

STATUTORY INSTRUMENTS

1973 No. 664

COUNTER-INFLATION

**The Counter-Inflation (Notification of
Increases in Prices and Charges) Order 1973**

<i>Made</i>	1st April 1973
<i>Laid before Parliament</i>	2nd April 1973
<i>Coming into Operation</i>	2nd April 1973

The Secretary of State, in exercise of powers conferred on him by sections 5 and 15 of and paragraphs 1(1) and (2), 2(4) and 3 of Schedule 2 to and paragraphs 1(1), (2) and (4) and 2(2) of Schedule 3 to the Counter-Inflation Act 1973 (a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Counter-Inflation (Notification of Increases in Prices and Charges) Order 1973 and shall come into operation on 2nd April 1973.

(2) In this Order—

“the Act” means the Counter-Inflation Act 1973;

“base period” has the meaning assigned to it by article 2(5);

“the code” means the code for the time being contained in an order under section 2 of the Act;

“the Commission” means the Price Commission established by section 1(1) of the Act;

“manufacturer” means a person who carries on in the course of business activities falling within Orders II, III (other than the quick freezing of meat, poultry or fish, the curing of bacon or ham and the preparation of oven ready poultry), IV to XIX, XXI and XXII of the Standard Industrial Classification;

“provider of services” means a person who carries on in the course of business activities falling within minimum list headings 864 and 865 of Order XXIV or within Order XXVI of the Standard Industrial Classification;

“sales” means sales ascertained under article 2; and

“the Standard Industrial Classification” means the edition thereof published in 1968 by Her Majesty’s Stationery Office as amended by Amendment List No. 1 published by Her Majesty’s Stationery Office in 1970.

(3) References to approval by the Commission of the implementation of an increased price or charge are references to approval under the provisions of this Order and references to a consent by the Commission or by the Minister are references to consents under paragraph 5 or paragraph 6 of Schedule 2 to the Act, as the case may be.

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

Application of Order

2.—(1) This article shall have effect for the purpose of determining whether any provision of this Order applies to a person by reason of sales exceeding a certain amount.

(2) Subject to paragraph (4) of this article, there shall be taken into account in determining sales, in relation to goods, the total amount (excluding excise duties) of prices charged for their sale or appropriated in the course of business in the base period and, in relation to services, the total amount of charges made in the base period for their performance, there being left out of account in either case trade discounts, rebates and other allowances.

(3) There shall be left out of account—

- (a) any price or charge to which, by virtue of paragraph 1 of Schedule 2, this Order does not apply and, in the case of transport, charges for carriage between terminals of which one or both are outside the United Kingdom and charges for carriage between points in the United Kingdom where the tariff applicable to those charges is one for the whole of the first mentioned carriage; and in this paragraph “United Kingdom” includes the Isle of Man and the Channel Islands;
- (b) in the case of a person who is a manufacturer, the price for the sale of goods manufactured by another person and the price for the sale of goods or the charge for the performance of services in the course of any activity not mentioned in the definition of “manufacturer” in article 1(2);
- (c) in the case of a provider of services, the price for the sale of goods or the charge for the performance of services in the course of any activity not mentioned in the definition of “provider of services” in article 1(2);
- (d) in the case of a person who has ceased to carry on an activity in the course of business since the beginning of the base period, any price or charge in respect of that activity.

(4) Where a person has not carried on any activity in the course of business throughout the whole of the base period—

- (a) in the case of a person who commenced to carry on that activity in the course of business (not being an activity to which sub-paragraph (b) of this paragraph applies) or who ceased to carry on that activity during the base period, the amounts determined under this article apart from this paragraph shall be increased by the proportion which 12 months bears to the period falling within the base period during which the person carried on that activity;
- (b) in the case of a person who commenced to carry on that activity in the base period in succession to another person (whether upon purchase, amalgamation or reconstruction, or otherwise) the amounts determined under this article apart from this paragraph both in respect of the person and of that other person shall be aggregated and—
 - (i) if the aggregate of the periods during which the person and that other person carried on that activity during the base period exceeds 12 months, the aggregated amounts shall be reduced; or

(ii) if the aggregate of those periods is less than 12 months, the aggregated amounts shall be increased;

by the proportion which 12 months bears to the aggregate of those periods;

(c) in the case of a person who commenced to carry on an activity after the end of the base period in succession to another person (whether upon purchase, amalgamation or reconstruction, or otherwise) this article shall apply to the person as it would have applied to that other person had he carried on no other activity in the course of business in the base period.

