**);

(ii) glucose;

(iii) raw cocoa beans;

(iv) cocoa butter; and

(v) chocolate couverture;

(*b*) his stock of such products at the beginning of each such period of 4 weeks as aforesaid, and

(*c*) such other information relating to his undertaking as may be specified in a notice served upon him by or on behalf of the Minister.

(2) Every person who sells confectionery otherwise than by retail and every person who sells chocolate couverture shall keep an accurate record of all purchases and sales thereof by him, such records to include particulars identifying the persons from whom the confectionery or chocolate couverture was purchased or to whom it was sold and particulars of the quantities thereof purchased or sold as the case may be and the prices paid or charged.

(3) Every person who sells confectionery by retail shall keep an accurate record of all purchases thereof by him, such record to include particulars identifying the persons from whom the confectionery was purchased and particulars of the quantities thereof purchased and prices paid.

(a) S.I. 1948 (No. 1631) II, p. 427.

(4) The retention by any person of an invoice or a copy of an invoice shall, as respects the particulars mentioned in that document, be a sufficient compliance by that person with the provisions of paragraphs (2) and (3) of this Article.

(5) Every person required by this Article to keep any record shall retain the same for a period of not less than one year from the last date to which the record relates.

12. No person shall in connection with the sale or disposition or proposed sale or disposition of any confectionery, chocolate couverture or cocoa butter enter or offer to enter into any artificial transaction or make or demand any unreasonable charge.

13.—(1) The provisions of this Order are subject to any directions which may at any time be given by or on behalf of the Minister, and to any licence or authorisation which may be granted by or on behalf of the Minister 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 Minister and any person being in possession of any such licence or authorisation shall, if requested to do so by or on behalf of the Minister, produce such licence or authorisation or deliver the same to such person or to a person of such class or description as may be specified in the request.

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

15.—(1) The Chocolate, Sugar Confectionery and Cocoa Products (Control and Maximum Prices) Order, 1944 as amended(**a**), is hereby revoked but without prejudice to any proceedings in respect of any contravention thereof, provided that any licence granted thereunder or having effect by virtue thereof and subsisting immediately before the coming into force of this Order shall continue to have effect as though granted under this Order.

(2) Every person shall, notwithstanding the revocation of the said Order, retain any record of any transaction required to be kept by him thereunder for one year from the date of the transaction.

(3) Where immediately before the coming into force of this Order any product was classified for the purposes of the said Order, such classification shall continue to have effect as if it had been made for the purposes of this Order.

16. This Order shall come into operation on the 24th day of April, 1949, and may be cited as the Chocolate, Sugar Confectionery and Cocoa Products Order, 1949.

By Order of the Minister of Food.

F. G. Lee,
Permanent Secretary to the
Ministry of Food.

Dated the 21st day of April, 1949.

(a) S.R. & O. 1944 (No. 451) II, p. 641; 1945 (No. 598) II, p. 575; 1946 (Nos. 1365, 1639 and 2233) II, pp. 693–700; 1947 (No. 1927) II, p. 577; S.I. 1948 (Nos. 233, 1962, 2470 and 2612) II, pp. 522–525, 420, and 1949 No. 190.

THE FIRST SCHEDULE

Products deemed not to be Sugar Confectionery, Chocolate or Chocolate Confectionery

Any product—

(*a*) which complies with a formula in the British Pharmacopoeia, the British Pharmaceutical Codex, the National Formulary, or recognised hospital formularies or pharmacopoeias; or

(*b*) the manufacturer of which has been authorised by the Minister to manufacture and sell the same free from all the provisions of this Order; or

(*c*) consists of compressed tablets of which each tablet contains one or more of the following ingredients in not less a quantity than that specified—

(i) phenolphthalein—½ grain;

(ii) santonin—$\frac{1}{10}$ grain;

(iii) calomel—$\frac{1}{20}$ grain.

THE SECOND SCHEDULE

Maximum Prices

NOTE 1.—In any case where purchase tax has become chargeable in relation to any product specified in this Schedule there may be added to the maximum price any sum paid in respect of such tax.

NOTE 2.—Where the maximum price calculated in accordance with the provisions of Part I or Part II of this Schedule (or, if any purchase tax is added, the maximum price plus the purchase tax) includes a fraction of a farthing, such fraction shall be regarded as one farthing (see Article 3 (3)).

