The Pre-Packed Food (Weights and Measures: Marking) Order, 1950

1950 No. 1125

Made - - - -	10*th July*, 1950
Laid before Parliament	11*th July*, 1950
Coming into Operation	1*st November*, 1950

The Board of Trade, in pursuance of the powers conferred upon them by Regulation 2 of the Defence (Sale of Food) Regulations, 1943(**a**), as having been continued in force by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947(**b**), and as amended by the Transfer of Functions (Sale of Food) Order, 1950(**c**), hereby Order as follows:—

Sale of Pre-packed Food by Retail. Marking of Wrappers and Containers

1.—(1) Except in the case of pre-packed food to which paragraph (2) of this Article applies, no person shall sell by retail or have in his possession for sale by retail any pre-packed food unless the wrapper or container in which it is packed or a label securely attached thereto is properly marked, that is to say, marked in accordance with the appropriate requirements set out in the First Schedule hereto, with a true statement of the minimum quantity of the food contained therein expressed in terms:—

(*a*) in the case of any article of food described in the Second Schedule hereto, of the number thereof;

(*b*) in any other case, either of net weight or of measure.

(2) No person shall sell by retail or have in his possession for sale by retail any pre-packed food described in Part II or III of the First Schedule to the Sale of Food (Weights and Measures) Act, 1926(**d**), which is packed—

(*a*) in the case of food described in Part II of that Schedule, in a wrapper or container the weight of which does not exceed 2½ drams per pound of the food contained therein;

(*b*) in the case of food described in Part III of that Schedule, in a wrapper or container not exceeding in weight

(i) where the aggregate weight of the food and the wrapper or container does not exceed 3 lb., 4½ drams per pound of the food contained therein;

(ii) where the aggregate weight of the food and the wrapper or container exceeds 3 lb., but does not exceed 7 lb., 3½ drams per pound of the food contained therein;

(iii) where the aggregate weight of the food and the wrapper or container exceeds 7 lb., 3 drams per pound of the food contained therein;

(**a**) S.R. & O. 1943 (No. 1553) II, p. 70; S.R. & O. 1945 (No. 1454) II, p. 95.
(**b**) 11 & 12 Geo. 6. c. 10.
(**c**) S.I. 1950 No. 1044, *see* Vol. I, p. 1274.
(**d**) 16 & 17 Geo. 5. c. 63.

unless, in any such case, the wrapper or container in which it is packed or a label securely attached thereto is properly marked with a true statement of either the minimum quantity of the food contained therein expressed in terms of net weight or the minimum aggregate weight of the wrapper or container and the food contained therein.

(3) Nothing in paragraphs (1) and (2) of this Article shall apply to the sale by retail or the possession for sale by retail, at any premises, of any food which—

(*a*) is pre-packed by the retailer at those premises; or

(*b*) is not described in the Second Schedule hereto and is of a quantity less than one ounce or one fluid ounce, as the case may be, and is pre-packed in a wrapper or container of such size and shape that it is not reasonably practicable to mark it as provided in paragraph (1) or (2) as the case may be.

Sale of Pre-Packed Food otherwise than by Retail. Marking of Wrappers or Containers. Furnishing of Particulars

2.—(1) Every person who (for the purposes of a sale thereof otherwise than by retail) delivers or causes to be delivered any pre-packed food shall—

(*a*) deliver that food or cause it to be delivered packed in a wrapper or container which is marked or to which wrapper or container is securely attached a label which is marked in accordance with the provisions of Article 1 as if it were being sold by retail; or

(*b*) deliver that food or cause it to be delivered packed in a wrapper or container which is not marked with any of the particulars referred to in Article 1 except such words as are reasonably necessary to identify the food, and furnish to the buyer within 14 days of the delivery an invoice or other document containing a statement of the minimum quantity of the food so delivered or, as the case may be, of the minimum aggregate weight of the wrapper or container and the food contained therein sufficient in all respects to enable a retail trader to comply with the appropriate requirements of Article 1.

