The Ware Potatoes (No. 2) Order, 1951

1951 No. 1724

Made - - - -	*26th September*, 1951
Laid before Parliament	*27th September*, 1951
Coming into Operation	*1st October*, 1951

The Minister of Food, in pursuance 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 the Supplies and Services (Defence Purposes) Act, 1951(**c**) and continued in force by the Supplies and Services (Continuance) Order, 1950(**d**)), and of all other powers him enabling in that behalf, hereby orders as follows:—

Commencement and citation

1. This Order may be cited as the Ware Potatoes (No. 2) Order, 1951 ; and shall come into operation on the 1st day of October, 1951.

Interpretation

2. In this Order—

" The Minister " means the Minister of Food.

" The Ministry " means the Ministry of Agriculture for Northern Ireland.

" Agricultural land " has the meaning assigned to it by the Defence (General) Regulations, 1939.

" As grown " in relation to potatoes sold by a grower thereof has the meaning usually assigned thereto by the potato industry.

" Buy " includes offer or agree to buy, " sell " includes offer or agree to sell or expose for sale, and " dispose of " and " obtain " respectively include offer or agree to dispose of or obtain.

" Catering business " includes the business or undertaking of an inn, public house, hotel, restaurant, buffet, coffee stall or of 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.

" His potatoes " with reference to a grower of potatoes means potatoes grown by such grower.

" Licensed buying agent " ; " licensed grower-salesman " ; " licensed potato buyer " and " licensed potato merchant " mean respectively a person who is licensed as such by or on behalf of the Minister.

" Potatoes " does not include canned, cooked, manufactured or processed potatoes ; potatoes described as being of the 1951 crop mean potatoes which are the produce of potatoes planted during the twelve calendar months preceding the 1st day of September, 1951.

(**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. (**c**) 14 & 15 Geo. 6. c. 25. (**d**) S.I. 1950 (No. 1769) III, p. 51.

" Potato sack " means any sack used for the packing, transporting or display of ware or stockfeed potatoes of the 1951 crop.

" Sale by retail " means a sale to a person buying otherwise than for the purpose of resale, and, except when a grower sells his own potatoes, includes a sale to a person for the purposes of a catering business, other than a fish frying business, carried on by him.

" Sale by wholesale " means any sale other than a sale by retail or a sale by the grower but includes—

(i) a sale by the grower, other than a sale by retail, if he is a licensed potato merchant, or a licensed grower-salesman (with the exception in the latter case of a sale to a licensed potato merchant of potatoes delivered f.o.b. or f.o.r. grower's nearest railway station open for such traffic or free on buyer's lorry at grower's farm);

(ii) a sale to a fish frier for the purposes of his fish frying business; and

(iii) a sale to a manufacturer.

" Seed potatoes " and " thirds " have the meanings assigned to them in the Seed Potatoes Order, 1950(a).

" Small potatoes " means potatoes (other than seed potatoes, thirds or stockfeed potatoes) which will pass without manipulation through a riddle operated horizontally which has a square mesh measuring between the wires one and a half inches along each side of the square.

" Stockfeed potatoes " means (*a*) any potatoes sold by the Minister for use or resale as stockfeed and (*b*) any potatoes (other than seed potatoes, thirds or ware potatoes) sold for use or resale as stockfeed.

" Ware potatoes " means potatoes (other than seed potatoes, thirds or stockfeed potatoes) which do not include any small potatoes, and are free from—

(*a*) common scab, greening and growth shoots and from soil, dirt or other extraneous matter; and

(*b*) disease, damage by wire-worms, slugs, cutting or frost and from any other damage whatsoever and from any defect rendering them unfit for human consumption:

Provided that potatoes shall be deemed to be ware potatoes if they are reasonably free from potatoes which do not comply with the above definition, so however that in any one purported hundredweight of ware potatoes the total weight of small potatoes, of growth shoots, soil, dirt or any other extraneous matter, and of potatoes with any of the defects mentioned in sub-paragraphs (*a*) and (*b*) above shall not together exceed 6 lb.

For the purposes of this Order the expression " county " or " shire " means a geographical and not an administrative county and where any County or Shire is specified such County or Shire shall be deemed to include any City or County Borough situate within the geographical boundary of any one or more of such Counties or Shires.

Traders' Licences

3. By licence granted under this Article the Minister or the Ministry may authorise any person to trade as—

(*a*) a licensed buying agent,

(*b*) a licensed grower-salesman,

(*c*) a licensed potato buyer, or

(*d*) a licensed potato merchant.

