



Weights and Measures Act 1979

CHAPTER 45

ARRANGEMENT OF SECTIONS

PART I

PACKAGED GOODS

Quantity control

Section

1. Duties of packers and importers of packages.
2. Enforcement.
3. Offences.
4. Local administration.
5. Special provision for certain packages.

Co-ordination of control

6. The Metrological Co-ordinating Unit.
7. Functions of Unit.
8. Supervision by Unit of certain functions of inspectors.
9. Annual reports by Unit.
10. Accounts and audit.
11. Power to extend or transfer Unit's functions and to abolish Unit.

Miscellaneous

12. Disclosure of information.
13. Power to modify Part I.
14. Interpretation of Part I.
15. Supplemental.

PART II

AMENDMENTS OF WEIGHTS AND MEASURES ACT 1963

16. Weighing or measuring equipment for use for trade.
17. Approved patterns of equipment for use for trade.
18. Alteration of penalties.
19. Beer and cider.
20. Other amendments of principal Act.

PART III

GENERAL

Section

21. Application to Northern Ireland.
22. Expenses etc.
23. Repeals.
24. Citation, interpretation and commencement.

SCHEDULES:

- Schedule 1—Instructions under section 2(3).
- Schedule 2—Powers and duties of inspectors etc.
- Schedule 3—Further provisions relating to constitution of Metrological Co-ordinating Unit.
- Schedule 4—Sections 11 and 12 of principal Act.
- Schedule 5—Other amendments of principal Act.
- Schedule 6—Application to Northern Ireland.
- Schedule 7—Enactments repealed.

WEIGHTS AND MEASURES ACT 1979

(1979 c. 45)

CORRECTIONS

Page 25, section 19, line 6, “ subsection ” should read “ section ”.

Page 42, Schedule 6, paragraph 8, line 1, “ In section 11 ” should read “ In section 12 ”.

June 1979

PRINTED IN ENGLAND BY BERNARD M. THIMONT
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

(50155)

ELIZABETH II



Weights and Measures Act 1979

1979 CHAPTER 45

An Act to make further provision with respect to weights
and measures. [4th April 1979]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PACKAGED GOODS

Quantity control

1.—(1) It shall be the duty of a person who is the packer or Duties of importer of relevant packages to ensure that when a group of packers and the packages marked with the same nominal quantity is selected importers of in the prescribed manner and the packages in the group or such packages. 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) Regulations in pursuance of the preceding subsection 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 subsection or to the generality of section

PART I 15(2)(b) of this Act, make provision by reference to a document other than the regulations (which may be or include a code of practical guidance issued by the Secretary of State).

(3) 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 perform the duty imposed on him by subsection (1) of this section in respect of the packages, then, without prejudice to the liability of the packer or importer under subsection (1) of the following section in respect of the failure, it shall be the duty of the person in possession of the packages to 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 performed his duty under subsection (1) of this section in respect of the group.

(4) It shall be the duty of a person who is the packer or importer of a relevant package to 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 section 7(4) of this Act for the purpose of enabling the place where the package was made up to be ascertained.

(5) 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 paragraph (a) of the preceding subsection, it shall be the duty of the packer or, as

the case may be, of the importer of the package to decide what statement he proposes to mark on the container in pursuance of that paragraph and to make at that time, and to maintain for the prescribed period, a record of the statement; and the container shall, until the time mentioned in that subsection or any earlier time at which it is actually marked in the prescribed manner in pursuance of that paragraph, be treated for the purposes of this Part of this Act as marked with the statement in the record.

PART I

(6) It shall be the duty of a person who makes up packages either—

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

(7) It shall be the duty of a person who is the importer of relevant packages—

- (a) to carry out at the prescribed time such a check as is mentioned in paragraph (b) of the preceding subsection and to comply with sub-paragraphs (i) and (ii) of that paragraph in connection with the check; or
- (b) to obtain before the prescribed time, and to 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 his duty under subsection (1) of this section in relation to the packages.