(5) In this Order, "base period" in relation to any person means his latest completed year of account; and the amounts referred to in paragraph (2) above shall, where the accounting period is longer than 12 months, be reduced or, where the accounting period is shorter than 12 months, be increased by the proportion which 12 months bears to the length of the accounting period.

(6) Nothing in this article shall be taken to exclude any provisions of paragraph 2 (1) of Schedule 3 to the Act (which relates to the identification of two or more different persons).

Meaning of increase

3.—(1) In ascertaining for the purposes of this Order whether a price or charge represents an increase, the following provisions of this article shall have effect.

(2) The price or charge shall be compared with those charged or made by a person in the course of business for comparable transactions as regards goods or services of the same description, and as between earlier and later transactions, account shall only be taken of the latest.

(3) If there are no prices or charges which can be taken for comparison under paragraph (2) above, the comparison may be with prices or charges charged or made by that person in the course of business for transactions which are not in all respects comparable and, as regards goods or services which are not of precisely the same description, with a fair adjustment to take account of the differences; and as between different transactions or different descriptions of goods or services, those taken for comparison under this paragraph shall be those which are most closely comparable.

(4) Where a person charges or makes different prices or charges for the same goods or services in relation to different persons or to persons of different descriptions or to the same persons or descriptions of persons in different circumstances, a price or charge shall be treated as an increased price or charge in relation to any person only if it exceeds the price or charge charged or made in relation to the same person, persons of the same description or persons of the same description in the same circumstances, as the case may be.

(5) A price or charge shall not be treated for the purposes of this Order as an increased price or charge only because it exceeds an earlier price or charge charged or made by a person under a contract, if the increased price or charge is made in accordance with any formula, specified in the same contract, which provides for the price or charge to be varied because of changes in costs.

Obligation to notify increased prices and charges

4.—(1) Subject to the provisions of this article and of articles 5 to 7, before a person specified in paragraph (2) of this article in the course of any business carried on by him in the United Kingdom implements after 28th April 1973—

- (a) an increased price for the sale of goods or an increased charge for the performance of services previously sold or provided; or
- (b) in respect of goods or services which are not identical with goods or services previously sold or performed, a price or charge in excess of that in respect of goods or services of substantially the same description as the goods or services in respect of which the price or charge is proposed to be implemented;

(not being, in either case, goods or services of a kind referred to in Schedule 2), he shall give notice of the proposed price or charge, as the case may be, to the Commission in accordance with article 8.

(2) The persons referred to in paragraph (1) above are—

- (a) any person who is a manufacturer and has sales exceeding £50,000,000;
- (b) any person who is a provider of services and has sales exceeding £20,000,000;
- (c) any person specified in column 1 in Part I of Schedule 1 to this Order, but in relation to any such person only in respect of the price or charge for the goods or services specified in column 2 opposite his name;
- (d) the persons specified in Part II of Schedule 1.

(3) This Order does not apply to the prices and charges specified in Schedule 2.

(4) Paragraph 2(1)(b) of Schedule 3 to the Act shall apply in relation to this article only so as to require a person to notify an increased price or charge which he himself intends to implement; but any one of several persons who are required by that paragraph to be treated as one may serve a notification under this paragraph on behalf of himself and of any other such persons.

(5) Subject to the provisions of article 9 relating to approval of increases, any price or charge in respect of which any increase is required to be notified to the Commission shall, until the end of the period of 8 weeks beginning with the date of service of the notification on the Commission, be restricted by exclusion of the increase; and a person shall contravene this Order if he implements the increase within that period.

