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STATUTORY INSTRUMENTS

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**1981 No. 231 (N.I. 10)**

**Weights and Measures (Northern Ireland) Order 1981**

- - - - - 18th February 1981

**PART I** **N.I.**  
**INTRODUCTORY**

**Title and commencement** **N.I.**

- 1.—(1) This Order may be cited as the Weights and Measures (Northern Ireland) Order 1981.
- (2) Subject to paragraph (3), this Order shall come into operation on the expiration of one month from the day on which it is made.
- (3) <sup>F1</sup> . . . <sup>F2</sup> . . . ,<sup>F3</sup> shall come into operation on such date or dates as may be appointed by the Secretary of State under subsection (2) of section 43 of the Act of 1985 for the coming into force of that section.]

<b>F1</b>	1996 NI 11
<b>F2</b>	SR 1986/226
<b>F3</b>	1985 c. 72

**Interpretation** **N.I.**

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.
- (2) In this Order—
- [<sup>F4</sup>“the Act of 1985” means the Weights and Measures Act 1985;]
  - [<sup>F5</sup>“approved verifier” has the meaning given by Article 9(3B);]
  - “beer” has the same meaning as in the Alcoholic Liquor Duties Act 1979 ;
  - “capacity measurement” means measurement in terms of a unit of measurement included in Part IV of Schedule 1 to the<sup>F4</sup> Act of 1985];
  - “check-weighed”, in relation to any vehicle, means weighed with its load by means of the nearest suitable and available weighing equipment, and weighed again after it has been unloaded by means of the same or other suitable weighing equipment;
  - “cider” has the same meaning as in the Alcoholic Liquor Duties Act 1979;

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

“container” includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band;

“credentials”, in relation to an inspector, means some duly authenticated document showing that he is authorised to act as an inspector;

“the Department” means the Department of Commerce;

“designated country” in any provision of this Order means such, if any, of the following countries, that is to say, Great Britain, any of the Channel Islands and the Isle of Man, as the Department, having regard to the law for the time being in force in that country, designates for the purposes of that provision by order;

“drugs” and “food” have the same meanings respectively as for the purposes of the<sup>F6</sup> Food Safety (Northern Ireland) Order 1991];

“gross weight”, in relation to any goods, means the aggregate weight of the goods and any container in or on which they are made up;

“indication of quantity”, in relation to any container in or on which goods are made up, means a statement in writing to the effect that those goods are of, or of not less than, a specified quantity by net weight, gross weight or other measurement or by number, as the case may require;

“inspector” means a chief or other inspector of weights and measures within the meaning of Article 40; and “chief inspector” means such a chief inspector of weights and measures;

“instrument” has the same meaning as in section 1( c) of the Interpretation Act (Northern Ireland) 1954 ;

“intoxicating liquor” means spirits, beer, wine, made-wine or cider as defined in section 1 of the Alcoholic Liquor Duties Act 1979;

“mark” includes a label;

“Northern Ireland local standard” means a standard maintained under Article 3;

“Northern Ireland working standard” means a standard maintained under Article 4;

“occupier”, in relation to any stall, vehicle, ship or aircraft or in relation to the use of any place for any purpose, means the person for the time being in charge of the stall, vehicle, ship or aircraft or, as the case may be, the person for the time being using that place for that purpose;

“premises”, except in Article 29(3), includes any place and any stall, vehicle, ship or aircraft;

“pre-packed” means made up in advance ready for retail sale in or on a container; and on any premises where articles of any description are so made up, or are kept or stored for sale after being so made up, any article of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved; and it shall not be sufficient proof of the contrary to show that the container has not been marked in accordance with the requirements of this Order or any instrument made under it with respect to the pre-packing of such articles;

“prescribed” except in Article 36(3), means prescribed by the Department by regulations;

“regulations” means regulations made by the Department;

“ship” includes any boat and any other description of vessel used in navigation;

“stamp” means<sup>F5</sup>, subject to Article 13A(4),] a mark for use as evidence of the passing of weighing or measuring equipment as fit for use for trade, whether applied by impressing, casting, engraving, etching, branding, or otherwise howsoever;

“testing equipment” means testing equipment maintained under Article 4;

“weighing or measuring equipment” means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is constructed to give an

indication of the measurement made or other information determined by reference to that measurement.

(3) Any reference in this Order to any person, other than a reference to an inspector, shall be construed as a reference to that person or some other person acting on his behalf in the matter in question.

(4) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

(5) The provisions of this Order which re-enact provisions of an order made under any statutory provision shall have no greater effect by virtue of their re-enactment.

<b>F4</b>	1985 c. 72
<b>F5</b>	2000 c. 5(NI)
<b>F6</b>	1991 NI 7

## PART II **N.I.**

### STANDARDS OF MEASUREMENT

#### Northern Ireland local standards **N.I.**

3.—(1) The Department shall provide and maintain standards, which shall be known as Northern Ireland local standards, of all the measures set out in Parts I and IV of Schedule 1 other than capacity measures of more than<sup>[F7]</sup> 8 pints] or ten litres, and of all the weights set out in Part V of Schedule 1.

(2) Northern Ireland local standards shall be of such material and form as the Department may determine; and such a standard of any linear or capacity measure may—

- (a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and
- (b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings;

as the Department may direct.

(3) Subject to section 2(1) of the<sup>[F8]</sup> Act of 1985], which provides that the United Kingdom primary standards are the standards by reference to which, in the United Kingdom, all other standards of the yard, pound, metre and kilogramme and of any other unit of measurement derived wholly or partly therefrom, are to be maintained, the Department shall make such arrangements as appear to it to be appropriate for the purpose of having the value or values of every article proposed to be used as a Northern Ireland local standard determined or, as the case may be, re-determined under paragraph (4), and such arrangements may provide for the submission of any such article to the Secretary of State for testing as to accuracy and for report under section 6 of the<sup>[F8]</sup> Act of 1985].

(4) Every Northern Ireland local standard, while it remains in use, shall have its value or values re-determined at intervals not exceeding—

- (a) five years, in the case of a standard of a weight; or
- (b) ten years, in the case of a standard of a measure.

(5) In any proceedings under this Order, a certificate of the Department as to the validity of any Northern Ireland local standard shall be evidence of the facts stated in that behalf in the certificate.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

**F7** SR 1995/226

**F8** 1985 c. 72

## Northern Ireland working standards and testing and stamping equipment **N.I.**

4.—(1) The Department shall provide for use by inspectors and maintain—

- (a) such Northern Ireland working standards of such of the measures and weights set out in Schedule 1,
- (b) such testing equipment, and
- (c) such stamping equipment,

as the Department considers proper and sufficient for the efficient discharge by the inspectors of their functions.

(2) The Department may—

- (a) provide a particular working standard or item of equipment as required by paragraph (1) by making arrangements with another person for the standard or item to be made available by him;
- (b) make arrangements with another person for standards or equipment provided by the Department under paragraph (1) except stamping equipment, to be made available to the other person.

(3) Northern Ireland working standards and testing and stamping equipment provided under paragraph (1) shall be of such material and form as the Department may determine.

(4) A Northern Ireland working standard of a linear or capacity measure may—

- (a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and
- (b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit, or have no such markings;

as the Department may direct.

(5) Every Northern Ireland working standard, while it remains in use, shall have its value or values re-determined, at intervals not exceeding six months, by reference to such of the Northern Ireland local standards or such other Northern Ireland working standards as may appear to the Department to be appropriate.

(6) Every article used as testing equipment shall, at intervals not exceeding five years, have its accuracy re-determined in such manner as may appear to the Department to be appropriate; and for the purposes of this paragraph the Department may submit any such article to the Secretary of State for testing as to accuracy and for report under section 6 of the<sup>F9</sup> Act of 1985].

**F9** 1985 c. 72

## PART III **N.I.**

### WEIGHING AND MEASURING FOR TRADE

#### Meaning of “use for trade” **N.I.**

5.—(1) For the purposes of this Order, “use for trade” means, subject to paragraph (2), use in connection with, or with a view to, a transaction for—

- (a) the transferring or rendering of money or money's worth in consideration of money or money's worth; or
- (b) the making of a payment in respect of any toll or duty,

where—

- (i) the transaction is by reference to quantity or is a transaction for the purposes of which there is made or implied a statement of the quantity of goods to which the transaction relates; and
- (ii) the use is for the purpose of the determination or statement of that quantity.

(2) Paragraph (1) shall not apply where—

- (a) the determination or statement is a determination or statement of the quantity of goods required for despatch to a destination outside Northern Ireland and any designated country; and
- (b) the transaction is not a sale by retail; and
- (c) no transfer or rendering of money or money's worth is involved other than the passing of the title to the goods and the consideration therefor.

(3) Any such equipment as follows, that is to say—

- (a) any weighing or measuring equipment which is made available for use by the public, whether on payment or otherwise; and
- (b) any equipment which is used for the grading by reference to their weight, for the purposes of trading transactions by reference to that grading, of hens' eggs in shell which are intended for human consumption,

shall be treated for the purposes of this Part as weighing or measuring equipment in use for trade, whether or not it would apart from this paragraph be so treated.

(4) Where any weighing or measuring equipment is found in the possession of any person carrying on trade or on any premises which are used for trade, that person or, as the case may be, the occupier of those premises shall be deemed for the purposes of this Order, unless the contrary is proved, to have that equipment in his possession for use for trade.

#### Units of measurement, weights and measures lawful for use for trade **N.I.**

6.—(1) No person shall—

- (a) use for trade any unit of measurement which is not included in Schedule 2,
- (b) use for trade, or have in his possession for use for trade, any linear, square, cubic or capacity measure which is not included in Schedule 1, or any weight which is not so included.

(2) Paragraph (1)(a) shall not apply to the prescribing of, or the dispensing of a prescription for, drugs.

(3) A person who contravenes—

- (a) this Article, or
- (b) any provision in Part VI of Schedule 1, or Part VI of Schedule 2,

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shall be guilty of an offence, and any measure or weight used, or in any person's possession for use, in contravention of any of these provisions shall be liable to be forfeited.

- (4) Subject to paragraph (5), the Department may by order amend Schedule 1 or 2—
- (a) by adding to or removing from Schedule 1 any linear, square, cubic or capacity measure, or any weight,
  - (b) by adding to or removing from Schedule 2 any unit of measurement,
  - (c) by adding to, varying or removing from Part VI of Schedule 1 or Part VI of Schedule 2 any restriction on the cases or circumstances in which, or the conditions subject to which, a unit of measurement, measure or weight may be used for trade, or possessed for use for trade.

[<sup>F10</sup>(5) Without prejudice to paragraph (4)(c) an order under paragraph (4) shall not remove the pint from Part IV of Schedule 2.]

(6) An order under this Article may contain such transitional or other supplemental or incidental provisions as appear to the Department to be expedient.

[<sup>F10</sup>(7) This Article has effect subject to—

- (a) paragraph (7A), and
- (b) Articles 7 and 53.

(7A) Nothing in this Article precludes the use for trade[<sup>F11</sup> until 31st December 2009] of any supplementary indication; and for this purpose any indication of quantity ("the imperial indication") is a supplementary indication if—

- (a) it is expressed in a unit of measurement other than a metric unit,
- (b) it accompanies an indication of quantity expressed in a metric unit ("the metric indication") and is not itself authorised for use in the circumstances as a primary indication of quantity, and
- (c) the metric indication is the more prominent, the imperial indication being, in particular, expressed in characters no larger than the metric indication.]

(8) In this Article "unit of measurement" means a unit of measurement of length, area, volume, capacity, mass or weight.

**F10** SR 1995/226

**F11** SR 2002/70

## Dual marking and conversion charts **N.I.**

7.—(1) The Department may make regulations—

- (a) requiring or authorising a person who uses a metric unit for trade to afford, for explanatory purposes, information giving the equivalent, in the imperial system, of the relevant quantity in the metric system, and
- (b) specifying the manner in which the information is to be given, and in particular specifying the cases in which any obligation to give information in metric units is to be extended to include the same information in imperial units.

(2) The Department may make regulations requiring or authorising the display on premises where metric units are used for trade of conversion tables or other material for converting metric units into imperial units.

(3) Regulations under this Article—

- (a) may prescribe the form and manner in which any information or other material is to be given or displayed,
  - (b) may prescribe appropriate conversion factors by reference to which, in prescribed cases or circumstances, an amount expressed in imperial units is to be treated as equivalent to a given amount expressed in metric units,
  - (c) may prescribe the persons to whom, and the cases and circumstances in which, the regulations apply,
  - (d) may contain such consequential, incidental or supplementary provisions as appear to the Department to be expedient.
- (4) A person contravening regulations made under this Article shall be guilty of an offence.
- (5) In this Article “unit” in the expressions “metric unit” and “imperial unit” means any unit of measurement of length, area, volume, capacity, mass or weight.
- (6) Regulations under this Article imposing obligations apply whether or not the relevant imperial unit may lawfully be used for trade, and regulations authorising, but not requiring, anything to be done authorise it to be done notwithstanding that the relevant imperial unit may not be lawfully used for trade, but do not in any other respect authorise what is unlawful.

#### **Multiples and fractions of units** **N.I.**

- 8.—(1) Save as may be prescribed and subject to any regulations made under Article 13—
- (a) a linear measure specified in Part I of Schedule 1 may be marked in whole or in part with divisions and subdivisions representing any shorter length or lengths;
  - (b) no capacity measure specified in Part IV of Schedule 1 shall be used for trade by means of any division or subdivision marked thereon as a capacity measure of any lesser quantity.
- (2) Any person who contravenes paragraph (1)(b) shall be guilty of an offence, and any measure used, or in any person's possession for use, in contravention of that sub-paragraph shall be liable to be forfeited.
- (3) The Department may by regulations prescribe what may be treated for the purposes of use for trade as the equivalent of, or of any multiple or fraction of, any unit of measurement included in<sup>F12</sup> Schedule 1 to the Act of 1985] in terms of any other such unit, so however that the Department shall not by any such regulations prescribe an equivalent of, or of any multiple or fraction of, any unit of measurement which is inconsistent with any equivalent of that unit, multiple or fraction for the time being prescribed by regulations under<sup>F12</sup> section 10(3) of the Act of 1985].
- (4) Nothing in any regulations under paragraph (3) shall apply to any transaction in drugs.
- (5) The Department of Health and Social Services may by regulations, which shall have effect notwithstanding anything in, or in any instrument made under, any other enactment—
- (a) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any unit of measurement<sup>F12</sup> which is included in Schedule 1 to the Act of 1985 or was on 25th October 1967 included in Schedule 1 to the Weights and Measures Act 1963] in terms of any other such unit;
  - (b) require that any person carrying out any such dealing with drugs as is specified in the regulations for the purposes of which the quantity of the drugs is expressed in terms of any such unit as aforesaid which is so specified shall carry out that dealing in terms of such equivalent quantity prescribed under sub-paragraph (a) as is so specified.

**F12** 1985 c. 72

**Weighing or measuring equipment for use for trade** **N.I.**

9.—(1) The provisions of this Article shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed.

(2) No person shall use any article for trade as equipment to which this Article applies, or have any article in his possession for such use, unless that article, or equipment to which this Article applies in which that article is incorporated or to the operation of which the use of that article is incidental, has been passed by an inspector<sup>[F13]</sup> or approved verifier] as fit for such use and, except as otherwise expressly provided by or under this Order, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear; and if any person contravenes this paragraph, he shall be guilty of an offence and any article in respect of which the offence was committed shall be liable to be forfeited.

(3) Any person requiring any equipment to which this Article applies to be passed<sup>[F13]</sup> by an inspector] as fit for use for trade shall submit the equipment to<sup>[F13]</sup> the inspector] in such manner as the Department may direct and, subject to the provisions of this Order and of any regulations made under Article 13 and to the payment by that person of the prescribed fee, the inspector shall—

- (a) test the equipment by means of such Northern Ireland local standards or such Northern Ireland working standards and such testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose; and
- (b) if the equipment submitted falls within such limits of error as may be prescribed, except as otherwise expressly provided by or under this Order, cause it to be stamped with the prescribed stamp; and
- (c) if the equipment submitted falls within such limits of error as may be prescribed, and by virtue of paragraph (7) is not required to be stamped as mentioned in sub-paragraph ( b ), give to the person submitting it a statement in writing to the effect that it is passed as aforesaid;

and each inspector shall keep a record of every such test carried out by him.

<sup>[F13]</sup>(3A) An approved verifier may (subject to the provisions of this Order, to any regulation under Article 13 and to any conditions included in his approval)—

- (a) test any equipment to which this Article applies by means of other equipment which has already been tested and which the verifier considers suitable for the purpose;
- (b) if the equipment being tested falls within such limits of error as may be prescribed, except as otherwise expressly provided by or under this Order, stamp it with the prescribed stamp; and
- (c) if the equipment being tested falls within such limits of error as may be prescribed, and by virtue of paragraph (7) is not required to be stamped as mentioned in sub-paragraph (b), make a statement in writing to the effect that it is passed fit for use for trade.]

<sup>[F13]</sup>(3B) In this Order “approved verifier”, in relation to weighing or measuring equipment of any class or description, means a person who-

- (a) is for the time being approved under Article 9A in relation to the testing, passing and stamping of weighing or measuring equipment of that class or description; or
- (b) is for the time being approved under the corresponding provisions of the law of Great Britain in relation to the testing, passing and stamping of weighing or measuring equipment of a similar class or description.]

(4) Except as otherwise expressly provided by or under this Order, no weight or measure shall be stamped as mentioned in<sup>[F13]</sup> paragraph (3)(b) or (3A)(b)] unless it has been marked in the prescribed manner with its purported value.



(5) Subject to paragraph (6), where any equipment submitted to an inspector under paragraph (3) is of a pattern in respect of which a certificate of approval granted under Article 10 is for the time being in force, the inspector shall not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade.

(6) If the inspector is of opinion that the equipment is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Department and it has been established to the satisfaction of the Department that the equipment is suitable for the purpose for which it is intended.

(7) The requirements of paragraphs (2) to (4) with respect to stamping and marking shall not apply to any weight or measure which is too small to be stamped or marked in accordance with those requirements.

(8) Where a person submits equipment to an inspector under this Article, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and shall not be obliged to proceed with the test until the person provides it; but a failure to provide the assistance shall not constitute an offence under Article 42.

(9) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this Article and is requested by the person by whom the equipment was submitted to give reasons for the refusal, the inspector shall give to that person a statement of those reasons in writing.