* PART I—SUGAR CONFECTIONERY

1. Except in the cases specified in paragraphs 2 and 3 of this Part of this Schedule the maximum price of sugar confectionery shall be at the rate of 1s. 8d. per lb. net.

2. On a sale of the products specified in Table I below (where the seller complies with the provisions of Article 5 of this Order) the maximum price shall be at the rate of 5s. 4d. per lb.

Table I

Name of Product	*Manufactured by or on behalf of—*
Glycerine and Blackcurrant Pastilles Glycerine Pastilles Delectable Pastilles Sugarless Fruit Pastilles Sugarless Lemon Pastilles	Allen & Hanburys Ltd., Bethnal Green, London, E.2.
Glycerine and Blackcurrant Pastilles	Cupal Ltd., King Street, Blackburn.
Glycerine and Blackcurrant Pastilles Glycerine, Lemon and Honey Pastilles Glycerine Pastilles	Robert Gibson & Sons Ltd., Carlton Works, Erskine Street, Hulme, Manchester, 15.
Blackcurrant Pastilles	Ernest Jackson & Co. Ltd., Crediton, Devon.
Dr. Thompsons Antiseptic Throat Pastilles	Meadowcroft & Co. Ltd., Stanley Mills, Bury.
Glycerine and Blackcurrant Pastilles	Meggeson & Co. Ltd., Llewellyn Street, London, S.E.16.
Barley Sugar with Halibut Liver Oil	A. L. Simpkin & Co. Ltd., Hunter Road, Sheffield, 6.
Glycerine and Blackcurrant Pastilles	United Chemists Association Ltd., Ucal Works, Cheltenham Spa.

* Para. 4 added, *see* p. 305 below.

3. On a sale of sugar confectionery, being a classified product, the maximum price (where the seller complies with the provisions of Article 5 of this Order) shall be in accordance with Table II below.

Table II

Product Group	*Rate per lb. net.*	*Product Group*	*Rate per lb. net.*
	s. d.		*s. d.*
S.1	1 4	S.7	3 4
S.10	1 6	S.70	3 6
S.2	1 8	S.8	3 8
S.20	1 10	S.80	3 10
S.3	2 0	S.9	4 0
S.30	2 2	S.90	4 2
S.4	2 4	S.11	4 4
S.40	2 6	S.110	4 6
S.5	2 8	S.12	4 8
S.50	2 10	S.120	4 10
S.6	3 0	S.13	5 0
S.60	3 2		

PART II.—CHOCOLATE AND CHOCOLATE CONFECTIONERY

1. Except in the cases specified in paragraphs 2 and 3 of this Part of this Schedule the maximum price on a sale of chocolate or chocolate confectionery shall be at the rate of 1s. 8d. per lb. net.

2. On a sale of the products specified in the first and second columns of Table III below, packed in containers containing the quantity specified in relation thereto in the third column of the said Table, the maximum price (where the seller complies with the provisions of Article 5 of this Order) shall be as specified in the fourth column of the Table.

Table III

1st Column	2nd Column	3rd Column	4th Column
Name of Product	Manufactured by or on behalf of—	Quantity	Maximum Price per container
			s. d.
Casoid Plain Chocolate Tablets	Callard, Stewart & Watt Ltd. Standen Road, Southfields, London, S.W.18.	4 oz.	2 6
Casoid Chocolate Peppermint Creams		6 oz.	2 6
Casoid Assorted Chocolates		4 oz.	2 0
Casoid Marzipan Chocolates		4 oz.	1 9
Casoid Chocolate Creams		4 oz.	1 7½
Supex Dietetic Chocolate	Supex Limited, 30 Cork Street, London, W.1.	½ lb.	3 0

3. On a sale of chocolate and chocolate confectionery, being a classified product, the maximum price (where the seller has complied with the provisions of Article 5 of this Order) shall be in accordance with Table IV below—