(2) Nothing in paragraph (1) of this Article shall apply to the delivery of any food which is being purchased for export or for use as ship's stores being food in respect of which the seller shall have notice in writing from the buyer at or before the time of delivery that it is being so purchased.

Safeguards to Traders

3. In any proceedings for an infringement of Article 1 or 2 of this Order in respect of a statement of the weight, measure or number marked upon the wrapper or container in which any food is packed or upon a label attached thereto the Court shall disregard any inconsiderable variation in the weight, measure or number of a single article and shall have regard to the average weight, measure or number of a reasonable number of other articles of the same kind (if any) sold by the defendant on the same occasion or in his possession for sale on that occasion, and generally to all the circumstances of the case.

Defences

4. In any proceedings for an infringement of Article 1 or 2 of this Order in respect of an inaccuracy in any statement either of the quantity of pre-packed food contained in any wrapper or container or of the aggregate weight of any wrapper or container and the food contained therein (whether

such statement is marked upon the wrapper or container or a label attached thereto or is contained in an invoice or other document) it shall be a defence for the person charged to prove :—

(*a*) 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; or

(*b*) that the statement was accurate when it was marked upon the wrapper or container or label or, as the case may be, included in the invoice or other document and that the whole of any subsequent inaccuracy therein was due to evaporation and that he had exercised due care and taken all reasonable precautions to avoid such inaccuracy.

5.—(1) In any proceedings for an infringement of Article 1 or 2 of this Order in respect of the omission by the person charged to mark a wrapper or container or label with a statement either of the quantity of pre-packed food contained in that wrapper or container or of the aggregate weight of the wrapper or container and the food contained therein or of the omission by that person, in relation to any pre-packed food delivered or caused to be delivered by him, to furnish in an invoice or other document a statement of the quantity of that food or, as the case may be, of the aggregate weight of the wrapper or container and the food contained therein it shall be a defence for him to prove either:—

(*a*) 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; or

(*b*) that in relation to the case all the following conditions are satisfied, that is to say—

(i) that he purchased that food in the United Kingdom from another person carrying on there the business of supplying food of that description and that it was then packed in the wrapper or container in which it was at the time of the infringement and that such wrapper or container had not been opened since the food was acquired from that other person; and

(ii) that the requisite statement of quantity or of the aggregate weight of the wrapper or container and the food contained therein was omitted from the wrapper or container or label or, as the case may be, the invoice or other document when he received it from that other person; and

(iii) that at the time of the infringement he had no reason to believe that this Order was being infringed in relation to that food:

Provided that a person shall not in any proceedings be entitled to avail himself of the defence provided by sub-paragraph (*b*) above unless within fourteen days of the service of the summons in those proceedings he has sent to the prosecutor a copy of the wrapper, container, invoice or other document, as the case may be, upon which he intends to rely 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.

(2) The person by whom any such wrapper, container, invoice or other document is alleged to have been delivered or furnished shall be entitled to appear at the hearing of the proceedings and to give evidence.

(3) Where the defendant is a servant of the person who purchased the food with such wrapper or container or to whom such invoice or other document was furnished he shall be entitled to rely on the provisions of this Article in the same way as his employer would have been entitled to do if he had been the defendant.

Right of Defendant to Summon Person responsible for Offence

6.—(1) A person against whom proceedings are instituted in respect of an infringement of any provisions of this Order shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person to whose act or default he alleges that the infringement was due brought before the court in those proceedings and if, after proof of the infringement, the original defendant proves that it was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the preceding paragraph—

(*a*) the prosecution, as well as the person to whose act or default the defendant alleges the infringement was due, shall have the right to cross-examine him if he gives evidence and shall also have the right to cross-examine any witness called by him in support of his pleas, and to call rebutting evidence;

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Board of Trade or any other authority entitled to institute proceedings for an infringement of this Order that an offence has been committed in respect of which proceedings might be instituted for an infringement of this Order against some person and the Board or that other authority are reasonably satisfied that that offence was due to an act or default of some other person and that the first-mentioned person could establish a defence under paragraph (1) of this Article they may cause proceedings to be instituted against that other person without first causing proceedings to be instituted against the first-mentioned person.