(10) In the case of any equipment which is required by regulations made under Article 13 to be passed and stamped under this Article only after it has been installed at the place where it is to be used for trade, if after the equipment has been so passed and stamped it is dismantled and reinstalled, whether in the same or some other place, it shall not be used for trade after being so reinstalled until it has again been passed under this Article.

(11) If any person—

- (a) knowingly uses that equipment in contravention of paragraph (10), or
- (b) knowingly causes or permits any other person so to use it, or
- (c) knowing that the equipment is required by virtue of paragraph (10) to be again so passed disposes of it to some other person without informing him of that requirement,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(12) Any equipment to which this Article applies which has been duly stamped before 25th October 1967 under any enactment repealed by the Weights and Measures Act (Northern Ireland) 1967 shall be treated for the purposes of this Order as if it had been duly stamped under this Article.

(13) If at any time the Department is satisfied that, having regard to the law for the time being in force in, or in any part of, Great Britain, any of the Channel Islands or the Isle of Man, it is proper so to do, the Department may by order provide for any equipment to which this Article applies duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with that law, to be treated for the purposes of this Order as if it had been duly stamped in Northern Ireland under this Article.

F13 2000 c. 5(NI)

[<sup>F14</sup>Approval of persons to verify equipment manufactured etc. by them **N.I.**

**9A.**—(1) Paragraph (2) applies where, as regards a person who carries on business (whether in Northern Ireland or elsewhere) as a manufacturer, installer or repairer of equipment to which Article 9 applies, the Department—

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- (a) is satisfied that the person would, if approved under this Article, satisfy the requirements set out in Part II of Schedule 2A; and
  - (b) considers the person a fit and proper person to be so approved.
- (2) The Department may approve the person for the purpose of—
- (a) testing any equipment to which Article 9 applies and which is manufactured, installed or repaired by him;
  - (b) passing any such equipment as fit for use for trade; and
  - (c) stamping any such equipment with the prescribed stamp.
- (3) Before granting an approval under this Article, the Department may carry out such audits and inspections of the person's systems and procedures as it considers necessary to establish that the conditions of the approval would be observed.
- (4) Schedule 2A (which relates to approvals under this Article and matters connected with such approvals) shall have effect.
- (5) In this Schedule “approval” means an approval under this Article and “the verifier”, in relation to such an approval, shall be construed accordingly.]

**F14** 2000 c. 5(NI)

[<sup>F15</sup> **Testing by official EEA testers** **N.I.**

- 9B.**—(1) This Article applies where—
- (a) any equipment which has been tested by an official EEA tester is at any time submitted to an inspector under Article 9(3);
  - (b) the test report of the official EEA tester is submitted to the inspector at that time; and
  - (c) that report states which tests have been applied to the equipment and sets out the results of those tests.
- (2) Article 9 shall have effects as if—
- (a) sub-paragraph (a) of paragraph (3) required the inspector not to test the equipment in the manner mentioned in that sub-paragraph; and
  - (b) sub-paragraph (b) and (c) of that paragraph required him to rely, for the purposes of those sub-paragraphs, on the test report of the official EEA tester.
- (3) In this Article “official EEA tester”, in relation to the testing of equipment of any description, means a person who, at the time when the tests were applied—
- (a) had responsibility in an EEA State for the metrological control of equipment of that description; or
  - (b) was accredited in an EEA State as a person operating a laboratory, in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description.
- (4) In paragraph (3) “EEA State” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.]

**F15** 2000 c. 5(NI)

## Approved patterns of equipment for use for trade **N.I.**

10.—(1) Where any pattern of weighing or measuring equipment is submitted to the Department for the purpose by any person in such manner as may be prescribed, the Department shall examine in such manner as it thinks fit the suitability for use for trade of equipment of that pattern, having regard in particular to the principle, materials and methods used or proposed to be used in its construction, and if the Department is satisfied that such equipment is suitable for use for trade, then, subject to Article 12(2), it shall issue a certificate of approval of that pattern and cause particulars of the pattern to be published.

(2) Paragraph (1) applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this paragraph “approved pattern” means a pattern in respect of which a certificate of approval under paragraph (1) is in force.

(3) A certificate of approval under paragraph (1) may be granted or renewed subject to such conditions as the Department thinks fit; and if any person—

- (a) knowing that a condition other than a condition mentioned in Article 11(1)( b) has been imposed with respect to any equipment, uses, or causes or permits any other person to use, that equipment in contravention of that condition; or
- (b) knowing that any condition has been imposed with respect to any equipment, disposes of that equipment to any other person in a state in which it could be used for trade without informing that other person of that condition,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(4) The Department, after consultation with such persons as appear to the Department to be interested, may at any time revoke any certificate granted under this Article, and shall cause notice of any such revocation to be published; and where the Department so revokes any certificate, then if any person, knowing that the certificate has been revoked, and save as may be permitted by any fresh certificate granted in respect of it—

- (a) uses for trade, or has in his possession for such use; or
- (b) causes or permits any other person so to use, any equipment of the pattern in question; or
- (c) disposes of any such equipment to any other person in a state in which it could be so used without informing that other person of the revocation;

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(5) The provisions of paragraph (4) relating to offences and forfeiture shall not apply in consequence of the revocation of a certificate of approval if the notice of the revocation published under that paragraph states that instead of those provisions the provisions of Article 11(4) are to apply in consequence of the revocation.

(6) Any equipment of a pattern in respect of which a certificate of approval has been granted under this Article may, and in such cases as may be prescribed shall, be marked in the prescribed manner so as to identify it with the pattern in question.

(7) A certificate granted under section 6 of the Weights and Measures Act 1904 in respect of any pattern of weighing or measuring equipment shall be deemed for the purposes of this Order to be a certificate of approval of that pattern granted under this Article.

(8) If the Department by notice published in the Belfast Gazette so directs, a certificate granted or deemed to have been granted by the Secretary of State in respect of any pattern of weighing or measuring equipment for the purposes of section 12 of the<sup>[16]</sup> Act of 1985] shall be deemed, or shall cease to be deemed, for the purposes of this Order to be a certificate of approval of that pattern or, as the case may be, granted and published under this Article; and

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- (a) where a certificate such as is first-mentioned was granted subject to a condition corresponding to a condition which may be imposed under paragraph (3), that paragraph shall apply as if the condition had been imposed under that paragraph; and
- (b) where either a certificate such as is first-mentioned at any time ceases to be deemed to be a certificate granted under this Article, paragraph (4) shall have effect as if it had then been revoked.

**F16** 1985 c. 72

### Provisions supplementary to Article 10 **N.I.**

**11.**—(1) A certificate of approval under Article 10—

- (a) shall, unless previously revoked and subject to sub-paragraph (b), cease to have effect on the expiration of the period of ten years beginning with the date when it was granted or last renewed;
- (b) may, without prejudice to the generality of Article 10(3), be granted or renewed subject to a condition under which it ceases to be in force on the expiration of a specified period of less than ten years; and
- (c) may be renewed by the Department on an application made in such manner and during such period as may be prescribed and on payment of an amount ascertained in such manner as the Department may determine with the approval of the Department of Finance.

(2) Where such an application as is mentioned in paragraph (1)(c) is made for the renewal of a certificate mentioned in that paragraph, the certificate shall continue in force until the Department gives to the applicant, in such manner as may be prescribed, notice of the Department's decision with respect to the application.

(3) Where a person submits a pattern of equipment to the Department under Article 10(1) the Department may—

- (a) require the person to provide such assistance as the Department thinks fit in connection with the examination in question and shall not be obliged to proceed with the examination until the person provides it;
- (b) require the person to pay in respect of the examination a fee of an amount ascertained as mentioned in paragraph (1)(c);
- (c) if satisfied that equipment of that pattern is suitable for use for trade require the person to deposit with the Department parts of equipment of that pattern or a model or drawings of such equipment or parts of it and withhold a certificate of approval of the pattern or, as the case may be, a declaration in pursuance of Article 12(2) in respect of the pattern until the person complies with the requirement.

(4) Where a certificate of approval under Article 10(1) ceases to have effect by the effluxion of time or by virtue of a notice under paragraph (2) of this Article or is revoked in a case falling within Article 10(5), then—

- (a) the certificate shall continue in force in relation to any equipment of the pattern in question which was used for trade at a time when the certificate was in force otherwise than by virtue of this paragraph; but
- (b) if a person—
  - (i) knows that the certificate has so ceased to have effect or been so revoked, and
  - (ii) supplies to another person equipment of that pattern which is marked with a stamp and which was not used for trade at such a time,

he shall be guilty of an offence and the equipment supplied shall be liable to be forfeited.

- (5) Each of the following instruments, namely—
- (a) a certificate of approval granted under Article 10 and in force immediately before 4th April 1979; and
  - (b) an authorisation of modifications so granted and in force; and
  - (c) a certificate which is deemed by virtue of Article 10(7) to be a certificate of approval so granted and is in force as mentioned in sub-paragraph ( a),

shall have effect on and after 4th April 1979 as if it were a certificate of approval so granted on that date and, in the case of a certificate of approval actually granted subject to a condition relating to a specified period, as if that condition were imposed by virtue of paragraph (1)( b) and provided for the certificate to cease to be in force on the expiration of a period equal to that period and beginning with the day when the certificate was actually granted.

(6) The power conferred by Article 10(4) to revoke a certificate of approval of a pattern shall, in the case of a certificate in respect of which an authorisation of modifications has effect by virtue of paragraph (5) of this Article as if it were a further certificate of approval, include power to revoke the first-mentioned certificate as it has effect apart from the modifications without revoking it as it has effect with the modifications.

(7) It is hereby declared that Article 10(4) and the provisions of Article 10(3) relating to offences and forfeiture apply to a certificate continued in force by virtue of paragraph (4)( a).

#### **General specifications of equipment for use for trade** **N.I.**

**12.**—(1) The Department may by regulations prescribe general specifications for the construction of equipment to which Article 9 applies and, subject to paragraph (4), while any such specification is for the time being so prescribed no equipment which does not conform with it shall be passed or stamped by an inspector<sup>F17</sup> or approved verifier] under Article 9 unless it is of a pattern in respect of which a certificate of approval under Article 10 is in force.

(2) If the Department is satisfied that any pattern submitted to it under paragraph (1) of Article 10 conforms to any general specification for the time being prescribed under this Article, it may, instead of issuing a certificate of approval under that paragraph, publish in the Belfast Gazette a declaration to that effect.

(3) Where any specification prescribed by regulations under this Article is varied or revoked by further regulations under this Article, then if any person uses for trade, or has in his possession for such use, or causes or permits any other person so to use, any equipment which conformed to that specification but which to his knowledge no longer conforms to any specification so prescribed, or disposes of any such equipment to any other person in a state in which it could be so used without informing that other person that it no longer so conforms, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(4) Where, in the case of any particular equipment, it appears to the Department that there are special circumstances which make it impracticable or unnecessary for that equipment to comply with any particular requirement of any specification prescribed under this Article, the Department may exempt that equipment from that requirement subject to compliance with such conditions, if any, as it thinks fit; and if any person knowingly contravenes any condition imposed with respect to any equipment by virtue of this paragraph, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(5) Regulations made under this Article may direct that general specifications prescribed by the Secretary of State under<sup>F18</sup> section 14 of the Act of 1985] shall apply to Northern Ireland as if they were prescribed under paragraph (1), and any reference in this Order to specifications prescribed under this Article shall include a reference to specifications so applied.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

**F17** 2000 c. 5(NI)

**F18** 1985 c. 72

### Regulations relating to weighing or measuring for trade **N.I.**

- 13.**—(1) The Department may make regulations with respect to—
- (a) the materials and principles of construction of weighing or measuring equipment for use for trade;
  - (b) the inspection, testing, passing as fit for use for trade and stamping of such equipment, including—
    - (i) the prohibition of the stamping of such equipment in such circumstances as may be specified in the regulations;
    - (ii) the circumstances in which an inspector may remove or detain any such equipment for inspection or testing;
    - (iii) the marking of any such equipment found unfit for use for trade;
  - (c) the circumstances in which, conditions under which and manner in which stamps may be destroyed, obliterated or defaced;
  - (d) where any stamp on weighing or measuring equipment is lawfully destroyed, obliterated or defaced, the circumstances in which, and conditions subject to which, the equipment may be used for trade without contravening Article 9(2);
  - (e) the purposes for which particular types of weighing or measuring equipment may be used for trade;
  - (f) the manner of erection or use of weighing or measuring equipment used for trade;
  - (g) the abbreviations of or symbols for units of measurement which may be used for trade;
  - (h) the manner in which the tare weight of road vehicles, or of road vehicles of any particular class or description, is to be determined;

and, subject to paragraph (3), if any person contravenes any regulation made by virtue of subparagraph ( e ), ( f ), ( g ) or ( h ), he shall be guilty of an offence, and any weighing or measuring equipment in respect of which the contravention was committed shall be liable to be forfeited.

- (2) Regulations under paragraph (1) with respect to the testing of equipment may provide—
- (a) that where a group of items of equipment of the same kind is submitted for testing and prescribed conditions are satisfied with respect to the group, the testing may be confined to a number of items determined by or under the regulations and selected in the prescribed manner; and
  - (b) that if items so selected satisfy the test other items in the group shall be treated as having satisfied it.

(3) Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations made under this Article should be complied with, the Department may, by an authorisation in writing, dispense with the observance of that requirement.

(4) Where an authorisation under paragraph (3) is granted subject to conditions, any person who knowingly contravenes any condition imposed by the authorisation with respect to any equipment shall be guilty of an offence and the equipment shall be liable to be forfeited.

**[<sup>F19</sup>Pre-test stamping by certain manufacturers N.I.]**

**13A.**—(1) Subject to paragraph (2), an approved verifier who is the manufacturer of any equipment to which Article 9 applies may apply the prescribed stamp to the equipment, notwithstanding that it has not been passed as fit for use for trade, if he is satisfied on reasonable grounds that it will not be used (whether for trade or otherwise) unless either—

- (a) the equipment has been passed as fit for use for trade; or
- (b) the stamp has been destroyed, obliterated or defaced.

(2) A prescribed stamp shall not be applied under paragraph (1) unless the stamp includes the approved verifier's number.

(3) If any person contravenes paragraph (2), he shall be guilty of an offence and any equipment in respect of which the offence was committed shall be liable to be forfeited.

(4) A prescribed stamp which has been duly applied to any equipment under paragraph (1) shall have effect as follows—

- (a) at any time before the equipment is passed as fit for use for trade, as an indication that, at the time when the stamp was applied, the approved verifier was satisfied as mentioned in paragraph (1); and
- (b) at any time after the equipment is so passed, as evidence of the passing of the equipment as fit for such use.

(5) Where equipment to which a prescribed stamp has been duly applied under paragraph (1) is passed as fit for use for trade, nothing in Article 9(3) or (3A)(b) shall require another such stamp to be applied to it.

(6) Where the approved verifier fails to pass as fit for use for trade equipment to which a prescribed stamp has been applied under paragraph (1), he may destroy, obliterate or deface the stamp—

- (a) in any case where there is a prescribed manner of doing so, in that manner; and
- (b) in any other case, in such reasonable manner as will leave no doubt that the stamp has been intentionally destroyed, obliterated or defaced.

(7) References in paragraphs (4) to (6) prescribed stamps which have been applied do not include references to such stamps which have subsequently been destroyed, obliterated or defaced.]

**F19** 2000 c. 5(NI)

**Offences in connection with stamping of equipment N.I.**

**14.**—(1) Any person who in the case of any weighing or measuring equipment used or intended to be used for trade—

- (a) not being an inspector<sup>F20</sup> or approved verifier] or a person acting under the instructions of an inspector<sup>F20</sup> or approved verifier], marks in any manner any plug or seal used or designed for use for the reception of a stamp; or
- (b) forges, counterfeits or, except as permitted by or under this Order, in any way alters or defaces any stamp; or
- (c) removes any stamp and replaces it or inserts it into any other such equipment; or
- (d) makes any alteration in the equipment after it has been stamped such as to make it false or unjust; or
- (e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment;

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shall be guilty of an offence.

(2) Sub-paragraphs ( *a* ) and ( *b* ) of paragraph (1) shall not apply to the destruction or obliteration of any stamp, plug or seal, and sub-paragraph ( *e* ) of that paragraph shall not apply to anything done, in the course of the adjustment or repair of weighing or measuring equipment, by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, such equipment.

(3) Any person who uses for trade, sells, or exposes or offers for sale any weighing or measuring equipment which to his knowledge—

- (a) bears a stamp which is a forgery or counterfeit, or which has been transferred from other equipment, or which has been altered or defaced otherwise than as permitted by or under this Order; or
- (b) is false or unjust as the result of an alteration made in the equipment after it has been stamped,

shall be guilty of an offence.

(4) Any weighing or measuring equipment in respect of which an offence under this Article is committed, and any stamp or stamping implement used in the commission of the offence, shall be liable to be forfeited.

**F20** 2000 c. 5(NI)

#### **Other offences in connection with equipment** **N.I.**

**15.**—(1) If any person uses for trade, or has in his possession for use for trade, any weighing or measuring equipment which is false or unjust, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(2) Without prejudice to the liability of any equipment to be forfeited, it shall be a defence for any person charged with an offence under paragraph (1) in respect of the use for trade of any equipment to show—

- (a) that he used the equipment only in the course of his employment by some other person; and
- (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, the equipment to be false or unjust.

(3) If any fraud is committed in the using of any weighing or measuring equipment for trade, the person committing the fraud and any other person party thereto shall be guilty of an offence and the equipment shall be liable to be forfeited.

## **PART IV** **N.I.**

### **PUBLIC WEIGHING OR MEASURING EQUIPMENT**

#### **Keepers of public equipment to hold certificate** **N.I.**

**16.**—(1) No person shall attend to any weighing or measuring by means of weighing or measuring equipment available for use by the public, being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from the chief inspector that he has sufficient knowledge for the proper performance of his duties.



(2) Any person refused a certificate such as is mentioned in paragraph (1) by the chief inspector may appeal against the refusal to the county court and the court, if satisfied that the certificate should be granted, shall make an order directing the chief inspector to grant the certificate.

(3) Any person who contravenes, or who causes or permits any other person to contravene, paragraph (1) shall be guilty of an offence.

#### **Provision of public equipment by district councils** **N.I.**

**17.**—(1) Without prejudice to any functions conferred or imposed by any other enactment, any district council may provide and maintain within its district for use by the public such weighing or measuring equipment as may appear to the council to be expedient.