Table IV

Product Group	*Rate per lb. net.* s. d.	*Product Group*	*Rate per lb. net.* s. d.
C.1	2 0	C.35	3 10
C.2	2 2	C.41	4 0
C.3	2 2	C.412	4 2
C.4	2 0	C.414	4 4
C.5	2 2	C.43	4 6
C.6	2 4	C.44	4 8
C.21	1 8	C.45	4 10
C.22	1 10	C.42	5 0
C.220	2 0	C.512	5 2
C.23	2 2	C.514	5 4
C.234	2 4	C.52	5 6
C.236	2 6	C.54	5 8
C.24	2 8	C.55	5 10
C.25	2 8	C.61	6 0
C.26	2 10	C.62	6 2
C.31	3 0	C.64	6 4
C.312	3 2	C.66	6 6
C.314	3 4	C.68	6 8
C.32	3 6	C.69	6 10
C.33	3 6	C.70	7 0
C.34	3 8		

Part III.—Chocolate Couverture

1. Subject to the provisions of paragraph 2 of this Part of this Schedule, the maximum prices of chocolate couverture shall be in accordance with Table V below—

Table V

Product Group	*Rate per lb. net.* s. d.	*Product Group*	*Rate per lb. net.* s. d.
K.50	2 6½	K.55	2 10¾
K.51	3 2¾	K.56	2 11¼
K.52	1 11¼	K.57	3 0¾
K.53	2 11¾	K.60	2 8¼
K.54	2 8¼		

2. The maximum prices in Table V are subject to the following adjustments:—

(*a*) Where the product is supplied in blocks of 40 lb. or more the said maximum prices shall be reduced by ½d. per lb.;

(*b*) where the quantity delivered on any occasion is 56 lb. or less the said maximum prices may be increased by a sum not exceeding 2d. per lb.;

(*c*) where the quantity delivered on any occasion is less than one ton but not less than 5 cwt. the said maximum prices shall be reduced by the sum of ¼d. per lb.;

(*d*) where the quantity delivered on any occasion is one ton or more the said maximum price shall be reduced by the sum of ¼d. per lb.

3. The maximum prices prescribed in this Part of this Schedule include the cost of delivery to the buyer's premises and no additional charge may be made by the seller in respect of transport or delivery.

Part IV.—Cocoa Butter

The maximum price of cocoa butter shall be at the rate of 4s. 4¾d. per lb. net weight. The said maximum price includes all costs and charges of and incidental to the delivery of the cocoa butter by the seller to the buyer's premises and no additional charge may be made by the seller in respect of such delivery.

THE THIRD SCHEDULE

Condition Subject to which Licences under Article 2 of the Order are Deemed to Take Effect

The holder of a licence or provisional licence granted under this Article shall not, except under the authority of the Minister, knowingly permit—

(*a*) any person who was the holder of a licence granted to him by or on behalf of the Minister or a Food Control Committee but whose licence has been revoked as a result of his being convicted of any of the following offences:—

(i) an offence against any of the Defence (General) Regulations, 1939, or any Order made thereunder, in respect of any article of food;

(ii) an offence against the Defence (Sale of Food) Regulations, 1943(**a**), or any Order made thereunder;

(iii) an offence against the Larceny Act, 1916(**b**), in respect of any article of food;

(iv) an offence against the Sale of Food (Weights and Measures) Act, 1926(**c**), or any Regulation made thereunder;

(v) an offence against the Food and Drugs Act, 1938(**d**), or any Regulation made thereunder; or

(*b*) any person who was a director or officer of any body corporate whose licence has been revoked for the reason aforesaid, such director or officer having been convicted together with that body corporate in respect of the offence or offences in question;

to exercise any control, direct or indirect, financial, managerial or otherwise, over the policy, management or conduct of the business in respect of which such licence has been granted.

EXPLANATORY NOTE

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

This Order consolidates with amendments the Chocolate, Sugar Confectionery and Cocoa Products (Control and Maximum Prices) Order, 1944, as amended.

The principal changes are:—

(1) References to personal points rationing are deleted.

(2) Medicated chocolate and sugar confectionery is brought within the scope of the Order except for products which—

(*a*) comply with recognised medical formulae; or

(*b*) consist of compressed tablets containing a specified amount of any one or more of three specified drugs; or

(*c*) are specifically exempted by the Minister.

(3) No addition to the maximum price in respect of transport charges may be made on a sale of Glucose Barley Sugar.

(a) S.R. & O. 1943 (No. 1553) II, p. 70.
(b) 6 & 7 Geo. 5. c. 50.
(c) 16 & 17 Geo. 5. c. 8.
(d) 1 & 2 Geo. 6. c. 56.