

**2004 No. 369**

**CONSUMER PROTECTION**

**The Price Marking (Food and Drink Services) Order  
(Northern Ireland) 2004**

*Made* - - - - - *27th August 2004*

*Coming into operation* *1st March 2005*

The Department of Enterprise, Trade and Investment(a), in exercise of the powers conferred by section 4 of the Prices Act 1974(b) and now vested in it(c) and of every other power enabling it in that behalf, having consulted(d), in such manner as appeared to it to be appropriate having regard to the subject-matter and urgency of the Order, with such organisations representative of interests substantially affected by the Order as appeared to it, having regard to those matters, to be appropriate, hereby makes the following Order:

**Citation and commencement**

**1.** This Order may be cited as the Price Marking (Food and Drink Services) Order (Northern Ireland) 2004 and shall come into operation on 1st March 2005.

**Interpretation**

**2.—(1)** In this Order –

“eating area” means any part of any premises specifically set aside and equipped for the consumption of food notwithstanding that some other activity may be carried on in the area in question but does not include a supply area;

“food” means food and drink for human consumption but does not include food which is supplied –

- (a) at the express request of a purchaser in a case where the seller has not indicated that food of the same description is or may be for sale by him; or
- (b) at a price agreed in advance pursuant to an order made before an intending purchaser enters the eating area, supply area or take-away area in question to obtain or consume the food;

“premises” includes any vehicle or vessel;

“soft drink” means any non-alcoholic drink of a kind which is served cold;

“supply area” means any part of any premises specifically set aside and equipped for the supply of food to an intending purchaser for consumption on the premises where the food is sold before it is consumed notwithstanding that some other activity may be carried on in the area in question;

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(a) Formerly known as the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Art. 3(5)  
(b) 1974 c. 24; section 4 was amended by the Price Commission Act 1977 (c. 33), section 16(1) to (3)  
(c) By S.I. 1982/846 (N.I. 11), Art. 4  
(d) *See* 1974 c. 24; *see* section 2(6) as applied by section 4(3)

“take-away area” means any part of any premises specifically set aside and equipped for the supply of food prepared or heated at the request of a consumer or supplied as heated meals in each case for consumption off the premises where it is sold notwithstanding in any case that some other activity may be carried on in the area in question; and

“wine” means any drink obtained from the alcoholic fermentation of fresh grapes or the must of fresh grapes other than drink fortified with spirits or flavoured with aromatic extracts.

(2) The Interpretation Act (Northern Ireland) 1954(a) shall apply to this Order as it applies to an Act of the Northern Ireland Assembly.

### **Revocation**

**3.** The Price Marking (Food and Drink on Premises) Order (Northern Ireland) 1979(b) is hereby revoked.

### **Application**

**4.—(1)** This Order applies where a person indicates that food is or may be for sale by him by retail –

(a) for consumption on any premises (other than premises to which paragraph (2) applies); or

(b) in a take-away area.

(2) This Order does not apply to premises on which food is ordinarily supplied –

(a) only to members of a bona fide club or their guests; or

(b) only or mainly to members of a group determined by reference to –

(i) their employment, or the employment of a partner, parent or partner of a parent of theirs, in the service of a particular person or of one of a number of particular persons;

(ii) their membership of, or regular attendance at, an educational establishment; or

(c) only to persons for whom sleeping accommodation on those premises is provided.

### **Obligations to indicate prices for food and other charges**

**5.—(1)** A person who indicates that food is or may be for sale by him shall, subject to the other provisions of this Order, give an indication of –

(a) the price for the sale of that food (except where it is sold by reference to quantity or weight);

(b) where the food is sold by reference to quantity or weight, the price for the sale of each quantity or weight;

(c) any charge which is payable in addition to the price of any food (expressed either as an amount or as a percentage of the price); and

(d) any minimum price or charge which is payable in respect of any food sold or service provided relating to the supply of food.

(2) Where a food is sold in more than one quantity or weight, it is sufficient compliance with paragraph (1)(b) to give a single indication of price in relation to a single quantity or weight where the price applied to different quantities or weights is proportionate to the price so indicated.

(3) Where foods of different descriptions are or may be for sale together (other than foods supplied as a fixed price meal) and the total price for the foods is the sum of the prices of the individual foods, only an indication of the price of the individual foods is required.