(2) Without prejudice to the provisions of any other enactment, and subject to Article 16, a district council may employ persons to attend to any weighing or measuring by means of equipment provided by that council for use by the public.

(3) Except in the case of a weighing or measuring for which, under any other enactment, the charge falls to be regulated by some other person, a district council by whom any weighing or measuring equipment is provided for use by the public may make such charges for any weighing or measuring by means of that equipment as it may think fit.

#### **Offences in connection with public equipment** **N.I.**

**18.**—(1) Paragraph (2) shall apply where any article, vehicle (whether loaded or unloaded) or animal has been brought for weighing or measuring, being a weighing or measuring for which a charge is made, by means of weighing or measuring equipment which is available for use by the public and is provided for the purpose of weighing or measuring articles, vehicles or animals of the description in question.

(2) If any person appointed to attend to weighing or measuring by means of the equipment in question—

- (a) without reasonable cause fails to carry out the weighing or measuring on demand; or
- (b) carries out the weighing or measuring unfairly; or
- (c) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found; or
- (d) fails to make a record of the weighing or measuring, including the time and date thereof and, in the case of the weighing of a vehicle, such particulars of the vehicle and of any load thereon as will identify that vehicle and that load,

he shall be guilty of an offence.

(3) If in connection with the equipment in question—

- (a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring; or
- (b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment,

he shall be guilty of an offence.

(4) If in the case of a weighing or measuring of any article, vehicle or animal carried out by means of the equipment in question the person bringing the article, vehicle or animal for weighing or measuring on being required by the person attending to the weighing or measuring to give his name and address, fails to do so, he shall be guilty of an offence.

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*Status: Point in time view as at 01/01/2006.*

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(5) The person making any weighing or measuring equipment available for use by the public shall retain for a period of not less than two years any record of any weighing or measuring by means of that equipment made by any person appointed to attend to any such weighing or measuring, and any inspector, subject to the production if so requested of his credentials, may require the first-mentioned person to produce any such record for inspection at any time while it is retained by him; and if the first-mentioned person fails so to retain or produce any such record, or if any person wilfully destroys or defaces any such record before the expiration of two years from the date when it was made, the person in question shall be guilty of an offence.

## PART V N.I.

### REGULATION OF CERTAIN TRANSACTIONS IN GOODS

#### Transactions in particular goods N.I.

**19.**—(1) Schedules 3, 4, 5, 6 and 7 shall have effect for the purposes of transactions in the goods mentioned in those Schedules.

(2) The Department may by order make provision with respect to any goods specified in the order for all or any of the following purposes, that is to say, to ensure that, except in such cases or in such circumstances as may be so specified, the goods in question—

- (a) are sold only by quantity expressed in such manner as may be so specified; or
- (b) are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, only if the container is marked with such information as to the quantity of the goods as may be so specified; or
- (c) are pre-packed, or are otherwise made up for sale or for delivery after sale, only in or on a container of a size or capacity so specified; or
- (d) are sold, or are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, or are made for sale, only in such quantities as may be so specified; or
- (e) are not sold without the quantity sold expressed as mentioned in sub-paragraph (a) being made known to the buyer at or before such time as may be so specified; or
- (f) are sold by means of, or are offered or exposed for sale in, a vending machine only if there is displayed on or in the machine—
  - (i) such information as to the quantity of the goods in question comprised in each item for sale by means of that machine as may be so specified; and
  - (ii) a statement of the name and address of the seller; or
- (g) are carried for reward only in pursuance of an agreement made by reference to the quantity of the goods in question expressed as mentioned in sub-paragraph (a); or
- (h) in such circumstances as may be so specified, have associated with them in such manner as may be so specified a document containing a statement of the quantity of the goods in question expressed in such manner, and a statement of such other particulars, if any, as may be so specified; or
- (i) when carried on a road vehicle along a highway are accompanied by a document containing such particulars determined in such manner as may be so specified as to the weight of the vehicle and its load apart from the goods in question.

(3) An order under paragraph (2) may be made with respect to any goods, including goods to which any of the provisions of any of the Schedules mentioned in paragraph (1) applies, and may—

- (a) make provision for any of the purposes mentioned in paragraph (2) in such manner, whether by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any provision of this Order or otherwise,
- (b) make such, if any, different provision for retail and other sales respectively, and
- (c) contain such consequential, incidental or supplementary provision, whether by the means such as are mentioned in sub-paragraph ( a ) or otherwise,

as may appear to the Department to be expedient, and may in particular make provision in respect of contraventions of the order for which no penalty is provided by this Order for the imposition of penalties not exceeding those provided by Article 47(5) for an offence under this Order.

(4) Without prejudice to the generality of the powers conferred by virtue of paragraph (2)( c ) an order made by virtue of that paragraph may require a container to be marked with such information concerning it or its contents as is specified in the order.

(5) Without prejudice to the generality of those powers, an order made by virtue of paragraph (2) ( c ) may, in order to prevent size or capacity from giving a false impression of the quantity of the goods in a container, prescribe a minimum quantity for the goods in a container of a given capacity, and the minimum quantity may be expressed by weight or volume, by percentage of the capacity of the container or in any other manner.

(6) The Department may make regulations—

- (a) as to the manner in which any container required by any of the provisions of any of the Schedules mentioned in paragraph (1) or of any order under paragraph (2) to be marked with information (including, in particular, information as to quantity or capacity) is to be so marked;
- (b) as to the manner in which any information required by any of the provisions of any of the Schedules mentioned in paragraph (1) to be displayed on or in a vending machine is to be so displayed;
- (c) as to the conditions which must be satisfied in marking with information as to the quantity of goods made up in the container in or on which any goods are made up for sale (whether by way of pre-packing or otherwise) where those goods are goods on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold is required by any of the provisions of any of the Schedules mentioned in paragraph (1) to be made known to the buyer at or before a particular time;
- (d) as to the units of measurement to be used in marking any container or machine such as is mentioned in sub-paragraphs ( a ) to ( c ) with any information;
- (e) for securing, in the case of pre-packed goods, that the container is so marked as to enable the packer to be identified;
- (f) as to the method by which and conditions under which quantity is to be determined in connection with any information with respect to such quantity required by or under this Article;
- (g) permitting in the case of such goods and in such circumstances as may be specified in the regulations the weight of such articles used in making up the goods for sale as may be so specified to be included in the net weight of the goods for the purposes of this Order;

and any person who contravenes any regulation made under this paragraph otherwise than by virtue of sub-paragraph ( f ) or ( g ) shall be guilty of an offence.

(7) The Department may by order grant with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any requirements imposed by or under this Article; and, until otherwise provided by such an order, the following shall be exempted from all such requirements, that is to say,—

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- (a) goods made up in or on a container for sale only for use by Her Majesty's forces or by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952 and not sold or offered, exposed or in any person's possession for sale for any other use;
- (b) any sale of goods in the case of which the buyer gives notice in writing to the seller before the sale is completed that the goods are being bought—
  - (i) for despatch to a destination outside Northern Ireland and any designated country; or
  - (ii) for use as stores within the meaning of the Customs and Excise Management Act 1979 in a ship or aircraft on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man;
- (c) any goods sold for, or offered, exposed or in any person's possession for sale only for, use or consumption at the premises of the seller, not being intoxicating liquor;
- (d) any assortment of articles of food pre-packed together for consumption together as a meal and ready for such consumption without being cooked, heated or otherwise prepared.

#### **Offences in transactions in particular goods** **N.I.**

**20.**—(1) Subject to the provisions of this Part, in the case of any goods which, when not pre-packed, are required by or under this Order to be sold only by quantity expressed in a particular manner or only in a particular quantity, any person shall be guilty of an offence who—

- (a) whether on his own behalf or on behalf of another person, offers or exposes for sale, sells or agrees to sell, or
- (b) causes or suffers any other person to offer or expose for sale, sell or agree to sell on his behalf,

those goods otherwise than by quantity expressed in that manner or, as the case may be, otherwise than in that quantity.

(2) <sup>F21</sup>Subject to the provisions of this Part, in the case of any goods required by or under this Order to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities, or to be pre-packed, or to be otherwise made up as aforesaid, only if the container is marked with particular information or only in or on a container of a particular description, any person shall be guilty of an offence who—

- (a) whether on his own behalf or on behalf of another person, has in his possession for sale, sells or agrees to sell, or
- (b) except in the course of carriage of the goods for reward, has in his possession for delivery after sale, or
- (c) causes or suffers any other person to have in his possession for sale or for delivery after sale, sell or agree to sell on behalf of the first-mentioned person,

any such goods pre-packed, otherwise made up as aforesaid or made otherwise than in that quantity or otherwise than in or on a container so marked or a container of that description, as the case may be, whether the sale is, or is to be, by retail or otherwise.

(3) Subject to the provisions of this Part, in the case of any sale where the quantity of the goods sold expressed in a particular manner is required by or under this Order to be made known to the buyer at or before a particular time and that quantity is not so made known, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.

(4) Subject to the provisions of this Part, where any goods required by or under this Order to be sold by means of, or to be offered or exposed for sale in, a vending machine only if certain requirements are complied with are so sold, offered or exposed without those requirements being

complied with, the seller or person causing the goods to be so offered or exposed shall be guilty of an offence.

*Para. (5) rep. by 1996 NI 11*

F21 SR 1989/69

### Quantity to be stated in writing in certain cases **N.I.**

**21.**—(1) Subject to paragraph (6), the provisions of this Article shall have effect on any sale of goods—

- (a) which is required by or under this Order to be a sale by quantity expressed in a particular manner; or
- (b) in the case of which the quantity of the goods sold expressed in a particular manner is required by or under this Order to be made known to the buyer at or before a particular time; or
- (c) which, being a sale by retail not falling within sub-paragraph (a) or (b), is, or purports to be, a sale by quantity expressed in a particular manner other than by number.

(2) Subject to paragraphs (3), (4) and (5), unless the quantity of the goods sold expressed in the manner in question is made known to the buyer at the premises of the seller and the goods are delivered to the buyer at those premises on the same occasion as, and at or after the time when, that quantity is so made known to him, a statement in writing of that quantity shall be delivered to the consignee at or before delivery of the goods to him; and if this paragraph is contravened, then, subject to the provisions of this Part, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.

(3) If at the time when the goods are delivered the consignee is absent, it shall be sufficient compliance with paragraph (2) if the document referred to in that paragraph is left at some suitable place at the premises at which the goods are delivered.

(4) Paragraph (2) shall not apply to any sale otherwise than by retail where, by agreement with the buyer, the quantity of the goods sold is to be determined after their delivery to the consignee.

(5) Where any liquid goods are sold by capacity measurement and the quantity sold is measured at the time of delivery and elsewhere than at the premises of the seller, paragraph (2) shall not apply but, unless the quantity by capacity measurement of the goods sold is measured in the presence of the buyer, the person by whom the goods are delivered shall immediately after the delivery hand to the buyer, or if the buyer is not present leave at some suitable place at the premises at which the goods are delivered, a statement in writing of the quantity by capacity measurement delivered, and if without reasonable cause he fails so to do he shall be guilty of an offence.

(6) The Department may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements of this Article; and, until otherwise provided by such an order, nothing in paragraphs (1) to (5) shall apply to—

- (a) a sale by retail from a vehicle of—
  - (i) any of the following in a quantity not exceeding<sup>F22</sup> 187.5 kilograms], that is to say, any solid fuel within the meaning of Schedule 5 and peat and wood fuel;
  - (ii) any of the following in a quantity not exceeding<sup>F22</sup> 25 litres], that is to say, liquid fuel, lubricating oil, and any mixture of such fuel and oil;
- (b) a sale by retail of—
  - (i) bread within the meaning of the Weights and Measures (Bread) (Termination of Imperial Quantities) Order (Northern Ireland) 1979 ;

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- (ii) milk within the meaning of the Weights and Measures (Milk) Order (Northern Ireland) 1980 ;
- (c) goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with a statement in writing with respect to the quantity of the goods expressed in the manner in question, being a container which is delivered with the goods;
- (d) a sale of goods in the case of which a document stating the quantity of the goods expressed in the manner in question is required to be delivered to the buyer or consignee of the goods by or under any other provision of this Order;
- (e) any such goods or sales as are mentioned in Article 19(7)( a) to ( d);
- (f) a sale of intoxicating liquor for consumption at the premises of the seller;
- (g) a sale by means of a vending machine; or
- (h) goods delivered at premises of the buyer by means of an installation providing a connection of a permanent nature between those premises and premises of the seller.

F22 SR 1995/226

### Short weight, etc. **N.I.**

**22.**—(1) Subject to the provisions of this Part, any person who, in selling or purporting to sell any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer a lesser quantity than that purported to be sold or than corresponds with the price charged shall be guilty of an offence.

- (2) Subject to the provisions of this Part, any person who—
  - (a) on or in connection with the sale or purchase of any goods, or
  - (b) in exposing or offering any goods for sale, or
  - (c) in purporting to make known to the buyer thereof the quantity of any goods sold, or
  - (d) in offering to purchase any goods,

makes any misrepresentation either by word of mouth or otherwise as to the quantity of the goods, or does any other act calculated to mislead a person buying or selling the goods as to the quantity of the goods, shall be guilty of an offence.

(3) If, in the case of any goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then, subject to the provisions of this Part and in particular to Article 24(2), any person who has those goods in his possession for sale, and (if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by, the buyer) any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, shall be guilty of an offence.

- (4) If—
  - (a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods; or
  - (b) in the case of any goods which, in connection with a sale or agreement for the sale of the goods, have associated with them a document containing such a statement as is mentioned in sub-paragraph ( a),

the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by, the buyer, and subject to the provisions of this Part and in particular to Article 24(2) and (3) and paragraph 10 of Schedule 4, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence.

(5) Paragraphs (3) and (4) shall have effect notwithstanding that the quantity stated is expressed to be the quantity of the goods at a specified time falling before the time in question, or is expressed with some other qualification of whatever description, except where—

- (a) that quantity is so expressed in pursuance of an express requirement of this Order or any instrument made under it; or
- (b) the goods, although falling within paragraph (3) or paragraph (4)(a)—
  - (i) are not required by or under this Order to be pre-packed as mentioned in paragraph (3) or, as the case may be, to be made up for sale or for delivery after sale in or on a container only if the container is marked as mentioned in paragraph (4)(a); and
  - (ii) are not goods on a sale of which (whether any sale or a sale of any particular description) the quantity sold is required by or under any provision of this Order other than Article 21 to be made known to the buyer at or before a particular time; or
- (c) the goods, although falling within sub-paragraph (b) of paragraph (4) are not required by or under this Order to have associated with them such a document as is mentioned in that sub-paragraph.

(6) In any case to which, by virtue of paragraph (5)(a), (b) or (c), the provisions of paragraph (3) or (4) do not apply, if it is found at any time that the quantity of the goods in question is less than that stated and it is shown that the deficiency is greater than can be reasonably justified on the ground justifying the qualification in question, then, subject to the provisions of this Part—

- (a) in the case of goods such as are mentioned in paragraph (3), if it is further shown as mentioned in that paragraph, then—
  - (i) where the container in question was marked in Northern Ireland, the person by whom, and any other person on whose behalf, the container was marked, or
  - (ii) where the container in question was marked outside Northern Ireland, the person by whom, and any other person on whose behalf, the goods were first sold in Northern Ireland,

shall be guilty of an offence;

- (b) in the case of goods such as are mentioned in paragraph (4), the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence if, but only if, he would, but for paragraph (5)(a), (b) or (c), have been guilty of an offence under paragraph (4).

(7) Without prejudice to paragraphs (4) to (6), if in the case of any goods required by or under this Order to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document for the purposes of this Order or any instrument made under it while that statement was contained therein shall be guilty of an offence.

(8) For the purposes of this Article, any statement, whether oral or in writing, as to the weight of any goods shall be deemed, unless otherwise expressed, to be a statement as to the net weight of the goods.

- (9) Nothing in this Article shall apply in relation to—

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*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

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- (a) any such goods or sales as are mentioned in Article 19(7)( a) or ( b);
- (b) any pre-package of wine or grape must within the meaning of the Pre-packaging and Labelling of Wine and Grape Must (EEC Requirements) Regulations 1978 .

*Para. (10) rep. by 1996 NI 11*

### **Pleading of warranty as defence** **N.I.**

**23.**—(1) Subject to the provisions of this Article, in any proceedings for an offence under this Part or any instrument made under it, being an offence relating to the quantity or pre-packing of any goods, it shall be a defence for the person charged to prove—

- (a) that he bought the goods from some other person—
  - (i) as being of the quantity which the person charged purported to sell or represented, or which was marked on any container or stated in any document to which the proceedings relate; or
  - (ii) as conforming to the statement marked on any container to which the proceedings relate, or to the requirements of this Order, and any instrument made under it, with respect to the pre-packing of goods,

as the case may require; and

- (b) that he so bought the goods with a written warranty from that other person that they were of that quantity or, as the case may be, did so conform; and
- (c) that at the time of the commission of the offence he had no reason to believe the statement contained in the warranty to be inaccurate, that he did in fact believe in its accuracy and, if the warranty was given by a person who at the time he gave it was resident outside Northern Ireland and any designated country, that the person charged had taken such steps, if any, as were reasonably practicable to check the accuracy of that statement; and
- (d) in the case of proceedings relating to the quantity of any goods, that he took all reasonable steps to ensure that, while in his possession, the quantity of the goods remained unchanged and, in the case of such or any other proceedings, that apart from any change in their quantity the goods were at the time of the commission of the offence in the same state as when he bought them.

(2) Where the proceedings are in respect of an offence committed by the person charged in the course of his employment, it shall be a defence for him to prove—

- (a) that if his employer had been charged the employer would have had a defence under paragraph (1) in respect of a warranty; and
- (b) that at the time of the commission of the offence the person charged had no reason to believe the statement contained in the warranty to be inaccurate.

(3) Where the person charged intends to set up a defence under this paragraph he shall, not more than fourteen days after the date of the service of the summons on him nor less than seven clear days before the date of the hearing—

- (a) send to the complainant a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person by whom it is alleged to have been given; and
- (b) send to the last-mentioned person a notice giving the date and place of the hearing and stating that he intends to rely on the warranty.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

(5) If the person charged in any such proceedings as aforesaid wilfully attributes to any goods a warranty given in relation to any other goods, he shall be guilty of an offence.



