

EXPLANATORY MEMORANDUM TO
The Weights and Measures (Specified Quantities) (Pre-packed Products)
Regulations (Northern Ireland) 2010

SR No. 203

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure in the Assembly.
- 1.3. The Rule is due to come into operation on 19 July 2010.

2. Purpose

- 2.1. To implement for Northern Ireland Directive 2007/45/EC (“the Directive”) laying down rules on nominal quantities for pre-packed products. The Directive removes restrictions on the placing on the market of pre-packaged products made up otherwise than in “nominal quantities” (“specified quantities” in the UK), subject to the retention of nominal quantities applicable to certain pre-packed wines and spirits. It also requires that aerosol containers be marked with an indication of the total capacity of the container, in such a way as to avoid confusion with the volume of its contents. *Products that are not pre-packed are outside the scope of the Directive.*

3. Background

- 3.1. Under existing legislation the UK has in place restrictions on the use of pack size for approximately 30 categories of goods, mainly foods, although some prepackaged solid fuel, ballast, and ready mixed cement mortar and ready mixed concrete are also regulated. The original purpose behind these restrictions was to ensure that consumers could be certain that a range of packaged products, reflecting the staples of the time, would be sold in standard quantities. This enabled consumers to make cost and value comparisons between different sizes and brands more easily and protected them from marginal reductions in pack size. However, it also restricted the choice available to consumers and limited the freedom that producers had in responding to demand, restricting innovation in packaging and product development.
- 3.2. Since the introduction of specified quantities in the UK in the 1960s, advances in consumer protection have been made which ensure that almost all pre-packaged foods made up in a constant nominal weight or volume are required to be labelled with their quantity. In addition, unit price information (e.g. price per kilo or per litre) must be displayed in all large retail stores, making it easier for consumers to make comparisons between a much wider range of pack sizes and products. These newer methods of

consumer protection provide consumers with the information they need without restricting their choice of pack size and apply to many more products than the limited range covered by specified quantities.

- 3.3. The deregulation of specified quantities will give greater freedom to packers and retailers to make up and sell their products in any size to meet demand and will also give greater choice to consumers. In addition, the removal of specified quantities in other Member States will ensure that UK exports will no longer be subject to any restrictions on pack size across the European Union, except for wines and spirits. It will also remove an anomaly whereby, following a European Court of Justice Case (ref C-3/99 *Cidrerie Ruwet* 2000 ECR I-8749), national rules on specified quantities could not be applied to imports legally manufactured or marketed in another Member State. This created a market where domestic goods were subject to more restrictive rules than imports.
- 3.4. For wines and spirits mandatory restrictions will remain across all Member States, recognising the unique properties of alcohol.
- 3.5. The main changes implemented by the Regulations are:
 - Deregulation of specified quantities for over 30 categories of pre-packaged goods.
 - A reduction in the range of sizes of pre-packaged spirits subject to specified quantities so that those outside the range 100 ml to 2000 ml will no longer be regulated.
 - The addition of the 1750 ml size for pre-packaged spirits.
 - A reduction in the range of sizes of pre-packaged still wines subject to specified quantities so that those outside the range 100 ml to 1500 ml will no longer be regulated.
 - The removal of the restriction on the use of the 187 ml size for pre-packaged still wines, which limited its use to duty free sales.
 - Derogation from Directive 75/324/EEC, with the result that aerosols are now only required to be marked by volume rather than weight and volume.

4. Consultation

- 4.1. The Department considers it was not necessary to consult in Northern Ireland as a full consultation exercise was carried out for the corresponding GB regulations.

5. Equality Impact

- 5.1. The provisions of the Regulations have been considered by the Department against the criteria set out in the Department's Equality Scheme and do not have any adverse implications for Section 75 groups. An Equality Impact Assessment for the Regulations is not therefore required.

6. Regulatory Impact

- 6.1. An Impact Assessment to accompany the Regulations has not been prepared as there are no new burdens being imposed on the private or voluntary sector.

7. Financial Implications

- 7.1. Minimal. Manufacturers are at liberty to continue packing their goods in existing pack sizes if they wish to do so. As such, there is no requirement for business to adopt any new size or incur any additional costs unless they determine that it is in their commercial interests to do so.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. There are no human rights issues contained in the Statutory Rule. The Department has confirmed with the Departmental Solicitor's Office that the Regulations are fully compliant with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. The Regulations implement Directive 2007/45/EC for Northern Ireland. See Transposition Note at the end of this Memorandum. The Regulations do not exceed the minimum necessary to comply with the Directive.

10. Parity or Replicatory Measure

- 10.1. In GB, the then Department for Innovation, Universities and Skills (DIUS) (through its Executive Agency the National Measurement Office) implemented the Directive with the making of the Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009 which came into force on 11 April 2009. Northern Ireland now needs to introduce similar parity legislation to be compliant with the Directive. The Regulations will ensure that the Directive is implemented across the whole of the UK.

11. Additional Information

- 11.1. Not applicable.

Transposition Note

The Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations (Northern Ireland) 2010 (“the Regulations”) implement for Northern Ireland Directive 2007/ 45/ EC of the European Parliament and the Council laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/ EEC and amending Council Directive 76/211/EEC (“the Directive”).

The Regulations do what is necessary to implement the Directive in Northern Ireland, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	Objective	Implementation	Responsibility
1.2	Wines and spirits sold in duty-free shops for consumption outside the European Union to be exempt from restrictions on the placing on the market of prepacked wines and spirits made up otherwise than in nominal quantities.	Regulation 5(3) amends the Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989 by inserting an appropriate exemption.	Department of Enterprise, Trade and Investment
2.1	Removal of restrictions on the placing on the market of prepacked products (other than wines and spirits) made up otherwise than in nominal quantities.	Regulation 3 amends Schedules 4, 5 and 6 to the Weights and Measures (Northern Ireland) Order 1981 (which make provision for nominal quantities) so as to limit their application to products which are not prepacked. Regulations 4 and 6 exempt pre-packed	Department of Enterprise, Trade and Investment

		products (other than wines and spirits) from provision for nominal quantities in orders made under Article 19 of the Weights and Measures (Northern Ireland) Order 1981.	
3 and Schedule	Pre-packed wines and spirits to be placed on the market only in nominal quantities.	Regulation 5 makes appropriate provision for nominal quantities for prepacked wines and spirits by partially revoking the Schedule to the Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989 and inserting into that Order a new Schedule A1 applicable to those products.	Department of Enterprise, Trade and Investment
4.1	Nominal total capacity of aerosol dispensers to be indicated.	Regulation 3 amends Schedule 7 to the Weights and Measures (Northern Ireland) Order 1981 so as to require that aerosol dispensers be marked with an indication of total capacity.	Department of Enterprise, Trade and Investment
4.2	Indication of the nominal weight of aerosol dispensers no	Regulation 3 confines quantity indication requirements to	Department of Enterprise, Trade and Investment

	longer to be obligatory.	the indication of the net volume of the container.	
5	Nominal quantities for prepacked wines and spirits to apply to each prepackage contained in a multipack.	Regulation 5(3) amends the Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989 by inserting provision in relation to multipacks	Department of Enterprise, Trade and Investment