In any such proceedings the defendant may be charged with and (on proof that the infringement was due to his act or default) convicted of the offence with which the first-mentioned person might have been charged, and shall be liable on conviction to the like punishment as might have been inflicted on the first-mentioned person if he had been convicted of the offence.

Savings

7.—(1) Nothing in this Order shall relieve any person from complying with the provisions of any Act of Parliament, Order in Council, order, regulation or bye-law for the time being in force.

(2) Nothing in this Order shall apply to:—

(*a*) the delivery, sale or possession for sale in the United Kingdom of:—

(i) any food described in the Third Schedule hereto, or

(ii) any pre-packed food consisting of an assortment of articles of food packed for sale as a meal and ready for consumption without being cooked, heated or otherwise prepared; or

(*b*) the delivery, sale or possession for sale in the United Kingdom for consumption by His Majesty's Forces of any food specially pre-packed for such consumption; or

(*c*) any food imported on Government account which is still contained in the wrapper or container in which it was so imported.

Proceedings by Local Authorities

8. Proceedings for an infringement of this Order in the area of a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, may be instituted in England by that authority.

Application to Scotland

9. This Order shall in its application to Scotland have effect as if:—

(*a*) for any reference to a summons and a defendant there were substituted respectively a reference to a complaint and a person accused;

(*b*) for Article 6 there were substituted the following Article:—

"6. Where an offence has been committed in respect of which proceedings might be taken for an infringement of this Order against some person and the offence was due to an act or default of some other person, then where proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the offence and shall be liable on conviction to the like punishment as might have been inflicted on the first-mentioned person if he had been convicted of the offence.";

(*c*) for references to the instruments set out in column 1 of the following table there were respectively substituted references to the appropriate instruments set out and numbered correspondingly in column 2 of that table:—

Column 1	Column 2
1. Public Health (Condensed Milk) Regulations, 1923 to 1948(a).	1. Public Health (Condensed Milk) (Scotland) Regulations, 1931(c) as amended by the Public Health (Condensed and Dried Milk) Amendment (Scotland) Regulations, 1943(d).
2. Public Health (Dried Milk) Regulations, 1923 to 1948(b).	2. Public Health (Dried Milk) (Scotland) Regulations, 1938(e) as amended as aforesaid.

Application to Northern Ireland

10.—(1) This Order shall, in its application to Northern Ireland, have effect as if:—

(*a*) in relation to the application of the provisions of paragraph (2) of Article 1 and any other provisions dependant thereon, the Sale of Food (Weights and Measures) Act, 1926, extended to Northern Ireland;

(a) S.R. & O. 1923 (No. 509) p. 894; 1927 (No. 1092) p. 457; 1943 (No. 896) I, p. 288 and S.I. 1948 (No. 1122) I, p. 1226.
(b) S.R. & O. 1923 (No. 1323) p. 900; 1927 (No. 1093) p. 459; 1943 (No. 896) I, p. 288 and S.I. 1948 (No. 1123) I, p. 1227.
(c) S.R. & O. 1931 (No. 116) p. 1103.
(d) S.R. & O. 1943 (No. 1061) p. 289.
(e) S.R. & O. 1931 (No. 1) p. 1111.

(*b*) for references to the instruments set out in column 1 of the following table there were respectively substituted references to the appropriate instruments made by the Ministry of Home Affairs in Northern Ireland set out and numbered correspondingly in column 2 of that table :—

Column 1	Column 2
1. Public Health (Condensed Milk) Regulations, 1923 to 1948.	1. The Public Health (Condensed Milk) Regulations, 1925 and 1927(a) as amended by the Public Health (Dried and Condensed Milk) Regulations, 1943(b).
2. Public Health (Dried Milk) Regulations, 1923 to 1948.	2. The Public Health (Dried Milk) Regulations, 1925 and 1927(c) as amended as aforesaid.

(2) Proceedings for an infringement of this Order in Northern Ireland may be instituted by the Ministry of Commerce.