(6) A person who, in respect of any goods sold by him in respect of which a warranty might be pleaded under this Article, gives to the buyer a false warranty in writing shall be guilty of an offence unless he proves that when he gave the warranty he took all reasonable steps to ensure that the statements contained in it were, and would continue at all relevant times to be, accurate.

(7) Where in any such proceedings as aforesaid the person charged relies successfully on a warranty given to him or to his employer, any proceedings under paragraph (6) in respect of the warranty may, at the option of the complainant, be taken either before a court having jurisdiction in the place where the first-mentioned proceedings were taken or before a court having jurisdiction in the place where the warranty was given.

(8) For the purposes of this Article, any statement with respect to any goods which is contained in any document required by or under this Order to be associated with the goods or in any invoice, and, in the case of goods made up in or on a container for sale or for delivery after sale, any statement with respect to those goods with which that container is marked, shall be deemed to be a written warranty of the accuracy of that statement.

#### **Additional defences and safeguards for traders** **N.I.**

**24.**—(1) In any proceedings for an offence under this Part or any instrument made under it, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) In any proceedings for an offence under this Part or any instrument made under it by reason of the quantity—

- (a) of any goods made up for sale or for delivery after sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity; or
- (b) of any goods which, in connection with a sale or agreement for the sale thereof, have associated therewith a document purporting to state the quantity of the goods; or
- (c) of any goods required by or under this Order to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities,

being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be, it shall be a defence for the person charged to prove that the deficiency arose—

- (i) in a case falling within sub-paragraph (a), after the making up of the goods and the marking of the container;
- (ii) in a case falling within sub-paragraph (b), after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document;
- (iii) in a case falling within sub-paragraph (c) after the making up or making, as the case may be, of the goods for sale,

and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be.

(3) In the case of a sale by retail of food, not being food pre-packed in a container which is, or is required by or under this Order to be, marked with an indication of quantity, in any proceedings for an offence under this Part or any instrument made under it by reason of the quantity delivered to the buyer being less than that purported to be sold, it shall be a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage.

(4) If in any proceedings for an offence under this Part or any instrument made under it, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between

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*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

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the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged shall not be found guilty of that offence unless it is shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment.

(5) In any proceedings for an offence under this Part or any instrument made under it, being an offence in respect of any excess in the quantity of any goods, it shall be a defence for the person charged to prove that the excess was attributable to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in those or other goods.

(6) If proceedings for an offence under this Part or any instrument made under it in respect of any deficiency or excess in the quantity—

- (a) of any goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity;
- (b) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required by or under this Order to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities,

are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession for sale or for delivery after sale, were available for testing, the person charged shall not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested.

(7) In any proceedings for an offence under this Part or any instrument made under it, the court—

- (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, shall have regard to the average quantity in all the articles tested;
- (b) if the proceedings are with respect to a single article, shall disregard any inconsiderable deficiency or excess; and
- (c) shall have regard generally to all the circumstances of the case.

(8) Paragraphs (6) and (7) shall apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as it applies to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods.

### **Offences due to default of third person** N.I.

**25.**—(1) If in any case the defence provided by Article 24(1) involves an allegation that the commission of the offence in question was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, before the beginning of the period of seven days ending with the date when the hearing of the charge began, he served on the prosecution a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(2) Where the commission by any person of an offence under this Part or an instrument made under it is due to the act or default of some other person, the other person shall be guilty of the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

(3) Where by virtue of paragraph (2) a person is charged with an offence with which some other person might have been charged, the reference in Article 24(6) to articles or goods sold by or in the possession of the person charged shall be construed as a reference to articles or goods sold by or in the possession of that other person.

## Special powers of inspector with respect to certain goods **N.I.**

26.—(1) Subject to paragraph (3), where any person—

- (a) makes in any manner any representation as to the quantity of any goods offered or exposed for sale by him; or
- (b) has in his possession or charge awaiting or in the course of delivery to the buyer any goods which have been sold or agreed to be sold, and the sale is, or purports to be, or is required by or under this Order to be, by quantity expressed in a particular manner, or is such that the quantity of the goods sold is required by or under any provision of this Order other than Article 21 to be made known to the buyer at or before a particular time; or
- (c) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any goods pre-packed or otherwise made up in or on a container for sale or for delivery after sale which are required by or under this Order to be pre-packed, or to be otherwise so made up, as the case may be, only in particular quantities or only if the container is marked with particular information, or any goods pre-packed in or on a container marked with an indication of quantity, or any goods required by or under this Order to be made for sale only in particular quantities; or
- (d) has in his possession or charge for sale or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any goods subject to a requirement imposed by virtue of Article 19(2)( c);

the powers of an inspector under Article 41 shall include power to require that person either to do in the presence of the inspector, or to permit the inspector to do, all or any of the following things, that is to say—

- (i) weigh or otherwise measure or count the goods;
- (ii) weigh or otherwise measure any container in or on which the goods are made up;
- (iii) in the case of goods within sub-paragraph (d), do anything else as respects the goods or container which is reasonably necessary to ascertain whether the requirement there mentioned is complied with, and which does not damage or depreciate the goods or container;
- (iv) if necessary for any of the purposes of heads (i) to (iii), break open any container of goods or open any vending machine in which goods are offered or exposed for sale,

and, in the case of any of the goods which are not already sold, power to require that person to sell any of them to the inspector.

(2) Where any container of goods is broken open under paragraph (1) and all requirements of, and of any instrument made under, this Order which are applicable to those goods are found to have been complied with, then, if the container can be resealed without injury to the contents, the inspector may reseat it with a label certifying that all such requirements have been complied with or, if he does not so reseat it or it cannot be so resealed without injury to the contents, shall at the request of the person mentioned in paragraph (1) buy the goods on behalf of the Department.

(3) The powers conferred by paragraph (1) shall not be exercisable in relation to milk within the meaning of the Weights and Measures (Milk) Order (Northern Ireland) 1980 except while the milk is on the premises which are used by a licence holder under the<sup>F23</sup> Milk (Northern Ireland) Order 1983] for making up milk in bottles or other containers, and paragraph (2) shall not apply in relation to such milk.

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**Powers of inspector with respect to certain documents** **N.I.**

27.—(1) An inspector, subject to the production, if so requested, of his credentials, may require the person in charge of any document required by or under this Order to be associated with any goods to produce that document for inspection.

(2) If the inspector has reasonable cause to believe that any document produced to him under paragraph (1) contains any inaccurate statement, he may either—

- (a) seize and detain the document, giving in exchange therefor a statement signed by him certifying that the document has been seized and giving particulars of the document and particulars of any inaccuracy alleged; or
- (b) without prejudice to any proceedings which may be taken by reason of any inaccuracy alleged, make on the document an endorsement signed by him giving particulars of any such inaccuracy;

and any reference in this Order to any such document shall be deemed to include a reference to a statement given in pursuance of sub-paragraph ( a).

(3) Where, in the case of any goods being carried on a road vehicle, the whole of the vehicle's load is being carried for, or for delivery after, sale to the same person, and any document produced in pursuance of paragraph (1) by the person in charge of the vehicle purports, or is required by or under this Order, to state the quantity of the goods, then, for the purpose of the exercise of his powers under Article 26(1), the inspector may do all or any of the following things, that is to say—

- (a) require the goods to which the document relates to be unloaded from the vehicle;
- (b) require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment;
- (c) require the person in charge of the vehicle to have it check-weighed.

(4) The powers conferred by paragraph (3) shall be exercised only to such extent as may appear to the inspector reasonably necessary in order to secure that the provisions of this Order and any instrument made under it are duly observed.

**Check-weighing of certain road vehicles** **N.I.**

28.—(1) Without prejudice to Part II of Schedule 5, where any road vehicle is loaded with goods for sale by weight to a single buyer of the whole of the vehicle's load, or for delivery to the buyer after they have been so sold, the buyer or seller of the goods, or any inspector who shows that he is authorised so to do by the buyer or seller of the goods, may require the person in charge of the vehicle to have it check-weighed, and if that person fails without reasonable cause to comply with any such requirement he shall be guilty of an offence.

(2) Where after the check-weighing in pursuance of a request by the buyer under paragraph (1) the weight of the goods is found to be not less than that stated by the seller in any document delivered to the buyer at or before the delivery of the goods to him, the buyer shall be liable to defray all costs reasonably incurred in connection with the check-weighing, but where the weight of the goods is so found to be less than that so stated, all such costs shall be defrayable by the seller.

**Selling by quantity, making quantity known, and weighing in presence** **N.I.**

29.—(1) Where any goods are required by or under this Order to be sold only by quantity expressed in a particular manner—

- (a) it shall be a sufficient compliance with that requirement in the case of any sale of, or agreement to sell, any such goods if the quantity of the goods expressed in the manner in question is made known to the buyer before the purchase price is agreed;

(b) no person shall be guilty of an offence under Article 20(1) by reason of the exposing or offering for sale of such goods at any time if both the quantity of the goods expressed in the manner in question and the price at which they are exposed or offered for sale are made known at that time to any prospective buyer.

(2) For the purposes of this Order and any instrument made under it, without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner, that quantity shall be deemed to be made known to that person—

- (a) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person; or
- (b) if the goods are made up in or on a container marked with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person; or
- (c) upon such a statement in writing being delivered to that person.

(3) Where the Department by order provides that this paragraph is to apply, in the case of such goods in such circumstances as are specified in the order, to any requirement so specified of, or of any instrument made under, this Order with respect to the making known to the buyer of the quantity by weight of such goods sold by retail, then, in any case to which the order applies, that requirement shall be deemed to be satisfied if the goods are bought at premises at which weighing equipment of such description as may be prescribed—

- (a) is kept available by the occupier of those premises for use without charge by any prospective buyer of such goods for the purpose of weighing for himself any such goods offered or exposed for sale by retail on those premises; and
- (b) is so kept available in a position on those premises which is suitable and convenient for such use of the equipment; and
- (c) is reserved for use for that purpose at all times while those premises are open for retail transactions,

and a notice of the availability of the equipment for such use is displayed in a position on the premises where it may be readily seen by any such prospective buyer.

(4) For the purposes of this Order and any instrument made under it, a person shall not be deemed to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any equipment used for the purpose to be so placed, and so conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that other person a clear and unobstructed view of the equipment, if any, and of the operation, and of any indication of quantity given by any such equipment as the result of that operation.

## PART VI **N.I.**

### PACKAGED GOODS

#### Interpretation of Part VI **N.I.**

30.—(1) In this Part—

“goods”, in relation to a package, excludes the container included in the package;

“importer”, in relation to a package, means, subject to Article 34(3), the person by whom or on whose behalf the package is entered for customs purposes on importation;

“modifications” includes additions, omissions and alterations;

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“nominal quantity”, in relation to a package, means the units of weight or volume prescribed for the package and the number of them in the statement of quantity marked on the container included in the package (any other matter in the statement being disregarded);

“notice” means notice in writing;

“package” means, subject to Article 34(1), a container containing prescribed goods together with the goods in the container in a case where—

- (a) the goods are placed for sale in the container otherwise than in the presence of a person purchasing the goods; and
- (b) none of the goods can be removed from the container without opening it;

“packer” means, in relation to a package, the person who placed in the container included in the package the goods included in it;

“relevant package” mean a package which is made up in the United Kingdom or imported on or after 1st January 1980 or, if the goods in the package became prescribed goods after that date, on or after the date on which they became prescribed goods.

(2) For the purposes of this Part a package is non-standard if the quantity of the goods it contains is less by more than a prescribed amount than the nominal quantity on the package and is inadequate if the quantity of the goods it contains is less by more than twice that amount than the nominal quantity on the package.

(3) Regulations may make provision, in relation to a package which comprises more than one container or goods of more than one kind, as to which of the containers or goods shall be disregarded for the purposes of prescribed provisions of this Part.

(4) If two or more different nominal quantities are marked on a package, each of those quantities except the one which indicates the larger or largest quantity shall be disregarded for the purposes of this Part.

(5) In this Part, except this paragraph, references to this Part include Schedules 8 and 9.

#### Quantity control

#### **Duties of packers and importers of packages** **N.I.**

**31.**—(1) A person who is the packer or importer of relevant packages shall ensure that when a group of the packages marked with the same nominal quantity is selected in the prescribed manner and the packages in the group or such a portion of the group as is so selected are tested in the prescribed manner by an inspector—

- (a) the total quantity of the goods shown by the test to be included in the packages tested divided by the number of those packages is not less than the nominal quantity on those packages; and
- (b) the number of non-standard packages among those tested is not greater than the number prescribed as acceptable in relation to the number tested.

(2) A person discharges the duty imposed on him by paragraph (1) in respect of a group of packages if the quantity of goods in each package is or exceeds the nominal quantity on the package.

(3) Regulations in pursuance of paragraph (1) with respect to the manner of selecting or testing packages may, without prejudice to the generality of the powers to make regulations conferred by that paragraph or to the generality of Article 38, make provision by reference to a document other than the regulations (which may be or include a code of practical guidance issued by the Department or, as the case may be, the Secretary of State).

(4) Where, as a result of a test in respect of a group of packages which is carried out when the packages are in the possession of the packer or importer of the packages or another person, it is

shown that the packer or importer of the packages has failed to comply with paragraph (1) in respect of the packages, then, without prejudice to the liability of the packer or importer under Article 32(1) in respect of the failure, the person in possession of the packages shall keep them in his possession—

- (a) except so far as he is authorised by or under regulations to dispose of them; or
- (b) if he is the packer or importer of them, until he has complied with paragraph (1) in respect of the group.

(5) A person who is the packer or importer of a relevant package shall ensure that the container included in the package is marked before the prescribed time and in the prescribed manner with—

- (a) a statement of quantity in prescribed units either of weight or of volume, as regulations require; and
- (b) his name and address or a mark which enables his name and address to be readily ascertained by an inspector or—
  - (i) if he is the packer of the package, the name and address of a person who arranged for him to make up the package or a mark which enables that name and address to be readily ascertained by an inspector,
  - (ii) if he is the importer of the package, the name and address of the packer of the package or of a person who arranged for the packer to make up the package or a mark which enables the name and address of the packer or the said person to be readily ascertained by an inspector; and

- (c) if regulations so provide, a mark allocated to him by a scheme in pursuance of Article 35(4) for the purpose of enabling the place where the package was made up to be ascertained.

(6) If at the time when a relevant package is made up or imported the container included in the package is not marked with such a statement as is mentioned in sub-paragraph (a) of paragraph (5), the packer or, as the case may be, the importer of the package shall—

- (a) decide what statement he proposes to mark on the container in pursuance of that sub-paragraph, and
- (b) make at that time, and maintain for the prescribed period, a record of the statement.

(7) Until the time mentioned in paragraph (5) or any earlier time at which the container is actually marked in the prescribed manner in pursuance of sub-paragraph (a) of that paragraph, the container shall be treated for the purposes of this Part as marked with the statement in the record.

(8) A statement applied to a package in pursuance of paragraph (5)(a) shall be deemed not to be a trade description within the meaning of the Trade Descriptions Act 1968 .

(9) A person who makes up packages shall either—

- (a) use suitable equipment of the prescribed kind in an appropriate manner in making up the packages; or
- (b) carry out at the prescribed time a check which is adequate to show whether he has complied with paragraph (1) in respect of the packages and—
  - (i) use suitable equipment of the prescribed kind in an appropriate manner in carrying out the check, and
  - (ii) make, and keep for the prescribed period, an adequate record of the check.

(10) A person who is the importer of relevant packages shall—

- (a) carry out at the prescribed time such a check as is mentioned in sub-paragraph (b) of paragraph (9) and comply with heads (i) and (ii) of that sub-paragraph in connection with the check; or

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- (b) obtain before the prescribed time, and keep for the prescribed period, documents containing such information about the packages as is adequate to show that the person is likely to have complied with paragraph (1) in relation to the packages.
- (11) Without prejudice to the generality of the powers to make regulations conferred by paragraph (9) or (10) or to the generality of Article 38, regulations may provide—
  - (a) for equipment not to be equipment for the purposes of the paragraph in question unless it is made from materials and on principles specified in the regulations and is inspected, tested and certified as provided by the regulations;
  - (b) for questions as to the suitability of equipment, the appropriate manner of using equipment and the adequacy of checks, records and information to be determined for those purposes by reference to documents other than the regulations (which may be or include codes or parts of codes of practical guidance issued or approved by the Department or, as the case may be, the Secretary of State);
  - (c) that the use and the possession for use, for the purposes of paragraph (9) or (10), of a thing which is equipment for the purposes of the paragraph in question shall not constitute a contravention of Article 6(1)( b).
- (12) Where regulations made by virtue of paragraph (11)( a) provide for inspection, testing and certification, of equipment, the Department may charge such reasonable fees as it may determine for the inspection, testing and certification of equipment.

## **Enforcement** **N.I.**

**32.**—(1) A person who fails to comply with Article 31 shall be guilty of an offence.

(2) If an inspector has reasonable cause to believe that a person has failed to comply with Article 31(1) in relation to a group of packages, the inspector may give to the person in possession of the packages instructions in writing specifying the packages and requiring him to keep the packages at a place specified in the instructions and at the disposal of the inspector for the period of twenty-four hours beginning with the time when the inspector gives him the instructions or for such shorter period as the inspector may specify; and if the person to whom the instructions are given fails without reasonable cause to comply with the instructions he shall be guilty of an offence.

(3) If an inspector has reasonable cause to believe that a person has failed to comply with Article 31(9) or (10), then—

- (a) the inspector may give to the person such instructions in writing as the inspector considers appropriate with a view to ensuring that the person does not subsequently fail to so comply; and
- (b) Schedule 8 shall have effect with respect to the instructions;

and if the instructions or the instructions with modifications come into force in pursuance of that Schedule and the person fails without reasonable cause to comply with them he shall be guilty of an offence.

(4) If a person—

- (a) purports to comply with head (ii) of Article 31(9)( b) or that head as applied by paragraph (10)( a) of that Article by making a record which he knows is false in a material particular; or
- (b) purports to comply with paragraph (10)( b) of that Article by reference to a document containing information which he knows is false in a material particular; or
- (c) with intent to deceive, alters any record kept for the purposes of Article 31(6) or head (ii) of paragraph (9)( b) of that Article or that head as applied by paragraph (10)( a) of that Article or any document kept for the purposes of paragraph (10)( b) of that Article,



he shall be guilty of an offence.