Provisions supplemental to article 4

5.—(1) Article 4 shall not apply, in relation to any person referred to in paragraph 2 (a) or (b) of that article, to the price or charge for any goods or services—

- (a) manufactured or performed in the course of any activity falling within any of the minimum list headings of the Standard Industrial Classification; or
- (b) manufactured or performed in the course of any one or more activities falling within one minimum list heading of the Standard Industrial Classification, which the Commission certify, having regard to the person's established practice of determining prices or charges, may be treated as an activity or activities separate from other activities falling within the minimum list heading;

provided that the sales of the person in question in respect of all his activities within the minimum list heading in question or, in the case of (b) above, in respect of his activities treated as separate activities, do not exceed £5,000,000 as a manufacturer or £2,000,000 as a provider of services.

(2) In ascertaining whether sales exceed the amounts referred to in paragraph (1) above the provisions of article 2 shall apply, but no account shall be taken of any goods or services referred to in Schedule 2.

6. Where—

- (a) in a notification of an intended increase in the price of any goods a person states that goods of that description may or will be comprised (with or without change) in other goods specified in the notification; and
- (b) the Commission approve, or are deemed to approve, or consent to or the Minister consents to the implementation of an increased price for the sale of the former goods; and
- (c) the former goods are comprised (with or without change) in any other goods so specified and manufactured by that person;

article 4 shall not apply to the implementation of an increase in the price for the sale of those other goods if that increase is no greater than is required to take account solely of the increase in price of the former goods in accordance with the approval or consent.

7. Where—

- (a) the Commission have approved or consented to or the Minister has consented to the implementation by a person of an increased price; and
- (b) that person or another company controlled by the same person sells those goods to another company controlled by that person, or a company controlled by a person sells those goods to him, in either case at a price not exceeding the increased price referred to in paragraph (a) above;

notwithstanding the provisions of paragraph (4) of article 4 that article shall not have effect in relation to a price referred to in sub-paragraph (b) above.

Method of notification

8.—(1) A notification required to be made under article 4—

- (a) shall be in writing signed by the person required to make the notification or his authorised agent or, in the case of a company, signed by an officer of the company serving the notification, and shall be dated;
- (b) shall contain particulars of the matters specified in Schedule 3 to this Order; and
- (c) shall be accompanied by true copies—
 - (i) of all appropriate accounts containing particulars of sales ascertained under article 3 unless these have already been furnished; and
 - (ii) of such other documents (other than published documents generally available) which the person required to make the notification wishes to be taken into account by the Commission when considering whether the increase conforms with the relevant provisions of the code.

(2) The Commission may, at any time before they have given or are deemed to have given their approval to an increase, require the person required to give

notification of the increase to furnish to them any further particulars or documents (being particulars of a description required by paragraph (1)(b) above to be contained in the notification, or documents of a description required or authorised by paragraph (1)(c) above to be furnished) which appear to them to be necessary to enable them to consider whether the increase conforms with the relevant provisions of the code; and, in calculating either the period of 42 days or the period of 28 days referred to in article 9, there shall be disregarded the period beginning on the date of service of the notice requiring those particulars or documents and ending on the date of receipt by the Commission of those particulars or documents.

Application for approval of increase in price or charge

9.—(1) Where a notification of a proposed increased price or charge served on the Commission under article 8 of this Order contains a request that it shall be treated as an application for approval thereof, the notification shall be treated as an application for approval of the increase; and the Commission shall, subject to paragraph (2) of that article, within the period of 42 days beginning on the date when the notification is served on them, give notice to the applicant either—

- (a) that they approve the proposed increase; or
- (b) that they approve the proposed increase subject to the conditions, limitations or qualifications (if any) specified in the notice; or
- (c) that they do not approve the proposed increase;

provided, that where the Commission have, pursuant to article 8(2), required the applicant to furnish to them any particulars or documents, no notice shall be given under this paragraph after the end of the period of 8 weeks beginning on the date when the notification is served on them and accordingly the application shall not be treated as approved by the Commission.

