Services (Extended Purposes) Act, 1947(a), and of all other powers him enabling, the Minister of Food hereby makes the following Order:—

1. The Food (Licensing of Establishments) Order, 1948(b), shall be amended as follows:

(*a*) by deleting in sub-paragraph (*b*) of the Schedule thereto the final word "or";

(*b*) by deleting sub-paragraph (*c*) of the said Schedule.

2. This Order shall come into operation on the 28th day of November, 1948, and may be cited as the Food (Licensing of Establishments) Order, 1948 (Amendment) Order, 1948.

By Order of the Minister of Food.

Edith Summerskill,
Parliamentary Secretary.

Dated the 26th day of November, 1948.

EXPLANATORY NOTE

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

This amending Order deletes the provision which prohibits a person licensed to carry on an establishment from knowingly permitting any person to exercise control over his business if such person has had control of any premises in respect of which, at the time when he had such control, an Order was made under Regulation 42C (which provides for the closing of undesirable premises by the police) of the Defence (General) Regulations, 1939.

(iv) LICENSING OF RETAILERS

The Food (Licensing of Retailers) Order, 1948

1948 No. 2234

Made - - - -	5*th October*, 1948
Laid before Parliament	6*th October*, 1948
Coming into Operation	10*th October*, 1948

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939(c), as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945(d) as extended by the Supplies and Services (Extended Purposes) Act, 1947(e), 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.

(a) 10 & 11 Geo. 6. c. 55. (b) S.I. 1948 No. 368, p. 404 above.
(c) *See* Note, p. 15 above.
(d) 9 & 10 Geo. 6. c. 10; and S.R. & O. 1945 (Nos. 1611 and 1615–25) II, pp. 39 and 45–56.
(e) 10 & 11 Geo. 6. c. 55.

" Catering establishment " means an establishment licensed or deemed to be licensed as a catering establishment under the Food (Licensing of Establishments) Order, 1948(a).

" Chocolate, chocolate confectionery and sugar confectionery " has the same meaning as in the Chocolate, Sugar Confectionery and Cocoa Products (Control and Maximum Prices) Order, 1944, as amended(b).

" Institution " means an establishment licensed or deemed to be licensed as an institution under the Food (Licensing of Establishments) Order, 1948.

" Licence " includes a provisional licence.

" Meat " means beef, mutton, lamb, veal and pork, whether fresh, chilled, frozen, salted, raw or cooked, canned corned beef, canned corned pork, canned corned mutton and edible offals, and includes the bones and fat of any such meat when sold in the ordinary course of business as part thereof, but, save as aforesaid, does not include canned meat or canned meat products, galantines, meat pastes, brawn, jellied veal or sausages, or any kinds or varieties of manufactured meat products, including meat pies, meat pasties and meat puddings.

" Milk " means liquid cows' milk, but does not include skimmed, partly skimmed or separated milk, canned milk or dried milk.

" Rationed food " means any food prescribed as such in any Order of the Minister for the time being in force.

" Sale by retail " means any sale to a person buying otherwise than for the purpose of resale and includes any sale to a person for the purposes of a catering establishment carried on by him but does not include a sale to a manufacturer for the purposes of a manufacturing business carried on by him, and the expressions " sell by retail " and " retailer " shall be construed accordingly.

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

" Specified food " means chocolate, chocolate confectionery and sugar confectionery, meat and milk.

2.—(1) Except under and in accordance with the terms of a licence granted by or on behalf of the Minister for the purposes of this Order, no person shall sell by retail any specified food:

Provided that—

(*a*) the foregoing restriction shall not apply to the sale by retail of any specified food which the seller proves to have been sold—

(i) otherwise than for human consumption;

(ii) for medicinal purposes; or

(iii) otherwise than by way of trade or business, so however that this exemption shall not apply in the case of any rationed food;

(*b*) the foregoing restriction shall not apply to the sale by retail of—

(i) chocolate, chocolate confectionery or sugar confectionery by a person who at the time of the sale in question is, by virtue of Article 8 of this Order, authorised to sell by retail chocolate and sugar confectionery;

(a) S.I. 1948 No. 368, p. 404 above.