Interpretation

11. In this Order :—

" food imported on government account " means food imported into the United Kingdom the property in which was at the time of importation vested in, or which was at that time consigned directly to, His Majesty or a government department or a person acting as agent for His Majesty or a government department, in connection with any of the purposes specified in subsection (1) of section one of the Supplies and Services (Transitional Powers) Act, 1945(d), as extended by the Supplies and Services (Extended Purposes) Act, 1947(e) ;

" pre-packed " means packed or made up in advance ready for retail sale in a wrapper or container ; and where any food packed or made up in a wrapper or container is found on any premises where such food is packed, kept or stored for sale the food shall be deemed to be pre-packed unless the contrary is proved and it shall not be sufficient proof of the contrary to show that the wrapper or container had not been marked in accordance with this Order ;

" sale by retail " means a sale to a person buying otherwise than for the purpose of resale but does not include a sale to a caterer or a manufacturer of food for the purposes of his catering or, as the case may be, manufacturing business ; and the expressions " sold by retail " and " retail sale " shall be construed accordingly.

Citation and Commencement

12. This Order may be cited as the Pre-Packed Food (Weights and Measures : Marking) Order, 1950, and shall come into operation on the 1st day of November, 1950.

Dated this 10th day of July, 1950.

Arthur G. Bottomley,

Parliamentary Secretary to the Board of Trade.

(a) S.R. & O. (N.I.) 1925 No. 169 and S.R. & O. (N.I.) 1927 No. 151.
(b) S.R. & O. (N.I.) 1943 No. 71.
(c) S.R. & O. (N.I.) 1925 No. 168 and S.R. & O. (N.I.) 1927 No. 152.
(d) 9 & 10 Geo. 6. c. 10; and S.R. & O. 1945 (Nos. 1161 and 1615 to 1625) II, pp. 39 and 45 to 56.
(e) 10 & 11 Geo. 6. c. 55.

FIRST SCHEDULE

REQUIREMENTS WITH RESPECT TO THE PROPER MARKING OF WRAPPERS AND CONTAINERS

The requirements to be complied with for the proper marking of any wrapper or container in pursuance of Article 1 are the following:

1. The statement of the quantity of any articles in terms of the number thereof shall be expressed either—

(*a*) in figures or words without more;
(*b*) in figures or words accompanied by a designation of the type or class of article contained in the wrapper or container (e.g., 50 tablets; six biscuits).

2. The statement of quantity in terms of weight, measure or number and the statement of aggregate weight shall be marked in legible characters in a prominent place upon the wrapper or container or label where (in each case) it can be easily read and, in the case of food pre-packed in more than one wrapper or container, the marking shall be so placed (whether upon an inner or an outer wrapper or container or upon both or upon a label securely attached to one or the other or to both) that it can be easily read without detaching or unwrapping any of the wrappers or containers.

3. The statement shall be marked upon a plain background and in distinct contrast thereto, that is to say, shall be in dark characters on a light background or in light characters on a dark background.

4. A statement of any quantity in terms of a denomination or denominations of metric weight or measure shall be accompanied in close proximity thereto by a statement of that quantity in terms of the equivalent denomination or denominations of imperial weight or measure.

5. Denominations of weight or measure shall be stated in full or in the corresponding abbreviated form specified below but not otherwise:—

Denominations in full	*Abbreviation*	*Denominations in full*	*Abbreviation*
Hundredweight	cwt.	Quart	qt.
Pound	lb.	Pint	pt.
Ounce	oz.	Fluid ounce	fl. oz.
Dram	dr.	Fluid drachm	fl. dr.
Grain	gr.	Minim	min.
Gramme	grm.	Litre	lit.
Kilogram	kilog. or kg.	Millilitre	ml.
Gallon	gal.		

6. The weights or measures specified in column 1 of the following table shall not be expressed in terms only of the corresponding denomination specified in column 2 of that table:—

Column 1	Column 2
Weight or measure	Denomination which may not be used alone to express the corresponding weight or measure specified in column 1
Weight exceeding one pound	ounce.
Weight exceeding one ounce	dram.
Weight exceeding one dram	grain.
Measure exceeding one quart	fluid ounce.
Measure exceeding one fluid ounce	fluid drachm.