(2) Where they have not within the period of 28 days beginning on the date when the notification is served on them served on the applicant either—

- (a) a notice under paragraph (1) of this article; or
- (b) a notice that they are still considering the proposed increase;

the Commission shall be deemed for the purpose of any provision of Schedule 2 to the Act to have given their approval to the proposed increase.

(3) Any price or charge which is proposed to be increased shall, until the Commission have given or are deemed to have given their approval, be restricted by exclusion of the proposed increase; and an applicant shall contravene this Order if he implements the increase before such approval is, or is deemed to be, given.

Provisions relating to deemed approvals of increased prices or charges

10.—(1) Any approval which is deemed to have been given by virtue of article 9(2) shall be subject to the conditions that—

- (a) if it appears to the Commission that the net profit margin relating to the price or charge to which the approval relates exceeds the reference level ascertained in accordance with the provisions of the code; or

- (b) if it appears to the Commission that the costs specified in the notification as costs which should be treated as allowable cost increases are reduced or are not incurred;
- the Commission may at any time exercise their powers under Part II of the Act.
- (2) In this article, “net profit margin” and “allowable cost increase” have the same meanings as they have in and for the purposes of the code.

Geoffrey Howe,

1st April 1973.

Minister for Trade and Consumer Affairs,
Department of Trade and Industry.

Schedule 1**(Article 4(2)(c))****Part I**

Persons required to notify increases in the price for the sale of certain goods or in the charge for certain services only.

Name of Person	Goods or services
The Ever Ready Company (Great Britain) Ltd.	Dry (primary) Batteries
Calor Gas Ltd.	Bottled Gas
C. J. Motorized Limited	Caravans
Bluebird Caravans Ltd.	Caravans
C. J. Touring Caravans Ltd.	Caravans
Nairn Floors Ltd.	Linoleum
The Singer Company (U.K.) Ltd.	Sewing Machines (domestic and industrial)
The Prestige Group Ltd.	Non-electric Carpet Sweepers
The Zenith Carburettor Company Ltd.	Carburettors
Black & Decker Ltd.	Portable Power Tools
The Associated Biscuit Manufacturers, Ltd.	Biscuits
A.B.M. (Malting) Ltd.	Malt.
H. P. Bulmer Limited	Cider
Campbell's Soups Ltd.	Soups
Carnation Foods Company Limited	Condensed Milk
CPC (United Kingdom) Limited	Maize Starch, Glucose, Cornflour Products, Infant foods
Findus Limited	Frozen Food Products
Fitch Lovell Ltd.	Meat Products
General Foods Limited	Coffee
Harp Lager Limited	Lager
C. & T. Harris (Calne) Ltd.	Meat Products
Kellogg Company of Great Britain, Ltd.	Breakfast Cereals
Kraft Foods Ltd.	Margarine and Cooking Fats
Lockwoods Foods Ltd.	Canned Fruit and Vegetables
Manbré & Garton, Ltd.	Refined Sugar
Nabisco Limited	Breakfast Cereals
Quaker Oats Ltd.	Breakfast Cereals, Pet Foods
Robertson Foods Limited	Preserves
The Smiths Food Group Limited	Potato Crisps
Teacher (Distillers) Ltd.	Spirits
Weetabix Ltd.	Breakfast Cereals
McVitie and Cadbury Cakes Limited	Cakes
London Brick Company Ltd.	Bricks
The Associated Portland Cement Manufacturers Ltd.	Cement
Aberthaw and Bristol Channel Portland Cement Company Ltd.	Cement
The Ketton Portland Cement Company Ltd.	Cement
Ribblesdale Cement Ltd.	Cement
The Rugby Portland Cement Company Ltd.	Cement
Tunnel Cement Ltd.	Cement

(Article 4(2)(d))**Part II**

Other persons required to notify increases in the price for the sale of goods or the charge for the performance of services.

Barclays Bank Limited
 Lloyds Bank Limited
 Midland Bank Limited
 National Westminster Bank Limited
 North of Scotland Hydro-Electric Board
 Northern Ireland Electricity Service

Schedule 2

(Article 4(3))

Prices and charges in respect of which no notice of an intended increase is required to be made to the Price Commission.