(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; 1947 (No. 1927) II, p. 577; and S.I. 1948 Nos. 233 and 1962, pp. 522-4 below.

(ii) meat other than cooked meat, by a person who at the time of the sale in question is, by virtue of Article 8 of this Order, authorised to sell by retail meat, chilled, fresh or frozen, or meat, chilled, fresh, frozen or salted.

(iii) chocolate, chocolate confectionery and sugar confectionery to a person for the purposes of a catering establishment carried on by him or an institution under his management or control where the sale is by a person who at the time thereof is authorised under the Food (Restriction on Dealings) Order, 1943, as amended(**a**), to sell chocolate, chocolate confectionery and sugar confectionery for such purposes;

(iv) milk in Northern Ireland;

(v) any specified food by a person holding a licence under the Ships' Stores (Control) Order, 1942(**b**), where that food is sold in accordance with the provisions of that Order;

(*c*) the occupier of any land may sell by retail milk from his own cows to any servant employed by him for consumption in the household of such servant;

(*d*) a manufacturer, in the course of his manufacturing business, may sell by retail any sub-standard sugar confectionery, chocolate or chocolate confectionery to which the provisions of the Rationing (Personal Points) Order, 1948(**c**) do not apply by virtue of the provisions of Article 2 thereof;

(*e*) any person may sell chewing gum by retail if he regularly sold chewing gum by retail before the 27th day of July, 1942, so however that the authority given in this sub-paragraph shall cease to apply to any person upon whom a notice in writing to that effect shall have been served by or on behalf of the Minister, as from the date specified in that notice;

(*f*) where a person is authorised under a form S.A.I. or E.A.2/S.A.2 or other authority of the Minister to obtain any specified food for sale for such purposes as would indicate that the food was being obtained by that person for sale by retail by him, he may sell such food by retail for the purposes so indicated.

(2) Any licence or authorisation under this Order including any licence or authorisation having effect by virtue of Article 8 of this Order shall, save as the Minister may otherwise authorise or direct, be subject to the conditions set out in the First Schedule to this Order and to such other conditions as may have been or may be attached to the licence or authorisation.

(3) In the event of the transfer of a business in respect of which a licence is held under this Order or in the event of the death of the holder of such licence, the transferee or other person succeeding to the business shall, on having duly made an application for a licence under this Order and pending the decision of the Minister upon such application, be deemed to hold a provisional licence under this Order whereby he shall be entitled, unless the

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(**a**) S.R. & O. 1943 (No. 1769) II, p. 748; 1945 (No. 410) II, p. 877; 1946 (No. 1729) II, p. 722; and 1947 (No. 2420) II, p. 398.

(**b**) S.R. & O. 1942 (No. 2635) II, p. 975.

(**c**) S.I. 1948 No. 1632, noted, p. 474 below.

Minister shall otherwise direct, to sell by retail any specified food to which the first mentioned licence applied subject to any conditions contained therein.

(4) No person shall, except under the authority of the Minister, alter or deface any licence granted under or having effect by virtue of this Order, or make any entry in such licence.

3. For the avoidance of doubt it is hereby declared that nothing contained in this Order or in any licence or authorisation granted under this Order shall operate to relieve any person from compliance with the provisions of any other Order or of any Act, Regulation or Bye-law for the time being in force.

4.—(1) A person licensed under or by virtue of this Order shall, before ceasing to carry on business as a retailer at any premises, give to the Food Executive Officer for the area in which those premises are situate not less than 14 days' notice in writing of his intention to cease carrying on business as aforesaid, and shall return to such Food Executive Officer any licence held by him under or by virtue of this Order in respect of those premises: provided that where in any proceedings a person is charged with a contravention of this Article it shall be a defence for him 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.

(2) Where the business of a retailer is no longer carried on at any premises owing to the death of the retailer and no notice has been given under the preceding paragraph, the retailer's personal representative shall forthwith give notice to the appropriate Food Executive Officer that such business is no longer carried on and shall return to such Officer any licence granted under or by virtue of this Order in respect of such premises.

