

1979 No. 453

WEIGHTS AND MEASURES**Weights and Measures (Cocoa and Chocolate Products) Order
(Northern Ireland) 1979***Made* 20th December 1979*Coming into operation* 11th February 1980*To be laid before Parliament under paragraph 3(3) of
Schedule 1 to the Northern Ireland Act 1974*

The Department(a) of Commerce, after consultation with such organisations as appear to it to be representative of interests substantially affected by this Order and consideration of the representations made to it by such organisations with respect to the subject-matter of this Order, in exercise of the powers conferred on it by section 15(2), (3) and (5) of the Weights and Measures Act (Northern Ireland) 1967(b) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Weights and Measures (Cocoa and Chocolate Products) Order (Northern Ireland) 1979 and shall come into operation on 11th February 1980.

(2) In this Order “the Act” means the Weights and Measures Act (Northern Ireland) 1967 and “cocoa product”, “chocolate product”, “container”, “fancy chocolate product” and “reserved description” have the same meanings as they have in the Cocoa and Chocolate Products Regulations (Northern Ireland) 1976(c) except that “cocoa product” and “chocolate product” shall include a product specially prepared for diabetics or to which a slimming claim (as defined in those Regulations) is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance as so defined.

Revocation

2.—(1) Subject to Article 3—

(a) Part VIII, other than paragraph 3(a) and the exemption thereto in paragraph 4(b), and Part XI of Schedule 2 to the Act shall cease to apply to cocoa products and chocolate products after 11th February 1980; and

(b) the said paragraph 3(a) and the exemption shall cease to apply to cocoa products after 1st March, 1980.

(2) Subject to Article 3—

(a) in the case of products as respects which there are no requirements in the said Parts with which the products have to comply, they need not comply with the requirements of this Order until 11th February 1980;

(a) Formerly Ministry: see 1973 c. 36 s. 40 and Sch. 5 para. 8(1)

(b) 1967 c. 6 (N.I.)

(c) S.R. 1976 No. 183

(b) in any other case, the products must, until 11th February 1980 or, as the case may be, 1st March 1980, comply either with the requirements of those Parts or with the requirements of this Order;

but in every case, after the relevant date products must comply with the provisions of this Order.

Amendment of application of Act

3.—(1) The application of section 16(2) of the Act, as it applies for the purposes of section 15(2)(c) in relation to cocoa products and chocolate products which do not comply with the provisions of this Order, but which in the case of products falling within Article 2(2)(b) do comply with the provisions of the said Parts, shall be excluded in the cases and in respect of the persons specified in paragraphs (2) and (3).

(2) In the case of products made for sale, pre-packed or otherwise made up in a container for sale in Northern Ireland on or before 11th February 1980 or, as the case may be, 1st March 1980 and products imported into Northern Ireland on or before the relevant date and made for sale, pre-packed or otherwise so made up before importation, the exclusion shall be in respect of all persons.

(3) In the case of products made for sale, pre-packed or otherwise so made up in Northern Ireland after the relevant date and products imported into Northern Ireland after that date and made for sale, pre-packed or otherwise so made up before importation, the exclusion shall be in respect of any person other than—

(a) where the products were made for sale, pre-packed or otherwise so made up in Northern Ireland, the person who made the products for sale, pre-packed them or otherwise so made them up and if he made them for sale, pre-packed them or otherwise so made them up on behalf of another person, that other person;

(b) where the products were imported into Northern Ireland, the person who imported them and if he imported them on behalf of another person, that other person.

Control of sale

4. Except in the case of an article whose net weight is less than 50 g, cocoa products and chocolate products which are not pre-packed shall, when sold by retail, be sold only by net weight.

Pre-packing requirements

5.—(1) Cocoa products of the reserved descriptions specified in paragraph (2) shall, except where made up in a quantity of less than 50 g or exceeding 1 kg, be pre-packed only if they are made up in one of the following quantities by net weight, that is to say—

50 g, 75 g, 125 g, 250 g, 500 g, 750 g and 1 kg.

(2) Products of the reserved descriptions referred to in paragraph (1) are cocoa, cocoa powder, fat-reduced cocoa, fat-reduced cocoa powder, sweetened cocoa, sweetened cocoa powder, sweetened fat-reduced cocoa, sweetened fat-reduced cocoa powder, drinking chocolate and fat-reduced drinking chocolate.

Chocolate bar and tablet weights

6.—(1) Chocolate products in bar or tablet form of the reserved descriptions specified in paragraph (2) being a bar or tablet weighing not less than

85 g and not more than 500 g, shall be made for sale only in one of the following weights, that is to say—

85 g, 100 g, 125 g, 150 g, 200 g, 250 g, 300 g, 400 g or 500 g.