1. The price for the sale of goods or the charge for the performance of services which are supplied, whether by the person selling or performing them or another, outside the United Kingdom or to persons or in relation to property outside the United Kingdom.

2. The price for the sale of any goods—

(a) which have been produced or manufactured outside the United Kingdom; and

(b) which have not been subjected to any process in the United Kingdom other than packing or repacking, cleaning and sterilizing; and

(c) which have not been sold to any person in the United Kingdom;

and the charge for the performance of any services in the United Kingdom or in relation to any property in the United Kingdom which are performed for any person outside the United Kingdom.

3. The price for the sale, whether alive or dead, of any goods produced in the course of agriculture, horticulture or fishing (other than liquid milk not referred to in Paragraph 4 below) to which no process has been applied (except only cleaning, sterilizing, breaking down of bulk supplies, packaging or, in the case of carcasses or parts of carcasses of livestock or poultry or of any product of fishing, chilling, freezing, curing (and, in the case only of bacon and ham, cooking), cutting up or boning) and which has not been incorporated in any processed product.

4. The price for the sale of liquid milk of which the maximum price is for the time being controlled by an order (a) under section 60 of the Emergency Laws (Re-enactments and Repeal) Act 1964 (b).

5. The price for the sale of—

(a) unseasoned timber in logs;

(b) raw wool which has not undergone any process of combing, spinning or felting;

(c) untanned hides.

6. The price for the sale of coal and steel (as defined in Annex I to the Treaty establishing the European Coal and Steel Community, signed at Paris on 18th April 1951, together with any additions to the lists in that Annex made by the Special Council of Ministers under article 81 of that Treaty) charged by an undertaking as defined in article 80 of that Treaty (otherwise than for the special purposes therein mentioned) except for sales to domestic consumers.

7. The charge for carriage by sea transport between terminals of which one or both are outside the United Kingdom, the Isle of Man or the Channel Islands including charges for carriage between points in the United Kingdom, the Isle of Man or the Channel Islands, where the tariff applicable to those charges is one for the whole of the first mentioned carriage.

(a) See S.I. 1971/1037, 1038 (1971 II, pp. 3105, 3108). (b) 1964 c. 60.

8. The charge for carriage by air transport for which an air transport licence granted by the Civil Aviation Authority is by section 21 of the Civil Aviation Act 1971 (a) required to be held by the operator.

9.—(a) Bus fares which are fixed by conditions attached to a road service licence granted under section 135 of the Road Traffic Act 1960 (b) or a permit granted under section 30 of the Transport Act 1968 (c);

(b) bus fares which are charged in pursuance of an agreement with the London Transport Executive under section 23 of the Transport (London) Act 1969 (d) or a consent continued in force or granted under Schedule 4 to that Act.

10.—(a) Charges or dues for the provision of aids for air navigation or for the provision of landing and related facilities for aircraft where that provision is made principally in connection with transport between terminals of which one or both are outside the United Kingdom (including the Isle of Man and the Channel Islands);

(b) pilotage dues within the meaning of the Pilotage Act 1913 (e);

(c) ship, passenger and goods dues within the meaning of the Harbours Act 1964 (f), charges exigible by virtue of section 29 of that Act (local light dues) and charges of harbour authorities which are liable to a direction given by the Ministry of Commerce under the Harbours Authorities Act (Northern Ireland) 1970 (g).

11. Charges made by the Post Office in accordance with any international agreement in respect of the carriage of postal packets or the provision of telecommunications services to or from any place in the United Kingdom (including the Isle of Man and the Channel Islands) to or from any other place.

12.—(a) The price of any goods on any sale by auction;

(b) the price of any goods determined on a terminal market or a commodity market (including any price to the extent to which it is determined by reference to a price determined on any such market);

(c) the price for the sale of any goods or the charge for the performance of any services under any contract formed by acceptance of a competitive tender.

13. The price for the sale of warlike goods to or the charge for the performance of warlike services for a government department which is in accordance with the profit formula for non-competitive contracts as recorded in the Interim Report by the Review Board for Government Contracts published by Her Majesty's Stationery Office in 1972.

