STATUTORY INSTRUMENTS

# 1973 No. 1093

# MONOPOLIES AND MERGERS

## The Regulation of Prices (Tranquillising Drugs) (No. 3) Order 1973

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| *Made* - - - | 21*st June* 1973 |
| *Laid before Parliament* | 22*nd June* 1973 |
| *Coming into Operation* | 25*th June* 1973 |

Whereas it appears to the Secretary of State on the facts found by the Monopolies Commission as stated in their report entitled "A report on the supply of chlordiazepoxide and diazepam" that the prices charged in the case of goods of the classes to which the report relates, being goods to which this Order applies, are or have been such as to operate against the public interest:

Now, therefore, the Secretary of State in exercise of the powers conferred by section 3(3)(*a*), and (*d*) and (4)(*c*) of the Monopolies and Mergers Act 1965**(a)** and section 10(3) of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948**(b)** and now in him vested**(c)** and of all other powers enabling him in that behalf and with a view to remedying or preventing mischiefs which in his opinion result or may be expected to result from the things which according to the said report as laid before Parliament on 11th April 1973 operate or may be expected to operate against the public interest hereby orders as follows:—

**1.**—(1) This Order may be cited as the Regulation of Prices (Tranquillising Drugs) (No. 3) Order 1973 and shall come into operation on 25th June 1973.

(2) In this Order—

"container" has the same meaning in relation to a preparation mentioned in the Schedule hereto as it has in relation to a medicinal product in the Medicines Act 1968**(d)**; and

references to chlordiazepoxide include references to its salts and references to diazepam include references to its salts.

(3) For the purposes of this Order a body corporate shall be regarded as having a controlling interest in another body corporate if it can—

(i) directly or indirectly determine the manner in which more than one half of the votes which could be cast at a general meeting of the other body corporate are to be cast; or

(ii) by the exercise of a power which does not require the consent or concurrence of any other person appoint or remove the holders of all or a majority of the directorships.

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**(a)** 1965 c. 50. **(b)** 1948 c. 66.

**(c)** By the Transfer of Functions (Monopolies, Mergers and Restrictive Practices) Order 1969 (S.I. 1969/1534; 1969 III, p. 4991). **(d)** 1968 c. 67.

(4) The Interpretation Act 1889(a) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

**2.** This Order applies to F Hoffmann-La Roche and Co. AG, a body corporate incorporated in Switzerland, the SAPAC Corporation Ltd., a body corporate incorporated under the laws of New Brunswick, Canada, to Roche Products Limited, a body corporate incorporated in England, and to any other body corporate (wherever incorporated) in which any of the said bodies corporate has a controlling interest.

**3.**—(1) Subject to paragraph (2) hereof, the prices charged on the sale in the United Kingdom after the commencement of this Order of any pharmaceutical preparations mentioned in the Schedule hereto shall not exceed the relevant price specified in the third column of the appropriate table in that Schedule, or, if the goods are packed in a container holding a nominal quantity which is not mentioned in that table, the maximum price calculated in accordance with paragraph 2 of that Schedule.

(2) Nothing in paragraph (1) shall apply in relation to—

(*a*) a sale by a person to whom this Order does not apply;

(*b*) a sale of goods which are to be exported from the United Kingdom.

**4.** It shall be unlawful for any person to whom this Order applies who supplies any pharmaceutical preparation mentioned in the Schedule hereto in the United Kingdom to require as a condition of such supply otherwise than by or for export from the United Kingdom the purchase of any other pharmaceutical preparation.

**5.**—(1) It shall be unlawful for any person mentioned in Article 4 of this Order to enter into any agreement or arrangement under which any other person is precluded from reselling, or required to preclude any other person from reselling, in the United Kingdom and otherwise than by way of export, except at a price above the price mentioned in paragraph (2) of this Article, any preparation mentioned in the Schedule hereto which has been sold in the United Kingdom on or after 23rd April 1973 by a person to whom this Order applies.

(2) For the purposes of paragraph (1) the highest price at which a person may be required by a minimum resale price condition to resell any goods is—

(*a*) in the case of a resale to a retailer or to any other person purchasing in the course of trade, the relevant price set out in the final column of the appropriate table in the Schedule hereto or, if the goods are not packed in a container in a nominal quantity mentioned in that table, a price which when reduced by 12½ per cent. does not exceed the appropriate maximum selling price calculated in accordance with paragraph 2 of that Schedule;

(*b*) in the case of a resale by retail, a price which does not exceed by more than 50 per cent the highest price which a seller may be required to charge on such a resale as is mentioned in subparagraph (*a*) of this paragraph.

*Geoffrey Howe*,
Minister for Trade and Consumer Affairs,
Department of Trade and Industry.

Dated 21st June 1973.

(a) 1889 c. 63.