(2) The reserved descriptions referred to in paragraph (1) are chocolate, plain chocolate, gianduja nut chocolate, milk chocolate, gianduja nut milk chocolate, white chocolate, filled chocolate, cream chocolate and skimmed milk chocolate.

Marking of container

7.—(1) Except where the net weight is less than 50 g and subject to the following provisions of this Article, cocoa products and chocolate products shall be pre-packed or otherwise made up in a container for sale only if the container is marked with an indication of quantity by net weight.

(2) Subject to paragraph (3), in a case where the net weight of cocoa products made up in a container is 10 kg or more, the container need not be marked with an indication of quantity by net weight if the products are not sold by retail and at the time when they are sold, a document including such an indication accompanies the container.

(3) Paragraph (2) applies only to cocoa products of the following reserved descriptions—cocoa bean, cocoa nib, cocoa dust, cocoa fines, cocoa mass, cocoa press cake, fat-reduced cocoa press cake and expeller cocoa press cake.

(4) Where the contents of a container on a sale otherwise than by retail consists of products (whether pre-packed or not) of a kind sold by retail singly or consists of inner packs in which products are pre-packed, the container need not be marked with an indication of quantity by net weight if—

(a) the net weight of each individual item or the products in each inner pack is 50 g or more and the net weight of an individual item or products in an inner pack and the number of such items or inner packs are marked on the container; or

(b) the net weight of each individual item is less than 50 g and the number of items is marked on the container;

and, where the contents of the container consists of more than one description of products, the information is given for each description.

(5) A container need not be marked with an indication of quantity by net weight—

(a) if it is an outer container in which products are pre-packed and each inner container is marked with an indication of quantity by net weight which is clearly legible from outside the outer container; or

(b) if it is a container in which fancy chocolate products are pre-packed; except that when the products are on sale by retail the exemption provided by subparagraphs (b) shall apply only if an indication of quantity by net weight is given on a ticket or notice displayed on or in immediate proximity to the products.

(6) Where the provisions of both paragraphs (2) and (4) apply in a particular case, the information permitted by paragraph (4) to be marked on the container may be given in a document accompanying the container.

Application of section 16(2) of the Act

8. Section 16(2) of the Act, in so far as it applies for the purposes of section 15(2)(b) of the Act in relation to a contravention of Article 7 in a case men-

tioned in paragraph (2), or paragraph (4) as extended by paragraph (6) of that Article, shall have effect with the omission of the following provisions—

- (a) in paragraph (a), the words “has in his possession for sale.”;
- (b) paragraph (b);
- (c) in paragraph (c), the words “have in his possession for sale or for delivery after sale.”; and
- (d) the words “whether the sale is, or is to be, by retail or otherwise”.

Sealed with the Official Seal of the Department of Commerce for Northern Ireland on 20th December 1979.

(L.S.)

W. T. McCrory

Assistant Secretary

EXPLANATORY NOTE

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

This Order implements the weight provisions of Council Directive No. 73/241/EEC (O.J. No. L228, 16.8.73, p. 23) as amended by Council Directives No. 74/411/EEC (O.J. No. L221, 12.8.74, p. 17), No. 74/644/EEC (O.J. No. L349, 28.12.74, p. 63), No. 75/155/EEC (O.J. No. L64, 11.3.75, p. 21) and No. 76/628/EEC (O.J. No. L223, 16.8.76, p. 1) relating to Cocoa and Chocolate Products intended for human consumption, and provides that Parts VIII and XI of Schedule 2 to the Weights and Measures Act (Northern Ireland) 1967 will cease to have effect as respects cocoa and chocolate products.

The principal changes are as follows:

- (a) weight marking is extended to cover all cocoa and chocolate products weighing 50 g (approximately $1\frac{3}{4}$ oz) or more after 11th February 1980 and alternative information is permitted in the case of sales otherwise than by retail, which may be marked on the outer container or given in any accompanying document (Article 7);
- (b) chocolate bars or tablets of the reserved descriptions specified, weighing not less than 85 g (3 oz) and not more than 500 g (1 lb $1\frac{1}{2}$ oz), are to be made for sale only in a prescribed range of metric weights after 11th February 1980 (Article 6);
- (c) after 1st March 1980 cocoa and chocolate powders of the reserved descriptions specified may be pre-packed only in a prescribed range of metric quantities (Articles 2 and 5);
- (d) transitional provisions are included in the Order to allow time for cocoa and chocolate products as respects which there have hitherto been no statutory requirements, and products which comply with the provisions of the Act to be sold by manufacturers, importers, and wholesalers, notwithstanding that the products do not comply with the Order (Article 3);
- (e) section 16 of the Act is also modified to take account of the case where the information required by the Order may be given in an accompanying document instead of on the container (Article 8).