14. The price for the sale of manufactured goods (other than the price for the sale of motor vehicles by a person who ordinarily sells motor vehicles in the course of business)—

(a) 1971 c. 75. (b) 1960 c. 16. (c) 1968 c. 73. (d) 1969 c.35. (e) 1913 c. 31 (2 & 3 Geo. 5). (f) 1964 c.40. (g) 1970 c. 1 (N. I).

- (a) which have been used to a material extent otherwise than solely for the purpose of testing, examination or adjustment and, in the case of a ship, aircraft or hovercraft, in the course of its delivery to a person who ordinarily sells ships, aircraft or hovercraft in the course of business; and
- (b) which have not been substantially changed after completion of their manufacture.

15. Insurance premiums.

16. Charges by way of interest (other than any sum payable under a hire purchase or conditional sale agreement).

17. The price for the sale of any human pharmaceutical manufactured for supply under the National Health Service only by or on prescription by a registered medical or dental practitioner.

18. The price for the sale of goods or the charge for the performance of services to the extent that any increase made therein is required for the purpose of implementing, and only to the extent required for that purpose, any obligation created or arising by or under any international agreement or arrangement (being an agreement or arrangement between states or organisation of states and not any other) or is made as a direct consequence of any such increase already made.

Schedule 3**(Article 8(1)(b))¹**

Matters relating to an increase in the price of goods or the charge for the performance of a service of which particulars are required to be notified to the Price Commission.

1.—(1) The name of the person required to make the notification, his address or, in the case of a company, the address of its registered office and the address for service of notices by the Commission, if different.

(2) Unless already notified to the Commission, the sales of the person required to make the notification as ascertained under article 2 and particulars of the manner in which they are calculated.

2.—(1) The activity in the course of which an increased price or charge is intended to be made.

(2) The goods or services to which the notification relates.

3. The price or charge for the sale of the goods or the performance of the services to which the notification relates, ascertained in accordance with article 3 and particulars of the manner in which that price or charge is calculated or made up including appropriate particulars.

4. The increase in the price or charge specified pursuant to paragraph 3 above, ascertained in accordance with article 3 and, having regard to the provisions of the code, particulars of the manner in which the increased price or charge is calculated or made up.

5. (1) The reference level of the net profit margin of the person required to make the notification in relation to the price or charge specified pursuant to paragraph 3, ascertained in accordance with the code and, unless already notified to the Commission, particulars of the manner in which it is calculated;

(2) the net profit margin of the person required to make the notification, in relation to the price or charge specified pursuant to paragraph 3, calculated in accordance with the code—

(a) on the assumption that only the increase to which the notification relates is made; and

(b) on the assumption that that increase and other specified increases in prices and charges are made;

provided that the particulars referred to in this paragraph may, where the Commission so inform the person in question, be furnished in the form of an estimate.

6. In a case where article 9 applies, the grounds upon which the person required to make the notification proposes that the increase specified pursuant to paragraph 4 above should be approved, specifying the provisions of the code on which he relies.

7. Where the goods to which the notification relates may or will be comprised (with or without change) in other goods manufactured by the person making the notification, particulars of those other goods.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for notification to the Price Commission of increases in prices and charges for the sale of goods and the performance of services to enable the Commission to consider whether the increase conforms with the relevant provisions of the Price and Pay Code for the time being contained in an Order under section 2 of the Counter-Inflation Act 1973.

Subject to specified exemptions, all manufacturing enterprises and all service enterprises having sales in the United Kingdom market exceeding respectively £50 million and £20 million together with the four largest banks are required to notify all such increases. In determining whether the Order applies to a company which is a member of a group, the sales of all members of the group are to be aggregated under the provisions of paragraph 2 of Schedule 3 to the Counter-Inflation Act 1973. Also, other named companies having a significant share of the market in specified goods are required to notify increases in the price of those goods.

The Order further provides for a notification of an increased price or charge to be treated as an application for approval of it and prescribes the manner in which approvals are to be given or deemed to be given by the Price Commission.

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