(5) If a person has in his possession for sale, agrees to sell or sells a relevant package which is inadequate and either—

- (a) he is the packer or importer of the package; or
- (b) he knows that the package is inadequate,

he shall be guilty of an offence; and if the packer of a relevant package which is inadequate, and which was made up by him in the course of carrying out arrangements with another person for the packer to make up packages, delivers the package to or to the order of a person to whom it falls to be delivered in pursuance of the arrangements, the packer shall be guilty of an offence.

(6) For the purposes of Articles 20 and 22 the quantity of the goods in a relevant package shall be deemed to be the nominal quantity on the package.

(7) No action shall lie in respect of a failure to comply with Article 31.

(8) Schedule 9 shall have effect with respect to the powers and duties of inspectors and the other matters there mentioned.

### **Defences to offences under Article 32** **N.I.**

**33.**—(1) Where a person is charged with an offence under Article 32(1) of failing to comply with Article 31(1) in respect of any packages, it shall be a defence to prove that the test in question took place when the packages were not in his possession and by reference to a nominal quantity which was not on the packages when they were in his possession.

(2) Where the importer of packages is charged with an offence under Article 32(1) of failing to comply with Article 31(1) in respect of the packages, it shall be a defence to prove—

- (a) that in respect of the packages the accused complied with Article 31(10)(b); and
- (b) that within the prescribed period after obtaining the documents mentioned in that subparagraph relating to the packages he took all reasonable steps to verify the information contained in the documents and that when the relevant test in pursuance of Article 31(1) began he believed and had no reason to disbelieve that the information was true; and
- (c) that before the beginning of the period of seven days ending with the date when the hearing of the charge began he served on the prosecution a copy of the said documents and a notice which stated that the accused intended to rely on them in proving a defence under this paragraph; and
- (d) that he took all reasonable steps to ensure that the quantity of goods in each of the packages did not alter while the packages were in his possession.

(3) Where a person is charged with an offence under Article 32(1) of failing to comply with Article 31(5)(b) in respect of a package, it shall be a defence to prove—

- (a) that the container included in the package was marked at the time and in the manner mentioned in that paragraph with a mark as to which he had, before that time, given notice to an inspector stating that the mark indicated a name and address specified in the notice; and
- (b) that at the time aforesaid the name and address were such as are mentioned in relation to him in that sub-paragraph.

(4) Where a person is charged with an offence under Article 32(1) or an offence alleged to have been committed by him, as the packer or importer of a package, under Article 32(5), it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

**Special provision for certain packages** **N.I.**

34.—(1) Paragraphs (2) to (6) apply only to packages containing goods of a prescribed quantity, and references to packages in those paragraphs shall be construed accordingly.

(2) If in the course of carrying on a business—

- (a) a person marks a package with the EEC mark and is neither the packer nor the importer of the package nor a person acting on behalf of the packer or importer of the package; or
- (b) a person marks a package with a mark so closely resembling the EEC mark as to be likely to deceive,

the person shall be guilty of an offence.

(3) For the purposes of this Part a person who brings a package marked with the EEC mark into the United Kingdom does not import the package if he shows that the package is from a member State of the Economic Community in which it was liable to be tested under a law corresponding to Article 31(1) and, except in such cases as are determined by or under regulations, has not since leaving that State been in a country which is not such a member State.

(4) Subject to paragraph (5)—

- (a) the packer of packages which are marked with the EEC mark and which he intends to export from the United Kingdom; and
- (b) a person who intends to import packages which are so marked and to export from the United Kingdom to a place in another member State of the Economic Community; and
- (c) a person who intends to import packages, to mark them with the EEC mark and to export them as mentioned in sub-paragraph ( b ),

shall give before the prescribed time and in the prescribed manner, to the Department a notice containing such information about the packages as is prescribed and, in the case of a person who has given such a notice in pursuance of sub-paragraph ( b ) or ( c ), such further information about the packages in question as an inspector may specify in a notice served on the person by the inspector; and a person who fails without reasonable cause to comply with this paragraph shall be guilty of an offence.

(5) Regulations may enable an inspector to give notice to any person providing that, until an inspector informs the person in writing that the notice is cancelled, any sub-paragraph of paragraph (4) which is specified in the notice shall not apply to the person or shall not apply to him as respects packages of a kind specified in the notice or a place so specified.

(6) In this Article “the EEC mark” means such mark as may be prescribed; and, without prejudice to the generality of Article 38, regulations prescribing a mark in pursuance of this paragraph may contain such provisions as the Department or, as the case may be, the Secretary of State considers appropriate with respect to the dimensions of the mark and the manner and position in which it is to be applied to the container included in a package and may provide for a mark which is not in accordance with those provisions to be disregarded for the purposes of the prescribed provisions of this Article.

## Co-ordination of control

**Functions of the Department under Part VI** **N.I.**

35.—(1) The Department shall—

- (a) keep under review the operation of this Part and carry out such research in connection with the review as the Department considers appropriate;
- (b) make available to packers and importers of packages, such information as the Department considers appropriate in connection with the operation of this Part;

- (c) seek to collaborate, with any authority in a place outside Northern Ireland appearing to the Department to have functions which correspond to those of the Department, about matters which are connected with packages and are of interest to the Department and the authority;
  - (d) make and maintain a record of the names and addresses of packers and importers of packages and of—
    - (i) the kinds of packages which they make up or import, and
    - (ii) the marks of which particulars have been furnished by them in pursuance of paragraph (2).
- (2) The Department may serve, on any person carrying on business as a packer or importer of packages, a notice requiring him—
- (a) to furnish the Department with particulars of the kind specified in the notice of any marks which, otherwise than in pursuance of Article 31(5)(c) are applied, to packages made up or, as the case may be, imported by him, for the purpose of enabling the place where the packages were made up to be ascertained; and
  - (b) if he has furnished particulars of a mark in pursuance of the notice and the mark ceases to be applied for the purpose aforesaid to packages made up or imported by him, to give notice of the cesser to the Department;
- but a notice given by the Department in pursuance of this paragraph shall not require a person to furnish information which he does not possess.
- (3) A person who fails without reasonable cause to comply with a notice served on him in pursuance of paragraph (2) shall be guilty of an offence.
- (4) The Department shall—
- (a) prepare a scheme which—
    - (i) allocates, to persons carrying on business as packers or importers of packages, marks from which there can be ascertained the places where packages made up or imported by them were made up, and
    - (ii) specifies the kinds of packages to which each mark is to be applied;
  - (b) make such alterations of the scheme as the Department considers appropriate;
  - (c) give, to each person to whom a mark is for the time being allocated by the scheme, a notice which specifies the mark, states that it has been allocated to him in pursuance of the scheme and specifies the kinds of packages to which it is to be applied.

#### Miscellaneous

#### Disclosure of information **N.I.**

- 36.**—(1) If a person discloses information which—
- (a) relates to a trade secret or secret manufacturing process; and
  - (b) was obtained by him by virtue of this Part when he was an inspector or a person who accompanied an inspector by virtue of paragraph 3(1) of Schedule 9,
- he shall be guilty of an offence unless the disclosure was made in the performance of his duty as an inspector or other person mentioned in sub-paragraph (b).
- (2) For the purposes of paragraph (1) information disclosing the identity of the packer of a package or the identity of the person who arranged with the packer of a package for the package to be made up shall be treated as a trade secret unless the information has previously been disclosed in a manner which made it available to the public.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

(3) A person guilty of an offence under this Article shall be liable, on summary conviction, to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years and a fine;<sup>F24</sup> . . .  
*Para. (4) rep. by 1984 NI 3*

F24 1984 NI 3

#### **Power to modify Part VI** **N.I.**

37. Regulations may provide—
- (a) that in relation to packages of a prescribed kind the provisions of this Part, except this Article, shall have effect with prescribed modifications;
  - (b) for the provisions of this Part to apply, with prescribed modifications, to goods of a prescribed kind which are not comprised in packages.

#### **Regulations under Part VI** **N.I.**

38. Any power to make regulations conferred by this Part includes power to make provision by reference to documents which do not form part of the regulations and to include in the regulations such supplemental and incidental provisions as the Department considers appropriate.

## **PART VII** **N.I.**

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

#### **Function of Department** **N.I.**

39. It shall be the duty of the Department to enforce the provisions of this Order.

#### **Inspectors of weights and measures** **N.I.**

40.—(1) The Department, with the approval of the Department of the Civil Service as to numbers and salaries, shall appoint from among persons holding certificates of qualification under paragraph (2) a chief inspector of weights and measures and such number of other inspectors of weights and measures as may be necessary for the efficient discharge of the functions conferred or imposed on inspectors under this Order or any enactment falling to be repealed by it, and may assign to them their duties, and may regulate the cases and manner in which the inspectors, or any of them, are to execute and perform the functions of inspectors under this Order or any such enactment.

(2) The Department may make such arrangements as it thinks fit for the purpose of ascertaining whether persons possess sufficient skill and knowledge for the proper performance of the functions of an inspector, and for the grant of certificates of qualification to persons who satisfy the Department that they are suitable for appointment as inspectors.

(3) The Department shall not grant a certificate of qualification to any person while he is under twenty-one years of age.

#### **General powers of inspection and entry** **N.I.**

41.—(1) Subject to the production, if so requested, of his credentials, an inspector may at all reasonable times—

- (a) inspect and test any weighing or measuring equipment which is, or which he has reasonable cause to believe to be, used for trade or in the possession of any person or upon any premises for such use;<sup>F25</sup> or which has been, or which he has reasonable cause to believe to have been, passed by an approved verifier, or by a person purporting to act as such a verifier, as fit for such use.]
  - (b) inspect any goods to which any of the provisions of this Order or any instrument made under it for the time being applies or which he has reasonable cause to believe to be such goods;
  - (c) enter any premises at which he has reasonable cause to believe there to be any such equipment or goods as aforesaid, not being premises used only as a private dwelling-house.
- (2) Subject to the production, if so requested, of his credentials, an inspector may seize and detain—
- (a) any article which he has reasonable cause to believe is liable to be forfeited under this Order, and
  - (b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Order.
- (3) Where a justice of the peace is satisfied by complaint in writing and on oath—
- (a) that there is reasonable ground to believe that any such equipment, goods, articles or documents as are mentioned in paragraph (1) or (2) are on any premises, or that any offence under this Order or any instrument made under it has been, is being or is about to be committed on any premises; and
  - (b) either—
    - (i) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or that the occupier is temporarily absent,he may issue a warrant under his hand, which shall continue in force for a period of seven days commencing with the date of issue of the warrant, authorising an inspector to enter the premises, if need be by force.
- (4) An inspector entering any premises by virtue of this Article may take with him such other persons and such equipment as he considers necessary.
- (5) An inspector who leaves premises which he has entered by virtue of paragraph (3) and which are unoccupied or from which the occupier is temporarily absent shall leave the premises as effectively secured against trespassers as he found them.
- (6) If any inspector or other person who enters any premises by virtue of this Article discloses to any person any information with regard to any secret manufacturing process or trade secret obtained by him in the premises, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

F25 2000 c. 5(NI)

## Obstruction of inspectors **N.I.**

42.—(1) Any person who—

- (a) wilfully obstructs an inspector acting in the execution of this Order or any instrument made under it; or

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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

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- (b) wilfully fails to comply with any requirement properly made of him by an inspector under Article 26 or 27; or
- (c) without reasonable cause fails to give to any inspector acting as aforesaid any assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under this Order or any instrument made under it,

shall be guilty of an offence.

(2) If any person, in giving to an inspector any such information as is mentioned in paragraph (1), gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in this Article shall be construed as requiring a person to answer any question or give any information (other than his name and address) if to do so might incriminate him.

#### **Power of Department to provide adjustment service** **N.I.**

**43.** The Department may make arrangements for the provision of a service for the adjustment of weights and measures, but not of other weighing or measuring equipment, subject to the payment, by persons requiring the said service, of the prescribed fee.

#### **Employment of inspectors for provision of certain other services** **N.I.**

**44.** Without prejudice to the functions exercisable by inspectors under any other provision of this Order, the Department may make arrangements whereby an inspector may, at the request of any person and subject to the payment by that person of such fee as the Department may determine, carry out and submit to that person a report on—

- (a) a weighing or other measurement of any goods submitted for the purpose by that person at such place as the Department may direct or approve;
- (b) a test of the accuracy of any weighing or measuring equipment so submitted.

#### **Offences in connection with office of inspector** **N.I.**

**45.—**(1) Any inspector who—

- (a) stamps any weighing or measuring equipment in contravention of any provision of this Order or of any instrument made under it, or without duly testing it; or
- (b) derives any profit from, or is employed (otherwise than in pursuance of arrangements made under Article 43) in, the making, adjusting or selling of weighing or measuring equipment; or
- (c) knowingly commits any breach of any duty imposed on him by or under this Order or any enactment falling to be repealed by it or otherwise misconducts himself in the execution of his office,

shall be guilty of an offence.

<sup>F26</sup>(1A) Any approved verifier who—

- (a) stamps any weighing or measuring equipment in contravention of any provision of this Order or of any instrument made under it, or without duly testing it; or
- (b) commits any breach of any duty imposed on him by or under this Order,

shall be guilty of an offence.

(2) If any person who is not an inspector, or is not an approved verifier, acts or purports to act as such, he shall be guilty of an offence.

(3) Articles 24(1) and 25(1) shall apply in relation to proceedings for an offence under paragraph (1A)(b) as they apply in relation to proceedings for an offence under Part V.]

F26 2000 c. 5(NI)

### Prosecution of offences **N.I.**

**46.**—(1) Subject to paragraph (2), no proceedings for an offence under any of the provisions of this Order or any instrument made under it other than an offence under Articles 32, 34, 35(3) and 36 may be instituted except by the Department or the Attorney General.

(2) No proceedings for an offence under Article 32, 34 or 35(3) or paragraph 6 of Schedule 9 shall be instituted except by or on behalf of the Department or the Director of Public Prosecutions for Northern Ireland.

(3) Proceedings for an offence under any provision contained in, or having effect by virtue of, Part V, other than proceedings for an offence under Article 23(6) or proceedings by virtue of Article 25(2), shall not be instituted—

- (a) unless there has been served on the person charged notice in writing of the date and nature of the offence alleged and, where the proceedings are in respect of one or more of a number of articles of the same kind tested on the same occasion, of the results of the tests of all those articles;
- (b) except where the person charged is a street trader, unless the said notice was served before the expiration of the period of thirty days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge;
- (c) after the expiration of the period of—
  - (i) twelve months beginning with the date mentioned in sub-paragraph ( a ), or
  - (ii) three months beginning with the date mentioned in sub-paragraph ( b ),whichever first occurs.

(4) For the purposes of paragraph (3)—

- (a) a certificate of a person who institutes proceedings for an offence mentioned in that paragraph which states that evidence came to his knowledge on a particular date shall be conclusive evidence of that fact; and
- (b) a document purporting to be a certificate of such a person and to be signed by him or on his behalf shall be presumed to be such a certificate unless the contrary is proved.

(5) Paragraphs (3) and (4) shall apply to an offence under Article 32 or 34 or paragraph 6 of Schedule 9 as they apply to an offence under Article 22 with the modification that in paragraph (3) ( a ) the words from “and, where” to “those articles” shall be omitted.

### Penalties **N.I.**

**47.**—(1) A person guilty of an offence under Article 6(3), 7(4), 8(2), 9(2), 9(11), 10(3), 10(4), 11(4), 12(3), 12(4), 13(1), 13(4),<sup>[F27]</sup> 13A(3),] 16(3), 18(2), 18(4) or 18(5), paragraphs 4 and 5 of Schedule 4 or paragraph 5 of Schedule 5, shall be liable on summary conviction to a fine not exceeding £200.

(2) A person guilty of an offence under Article 15(3) or 18(3)(b) or paragraph 6 of Part I of Schedule 5 shall be liable on summary conviction to a fine not exceeding<sup>[F28]</sup> level 5 on the standard scale] or to imprisonment for a term not exceeding six months or to both.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

(3) A person guilty of an offence under Article 32(4) shall be liable on summary conviction to a fine not exceeding<sup>[F28]</sup> level 5 on the standard scale] and to imprisonment for a term not exceeding six months.

(4) A person guilty of an offence under Article 41(6) shall be liable—

(a) on summary conviction to a fine not exceeding<sup>[F28]</sup> level 5 on the standard scale];

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) A person guilty of an offence under any provision of this Order other than those mentioned in paragraphs (1) to (4) or Article 36 shall be liable on summary conviction to a fine not exceeding<sup>[F28]</sup> level 5 on the standard scale].

**F27** 2000 c. 5(NI)

**F28** 1984 NI 3

### **Regulations and orders** **N.I.**

**48.**—(1) Any regulations made under this Order shall be subject to negative resolution.

(2) Before making any order under Articles 6, 19(2), 19(7), 21(6), 29(3) and 53(1) and paragraph (7) of Schedule 5, the Department shall consult with, and consider any representations with respect to the subject-matter of the order made to the Department by, such organisations as appear to the Department to be representative of interests substantially affected by the order.

(3) In the case of an order under Article 6(4) which relates to imperial units, measures or weights the Department in acting under paragraph (2) shall have particular regard to the need to consult, and to consider representations from, organisations representative of the interests of consumers.

(4) Before making any regulations under Part VI the Department shall consult with such organisations as appear to the Department to be representative of interests substantially affected by the regulations.

### **Department to report to Assembly** **N.I.**

**49.** The Department shall not less than once in every three years lay before the Assembly a report of its proceedings under this Order and generally about the operation of this Order.

### **Application to Crown** **N.I.**

**50.**—(1) The Secretary of State may by order provide for the application to the Crown of such of the provisions of this Order or of any instrument made under it as may be specified in the order, with such exceptions, adaptations and modifications as may be so specified.

(2) Without prejudice to the generality of paragraph (1), an order under this Article may make special provision for the enforcement of any provisions applied by the order, and, in particular, as to the person liable to be proceeded against for any offence under any such provision.

(3) An order made under this Article shall be subject to negative resolution.

(4) In this Article, references to the Crown shall include references to the Crown in right of Her Majesty's Government in the United Kingdom.

### **Supplemental provisions with respect to fees** **N.I.**

**51.**—(1) Where a person gives assistance in connection with the inspection, testing or stamping of weighing or measuring equipment by an inspector, the Department may reduce, by a sum which



the Department considers reasonable by reference to the assistance, the amount of any payment falling to be made by that person to the inspector in respect of the inspection, testing or stamping.

(2) The Public Offices Fees Act 1879 shall not apply to any fee such as is referred to in paragraph (1).