(a) S.I. 1950 (Nos. 1236 and 1962) III, p. 715–727; and 1951 No. 289.

Restrictions on Sales by Growers

4.—(1) A grower of potatoes shall not sell or otherwise dispose of his ware potatoes to any person, and a person shall not buy or otherwise obtain ware potatoes from any grower of potatoes unless—

(i) the grower is a licensed grower-salesman, a licensed potato merchant or a licensed potato buyer, or

(ii) the person so obtaining them is a licensed potato merchant or a licensed potato buyer.

(2) A grower of potatoes, unless he be a licensed grower-salesman, a licensed potato merchant or a licensed potato buyer, shall not sell his ware potatoes except upon the terms of delivery being given by the grower at buyer's option f.o.r. grower's nearest railway station open for such traffic, or free on buyer's lorry at the grower's farm or (except in the case of a sale in Northern Ireland) f.o.b.

(3) The foregoing provisions of this Article shall not apply to—

(i) the sale by a grower of his ware potatoes by retail; or

(ii) the sale by a grower of his ware potatoes by auction.

Fixed Growers' Prices; Maximum and Minimum Wholesale Prices; Maximum Retail Prices

5. A person shall not sell or buy any ware potatoes—

(*a*) in the case of a sale by a grower, except at the fixed price applicable in accordance with the provisions of the First Schedule to this Order;

(*b*) in the case of a sale by wholesale, at a price which is less than the minimum price or which exceeds the maximum price respectively applicable in accordance with the provisions of the said Schedule;

(*c*) in the case of a sale by retail, at a price exceeding the maximum price applicable in accordance with the provisions of the said Schedule:

Provided that—

(i) on a sale by retail of ware potatoes of any description mixed with ware potatoes of any other description for which a different maximum price is applicable under the provisions of the First Schedule to this Order, the maximum price applicable shall not exceed the lowest maximum price applicable to any description of potatoes contained in the mixture;

(ii) on a sale of ware potatoes by auction on behalf of the grower thereof the maximum price which may be charged and paid shall be that applicable to a sale by retail and the minimum price which may be charged and paid shall be the fixed price applicable on a sale by a grower.

Confirmatory Statements

6. On the occasion of a sale by the grower to a licensed potato merchant or a licensed potato buyer of ware potatoes of a total weight of 1 ton or more, the buyer shall furnish to the seller a statement signed by him or on his behalf specifying the quantity and variety of potatoes so bought by him, the relative soil classification of the potatoes if they were grown on limestone, silt, warp, red or skirtland soils and the price at which they were bought.

Sale and Use for Human Consumption

7.—(1) A person shall not sell or otherwise dispose of potatoes other than ware potatoes if he knows or ought reasonably to know that they will be used or resold for the purpose of human consumption, or buy or otherwise obtain any such potatoes with the intention of selling them for use or resale for the purpose of human consumption.

(2) A person shall not use any ware potatoes except for the purpose of human consumption or sell or otherwise dispose of such potatoes (except to the Minister or for resale to the Minister) if he knows or ought reasonably to know that they will be used or sold otherwise than for the purpose of human consumption.

Stockfeed Potatoes

8. A person shall not use or process for the purpose of human consumption or use for planting any stockfeed potatoes, or sell or otherwise dispose of such potatoes if he knows or ought reasonably to know that they will be used or resold for the purpose of human consumption or for seed.

Sales Growing or as Grown

9.—(1) A person shall not (*a*) sell potatoes growing or as grown except to a licensed potato merchant or a licensed potato buyer, or (*b*) buy such potatoes unless he is a licensed potato merchant or a licensed potato buyer.

(2) Where a grower pursuant to a licence granted by or on behalf of the Minister or the Ministry for the purposes of this Order sells his potatoes growing or as grown the buyer of the potatoes so sold shall be deemed to be the grower thereof unless he be a licensed potato merchant, or a licensed potato buyer.

Ware Potatoes—Restrictions on Sales

10.—(1) Except under and in accordance with the terms of a licence granted for the purposes of this Article by or on behalf of the Minister, a person shall not sell except to the Minister any ware potatoes to which this Article applies and save as aforesaid a person shall not buy any such potatoes.