7. The number of units of any denomination of weight or measure shall precede the statement of that denomination and:—

(*a*) if the denomination is not abbreviated, shall be expressed in words;
(*b*) if the denomination is abbreviated, shall be expressed in figures.

8. Where the weight to be indicated is the net weight of the food in the wrapper or container the denomination of weight and the number of units thereof shall be:—

(*a*) stated without any additional words or figures (e.g., 2 lb. or two pounds); or

(*b*) followed by the word "net" (e.g., 2 lb. net or Two pounds net); or

(*c*) preceded by the words "net weight" (e.g., net weight 2 lb.) or the words "minimum net weight" (e.g., minimum net weight 2 lb.).

9. Where the weight to be indicated is the aggregate weight of the wrapper or container and the food contained therein, the denomination of weight and the number of units thereof shall be either followed by the word "gross" or preceded by the words "gross weight" (e.g., 2 lb. gross or gross weight Two pounds).

10. A statement of measure shall be expressed in terms of the appropriate denomination of measure together with the number of units thereof without more or in terms of the appropriate denomination of measure and the number of units thereof preceded by the word "contents" (e.g., contents 10 fl. oz.) or the words "minimum contents" (e.g., minimum contents 10 fl. oz.).

SECOND SCHEDULE

Whole nutmegs.
Rennet tablets.
Fruit preservative tablets.
Cereal biscuit breakfast food.
Vanilla Pods.
Saccharin Tablets.
Sweetening Tablets.
Lemonade Tablets.
Corn on Cob vacuum-packed without added liquid.

THIRD SCHEDULE

Food to which this Order does not apply

Bath chaps.

Biscuits when sold or to be sold by the packet or by the piece at a price not exceeding 3d. per packet or piece.

Bread (excluding breadcrumbs).

Cheese (including processed cheese, blue vein, soft curd or cream cheese and cheese made from milk other than cow's milk).

Condensed Milk, as defined by the Public Health (Condensed Milk) Regulations 1923 to 1948.

Dried Milk, as defined by the Public Health (Dried Milk) Regulations, 1923 to 1948 (including sweetened or modified dried milk and compounded dried milk).

Fish not packed in cans or glass containers.

Flour confectionery.

Fresh fruit and vegetables (other than potatoes) which are not bottled, frozen or dried and which have not been subjected to any process other than a process of cleaning or the removal of extraneous or inedible matter.

Honey in comb.

Intoxicating liquor.

Liquid cow's milk (other than condensed milk).

Meat Pies.

Micro biological preparations for addition to food.

Single toffee apples.

Soft drinks.

Spa waters, Lithia water, Seltzer water and Potash water.

Sugar confectionery, chocolate and chocolate confectionery.

Uncooked beef or pork sausages.

Whole cooked beetroots.

EXPLANATORY NOTE

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

This Order, which comes into operation on the 1st November, 1950, replaces the provisions of the Labelling of Food Order, 1946, as amended(a), in so far as, in the case of persons who sell by retail or offer or possess for sale by retail pre-packed articles of food, they require the wrappers or containers to be marked with a statement of the minimum quantity of food contained therein or, in the case of traders delivering such food in pursuance of a sale thereof otherwise than by retail in unmarked wrappers or containers, they require particulars of such minimum quantity to be furnished in an invoice or other document.

The Labelling of Food Order, 1946, as amended, will cease to have effect as from the above date(b).

Articles 1 and 2 and the First Schedule impose requirements as to the marking of wrappers or containers and the furnishing of particulars in invoices or other documents which, subject to the principal modifications mentioned below, substantially reproduce the corresponding provisions of the 1946 Order; and the safeguards to traders, defences and rights of defendants to summon persons responsible for offences provided for in the earlier Order are preserved in Articles 3, 4, 5 and 6 of this Order.

