EXPLANATORY NOTE

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

This Order:—

(1) prescribes maximum prices for imported canned mandarin oranges in 11-oz. cans, and for canned tomatoes in 500-gram and 600-gram cans;

(2) reduces the maximum prices of canned tomatoes in "3" cans (diameter $4\frac{7}{16}$ inches, height $4\frac{3}{4}$ inches); and

(3) defines an 11-oz. can, and adds to the definition of a "1" can.

(C) DRIED FRUITS

The Dried Fruits (Control and Maximum Prices) Order, 1948

1948 No. 64

Made - - - -	*20th January*, 1948
Laid before Parliament	*21st January*, 1948
Coming into Operation	*25th January*, 1948

In exercise of the powers conferred upon him by Regulations 55, 55AA and 55AB of the Defence (General) Regulations, 1939(a), as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945(b) as extended by the Supplies and Services (Extended Purposes) Act, 1947(c), and by Regulation 9 of the Defence (Patents, Trade Marks, etc.) Regulations, 1941(d), as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947(e), and of all other powers him enabling, the Minister of Food hereby makes the following Order:—

Interpretation.

1. In this Order—

"The Minister" means the Minister of Food.

"Authorised mark" means a brand, name or other mark authorised by or on behalf of the Minister for the purposes of this Order, provided that any brand, name or other mark which was in regular use in relation to dried fruit immediately prior to 7th September, 1939, shall, unless the Minister otherwise directs, be deemed to be so authorised.

"Buy" includes offer or agree to buy and "sell" includes offer or agree to sell.

"British wines" means wines made in the United Kingdom.

(a) *See* Note, p. 15 above.
(b) 9 & 10 Geo. 6. c. 10; and S.R. & O. 1945 (Nos. 1611 and 1615–25) II, pp. 39 and 45–56.
(c) 10 & 11 Geo. 6. c. 55.
(d) S.R. & O. 1941 (No. 1780) II, p. 189.
(e) 11 & 12 Geo. 6. c. 10.

" Catering business " includes the business or undertaking of an inn, public house, hotel, restaurant, buffet, coffee stall, or any place of refreshment open to the public, or of any club, boarding house, refreshment contractor or canteen, and the expression " caterer " shall be construed accordingly.

" Dried fruit " means any of the dried fruits for which a maximum price is prescribed in the First Schedule to this Order.

" Excepted product " means any of the following products:—

(i) Pickles, sauces and relishes.

(ii) Mincemeat and fruit curd within the meaning of the Preserves Order, 1947, as amended(**a**).

(iii) Any " classified product " within the meaning of the Chocolate, Sugar Confectionery and Cocoa Products (Control and Maximum Prices) Order, 1944, as amended(**b**).

(iv) Any medicine and any pharmaceutical preparation.

(v) Bread, buns, puddings, cake and flour confectionery and biscuits; and any similar baked or cooked product having flour as a principal ingredient.

(vi) Strained baby-foods.

" First hand distributor " in relation to a sale of dried fruit means a person who has bought the same from the Minister.

" Manufacturer " in relation to a sale of dried fruit means a person buying the same in connection with any trade or business, other than a catering business, for use in the manufacture or preparation of any other article.

" Pre-packed " in relation to any dried fruit means packed or made up in advance ready for retail sale in a wrapper or container, and " pre-pack " shall be construed accordingly.

" Sale by retail " means 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, but does not include a sale to a manufacturer.

" Sale by wholesale " means any sale other than a sale by retail and " wholesaler " shall be construed accordingly.

" Strained baby foods " means foods consisting of or containing fruit in a form substantially homogenised and free from coarse particles, and subsequently heat processed to ensure sterility.

" Vegetarian products " means compressed fruit cakes with or without nuts or nut kernels, and fruit and nut breakfast foods.

Maximum Prices.

2.—(1) No person shall buy or sell or expose for sale any dried fruit at a price exceeding the price applicable in accordance with the First and Second Schedules to this Order.

(2) In calculating the maximum price on a sale by retail any fraction of a farthing shall be regarded as one farthing.

Prepacking of dates under trade marks.

3. Except under and in accordance with the terms of a licence granted by or on behalf of the Minister, no person shall pre-pack or cause or permit to be prepacked any dates under a registered trade mark or authorised mark.

(**a**) S.R. & O. 1947 (Nos. 1515, 2033, 2366 and 2842) II, pp. 970–87.

(**b**) 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; and 1947 (Nos. 859 and 1927) II, pp. 576–7.

Mixing of dried fruit ; use of dried fruit for manufacturing.

4. No person shall—

(*a*) buy or sell or expose for sale any dried fruit for which a maximum price is prescribed by this Order mixed with any dried fruit for which a different maximum price is prescribed by this Order;

(*b*) buy or sell or expose for sale any dried fruit mixed with any article other than dried fruit;

(*c*) use or cause or permit to be used in connection with any trade or business other than a catering business any dried fruit as an ingredient in any manufactured product;

(*d*) sell or expose for sale any manufactured product having as an ingredient any dried fruit.