*Art. 52 rep. by 1996 NI 2*

### Other savings **N.I.**

**53.**—(1) Except as the Department may by order otherwise provide, and except in the case of a retail transaction or a transaction with respect to which provision to the contrary effect is for the time being made by or under Part V or any enactment included in the third column of Part III of Schedule 7 to the Weights and Measures Act (Northern Ireland) 1967, nothing in this Order shall make unlawful the use in any transaction, by agreement between the parties to that agreement, of any unit of measurement which—

- (a) was customarily used for trade in the like transactions immediately before 25th October 1967, and
- (b) is not inconsistent with anything for the time being contained in Schedule 1 to the<sup>F29</sup> Act of 1985],

notwithstanding that the unit in question is not for the time being included in the said Schedule 1.

(2) No contract for the sale or carriage for reward of any goods shall be void by reason only of a contravention of any provision of, or any instrument made under, this Order with respect to any document which is, or is required by that provision to be, associated with the goods.

(3) Nothing in this Order or in any instrument made under it, prevents the use of “gram” as an alternative way of spelling “gramme”, and the same applies for other units in the metric system which are compounds of “gramme”.

**F29** 1985 c. 72

### Consequential amendments and repeals **N.I.**

*Para.(1), with Schedule 10, effects amendments; para.(2), with Schedule 11, effects repeals*

(3) Where an enactment contained in any local Act passed before 25th October 1967 appears to the Department to have been superseded by, or to be inconsistent with, any provision of this Order or of any instrument made under it, the Department may by order, a draft of which shall be laid before the Assembly, specify that enactment for the purposes of this paragraph and, without prejudice to the operation in the meantime of any rule of law relating to the effect on any such enactment of any such provision, any enactment specified in any such order shall be repealed as from the date of the making of the order.

(4) No power conferred by any Act on any person other than the Department to make provision by instrument with respect to the marking of any food shall extend to the marking of such food with a statement of its quantity by weight or other measurement or by number, if the exercise of such a power would have the effect of making a provision which would be inconsistent with any provision of this Order or any instrument made under it.

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

## SCHEDULES

SCHEDULE 1 **N.I.** Articles 3(1), 4(1), 6(1)(b), (2), (3)(b), (4) and 8(1).

### MEASURES AND WEIGHTS LAWFUL FOR USE FOR TRADE

#### PART I **N.I.** LINEAR MEASURES

*Para. 1 rep. by SR 1995/227*

Metric system

Measures of—

50 metres	2 metres
30 metres	1.5 metres
20 metres	1 metre
10 metres	0.5 metre
5 metres	1 decimetre
3 metres	1 centimetre

#### PART II **N.I.** SQUARE MEASURES

*Para. 1 rep. by SR 1995/227*

Metric system

- Measures of, or of any multiple of, 1 square decimetre.

#### PART III **N.I.** CUBIC MEASURES

Metric system

- Measures of, or of any multiple of, 0.1 cubic metre.
- Measures of—

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any multiple of 10 litres

10 litres	100 millilitres
5 litres	50 millilitres
2.5 litres	25 millilitres
2 litres	20 millilitres
1 litre	10 millilitres
500 millilitres	5 millilitres
250 millilitres	2 millilitres
200 millilitres	1 millilitre

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PART IV **N.I.**  
CAPACITY MEASURES  
[<sup>F30</sup>Imperial system

**F30** SR 1995/227

**1.** Measures of—

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16 pints  
8 pints  
4 pints  
2 pints  
1 pint  
 $\frac{1}{2}$  pint  
 $\frac{1}{3}$  pint]

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Metric system

**2.** Measures of—

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any multiple of 10 litres	[ <sup>F31</sup> 125 millilitres]
10 litres	100 millilitres
5 litres	[ <sup>F32</sup> 70 millilitres]
2.5 litres	50 millilitres
2 litres	[ <sup>F31</sup> 35 millilitres]
1 litre	25 millilitres
500 millilitres	20 millilitres
250 millilitres	10 millilitres
200 millilitres	5 millilitres

**Status:** Point in time view as at 01/01/2006.  
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[ <sup>F31</sup> 175 millilitres]	2 millilitres
[ <sup>F31</sup> 150 millilitre]	1 millilitre

<b>F31</b> SR 1983/302
<b>F32</b> SR 2004/370

## PART V N.I.

### WEIGHTS

#### Imperial system

*Para. 1 rep. by SR 1995/227*

**2. Weights of—**

500 ounces troy	0.4 ounce troy
400 ounces troy	0.3 ounce troy
300 ounces troy	0.2 ounce troy
200 ounces troy	0.1 ounce troy
100 ounces troy	0.05 ounce troy
50 ounces troy	0.04 ounce troy
40 ounces troy	0.03 ounce troy
30 ounces troy	0.025 ounce troy
20 ounces troy	0.02 ounce troy
10 ounces troy	0.01 ounce troy
5 ounces troy	0.005 ounce troy
4 ounces troy	0.004 ounce troy
3 ounces troy	0.003 ounce troy
2 ounces troy	0.002 ounce troy
1 ounce troy	0.001 ounce troy
0.5 ounce troy	

#### Metric system

**3. Weights of—**

25 kilogrammes	3 grammes
20 kilogrammes	2 grammes
10 kilogrammes	1 gramme
5 kilogrammes	500 milligrammes

2 kilogrammes	400 milligrammes
1 kilogramme	300 milligrammes
500 grammes	200 milligrammes
200 grammes	150 milligrammes
100 grammes	100 milligrammes
50 grammes	50 milligrammes
20 grammes	20 milligrammes
15 grammes	10 milligrammes
10 grammes	5 milligrammes
5 grammes	2 milligrammes
4 grammes	1 milligramme

**4. Weights of—**

500 carats (metric)	1 carat (metric)
200 carats (metric)	0.5 carat (metric)
100 carats (metric)	0.25 carat (metric)
50 carats (metric)	0.2 carat (metric)
20 carats (metric)	0.1 carat (metric)
10 carats (metric)	0.05 carat (metric)
5 carats (metric)	0.02 carat (metric)
2 carats (metric)	0.01 carat (metric)

**PART VI N.I.**

**SPECIAL RESTRICTIONS ON USE FOR TRADE**

**1.** No person shall use the ounce troy for trade except for the purposes of transactions in, or in articles made from, gold, silver or other precious metals, including transactions in gold or silver thread, lace or fringe.

**2.** No person shall use the carat (metric) for trade except for the purposes of transactions in precious stones or pearls.

**[<sup>F33</sup>3.** No person shall use a capacity measure of 35 millilitres, 70 millilitres, 125 millilitres, 150 millilitres or 175 millilitres for trade except for the purposes of transactions in intoxicating liquor.]

**F33** SR 2004/370

**[<sup>F34</sup>4.** No person shall use the pint for trade except for—

(a) the purposes of the sale of draught beer and cider; or

(b) the purposes of the sale of milk in returnable containers;<sup>F34</sup> . . .

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

*Sub#para. (c) rep. by SR 1995/227]*

**F34** SR 1995/227

**N.I.**

*Para.5 rep. by SR 1995/227*

SCHEDULE 2 **N.I.**

Article 6(1)(a), (3)(b), (4)(b) and (5).

## UNITS OF MEASUREMENT LAWFUL FOR USE FOR TRADE

PART I **N.I.**

### MEASUREMENT OF LENGTH

*Entry for imperial units rep. by SR 1995/226*

Metric units

**N.I.**

Kilometre

**N.I.**

Metre

**N.I.**

Decimetre

**N.I.**

Centimetre

**N.I.**

Millimetre

PART II **N.I.**

### MEASUREMENT OF AREA

*Entry for imperial units rep. by SR 1995/226*

Metric units

**N.I.**

Hectare

**N.I.**

Decare

**N.I.**

Are

**N.I.**

Square metre

**N.I.**

Square decimetre

**N.I.**

Square centimetre

**N.I.**

Square millimetre

### PART III **N.I.**

#### MEASUREMENT OF VOLUME

Metric units

**N.I.**

Cubic metre

**N.I.**

Cubic decimetre

**N.I.**

Cubic centimetre

**N.I.**

Hectolitre

**N.I.**

Litre

**N.I.**

Decilitre

**Status:** Point in time view as at 01/01/2006.  
**Changes to legislation:** There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

**N.I.**

Centilitre

**N.I.**

Millilitre

PART IV **N.I.**  
 MEASUREMENT OF CAPACITY

**N.I.**

<i>[<sup>F35</sup>Imperial unit]</i>	<i>Metric units</i>
F35	Hectolitre
...	
F35	Litre
...	
Pint	Decilitre
F35	Centilitre
...	
F35	Millilitre
...	

F35 SR 1995/226

F35 SR 1995/226

PART V **N.I.**  
 MEASUREMENT OF MASS OR WEIGHT

[<sup>F36</sup>Imperial unit]

F36 SR 1995/226

**N.I.**

F37  
 ...

F37 SR 1995/226



**F37** SR 1995/226

**N.I.**

Ounce troy

Metric units

**N.I.**

Tonne

**N.I.**

Metric tonne

**N.I.**

Kilogramme

**N.I.**

Hectogramme

**N.I.**

Gramme

**N.I.**

Carat (metric)

**N.I.**

Milligramme

## PART VI **N.I.**

### SPECIAL RESTRICTIONS ON USE FOR TRADE

**1.** No person shall use the ounce troy for trade except for the purposes of transactions in, or in articles made from, gold, silver or other precious metals, including transactions in gold or silver thread, lace or fringe.

**2.** No person shall use the carat (metric) for trade except for the purposes of transactions in precious stones or pearls.

[<sup>F38</sup>**3.** No person shall use the pint for trade except for—

(a) the purposes of the sale of draught beer and cider; or

(b) the purposes of the sale of milk in returnable containers;<sup>F38</sup> . . .

*Sub#para. (c) rep. by SR 1995/227]*

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

F38 SR 1995/227

**N.I.**

Paras. 4, 5 rep. by SR 1995/227

[<sup>F39</sup>SCHEDULE 2A **N.I.**

## APPROVALS UNDER ARTICLE 9A

F39 2000 c. 5(NI)

### PART I **N.I.**

#### APPROVALS: GENERAL

##### Fees

1. Where—

- (a) any person makes an application for an approval, or
- (b) an approval is to be, or has been, granted to any person,

the Department may require that person to pay, in respect of any work carried out by or on behalf of the Department in relation to the application or the approval, such reasonable fee as the Department may determine with the approval of the Department of Finance and Personnel.

##### Form, effect and conditions of approvals

2.—(1) An approval shall be in writing and, unless previously withdrawn in accordance with any term in that behalf contained in the approval and subject to the following provisions of this Part, shall continue in force for such period (not exceeding five years) as may be specified in the approval.

(2) An approval—

- (a) shall specify the classes or descriptions of weighing or measuring equipment for the testing, passing as fit for use for trade and stamping of which the verifier is approved;
- (b) may include such conditions as appear to the Department to be requisite or expedient having regard to the need to ensure that only such equipment as is fit for use for trade is passed as fit for such use; and
- (c) shall contain conditions requiring the verifier to satisfy the requirements set out in Part II.

(3) Without prejudice to the generality of sub-paragraph (2), conditions included in an approval by virtue of that sub-paragraph may.

- (a) require the verifier to comply with any direction given by the Department as to such matters as are specified in the approval or are of a description so specified;
- (b) require the verifier to ensure that his procedures for the testing of weighing or measuring equipment conform with such quality standards as are specified in the approval or are of a description so specified.

### Suspension of approvals

3.—(1) If it appears to an inspector that, otherwise than in accordance with Article 13A, the prescribed stamp has been, or is being, applied by an approved verifier to equipment which had not, or has not, been duly tested and passed as fit for use for trade, he may give to the verifier a notice (a “suspension notice”) suspending the verifier's approval (either generally or in relation to particular areas or places) for a period not exceeding 28 days.

(2) Where an inspector gives a suspension notice, he shall forthwith send a copy of the notice to the chief inspector and inform the approved verifier in writing of.

- (a) the circumstances which have led to the giving of the notice;
- (b) the date on which the notice takes effect; and
- (c) the effect of the following provisions of this paragraph.

(3) An approved verifier who has taken steps to prevent a recurrence of the circumstances which led to the giving of a suspension notice may apply to the inspector for the suspension to be withdrawn before the expiry of the specified period; and an application under this sub-paragraph—

- (a) shall be made by notice to the inspector given not later than 21 days after the date of the suspension notice; and
- (b) shall state the steps taken to prevent such a recurrence.

(4) An inspector shall consider any application made to him under sub-paragraph (3) and, having done so, shall notify the approved verifier of his decision.

(5) An approved verifier who is aggrieved by a suspension notice may apply to the chief inspector to review the suspension; and an application under this sub-paragraph.

- (a) shall be made by notice to the chief inspector given not later than 21 days after the date of the suspension notice; and
- (b) shall state the grounds on which the application is made.

(6) The chief inspector shall consider any application under sub-paragraph (5) and, having done so, shall notify the approved verifier and the inspector of his decision.

(7) Where the chief inspector decides under sub-paragraph (6) to uphold the suspension, he shall also notify the approved verifier and the inspector of the grounds for his decision.

(8) Where the chief inspector decides under sub-paragraph (6) not to uphold the suspension, he shall instruct the inspector to withdraw the suspension.

### Withdrawal of approvals

4.—(1) Subject to sub-paragraph (2), the Department may by written notice withdraw an approval if at any time during the continuance of the approval.

- (a) the Department is of the opinion that if the approval had expired at that time it would have been minded not to grant a further approval;
- (b) it appears to the Department on reasonable grounds that the verifier is, or has been, in breach of any condition contained in the approval; or
- (c) any fee due to the Department by virtue of a requirement made by it under paragraph 1 has not been paid.

(2) Except where the Department considers in the circumstances of any particular case that it is necessary for it to withdraw an approval without delay, it shall not withdraw an approval unless it has given the verifier at least 28 days written notice of its intention to do so and of the grounds for withdrawal.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

(3) Where the Department withdraws an approval without giving the notice required by sub-paragraph (2), it shall, at or before the time when the withdrawal takes effect, give the verifier written notice of the grounds for withdrawal and of its reasons for considering it necessary to withdraw the approval without delay.

(4) Where a verifier receives notice under sub-paragraph (2) or (3), he may within 21 days of receipt of the notice make representations in writing to the Department.

(5) The Department shall consider any representations so made and, having done so, shall notify the verifier of its decision.

#### Grant of new approval following withdrawal

5.—(1) Where the Department decides, whether in the light of representations or otherwise, that an approval which has been withdrawn should not have been withdrawn, it shall as soon as reasonably practicable grant a new approval to the former verifier.

(2) The new approval shall expire on the date on which the withdrawn approval would have expired and (except as may otherwise be agreed with the former verifier) shall be subject to the same terms and conditions as the withdrawn approval.

(3) Where the Department grants a new approval under sub-paragraph (1), the verifier shall be deemed to have remained approved for the period beginning on the date on which the original approval was withdrawn and ending on the date on which the new approval took effect.

#### Application for further approval

6.—(1) This paragraph applies where, not less than three months before the end of the period specified in an approval as the period for which the approval is to continue in force, the verifier applies to the Department for the grant of a further approval in the same, or substantially the same, terms as those of the existing approval.

(2) The existing approval shall remain in force until the Department gives the verifier notice of its decision with respect to the application.

## PART II **N.I.**

### REQUIREMENTS TO BE MET BY APPROVED VERIFIERS

#### Maintenance of quality system

7.—(1) An approved verifier shall maintain in force such systems and procedures (in this Part referred to as his quality system) as will ensure that—

- (a) any weighing or measuring equipment passed by the verifier as fit for use for trade satisfies any requirements relating to it imposed by or under this Order; and
- (b) adequate testing procedures are undertaken by the verifier having regard to the nature of weighing or measuring equipment with which the verifier is concerned and, in particular, to whether any such equipment is electronic.

(2) An approved verifier shall give the Department written notice, within five working days of their occurrence, of any modifications to the verifier's quality system which are liable to affect its appropriateness or effectiveness.

(3) An approved verifier shall permit the Department, at any reasonable time after giving written notice, to carry out such audits and inspections of the verifier's quality system as the Department considers necessary to establish that the conditions of the approval have been, and will continue to be, observed.

### Preparation etc. of quality system manual

8.—(1) An approved verifier shall prepare and keep up-to-date a quality system manual, that is to say, a document—

- (a) showing how his quality system satisfies the requirements of paragraph 7(1);
- (b) setting out the objectives of that system;
- (c) containing details of his organisational structure, including details
  - (i) the persons who have management responsibility for that system, including their names and individual responsibilities;
  - (ii) the persons who are authorised to test, pass or stamp weighing or measuring equipment with which the verifier is concerned, including their names and qualifications;
- (d) containing details of the equipment and other items required for the testing of weighing or measuring equipment with which the verifier is concerned;
- (e) containing a description of the regulations made under this Order and certificates of approval issued under Article 10, which are applicable to the testing, passing or stamping of weighing or measuring equipment with which the verifier is concerned;
- (f) containing a description of the verifier's procedures.
  - (i) for the testing of weighing or measuring equipment;
  - (ii) for ensuring that weighing or measuring equipment passed as fit for use for trade conforms with any such regulations and (where applicable) any such certificates of approval;
  - (iii) for ensuring that weighing or measuring equipment which does not conform with any such regulations, or (where applicable) any such certificates of approval, is prevented from being passed as fit for use for trade;
  - (iv) for ensuring that any persons conducting tests of weighing or measuring equipment have the necessary skills and qualifications to do so;
  - (v) for ensuring that the verifier exercises control over and retains responsibility for the actions of any sub-contractor of his in relation to the testing of weighing or measuring equipment;
  - (vi) for enabling identification of individual items or batches of weighing or measuring equipment;
  - (vii) for the control of the equipment used for the testing of weighing or measuring equipment;
  - (viii) for the control and use of the prescribed stamp;
  - (ix) for the control of documents and data;
  - (x) for undertaking internal reviews and audits of the verifier's quality system; and
- (g) containing a description of the verifier's system of records for showing that any weighing or measuring equipment passed as fit for use for trade conforms with any such regulations and (where applicable) any such certificates of approval.

(2) An approved verifier shall, on demand by the Department, provide it with such copies of or extracts from the verifier's quality system manual as may be specified or of a description specified in the demand.

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

## Keeping of records

9. An approved verifier shall keep a record of every test carried out by him of equipment to which Article 9 applies.]

N.I.