(2) Subject to the provisions of paragraph (3) of this Article, this Article applies to ware potatoes which (whether or not they are in the ownership of the grower thereof) have not before the date of the coming into force of this Order been removed from the grower's farm and which—

(*a*) are of the varieties Gladstone, Golden Wonder, King Edward VII and Red King, grown in Cambridgeshire, Cheshire, Durham, Huntingdonshire, Isle of Ely, Lancashire, Lincolnshire, Norfolk, Northumberland and the Soke of Peterborough or on limestone or warp soils in Derbyshire, Nottinghamshire and Yorkshire; or

(*b*) are of the varieties Arran Consul, Arran Peak, Dunbar Standard and Majestic grown in Bedfordshire, Cheshire, Durham, Essex, Lancashire, Northumberland and Suffolk or on limestone, silt, warp, red or skirtland soils in Cambridgeshire, Derbyshire, Huntingdonshire, Isle of Ely, Lincolnshire, Norfolk, Nottinghamshire, the Soke of Peterborough and Yorkshire; or

(*c*) are of the varieties Arran Chief, Arran Consul, Arran Peak, Dunbar Standard, Golden Wonder, King Edward VII, Majestic and Red King, grown in any district of Scotland other than a district specified in the Third Schedule to this Order.

(3) This Article does not apply to any potatoes which—

(i) have been dressed and bagged before the date of the coming into force of this Order ; or

(ii) were grown by any person who in the year 1951 planted less than three acres of land with potatoes.

Purchases by Agents

11. No person other than a licensed buying agent shall buy any ware potatoes as an agent for reward and no person shall permit such potatoes to be so bought on his behalf otherwise than by a licensed buying agent, provided that nothing in this provision shall prohibit the purchase of potatoes by a servant on behalf of his employer.

Retailers' Notices

12. Every retailer shall keep displayed on his premises (or in the case of sales from a vehicle, stall or barrow, on such vehicle, stall or barrow) in a conspicuous position and so as to be clearly legible by all customers throughout the whole time during which ware potatoes are being offered or exposed for sale, a notice stating in plain words and figures the maximum retail prices per one lb., and per seven lb. quantity of such ware potatoes for the time being applicable under this Order.

Keeping of Records

13.—(1) Every person who carries on any undertaking by way of trade or business in the course of which he buys or sells any ware potatoes shall keep or cause to be kept accurate records in accordance with the provisions of the Second Schedule to this Order.

(2) 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 sufficient compliance by that person with the provisions of this Article.

(3) Every person who is required by this Article to keep any record shall retain the same for one year from the date of the transaction to which it relates or in the case of a record of stocks from the date to which the record relates.

(4) Where ware potatoes are bought through the agency of a licensed buying agent the principal shall not be obliged to keep any of the records required to be kept under paragraph 1 of this Article but such records shall be kept by the licensed buying agent.

Transport

14.—(1) Except under and in accordance with the terms of a licence granted by or on behalf of the Minister a person shall not by way of trade or business transport or consign for transport or cause to be transported or consigned for transport any ware potatoes from a place in Bedfordshire, Cambridgeshire, Huntingdonshire, Isle of Ely, Lincolnshire, Norfolk, Soke of Peterborough or Suffolk to a place in Brecknockshire, Cardiganshire, Carmarthenshire, Cornwall, Devonshire, Dorsetshire (except the Borough of Poole), Glamorganshire, Gloucestershire, the City and County of Bristol, Monmouthshire, Pembrokeshire, Radnorshire, Somersetshire or Wiltshire.

(2) It shall be a defence for any person charged with an infringement of this Article to prove that any potatoes transported by him in contravention of the provisions of this Article were transported in the course of his business as a carrier and that he had no reason to believe that the provisions of this Article were being infringed.

Potato Sacks

15. Where any person in the course of his business as a grower or other trader in ware or stockfeed potatoes (i) sells potatoes packed in a potato sack or (ii) lends or hires a potato sack to any other person for use by him for the transport, storage or display for sale of potatoes, the following provisions shall apply:—

(*a*) every such potato sack shall be deemed to be supplied on the terms that it is to be returned to the supplier thereof;

(*b*) every such potato sack shall be clearly and indelibly marked with the trade mark, name or initials of the owner thereof:

Provided that this paragraph shall not apply to potato sacks which (i) were secondhand when purchased by the owner (that is to say had previously been used), or (ii) have been used by the owner for the packing of seed potatoes or of articles other than ware or stockfeed potatoes and (iii) in cases falling under either head (i) or (ii) of this proviso were in such condition when first used by the owner for the transport, storage or display for sale of ware or stockfeed potatoes that it was not reasonably practicable to mark them in accordance with this paragraph;