5.* The provisions of the last preceding Article shall not apply to the manufacture, preparation, sale or purchase of any excepted product, vegetarian products, British wines, or to the sale or purchase of any jam by reason of such jam having dried fruit as an ingredient thereof:

Provided that in the case of vegetarian products and British wines—

(*a*) a person may only use dried fruit in the manufacture of any description of vegetarian product or British wine if such person was, prior to 3rd September, 1939, engaged in the manufacture of that description of vegetarian product, or, as the case may be, British wine, for sale under a brand or trade mark which was applied thereto prior to 3rd September, 1939;

(*b*) a person may buy or sell any description of vegetarian product or British wine only if it has been manufactured in accordance with the last preceding sub-paragraph and is sold under a brand or trade mark applied thereto prior to 3rd September, 1939.

Keeping of records.

6.—(1) Every person who sells dried fruit by wholesale shall keep or cause to be kept an accurate record of all sales and purchases by him of dried fruit, such record to include the date of each sale and purchase, the name and address of the person from or to whom the dried fruit was purchased or sold, as the case may be, the quantity of each description of dried fruit purchased or sold, the prices charged and particulars of each and every addition to the maximum price made in accordance with the provisions of this Order.

(2) On a sale by wholesale the amount of each and every addition to the maximum price, made in accordance with the provisions of this Order, shall be shown as a separate item on an invoice to be furnished by the seller to the buyer within seven days of the delivery of the dried fruit.

(3) Every person who sells dried fruit by retail shall keep or cause to be kept an accurate record of all purchases by him of dried fruit, such record to include in respect of each purchase the date thereof, the name and address of the person from whom the dried fruit was purchased, the quantity of each description of dried fruit purchased, the price paid and particulars of each and every addition to the maximum price made in accordance with the provisions of this Order.

(4) Every person who uses any dried fruit in the manufacture of vegetarian products or British wines shall keep an accurate record showing separately the monthly quantities of dried fruit used by him for each of such purposes.

* New Art. 5 substituted, *see* p. 663 below.

(5) The retention by any person of an invoice or of 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. Prepacked dried fruit; provisions as to weight; legal proceedings.

(6) Every person shall retain every record kept pursuant to this Article for a period of one year from the date of the transaction to which it relates.

7. In any proceedings which are taken in respect of an infringement of this Order on the occasion of a sale by retail of any pre-packed dried fruit, the Court may disregard any inconsiderable deficiency in the weight of the dried fruit contained in a single wrapper or container, and may have regard to the average weight of dried fruit contained in a reasonable number of wrappers or containers of the same kind (if any) sold or delivered by the defendant or in his possession for the purpose of sale or delivery on the same occasion, and generally to all the circumstances of the case. Certificate of public analyst or Government Chemist.

8.—(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 a public analyst or the Government Chemist 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 head (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 a public analyst or the Government Chemist, a copy of such certificate shall be served with the summons; and

(*b*) if a defendant intends to produce a certificate of a public analyst or the Government Chemist, or to require that the person making the analysis shall be called as a witness, he shall give to 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.

(3) In this Article "public analyst" has in relation to England and Wales the meaning assigned to it by the Food and Drugs Act, 1938(**a**), in relation to Scotland the meaning assigned to it by the Food and Drugs (Adulteration) Act, 1928(**b**), and in relation to Northern Ireland the meaning assigned to it by the Sale of Food and Drugs Acts (Northern Ireland) 1875 to 1939, and "Government Chemist" means, in relation to Northern Ireland, the Government Chemist for Northern Ireland.

9. No person shall in connection with the sale or disposition or proposed sale or disposition of any dried fruit enter or offer to enter into any artificial transaction or make or demand any unreasonable charge. Artificial transactions, unreasonable charges.

10. This Order shall not apply to the sale of any dried fruit as a meal or part of a meal served by a caterer in the course of his catering business. Exemption for caterers.

(**a**) 1 & 2 Geo. 6. c. 56. (**b**) 18 & 19 Geo. 5. c. 31.

Directions, licences and authorisations.

11.—(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 under this Order by or on behalf of the Minister.

(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 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 Minister, 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.

Revocation.

12.—(1) The Dried Fruits (Control and Maximum Prices) Order, 1943, as amended(**a**), is hereby revoked but without prejudice to any proceedings in respect of any contravention thereof:

Provided that any licence granted under that Order 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 required to be kept by him hereunder for one year from the date of the transaction to which it relates.

Relaxation of certain provisions of the Merchandise Marks Act, 1926.

13. Nothing in the Merchandise Marks (Imported Goods) (No. 5) Order, 1928(**b**), or in Section 2 or Section 5 of the Merchandise Marks Act, 1926(**c**)—

(*a*) shall render unlawful the sale or exposure for sale of any currants, sultanas or raisins; or

(*b*) shall authorise any forfeiture or other penalty in respect of the importation of any currants, sultanas or raisins,

notwithstanding that any requirement of that Order or that Act as to the indication of origin has not been complied with.