*Schedule 3 rep. by SR 1989/69*

SCHEDULE 4 N.I.

Articles 19(1), 22(4), 47(1) and Sch.6  
Pts.II and III.

## SAND AND OTHER BALLAST

PART I N.I.

### GENERAL PROVISIONS

1. In this Schedule, “ballast” means any of the following materials, that is to say—
  - (a) sand, gravel, shingle, ashes and clinker of any description;
  - (b) broken slag, slag chippings, granite chippings, limestone chippings, slate chippings and other stone chippings (including such materials which have been coated with tar, bitumen or cement);
  - (c) any other material commonly used in the building and civil engineering industries as a hardcore or an aggregate;
  - (d) any other material commonly known in the said industries as ballast.

N.I.

2. Subject to paragraph 3, ballast shall be sold only by volume in a multiple of 0.2 cubic metre or by net weight.
3. There shall be exempted from the requirements of paragraph 2—
  - (a) ballast in a quantity both less than<sup>F40</sup> 1 tonne] and less than one cubic metre;
  - (b) any sale with a view to its industrial use of ballast of any description mentioned in paragraph 1( b), ( c) or ( d);
  - (c) any sale in the case of which the buyer is to take delivery in or from a ship;
  - (d) any sale as a whole of ballast produced in the demolition or partial demolition of a building where the buyer is responsible for the removal of the ballast from the site of the building;
  - (e) any sale in the state in which it was produced of clinker or ashes produced as a byproduct, or of any other ballast produced as a casual product, of the carrying on of an industrial process on any premises or of any mining operations where the buyer is responsible for the removal of the ballast from those premises or, as the case may be, from the place of those operations.

**F40** SR 1995/227

4. Without prejudice to Article 13, no article shall be used for trade as a cubic measure of ballast other than a receptacle (which may, if so desired, form part of a vehicle) which conforms to such requirements as to form, capacity, calibration and other matters as may be prescribed; and any person who uses for trade, or has in his possession for use for trade, as a cubic measure of ballast any article other than such a receptacle as aforesaid shall be guilty of an offence.

5. In measuring any ballast against a calibration mark on such a receptacle as aforesaid, the ballast shall be filled into all parts of the receptacle as far as, and be levelled off against, that calibration mark as nearly as the nature of the ballast will permit; and where any ballast is measured for purposes of trade in such a receptacle, any person who—

- (a) being the person carrying out the measuring, fails so to level off the ballast when it is loaded into the receptacle; or
- (b) causes or permits a heaped load to be sent out in the receptacle,

shall be guilty of an offence.

## PART II **N.I.**

### CARRIAGE OF BALLAST BY ROAD

6. The provisions of this Part shall have effect with respect to the carriage of ballast by a road vehicle on a journey any part of which is along a highway.

7.—(1) If any of the ballast is being carried for delivery to a buyer in pursuance of, or of an agreement for, a sale thereof and paragraph 2 applies to the sale, the following provisions of this paragraph shall have effect with respect to that ballast.

(2) There shall, before the journey begins, be delivered to the person in charge of the vehicle a document signed by or on behalf of the seller stating—

- (a) the name and address of the seller;
- (b) the name of the buyer, and the address of the premises to which the ballast is being delivered;
- (c) the type of the ballast;
- (d) subject to sub-paragraph (4), the quantity of the ballast either by net weight or by volume;
- (e) sufficient particulars to identify the vehicle; and
- (f) the place, date and time of the loading of the ballast in the vehicle.

(3) Where the quantity of the ballast is stated in the document aforesaid by volume, the ballast shall be carried on the vehicle only in such a receptacle as is mentioned in paragraph 4.

(4) The statement referred to in sub-paragraph (2)(d) shall not be required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the whole of the vehicle's load is being delivered to the same person at the same premises and the document mentioned in sub-paragraph (2) states that the quantity of the ballast is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated.

(5) In any case to which sub-paragraph (4) applies, the person in charge of the vehicle at the time when the net weight of the ballast is determined shall forthwith add to the document aforesaid a statement of that net weight, and if he fails so to do he shall be guilty of an offence.

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

(6) If any of the provisions of sub-paragraph (2) or (3) is contravened, the seller shall be guilty of an offence.

(7) If the vehicle is carrying ballast as mentioned in sub-paragraph (1) for delivery to each of two or more persons, sub-paragraphs (1) to (3) shall apply separately in relation to each of those persons, so however that this sub-paragraph shall not be construed as prohibiting the use of the same receptacle such as is mentioned in sub-paragraph (3) for the carriage of ballast for delivery to two or more different persons.

8. If all or any of the ballast on the vehicles is being carried in such circumstances that paragraph 7 does not apply thereto, there shall before the journey begins be delivered to the person in charge of the vehicle a document containing a statement to that effect signed by or on behalf of the person causing that ballast to be carried and giving the name and address of the last-mentioned person, and if this paragraph is contravened the last-mentioned person shall be guilty of an offence; but this paragraph shall not apply where all the ballast in the vehicle is being carried in such circumstances as aforesaid and is being so carried in a container which does not form part of the vehicle.

9. Any document required by paragraph 7 or 8 shall at all times during the journey be carried by the person for the time being in charge of the vehicle and shall be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and in the case of any document such as is mentioned in paragraph 7, on the unloading of the ballast to which the document relates at the premises to which that ballast is to be delivered—

- (a) before any of that ballast is so unloaded, the document shall be handed over to the buyer; or
- (b) if the document cannot be so handed over by reason of the absence of the buyer, it shall be left at some suitable place at those premises;

and if at any time any of the provisions of this paragraph is contravened without reasonable cause, the person in charge of the vehicle at that time shall be guilty of an offence.

10. In the case of any document such as is mentioned in paragraph 7, if at any time during the journey or on unloading at the place of delivery the quantity of the ballast to which the document relates is found to be less than that stated in the document, the statement shall nevertheless be deemed for the purposes of this Order to be correct if, but only if, it is proved that the deficiency is solely attributable to the draining away of normal moisture from, or the consolidation of, the ballast during the journey.

## SCHEDULE 5 **N.I.**

Articles 19(1), 26(1)(a)(i), 28(1), 47(1)  
and (2) and 48(2).

### SOLID FUEL

## PART I **N.I.**

### GENERAL

1. This Schedule applies to goods of any of the following descriptions (in this Schedule referred to as “solid fuel”), that is to say, coal, coke and any solid fuel derived from coal or of which coal or coke is a constituent.

2.—(1) Subject to sub-paragraph (2), solid fuel shall be sold only by net weight.

(2) There shall be exempted from the requirements of sub-paragraph (1) any solid fuel pre-packed in a securely closed container marked with an indication of quantity by net weight.



**N.I.**

3.—(1) Subject to sub-paragraph (3), solid fuel shall be made up in a container for sale or for delivery after sale only if—

- (a) it is made up in one of the following quantities by net weight, that is to say,<sup>F41</sup> . . . 10, 15, 25, 50 or 62.5 kilogrammes; and
- (b) except in a case where the provisions of paragraph 5 or of an order under paragraph 7(2)(a) or the provisions of Part III of this Schedule apply, the quantity by net weight of solid fuel so made up is made known to the buyer before or at the time when he takes possession of the solid fuel.

(2) Subject to sub-paragraph (3), where solid fuel of any description made up in containers in any of the following quantities, that is to say,<sup>F41</sup> . . . 25, 50 or 62.5 kilogrammes, is carried on a road vehicle on a highway for sale or for delivery after sale, solid fuel of that description so made up in any other of those quantities shall not at the same time be carried on that vehicle; and if this sub-paragraph is contravened the seller shall be guilty of an offence.

(3) There shall be exempted from all the requirements of sub-paragraphs (1) and (2) solid fuel made up in a container only for ease of handling as part of the load of a vehicle or ship where the whole of that load so far as it consists of solid fuel is being delivered to—

- (a) a single buyer; or
- (b) not more than three separate buyers in pursuance of, or of any agreement for, the sale thereof otherwise than by retail.

**F41** SR 1995/227

4. Solid fuel shall be sold by means of, or offered or exposed for sale in, a vending machine only if there is displayed on or in the machine—

- (a) an indication of the quantity by net weight of the fuel comprised in each item for sale by means of that machine; and
- (b) except where the machine is on premises at which the seller carries on business, a statement of the name and address of the seller.

5.—(1) This paragraph applies to any vehicle on or from which any solid fuel available for purchase in a quantity of<sup>F42</sup> . . . 200 kilogrammes or less is sold or kept or exposed for sale.

(2) On every vehicle to which this paragraph applies there shall, in respect of solid fuel of every description which is available as described in sub-paragraph (1), be displayed a notice specifying the quantity in which solid fuel of that description is kept or exposed for sale in containers or is made available for delivery in containers after sale and the name and address of the seller.

(3) Every such notice—

- (a) shall be constructed of wood or other durable material;
- (b) shall be clearly and permanently inscribed in characters—
  - (i) of a height of not less than<sup>F42</sup> 62.5 millimetres]; and
  - (ii) composed of strokes of a breadth of not less than<sup>F42</sup> 12.5 millimetres];
- (c) shall be securely and conspicuously affixed to the vehicle in such a position as to be easily read from either side of the vehicle.

(4) If in the case of any vehicle there is a contravention of any of the requirements of this paragraph, the person by or on behalf of whom the solid fuel is made available for purchase as

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described in sub-paragraph (1), and any other person who is in charge of the vehicle at the time of the contravention, shall each be guilty of an offence.

**F42** SR 1995/227

**6.** Any person who, with intent to defraud or deceive, damps any solid fuel shall be guilty of an offence.

**7.—(1)** This paragraph applies to any vehicle which is used on highways for carrying solid fuel for sale, or for delivery after sale, or on or from which any solid fuel is sold or kept or exposed for sale, and in this paragraph “container” means any container in which solid fuel is carried on such a vehicle, or is delivered from such a vehicle.

(2) The Department may by order make provision—

- (a) for securing the display on any such vehicle of an indication of the quantities in which solid fuel is made up in containers;
- (b) for requiring all containers carried on or delivered from any one vehicle to be made up in the same quantity, or for regulating in any other way the quantities in which they are made up;
- (c) for imposing any requirement as to the loading of the vehicle, or the delivery of solid fuel from the vehicle, which appears to the Department appropriate for securing that purchasers are not misled as to the quantity of fuel they purchase.

(3) An order under sub-paragraph (2) may—

- (a) make provision for any of the purposes mentioned in that sub-paragraph by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any of the provisions of this Part;
- (b) contain such consequential, incidental or supplementary provisions, whether of such kinds as aforesaid or otherwise, as appear to the Department to be expedient;
- (c) make provision, in respect of contraventions of the order for which no penalty is provided by this Order, for the imposition of penalties not exceeding those provided by Article 47 for an offence under this Order.

**8.** An order under Article 19 may amend or repeal this Part.

## PART II N.I.

### WEIGHING OF SOLID FUEL AT BUYER'S REQUEST

**9.** If in the case of any solid fuel sold otherwise than by means of a vending machine, the buyer so requests—

- (a) with respect to any of that fuel the delivery of which has not at the time of the request been completed; or
- (b) if the request is made before the departure from the premises at which the fuel is delivered of the person delivering it, with respect to any of that fuel the delivery of which has been completed but which is still capable of identification,

the seller shall cause the fuel to be weighed by means of suitable weighing equipment in the presence of the buyer and, in the case of any fuel such as is mentioned in sub-paragraph (a), before the delivery of that fuel is completed; and if this paragraph is contravened, the seller shall be guilty of an offence.

**10.** Where a request under paragraph 9 is made in respect of the whole load of a vehicle, the requirements of that paragraph shall be deemed to be satisfied, notwithstanding that the weighing is not done in the presence of the buyer, if the seller causes the vehicle to be check-weighed and the statements of the weights found by the person or persons attending to the check-weighing to be delivered to the buyer.

**11.** Where after weighing in pursuance of a request under paragraph 9 the weight of the solid fuel is found to be not less than, as the case may be,—

- (a) that purporting to be contained in the relevant number of any securely closed containers in which the fuel is made up, having regard to the weight marked on each of those containers;
- (b) that which is made known to the buyer in accordance with paragraph 3(1)( b);
- (c) that purporting to be contained in the relevant number of containers having regard to the weight stated on a notice displayed on a vehicle in accordance with paragraph 5(2) or an indication of quantities so displayed in accordance with an order under paragraph 7(2)( a); or
- (d) that stated by the seller in any document delivered to the buyer at or before the delivery of the fuel to him;

the buyer shall be liable to repay to the seller all costs reasonably incurred by the seller in connection with the weighing.

### PART III **N.I.**

#### CARRIAGE OF SOLID FUEL BY ROAD

**12.** This Part shall have effect with respect to the carriage by a road vehicle on a journey any part of which is along a highway of any solid fuel required by paragraph 2 to be sold only by net weight (in this Part referred to as “relevant goods”).

**13.—**(1) If the vehicle is carrying any relevant goods for delivery to a buyer in pursuance of, or of an agreement for, a sale of such goods, then before the journey begins, there shall be delivered to the person in charge of the vehicle a document such as is described in sub-paragraph (2); and if this sub-paragraph is contravened the seller shall be guilty of an offence.

(2) The document referred to in sub-paragraph (1) is a document signed by or on behalf of the seller stating—

- (a) the name and address of the seller;
- (b) the name of the buyer and the address of the premises to which the goods to which the document relates are being delivered;
- (c) the type of the said goods;
- (d) subject to sub-paragraph (3), the aggregate net weight of the said goods; and
- (e) where any of the said goods are made up in containers—
  - (i) the number of those containers; and
  - (ii) except in circumstances such as are described in paragraph 3(3), the net weight of the goods in each of those containers.

(3) Where the whole of the vehicle's load consists of relevant goods not made up in containers and is being delivered to the same person at the same premises, the statement referred to in sub-paragraph (2)( d) shall not be required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the document

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aforesaid states that the quantity of the relevant goods is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated.

(4) In any case to which sub-paragraph (3) applies, the person in charge of the vehicle at the time when the net weight of the relevant goods is determined shall forthwith add to the document aforesaid a statement of that net weight, and if he fails so to do he shall be guilty of an offence.

(5) If the vehicle is carrying relevant goods to which sub-paragraph (1) applies for delivery to each of two or more buyers—

- (a) that sub-paragraph shall apply separately in relation to each of those buyers; and
- (b) subject to sub-paragraph (6), the relevant goods for delivery to each respectively of those buyers shall be carried on the vehicle made up separately in containers or in separate compartments;

and if head ( b) is contravened the seller shall be guilty of an offence.

(6) Sub-paragraph (5)( b) shall not apply where the vehicle is constructed or adapted for the mechanical making up in containers of the fuel carried thereon and incorporates weighing equipment approved by the Department for that purpose nor shall it apply in circumstances such as are described in paragraph 3(3)( b).

**14.**—(1) Subject to sub-paragraph (2), if all or any of the relevant goods on the vehicle are being carried in such circumstances that paragraph 13(1) does not apply there shall, before the journey begins, be delivered to the person in charge of the vehicle a document signed by or on behalf of the person causing the goods to be carried giving the name and address of the last-mentioned person and containing a statement to the effect that all or part of the relevant goods on the vehicle are goods to which paragraph 13(1) does not apply, and if this paragraph is contravened the last-mentioned person shall be guilty of an offence.

(2) Sub-paragraph (1) shall not apply where the total quantity of the relevant goods carried on the vehicle does not exceed<sup>[F43]</sup> 125 kilograms].

<b>F43</b> SR 1995/227
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**15.** Any document required by paragraph 13 or 14 shall at all times during the journey be carried by the person for the time being in charge of the vehicle and shall be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and in the case of any document such as is mentioned in paragraph 13, on the unloading of the goods to which the document relates at the premises to which those goods are to be delivered—

- (a) before any of those goods are so unloaded, the document shall be handed over to the buyer; or
- (b) if the document cannot be so handed over by reason of the absence of the buyer, it shall be left at some suitable place at those premises;

and if at any time any of the requirements of this paragraph is contravened without reasonable cause, the person in charge of the vehicle at that time shall be guilty of an offence.

SCHEDULE 6 **N.I.**

Article 19(1).

MISCELLANEOUS GOODS OTHER THAN FOODS

PART I **N.I.**

LIQUID FUEL AND LUBRICANTS

1. This Part applies to—
  - (a) liquid fuel, lubricating oil and any mixture of such fuel and oil; and
  - (b) lubricating grease.
2. Subject to paragraph 3, goods to which this Part applies—
  - (a) unless pre-packed, shall be sold only by net weight or by capacity measurement;
  - (b) shall be pre-packed only if the container is marked with an indication of quantity either by net weight or by capacity measurement;
  - (c) in the case of lubricating oil in a quantity of <sup>F44</sup>one litre] or less, shall be made up in a container for sale otherwise than by way of pre-packing only if the container is marked with an indication of quantity by capacity measurement.

**F44** SR 1995/227

3. Notwithstanding anything in paragraph 2, liquid fuel—
  - (a) when not pre-packed may be sold by volume, and
  - (b) may be pre-packed in a container marked with an indication of quantity by volume,

being in either case the volume of the gas which would be produced from the fuel in question at such temperature and such atmospheric pressure as are specified in regulations made by the Department with respect to fuel of the type in question or, if no such regulations are in force, as may be made known by the seller to the buyer before he pays for or takes possession of the fuel; and there shall be exempted from all requirements of paragraph 2 goods of any description in a quantity of less than <sup>F45</sup>250 grams] or of less than <sup>F45</sup>250 millilitres].

**F45** SR 1995/227

PART II **N.I.**

READY-MIXED CEMENT MORTAR AND READY-MIXED CONCRETE

1. This Part applies to ready-mixed cement mortar and ready-mixed concrete.

**N.I.**

2. Subject to paragraph 3, any goods to which this Part applies shall be sold only by volume in a multiple of 0.1 cubic metre.
3. There shall be exempted from the requirements of paragraph 2 any goods in a quantity of less than one cubic metre.

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4. Part II of Schedule 4 except sub-paragraph (3) of paragraph 7 of that Schedule, shall apply for the purposes of this Part as if—

- (a) any reference in the said Part II to ballast included a reference to goods to which this Part applies; and
- (b) the reference in sub-paragraph (1) of the said paragraph 7 to paragraph 2 of Schedule 4 were a reference to paragraph 2 of this Part.