(*c*) a deposit as security for the return of every such potato sack shall be charged by the supplier thereof to the person obtaining the potato sack, such deposit to be repaid or credited by the supplier to such person upon his returning the potato sack to the supplier in accordance with the provisions of paragraph (*d*) of this Article in such condition as is reasonable, having regard to its condition when supplied and to ordinary wear and tear, but unless the potato sack is so returned the deposit shall be wholly forfeited. Such deposit shall in the case of the supply of the potato sack by the owner be not less than the value of the potato sack, and in any other case shall be an amount equal to the deposit which has been charged to the supplier;

(*d*) the person to whom any such potato sack is supplied shall—

(i) deliver or consign it carriage paid to the premises of the supplier, unless the parties agree otherwise, as soon as reasonably practicable, regard being had to the purpose for which it was supplied; and

(ii) shall forthwith return it to such supplier if so requested in writing by him, provided that it shall be a defence in any proceedings under this sub-paragraph of this Article in respect of any potato sack for the defendant to show reasonable cause for his failure to return the potato sack and in particular where he has supplied the potato sack to any other person to show that he has taken all reasonable steps to secure the return of the potato sack from that person.

Tampering with Marks on Potato Sacks

16. No person shall obliterate, deface, cover or alter or permit to be obliterated, defaced, covered or altered any name or mark on any potato sack unless such person is either—

(*a*) the owner of the potato sack or is acting with the consent of the owner (or of any person authorised by him to give such consent); or

(*b*) is a recognised repairer of potato sacks:

Provided that it shall be a defence in any proceedings under this Article for the defendant to prove that he acted without intent to deceive.

Restriction on use of Potato Sacks

17. No person shall use or cause or permit to be used any potato sack except for the purpose of the transport, storage or display for sale of ware or stockfeed potatoes; provided that it shall be a defence in any proceedings for an infringement of this Article for the defendant to prove that the potato sack in question was no longer reasonably fit for any of the said purposes.

Care of Potato Sacks

18. Every person having in his possession or control any potato sack shall exercise all reasonable care in the use and storage thereof so as to maintain it as far as practicable in the same condition as when he received it and in particular shall take all reasonable steps to keep it dry, and shall not in unpacking any article packed therein cut, mutilate or destroy the sack except in the case of unavoidable necessity.

Potato Sacks for Ships' Stores

19. The provisions of this Order relating to potato sacks shall not apply to any potato sacks in so far as the same are supplied or used for the packing of ware potatoes for ships' stores.

Artificial Transactions

20. No person shall in connection with the sale or disposition or proposed sale or disposition of any potatoes enter or offer to enter into any artificial transaction or make or demand any unreasonable charge.

Application only to 1951 *Crop*

21. The provisions of this Order shall apply only to home-grown and imported potatoes of the 1951 crop.

Exclusions

22. The provisions of this Order shall not apply—

(*a*) to any potatoes grown by a grower farming less than one acre of agricultural land;

(*b*) to any potatoes grown on land other than agricultural land;

(*c*) in any districts of Scotland mentioned in the Third Schedule to this Order save for

(i) Article 5 in so far as it applies to sales by retail; and

(ii) Article 7.

Infringements

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

Directions, Authorisations and Licences

24.—(1) The provisions of this Order are subject to—

(*a*) any direction which may at any time be given by or on behalf of the Minister, or in respect of Northern Ireland by or on behalf of the Minister or the Ministry, in relation to the articles to which this Order applies; and

(*b*) any licence or authorisation which may be granted under this Order by or on behalf of the Minister, or in respect of Northern Ireland by or on behalf of the Minister or the Ministry,

and the Minister hereby delegates to the Ministry the function of giving or granting any such direction, licence or authorisation in respect of Northern Ireland.

(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 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

25.—(1) The Ware Potatoes Order, 1951(a) is hereby revoked but without prejudice to any proceedings in respect of any contravention thereof.

(2) Any licence or authorisation granted or having effect under the said Order shall continue to have effect as if granted under this Order.

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

Maurice Webb,
Minister of Food.

Dated the 26th day of September, 1951.

THE FIRST SCHEDULE

[New First Schedule substituted by S.I. 1951 No. 2169, *see* p. 411 below.]

THE SECOND SCHEDULE

RECORDS REQUIRED TO BE KEPT UNDER ARTICLE 13 OF THIS ORDER

1. By a Grower

in respect of each sale—

(*a*) the name and address of the purchaser;
(*b*) the nett weight, variety and classification* of the potatoes sold;
(*c*) the price;
(*d*) the date of despatch of the potatoes from his farm.