## SCHEDULE

MAXIMUM PRICES FOR GOODS TO WHICH THE ORDER APPLIES

*Standard Packs*

1.(a) *Preparations of chlordiazepoxide* ("*Librium*")

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Tablets or capsules, nominal chlordiazepoxide content 5mg | 100 | 0·28 | 0·32 |
| | 500 | 1·14 | 1·30 |
| Tablets or capsules, nominal chlordiazepoxide content 10mg | 100 | 0·35 | 0·40 |
| | 500 | 1·44 | 1·64 |
| Tablets (or capsules), nominal chlordiazepoxide content 25mg | 100 | 0·70 | 0·80 |
| | 500 | 2·87 | 3·28 |

(b) *Preparations of diazepam* ("*Valium*")

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Tablets or capsules, nominal diazepam content 2mg | 100 | 0·18 | 0·21 |
| | 500 | 0·73 | 0·83 |
| Tablets or capsules, nominal diazepam content 5mg | 100 | 0·26 | 0·30 |
| | 500 | 1·08 | 1·23 |
| Tablets (or capsules), nominal diazepam content 10mg | 100 | 0·39 | 0·45 |
| | 500 | 1·59 | 1·82 |

(c) *Preparations of chlordiazepoxide in combination with theophylline and ephedrine hydrochloride ("Brontrium")*

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Capsules (or tablets), nominal chlordiazepoxide content 10mg | 100 | 0·48 | 0·55 |
| Capsules (or tablets), nominal chlordiazepoxide content 5mg | 100 | 0·32 | 0·37 |

(d) *Preparations of chlordiazepoxide in combination with clidinium bromide ("Libraxin")*

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Tablets (or capsules), nominal chlordiazepoxide content 5mg | 100 | 0·41 | 0·47 |
| | 500 | 1·69 | 1·93 |

(e) *Preparations of chlordiazepoxide in combination with pentaerythritol tetranitrate ("Pentrium")*

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Tablets (or capsules), nominal chlordiazepoxide content 5mg | 100 | 0·42 | 0·48 |

(*f*) *Preparations of chlordiazepoxide in combination with amitriptyline* ("*Limbitrol*")

| Form of preparation | Nominal quantity in container | Maximum price | Maintainable resale price (wholesale) |
|---|---|---|---|
| | | £ | £ |
| Capsules (or tablets), nominal chlordiazepoxide content 5mg | 100 | 0·56 | 0·64 |
| | 500 | 2·32 | 2·65 |
| Capsules (or tablets), nominal chlordiazepoxide content 10mg | 100 | 0·84 | 0·97 |
| | 500 | 3·59 | 4·10 |

*Other Packs*

2. For the purposes of Article 3, the maximum price chargeable for any preparations mentioned in the preceding tables when sold in a container holding a nominal quantity which is not so mentioned shall be—

(i) in a case where only one quantity is mentioned in the relevant table or where two quantities are so mentioned and the nominal quantity in the container is greater than the smaller of those two quantities, a price equal to such a fraction or multiple of the relevant price, or of the greater of the two relevant prices, mentioned in column 3 as appropriately reflects the difference in the quantities;

(ii) in a case where two quantities are so mentioned and the nominal quantity in the container is less than the smaller of those two quantities, a price equal to such a fraction of the price mentioned in column 3 in relation to the smaller quantity as appropriately reflects the difference between the nominal quantity in the container and that smaller quantity.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order reproduces the provisions of the Regulation of Prices (Tranquillising Drugs) (No. 2) Order 1973 (S.I. 1973/925) which in accordance with section 3(11)(*b*) of the Monopolies and Mergers Act 1965 ceased to have effect on 24th June 1973 for want of approval by resolution of each House of Parliament.

The Order regulates the prices at which certain tranquillising drugs may be sold in the United Kingdom when sold by Roche Products Limited, F Hoffmann-La Roche and Co. AG (a Swiss company) and SAPAC Corporation Ltd. (a Canadian company) and other companies controlled by them.

The Order only relates to drugs sold in the form of tablets or capsules and there are exceptions for exports.

Maximum prices for the quantities in which the drugs are commonly made up are set out in the third column of the tables in the Schedule. For other quantities maximum prices are to be calculated by reference to these prices in accordance with paragraph 2 of the Schedule.

The brand names under which the drugs in question are commonly sold by Roche Products Limited in the United Kingdom are mentioned in the Schedule.

The Order also precludes the companies to which it applies from imposing on the sale of the relevant drugs any condition requiring the buying of other pharmaceutical products, and makes provision as respects the resale prices which can be maintained by minimum resale price conditions.

Copies of the report of the Monopolies Commission referred to in this Order (H.C. 197 Session 1972-73) may be obtained from Her Majesty's Stationery Office.

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