The following are the principal modifications referred to above:—

(*a*) With respect to certain articles of food (specified in the Second Schedule) the statement of minimum quantity is required to be in terms of their number and not of their weight.

(*b*) Articles of food of a quantity less than one ounce or one fluid ounce which are pre-packed in a wrapper or container of such size and shape that it is impracticable to mark it in the required manner are not affected by the Order. Hitherto the exemption applied only where the quantity of food was less than half an ounce or half a fluid ounce.

(*c*) A code setting out the precise requirements for proper marking in all cases is introduced in the First Schedule. The requirements are closely similar to the marking requirements under the Sale of Food (Weights and Measures) Act, 1926, which are prescribed in the Sale of Food (Weights and Measures: Prepacked Articles) Regulations, 1927 (S.R. & O. 1927 No. 528).

(*d*) Where the minimum quantity of pre-packed food is stated in terms of metric weight or measure it is also required to be stated in terms of the corresponding imperial equivalent.

(*e*) The requirements of the Order do not apply to any articles of food described in the Third Schedule. Amongst these are articles which were not included in the corresponding exemption provided for in the 1946 Order.

(a) S.R. & O. 1946 (No. 2169) II, p. 6; S.R. & O. 1947 (Nos. 757, 2001 and 2709) II, pp. 13 to 15; S.I. 1948 (No. 2598) II, p. 11 and S.I. 1949 (Nos. 1161 and 1536) II, pp. 6, 7.
(b) See Labelling of Food Order, 1950 (S.I. 1950 No. 1061, p. 19 above.)

SUPPLIES AND SERVICES

[NOTE.—For the continuance in force of certain Defence (General) Regulations, and other specified codes of Regulations, after the expiration of the Emergency Powers (Defence) Acts, 1939 to 1945 (23rd February, 1946), *see* the Supplies and Services (Transitional Powers) Act, 1945 (9 & 10 Geo. 6. c. 10), the Orders in Council made thereunder, dated 20th December, 1945 (S.R. & O. 1945 (Nos. 1615 to 1630)) II, pp. 45-56), and the Supplies and Services (Continuance) Order, 1950, dated 2nd November, 1950 (S.I. 1950 No. 1769). The Orders in Council dated 20th December, 1945, schedule the Regulations so continued with adaptations and the Order dated 2nd November, 1950, in effect, continues the operation of those Regulations until 10th December, 1951, by continuing the Supplies and Services (Transitional Powers) Act, 1945, to that date. The Regulations thus continued are subject to powers of H.M. in Council to revoke them in whole or in part or vary them. For extension of the powers under the Supplies and Services (Transitional Powers) Act, 1945, *see* the Supplies and Services (Extended Purposes) Act, 1947 (10 & 11 Geo. 6. c. 55).

Reprint of Regulations.—A reprint of the Defence (General) Regulations, 1939 (S.R. & O. 1939 (No. 927) I, p. 715), incorporating all current amendments, is periodically prepared in the Office of the Parliamentary Counsel and published by H.M. Stationery Office.

The last edition (the 19th), revised to 10th December, 1950, also includes the other codes of Defence Regulations and the relevant enactments applicable and remaining in force.]

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1. CONTINUANCE

The Supplies and Services (Continuance) Order, 1950

1950 No. 1769

Made - - - -	*2nd November,* 1950
Laid before Parliament	*3rd November,* 1950
Coming into Operation	*4th November,* 1950

At the Court at Buckingham Palace, the 2nd day of November, 1950

Present,

The King's Most Excellent Majesty in Council

Whereas by section eight of the Supplies and Services (Transitional Powers) Act, 1945(a), the said Act is limited to expire on the tenth day of December, nineteen hundred and fifty, five years after the passing thereof, unless continued in force under that section:

And Whereas it is provided by that section that if an Address is presented to His Majesty by each House of Parliament praying that the said Act shall be continued in force for a further period of one year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that it shall continue in force for that further period:

And Whereas such an Address has been presented to His Majesty by each House of Parliament as aforesaid:

(a) 9 & 10 Geo. 6. c. 10.