Offences.

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

Commencement and citation.

15. This Order shall come into force on the 25th day of January, 1948, and may be cited as the Dried Fruits (Control and Maximum Prices) Order, 1948.

John Strachey,
Minister of Food.

Dated the 20th day of January, 1948.

(**a**) S.R. & O. 1943 (No. 1303) II, p. 1230; 1945 (No. 100) II, p. 795; 1946 (No. 2207) II, p. 936; and 1947 (No. 987) II, p. 749.
(**b**) S.R. & O. 1928 (No. 1052) p. 865.
(**c**) 16 & 17 Geo. 5. c. 53.

THE FIRST SCHEDULE

PART I

MAXIMUM PRICES OF CURRANTS AND SULTANAS

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
	Maximum Prices				
Description of Dried Fruit	On a sale by a first hand distributor to another wholesaler for resale to a manufacturer	On any other sale by a first hand distributor to another wholesaler	On a sale by wholesale to a manufacturer	On any other sale by wholesale	On a sale by retail
	At the rate of :— per cwt. (net) s. d.	At the rate of :— per cwt. (net) s. d.	At the rate of :— per cwt. (net) s. d.	At the rate of :— per cwt. (net) s. d.	At the rate of :— per lb. s. d.
Currants ...	88 5	69 9	93 4	74 8	10
Sultanas ...	107 1	88 5	112 0	93 4	1 0

PART II

MAXIMUM PRICES OF DRIED FRUITS OTHER THAN CURRANTS AND SULTANAS

Column 1	Column 2	Column 3	Column 4
	Maximum Prices		
Description of Dried Fruit	On a sale by a first hand distributor to another wholesaler	On any sale by wholesale other than a sale by a first hand distributor to another wholesaler	On a sale by retail
	At the rate of :— per cwt. (net) s. d.	At the rate of :— per cwt. (net) s. d.	at the rate of :— per lb. s. d.
Group A			
Unstoned dates (other than dates of African origin) ...	41 9	46 8	7
Group B			
Figs	60 5	65 4	9
Muscatels			
Raisins			
Group C			
Stoned dates (other than dates of African origin) ...	69 9	74 8	10
Group D			
Dried Plums or Prunes (other than Prunes canned in syrup)	88 5	93 4	1 0
Group E			
Dried Apples	135 1	140 0	1 6
Group F			
Dried Apricots	163 1	168 0	1 9
Dried Nectarines			
Dried Peaches			
Dried Pears			

THE SECOND SCHEDULE

Additions to the Maximum Price

1. Transport.

The maximum prices on a sale by wholesale include all costs and charges of and incidental to delivery by the seller at the buyer's premises and no additional charge shall be made on any such sale in respect of transport or delivery.

2. Breaking Bulk.

Where on any sale by wholesale there is sold a lesser quantity than that contained in the package in which the dried fruit was delivered to the seller, the maximum price may be increased by a sum at a rate not exceeding 2s. 4d. per cwt., provided that the consent of the buyer shall have been obtained previously.

3. Pre-packing.

(1) On a sale of any dates, whether stoned or unstoned, pre-packed under a registered trade mark or an authorised mark, the maximum price may be increased by a sum at a rate not exceeding, in the case of a sale by wholesale, 23s. 4d. per cwt., and in the case of a sale by retail 2½d. per lb.

(2) Except as hereinbefore provided in this paragraph no addition shall be made to the maximum prices on any sale of dried fruit in respect of packing.

4. Stoning.

Where, after sale by the Minister to a first hand distributor, raisins are stoned, the maximum price may be increased by a sum at a rate not exceeding, in the case of a sale by wholesale, 10s. 6d. per cwt., and in the case of a sale by retail, 1¼d. per lb.

5. Cleaning.

(1) Where any dried fruit is sold cleaned, the maximum price shall be calculated on the weight of the fruit after cleaning.

(2) On a sale by wholesale of any dried fruit which has been machine-cleaned,

(*a*) if the fruit has been machine-cleaned by the seller, a charge at a rate not exceeding 3s. per cwt. may be made in addition to the maximum price;

(*b*) if the seller bought the fruit machine-cleaned the amount not exceeding a sum at the rate of 3s. per cwt., properly paid by him in respect of such cleaning to the person from whom he bought the fruit, may be added to the maximum price;

but, except as provided in this paragraph, no addition shall be made to the maximum price on any sale of dried fruit in respect of such cleaning.

EXPLANATORY NOTE

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

This Order consolidates with amendments the Dried Fruits (Control and Maximum Prices) Order, 1943, as amended.

The principal changes are:—

(1) Strained baby-foods are added to the list of excepted products.

(2) The charge permitted on a sale by wholesale for breaking bulk is increased to 2s. 4d. per cwt. provided that the consent of the buyer has been obtained previously. This increase does not affect the maximum retail prices.