(4) An indication of the price of food or of a charge payable in addition to the price of any food which is subject to value added tax shall be inclusive of the tax.

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(a) 1954 c. 33 (N.I.)

(b) S.R. 1979 No. 427

## General obligations

6.—(1) On any premises indications of the price of food are required to be given in accordance with the table set out below:

<i>Descriptions of food which are or may be for sale</i>	<i>Indications of price required</i>
If thirty descriptions of food (other than wine) or fewer are available	For all such descriptions
If more than thirty descriptions of food (other than wine) are available	For at least thirty such descriptions which must, if soft drinks are or may be for sale, include five soft drinks or the actual number if less than five
More than thirty descriptions of food (other than wine) divided in any way into categories	For a minimum of thirty which must include five per category or the actual number in a category if less than five. If soft drinks are or may be for sale indications must be given for five or the actual number if less than five
Wine for consumption with other foods in an eating or supply area	For five or the actual number if less than five
Foods of different descriptions for sale together as a fixed price meal	For each fixed price meal. The preceding requirements in this table shall not apply to the foods contained in the meal unless they are or may be available separately

## Food ceasing to be available

7.—(1) Where an indication is given that food of a particular description is or may be for sale generally (as opposed to only in an indicated period of a day) an indication of the price of that food shall be withdrawn as soon as is reasonably practicable if the food ceases to be available.

(2) Where an indication is given that food of a particular description is or may be for sale only in an indicated period of a day an indication of the price of that food shall be withdrawn before the next such period if the food ceases to be available.

## Manner of indication of prices and charges

8.—(1) An indication of price shall be unambiguous, easily identifiable and clearly legible by an intending purchaser and shall comply with such of the following provisions of this Article as may be applicable.

(2) In the case of an eating area, the indication shall be given at or near the entrance to the eating area so that an intending purchaser can see it before entering that area or, in the case of an eating area in a railway carriage where an intending purchaser requests the supply of food at the place at which it is to be consumed, at that place.

(3) In the case of a supply area, the indication shall be given at the place where an intending purchaser chooses the food and, if that indication cannot be seen by an intending purchaser before entering the supply area, a further indication shall be given at or near the entrance to the supply area.

(4) In the case of a take-away area the indication shall be given at the place where an intending purchaser chooses the food.

(5) Any additional charge or minimum charge payable shall be indicated at least as prominently as the price of any food to which it relates.

- (6) Subject to paragraph (7), an indication of price or charge shall be in sterling.
- (7) If a person indicates his willingness to accept foreign currency in payment for the sale of food, he shall, in addition to the price indication in sterling –
- (a) either –
    - (i) give the indication of the price of that food in the foreign currency in question together with any commission to be charged; or
    - (ii) clearly identify the conversion rate on the basis of which the foreign currency price will be calculated together with any commission to be charged; and
  - (b) indicate that such price or conversion rate does not apply to transactions via a payment card to be applied to accounts denominated in currencies other than sterling, the conversion rate for which will be that applied by the relevant payment scheme which processes the transaction.

**Savings for other statutory provisions**

9. Nothing in Article 8 shall have effect to require anything to be done if the doing of it would be a contravention by any person of Regulations made under, or having effect as if made under, Articles 67 and 84 of the Planning (Northern Ireland) Order 1991(a).

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 27th August 2004.

(L.S.)

*Michael Bohill*

A senior officer of the Department of Enterprise, Trade and Investment

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(a) S.I. 1991/1220 (N.I. 11); the relevant amending Regulation is S.R. 1992 No. 448 as amended by S.R. 1998 No. 147

## EXPLANATORY NOTE

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

This Order requires prices of food and drink to be indicated at premises where food and drink is offered for consumption on the premises. The Order also requires prices to be indicated at premises where take-away food is sold. Article 4 defines the premises to which the Order applies with exceptions for certain premises such as members' clubs and staff canteens. Article 5 contains detailed provisions as to the prices and charges that must be indicated with Article 6 specifying how many prices must be indicated. Article 8 provides for the manner in which prices and charges must be indicated.

Any person who contravenes this Order shall be guilty of an offence and shall be liable, on conviction on indictment, to a fine or, on summary conviction, to a fine not exceeding the prescribed sum (currently £5,000).





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