5. The holder of a licence granted under this Order shall not, except under the authority of the Minister, knowingly permit any of the persons set out in the Second Schedule hereto 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.

6.—(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 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.

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

8.—(1) The Food (Licensing of Retailers) Order, 1945, as amended(a), is hereby revoked but without prejudice to any proceedings in respect of any

(a) S.R. & O. 1945 (No. 131) II, p. 474; and 1947 (Nos. 738, 1833, 1978 and 2421) II, pp. 399–402.

contravention thereof, provided that any licence or authorisation granted or deemed to be 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) Any reference in any Order of the Minister to the Food Control Committees (Local Distribution) Order, 1939, as amended(**a**), to the Food (Local Distribution) Order, 1943, as amended(**b**), to the Food (Licensing of Retailers) Order, 1945, as amended, or to a person licensed thereunder or any such reference in any document issued by or on behalf of the Minister for the purpose of those Orders, or any of them, shall, unless the contrary intention appears, be construed as a reference to this Order or, as the case may be, to a retailer licensed under this Order.

9. This Order shall come into force on the 10th day of October, 1948, and may be cited as the Food (Licensing of Retailers) Order, 1948.

John Strachey,
Minister of Food.

Dated the 5th day of October, 1948.

THE FIRST SCHEDULE

Conditions

1. A licence granted under this Order shall not, except under the authority of the Minister, extend to the sale by retail of any specified food—

(*a*) by the agent of any person holding such a licence, or

(*b*) by any person holding such a licence, as agent for or servant of any other person.

2.—(1) The holder of a licence granted under this Order shall not, except under the authority of the Minister, sell by retail any specified food in respect of which the licence is granted except from the premises named in the licence, and in the course of his business as a retailer of food carried on from those premises.

(2) For the purpose of this condition " premises " includes a stall or kiosk.

THE SECOND SCHEDULE

1. Any person who was the holder of a licence granted to him by or on behalf of the Minister or a Food Control Committee, or any retailer who was the holder of—

(*a*) a ration document granted to him by or on behalf of the Minister,

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(**a**) S.R. & O. 1939 (No. 1312) I, p. 995; 1941 (No. 1888) II, p. 557; and 1942 (Nos. 437, 885 and 1731) noted II, p. 858.

(**b**) S.R. & O. 1943 (Nos. 291 and 1770) II, pp. 785–9; and 1944 (No. 164) II, p. 622.

(*b*) a points banking account,

and whose licence or ration document has been revoked, or whose points banking account has been closed, as a result of his being convicted of an offence—

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

(ii) against the Larceny Act, 1916(a), in respect of any article of food;

(iii) against the Sale of Food (Weights and Measures) Act, 1926(b);

(iv) against the Food and Drugs Act, 1938(c), or any Regulation made thereunder; or

(v) in Scotland, against the Food and Drugs (Adulteration) Act, 1928(d);

(vi) in Northern Ireland, against the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939.

2. Any person who was a director or officer of any body corporate whose licence or ration document has been revoked or whose points banking account has been closed 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.

3. Any person having the control or management of any premises in respect of which an Order under Regulation 42C of the Defence (General) Regulations, 1939, has been made, at the time of the making of such Order(e).

EXPLANATORY NOTE

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

This Order re-enacts with modifications the Food (Licensing of Retailers) Order, 1945.

The principal changes are—

(1) The provisions of the Order are restricted to chocolate, chocolate confectionery and sugar confectionery, rationed meat whether raw or cooked, edible offals and fresh milk;

(2) It is additionally provided that a retailer whose permits for rationed food have been revoked or whose points banking account has been closed as a result of his conviction for an offence specified in the Order may not exercise control over a business in respect of which a licence has been granted.

(a) 6 & 7 Geo. 5. c. 50. (b) 16 & 17 Geo. 5. c. 63.

(c) 1 & 2 Geo. 6. c. 56. (d) 18 & 19 Geo. 5. c. 31.

(e) Para. 3 deleted, *see* p. 414 below.