### PART III N.I.

#### AGRICULTURAL LIMING MATERIALS, AGRICULTURAL SALT AND INORGANIC FERTILISERS

1. This Part applies—

- (a) to agricultural liming materials, other than calcareous sand;
- (b) to agricultural salt;
- (c) to, and to any mixture consisting mainly of, inorganic fertilisers, other than such fertilisers or such a mixture made up into pellets or other articles for use as individual items; and
- (d) to any mixture of any of the foregoing.

2.—(1) Goods to which this Part applies which are not pre-packed, other than liquid fertilisers, shall be sold only by quantity, being—

- (a) quantity by net weight; or
- (b) if the goods are sold in a container which does not exceed the permitted weight and the gross weight of the goods is not less than<sup>[F46]</sup> 25 kilograms], quantity either by net weight or by gross weight; or
- (c) quantity by volume.

(2) Goods to which this Part applies shall be pre-packed only if the container is marked with an indication of quantity, being—

- (a) in the case of liquid fertilisers, quantity by capacity measurement;
- (b) in any other case, quantity by net weight or, if the container does not exceed the permitted weight and the gross weight of the goods is not less than<sup>[F46]</sup> 25 kilograms], quantity either by net weight or by gross weight.

(3) In this paragraph, “permitted weight” means a weight at the rate of<sup>[F46]</sup> 650 grams per 50 kilograms].

(4) There shall be exempted from all requirements of this paragraph any sale of goods with a view to their industrial use.

**F46** SR 1995/227

3. Paragraphs 4 and 5 of Schedule 4 shall have effect as if any reference in those paragraphs to ballast included a reference to any goods to which this Part applies.

## PART IV **N.I.**

### PEAT AND WOOD FUEL

1. Subject to paragraph 2,—
  - (a) peat or wood fuel which is not made up in a container for sale shall be sold by retail only by net weight;
  - (b) in the case of the sale by retail of peat or wood fuel made up in a container for sale, the quantity by net weight of the peat or wood fuel sold shall be made known to the buyer before he pays for or takes possession of it.
2. There shall be exempted from the requirements of paragraph 1 any sale of peat or wood fuel in a quantity which does not exceed<sup>[F47]</sup> 7.5 kilograms] or which exceeds<sup>[F47]</sup> 500 kilograms].

**F47** SR 1995/227

3. Any person, who with intent to defraud or deceive, damps any peat or wood fuel shall be guilty of an offence.

## <sup>[F48]</sup>PART V **N.I.**

### COSMETIC PRODUCTS

**F48** SR 1994/319

1. In this Part, “cosmetic product” means any substance or preparation intended to be placed in contact with the various external parts of the human body (that is to say, the epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting bodily odours, protecting them or keeping them in good condition.
2. Subject to paragraph 3, cosmetic products shall be pre-packed only if the container is marked with an indication of quantity either by net weight or by volume.
3. There shall be exempted from the requirements of paragraph 2—
  - (a) cosmetic products in quantities of less than 5 grammes or 5 millilitres;
  - (b) cosmetic products in sachets or other containers for single use only; and
  - (c) cosmetic products normally sold as a number of items for which particulars of weight or volume are not significant if—
    - (i) the number of items is marked on the package; or
    - (ii) the number of items may readily be seen without opening the package; or
    - (iii) the items are normally sold only individually.
4. Cosmetic products which are not pre-packed shall be sold only by quantity expressed as net weight, volume or number.]

*Status: Point in time view as at 01/01/2006.*

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## PART VI **N.I.**

### SOAP

1. Subject to paragraph 2,—
  - (a) soap in the form of a cake, tablet or bar shall be pre-packed only if the container is marked with an indication of quantity by net weight;
  - (b) liquid soap shall be pre-packed only if the container is marked with an indication of quantity by capacity measurement;
  - (c) soap in any other form—
    - (i) unless pre-packed, shall be sold by retail only by net weight;
    - (ii) shall be pre-packed only if the container is marked with an indication of quantity by net weight.
2. There shall be exempted from the requirements of this Part—
  - (a) liquid soap in a quantity of less than<sup>[F49]</sup> 125 millilitres;
  - (b) soap in any other form in a quantity of less than<sup>[F49]</sup> 25 grams].

**F49** SR 1995/227

<sup>[F50]</sup>3. In this Part “soap” does not include any soap which is a cosmetic product as defined in paragraph 1 of Part V.]

**F50** SR 1994/319

## PART VII **N.I.**

### MISCELLANEOUS GOODS TO BE SOLD BY OR MARKED WITH LENGTH

1. This Part applies to goods of any of the following descriptions, that is to say, bias binding, elastic, ribbon, tape and sewing thread.
2. Subject to paragraph 3, goods to which this Part applies—
  - (a) unless pre-packed, shall be sold by retail only by length;
  - (b) shall be pre-packed only if the container is marked with an indication of quantity by length.
3. There shall be exempted from all requirements of paragraph 2 goods of any description in a quantity of less than<sup>[F51]</sup> one metre].

**F51** SR 1995/227

## PART VIII **N.I.**

### MISCELLANEOUS GOODS TO BE SOLD BY OR MARKED WITH NET WEIGHT

1. This Part applies to—
  - (a) distemper;



- (b) articles offered as feed for household pets, being manufactured feed or bird feed, other than animal feed in biscuit or cake form pre-packed in a quantity by number not exceeding 16;
  - (c) nails;
  - (d) paste paint;
  - (e) seeds, other than pea or bean seeds;
  - (f) rolled oats.
2. Subject to paragraph 3 goods to which this Part applies—
- (a) unless pre-packed, shall be sold by retail only by net weight;
  - (b) shall be pre-packed only if the container is marked with an indication of quantity by net weight.
- [<sup>F52</sup>3. There shall be exempted from all requirements of this Part—
- (a) distemper or paste paint in a quantity of less than 250 grams,
  - (b) bird seed in a quantity of less than 125 grams, and
  - (c) any other goods in a quantity of less than 25 grams;
- and, notwithstanding any thing in paragraph 2, nails—
- (i) when not pre-packed may be sold by retail by number;
  - (ii) may be pre-packed in or on a container marked with an indication of quantity by number.]

**F52** SR 1995/227

## PART IX **N.I.**

### MISCELLANEOUS GOODS TO BE MARKED WHEN PRE-PACKED WITH NET WEIGHT

1. This Part applies to—
- (a) Portland cement;
  - (b) cleansing powders and scouring powders;
  - (c) detergents, other than liquid detergents;
  - (d) paint remover, other than liquid paint remover.
2. Subject to paragraph 3, goods to which this Part applies shall be pre-packed only if the container is marked with an indication of quantity by net weight.
3. There shall be exempted from the requirements of this Part goods of any description in a quantity of less than [<sup>F53</sup> 25 grams].

**F53** SR 1995/227

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## PART X **N.I.**

### MISCELLANEOUS GOODS TO BE SOLD BY OR MARKED WITH CAPACITY MEASUREMENT

1. This Part applies to antifreeze fluid for internal combustion engines, linseed oil, paint (other than paste paint), paint thinner, turpentine, turpentine substitute, varnish, and wood preservative fluid (including fungicides and insecticides).
2. Subject to paragraph 3 goods to which this Part applies—
  - (a) unless pre-packed, shall be sold by retail only by capacity measurement;
  - (b) shall be pre-packed only if the container is marked with an indication of quantity by capacity measurement.
3. There shall be exempted from all requirements of this Part goods of any description in a quantity of less than<sup>[F54]</sup> 150 millilitres].

**F54** SR 1995/227

## PART XI **N.I.**

### MISCELLANEOUS GOODS TO BE MARKED WHEN PRE-PACKED WITH CAPACITY MEASUREMENT

1. This Part applies to enamel, lacquer, liquid detergents, liquid paint remover, petrifying fluid and rust remover.
2. Subject to paragraph 3, goods to which this Part applies shall be pre-packed only if the container is marked with an indication of quantity by capacity measurement.
- <sup>[F55]</sup>3. There shall be exempted from the requirements of this Part—
  - (a) liquid detergents in a quantity of less than 125 millilitres, and
  - (b) goods of any other description in a quantity of less than 150 millilitres.]

**F55** SR 1995/227

## PART XII **N.I.**

### MISCELLANEOUS GOODS TO BE SOLD BY OR MARKED WITH NET WEIGHT OR CAPACITY MEASUREMENT

1. This Part applies to—
  - (a) polishes;
  - (b) dressings analogous to polishes;
  - (c) pea seeds and bean seeds.
2. Subject to paragraph 3 goods to which this Part applies—
  - (a) unless pre-packed, shall be sold by retail only by net weight or by capacity measurement;

- (b) shall be pre-packed only if the container is marked with an indication of quantity either by net weight or by capacity measurement.
- 3. There shall be exempted from all the requirements of this Part—
  - (a) pea or bean seeds in a quantity of less than<sup>[F56]</sup> 250 grams] or of less than<sup>[F56]</sup> 250 millilitres];
  - (b) any other goods in a quantity of less than<sup>[F56]</sup> 30 grams] or of less than<sup>[F56]</sup> 30 millilitres].

F56 SR 1995/227

## PART XIII **N.I.**

### MISCELLANEOUS GOODS TO BE MARKED WHEN PRE-PACKED WITH QUANTITY BY NUMBER

1. This Part applies—
  - (a) to cheroots, cigarettes and cigars;
  - (b) to postal stationery, that is to say, paper or cards for use in correspondence and envelopes;
  - (c) to, and to any mixture consisting mainly of, inorganic fertilisers, being such fertilisers or such a mixture made up into pellets or other articles for use as individual items; and
  - (d) to manufactured animal feed in biscuit or cake form pre-packed in a quantity by number of 16 or less.
2. Subject to paragraphs 3 and 4, goods to which this Part applies shall be pre-packed only if the container is marked with an indication of quantity by number.
3. In relation to postal stationery, the reference to number in paragraph 2 shall be construed as a reference to the number of sheets of paper, cards or envelopes, as the case may be, in the pad, confining band or other form of container; and postal stationery shall be exempted from the requirements of that paragraph if pre-packed as part of a collection of articles made up for sale together and including any article other than postal stationery and blotting or other paper.
4. There shall be exempted from the requirements of this Part any goods in a quantity by number of one.

## SCHEDULE 7 **N.I.**

Article 19(1).

### COMPOSITE GOODS AND COLLECTIONS OF ARTICLES

- 1.—(1) This paragraph applies to any goods which, not being pre-packed, and not themselves being goods—
  - (a) required by or under any other provision of this Order to be sold (whether on any sale or on a sale of any particular description) only by quantity expressed in a particular manner; or
  - (b) on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold expressed in a particular manner is required by or under any other provision of this Order to be made known to the buyer at or before a particular time; or
  - (c) expressly exempted by or under any other provision of this Order from all such requirements as aforesaid which would otherwise apply thereto,

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consist of a mixture constituted wholly or mainly of goods of one or more descriptions to which there applies any such requirement as aforesaid made by reference to any of the following (whether exclusively or otherwise), that is to say, weight, capacity measurement or volume.

(2) Subject to paragraph 5, goods to which this paragraph applies shall be sold only by net weight or by capacity measurement or by volume.

**2.—(1)** This paragraph applies to any goods which, not being aerosol products and not themselves being goods—

- (a) required by or under any other provision of this Order to be pre-packed only if the container is marked with an indication of quantity; or
- (b) in the case of which when sold pre-packed (whether on any sale or on a sale of any particular description) the quantity of the goods sold expressed in a particular manner is required by or under any other provision of this Order to be made known to the buyer at or before a particular time; or
- (c) expressly exempted by or under any other provision of this Order from all such requirements as aforesaid which would otherwise apply thereto,

consist of a mixture constituted wholly or mainly of goods of one or more descriptions to which there applies any such requirement as aforesaid made by reference to any of the following (whether exclusively or otherwise), that is to say, weight, capacity measurement or volume.

(2) Subject to paragraph 5, goods to which this paragraph applies shall be pre-packed only if the container is marked with an indication of quantity either by net weight or by capacity measurement or by volume.

## N.I.

**3.—(1)** This paragraph applies to aerosol products containing any goods required by or under any other provision of this Order to be pre-packed only if the container is marked with an indication of quantity expressed in a particular manner.

(2) Subject to paragraph (5), any aerosol product to which this paragraph applies shall be pre-packed only if the container is marked with an indication of quantity by net weight of the entire contents thereof.

**4.—(1)** This paragraph applies to any collection of two or more items which, not itself being—

- (a) required by or under any other provision of this Order to be pre-packed only if the container is marked with particular information; or
- (b) expressly exempted by or under any other provision of this Order from any such requirement which would otherwise apply thereto,

contains one or more articles to which any such requirement applies.

(2) Any collection to which this paragraph applies shall be pre-packed only if—

- (a) the container in which the collection is pre-packed is marked with an indication of the quantity of each of any such articles as aforesaid contained in it; or
- (b) each of any such articles contained in the container is made up in an individual container marked with an indication of quantity,

being in either case the like indication of the quantity of each respectively of those articles as would have been required if that article had itself been pre-packed.

**N.I.**

[<sup>F57</sup>5. There shall be exempted from any requirement of paragraph 1, 2 or 3 food of any description in a quantity of less than five grammes or of less than five millilitres and goods of any other discription in a quantity of less than [<sup>F58</sup> 25 grams] or of less than [<sup>F58</sup> 25 millilitres].]

**F57** SR 1989/69

**F58** SR 1995/227

SCHEDULE 8 **N.I.**

Articles 30(5) and 32(3).

INSTRUCTIONS UNDER ARTICLE 32(3)

**N.I.**

1. Instructions given to a person by an inspector in pursuance of Article 32(3) shall not come into force until the expiration of the prescribed period beginning with the day when the instructions are given to him and, if during that period the person gives notice to the inspector that he objects to the instructions, shall not come into force except as agreed in writing by the person or as directed by the Department.

**N.I.**

2. Where in pursuance of paragraph 1 a person gives to an inspector notice of objection to instructions, the inspector shall refer the instructions to the Department.

**N.I.**

3. Where instructions are referred to the Department in pursuance of paragraph 2, the Department shall—

- (a) invite representations in writing about the instructions from the inspector who gave them and from the person to whom they were given and consider any representations made in response to the invitations within the periods specified in the invitations; and
- (b) direct that the instructions shall come into force, without modifications or with modifications specified in the direction, on a day so specified or shall not come into force and to give notice of the direction to the inspector and the person in question.

SCHEDULE 9 **N.I.**

Articles 30(5), 32(8), 36(1)(b) and 46(2) and (5).

POWERS AND DUTIES OF INSPECTORS, ETC.

**N.I.**

1.—(1) An inspector may, on production if so requested of his credentials, at all reasonable times—

- (a) enter any premises (except premises used only as a private dwelling) as to which he has reasonable cause to believe that packages are made up on the premises or that imported

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packages belonging to the importer of them are on the premises or that relevant packages intended for sale are on the premises;

- (b) inspect and test any equipment which he has reasonable cause to believe is used in making up packages in the United Kingdom or in carrying out a check mentioned in Article 31(9) and (10);
  - (c) inspect, and measure in such manner as he thinks fit, anything which he has reasonable cause to believe is or contains or is contained in a package and, if he considers it necessary to do so for the purpose of inspecting the thing or anything in it, break it open;
  - (d) inspect and take copies of, or of anything purporting to be, a record, document or certificate mentioned in Article 31(6) to (11);
  - (e) require any person on premises which the inspector is authorised to enter by virtue of head (a) to provide such assistance as the inspector reasonably considers necessary to enable the inspector to exercise effectively any power conferred on him by heads (a) to (d);
  - (f) require any person to give to the inspector such information as the person possesses about the name and address of the packer and of any importer of a package which the inspector finds on premises he has entered by virtue of this sub-paragraph or paragraph 2.
- (2) <sup>F59</sup> An inspector may serve, on any person carrying on business as the packer or importer of packages a notice requiring the person—
- (a) to furnish the inspector with particulars of the kind specified in the notice of any marks which, otherwise than in pursuance of Article 31(5)(c), are applied to packages made up in that area by the person or, as the case may be, to packages imported by him, for the purpose of enabling the place where the packages were made up to be ascertained; and
  - (b) if the person has furnished particulars of a mark in pursuance of the notice and the mark ceases to be applied for the purpose aforesaid to such packages as aforesaid, to give notice of the cesser to the inspector;

but a notice given by an inspector in pursuance of this sub-paragraph shall not require a person to furnish information which the person does not possess.

F59 mod. SR 1990/410
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## N.I.

2. Where a justice of the peace, is satisfied by complaint in writing and on oath—
- (a) that there is reasonable ground to believe that a package or a thing containing a package or that any such equipment, record, document or certificate as is mentioned in sub-paragraph (1) of paragraph 1 is on any premises or that an offence under Article 32 is being or is about to be committed on any premises; and
  - (b) either—
    - (i) that admission to the premises has been refused or that a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
    - (ii) that an application for admission or the giving of such a notice would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,
 he may issue a warrant under his hand, which shall continue in force for a period of one month, authorising an inspector to enter the premises, if need be by force.

**N.I.**

3.—(1) An inspector entering any premises by virtue of paragraph 1 or 2 may take with him such other persons and such equipment as he considers necessary.

(2) An inspector who leaves premises which he has entered by virtue of paragraph 2 and which are unoccupied or of which the occupier is temporarily absent shall leave the premises as effectively secured against trespassers as he found them.

**N.I.**

4. Where an inspector has reasonable cause to believe that an offence under Article 32 or 34 or this Schedule has been committed and that any equipment, record, document, package or thing containing or contained in a package may be required as evidence in proceedings for the offence he may seize it and detain it for as long as it is so required.

**N.I.**

5.—(1) The Department may purchase goods, and may authorise any of its officers to purchase goods on behalf of the Department, for the purpose of ascertaining whether an offence under Article 32 or 34(2) has been committed.

(2) <sup>F60</sup>If an inspector breaks open a package in pursuance of paragraph 1(1)(c) otherwise than on premises occupied by the packer or importer of the package and the package is not inadequate, the inspector shall, if the owner of the package requests him to do so, buy the package on behalf of the Department.

**F60** mod. SR 1990/410

**N.I.**

6. <sup>F61</sup>A person who wilfully obstructs an inspector acting in pursuance of this Schedule or Part VI or who without reasonable cause fails to comply with a requirement made of him in pursuance of paragraph 1(1)(e) or (f) or 1(2) shall be guilty of an offence.

**F61** mod. SR 1990/410

**N.I.**

*Schedule 10—Amendments*

**N.I.**

*Schedule 11—Repeals*

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