2. By a Wholesaler, including a Licensed Grower-Salesman when selling by Wholesale

in respect of each purchase and sale—

(*a*) the date thereof;
(*b*) the name and address of the person from whom he purchased or to whom he sold the potatoes, provided that such name and address need not be included in respect of a cash sale in a market established by virtue of Crown grant, prescription or statute;
(*c*) the nett weight, variety and classification of the potatoes bought or sold;
(*d*) the price;
(*e*) particulars of each and every addition to the price (*including any charge* by way of deposit in respect of a potato sack) made in accordance with the provisions of this Order.

* NOTE.—The soil classification shall be recorded where the potatoes have been grown on limestone, silt, warp, skirtland or red soil.

(a) S.I. 1951 No. 1349.

3. By an Auctioneer

in respect of each sale—

(*a*) the name and address of the seller;

(*b*) the nett weight, variety and classification* of the potatoes sold;

(*c*) the price;

(*d*) particulars of each and every addition to the price (including any charge by way of deposit in respect of a potato sack) made in accordance with the provisions of this Order.

4. By a Retailer

in respect of each purchase—

(*a*) the date thereof;

(*b*) the name and address of the seller;

(*c*) the nett weight, variety and classification* of the potatoes purchased;

(*d*) the price;

(*e*) particulars of each and every addition to the price (including any charge by way of deposit in respect of a potato sack) made in accordance with the provisions of this Order.

5. By a Buying Agent

as provided by paragraph (4) of Article 13.

THE THIRD SCHEDULE

DISTRICTS OF SCOTLAND REFERRED TO IN ARTICLE 22 OF THIS ORDER

The County of Caithness.

The County of Sutherland.

In the County of Ross and Cromarty, the parishes of Kincardine, Lochbroom, Gairloch, Applecross, Lochcarron, Lochalsh, Kintail and Glenshiel only.

In the County of Inverness, the parishes of Glenelg, Kilmallie, Kilmonivaig, Boleskine, Abertarff, Arisaig Moidart, Laggan, Moy and Dalarossie, Alvie, Kingussie and Insh, Duthil and Rothiemurchus, Abernethy and Kincardine only.

In the County of Moray, the parishes of Knockando, Cromdale, Inverallan and Advie only.

In the County of Ban the parishes of Kirkmichael and Cabrach only.

In the County of Aberdeen, the parishes of Glenbuchat, Strathdon and Crathie and Braemar only.

In the County of Perth the parishes of Balquhidder, Killin, Fortingall and Blair Atholl only.

The County of Argyll.

In the County of Bute, the islands of Arran, Great Cumbrae and Little Cumbrae [redacted]

The Inner Hebrides and the Outer Hebrides Islands.

The County of Zetland.

The County of Orkney.

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* NOTE.—The soil classification shall be recorded where the potatoes have been grown on limestone, silt, warp, skirtland or red soil.

EXPLANATORY NOTE

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

This Order

(1) regula e marketing of ware and stockfeed potatoes ;

(2) prese bes fixed growers' and maximum wholesale and retail prices for ware potatoes from 1st October to 10th December, 1951 ;

(3) restricts the sale of certain long-keeping varieties ; and

(4) regulates the use of potato sacks.

The Ware Potatoes (No. 2) (Amendment) Order, 1951

1951 No. 2169

Made - - - -	*7th December,* 1951
Laid before Parliament	*8th December,* 1951
Coming into Operation	*11th December,* 1951

The Minister of Food, in pursuance of the powers conferred upon him by Regulations 55 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 the Supplies and Services (Defence Purposes) Act, 1951(c) and continued in force by the Supplies and Services (Continuance) Order, 1950(d)), and of all other powers him enabling in that behalf, hereby orders as follows:—

1. This Order may be cited as the Ware Potatoes (No. 2) (Amendment) Order, 1951 ; and shall come into operation on the 11th day of December, 1951.

2. The Ware Potatoes (No. 2) Order, 1951(e) shall be amended as follows :—

(*a*) by deleting from paragraph 2 of Article 10 thereof the words "Northumberland" and ur ham" wherever they appear ;

(*b*) by deleting sub-paragraph (*c*) from paragraph 2 of Article 10 thereof ;

(*c*) by inserting n cle 14 (1) thereof after the word "Wiltshire" the words "(except the Boroughs and Rural District of Salisbury and Wilton)" ; and

(*d*) by substituting for the First Schedule thereto the Schedule to this Order.

G. Lloyd George,
Minister of Food.

Dated the 7th day of December, 1951.

(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.
(c) 14 & 15 Geo. 6. c. 25.
(d) S.I. 1950 (No. 1769) III, p. 51.
(e) S.I. 1951 No. 1724, p. 402 above.