(8) Without prejudice to the generality of the powers to make regulations conferred by subsection (6) or (7) of this section or to the generality of section 15(2)(b) of this Act, regulations may provide—

- (a) for equipment not to be equipment for the purposes of the subsection 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 and for the payment of fees in respect of the inspection, testing and certification of equipment as so provided;

PART I

- (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 Secretary of State);
- (c) that the use and the possession for use, for the purposes of subsection (6) or (7) of this section, of a thing which is equipment for the purposes of the subsection in question shall not constitute a contravention of section 9A(1)(b) of the principal Act (which among other things prohibits the use for trade of any measure or weight not mentioned in Schedule 3 to that Act).

Enforcement.

2.—(1) A person who fails to perform a duty imposed on him by the preceding section shall be guilty of an offence.

(2) If an inspector has reasonable cause to believe that a person has failed to perform the duty imposed on him by subsection (1) of the preceding section 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 perform the duty imposed on him by subsection (6) or (7) of the preceding section, 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 perform that duty; and
- (b) Schedule 1 to this Act 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 his duty under sub-paragraph (ii) of subsection (6)(b) of the preceding section or that sub-paragraph as applied by subsection (7)(a) of that

- section by making a record which he knows is false in a material particular ; or
- (b) purports to comply with his duty under subsection (7)(b) of that section 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 subsection (5) of the preceding section or sub-paragraph (ii) of subsection (6)(b) of that section or that sub-paragraph as applied by subsection (7)(a) of that section or any document kept for the purposes of subsection (7)(b) of that section,

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 sections 22 and 24 of the principal Act (which among other things make it an offence to sell certain goods otherwise than in a particular quantity and make it an offence to give short weight) 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 perform a duty imposed by the preceding section.

3.—(1) A person guilty of an offence under the preceding section (hereafter in this section referred to as “a relevant offence”) shall be liable on summary conviction—

- (a) in the case of an offence under subsection (4) of that section, to imprisonment for a term not exceeding six months and a fine not exceeding £1,000 ;
- (b) in any other case, to a fine not exceeding £1,000.

(2) Proceedings for a relevant offence shall not be instituted in England and Wales except by or on behalf of a local weights and measures authority or the chief officer of police for a police area ; and subsections (2) and (4) of section 51 of the principal

PART I

Act (which provide that proceedings for certain offences under that Act shall not be instituted unless among other things notice of the date and nature of the alleged offence has been served on the accused and shall not be instituted after the expiry of a period mentioned in the said subsection (2)) shall apply to a relevant offence as they apply to an offence under section 24 of that Act but as if in paragraph (a) of the said subsection (2) the words from "and where" to "those articles" were omitted.

(3) Section 50 of the principal Act (which relates to offences by corporations) shall apply to a relevant offence as it applies to an offence under that Act.

(4) Where a person is charged with an offence under subsection (1) of the preceding section of failing to perform the duty imposed on him by section 1(1) of this Act 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.

(5) Where the importer of packages is charged with an offence under subsection (1) of the preceding section of failing to perform the duty imposed on him by section 1(1) of this Act in respect of the packages, it shall be a defence to prove—

- (a) that in respect of the packages the accused performed the duty imposed on him by paragraph (b) of section 1(7) of this Act ; and
- (b) that within the prescribed period after obtaining the documents mentioned in that paragraph 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 the said section 1(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 prosecutor 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 subsection ; 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.

(6) Where a person is charged with an offence under subsection (1) of the preceding section of failing to perform the duty imposed on him by paragraph (b) of subsection (4) of section 1

of this Act in respect of a package, it shall be a defence to prove—

PART I

- (a) that the container included in the package was marked at the time and in the manner mentioned in that subsection 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 paragraph.

(7) Where a person is charged with an offence under subsection (1) of the preceding section or an offence alleged to have been committed by him, as the packer or importer of a package, under subsection (5) of that section, 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.

4.—(1) It shall be the duty of a local weights and measures authority to enforce the provisions of this Part of this Act within the area of the authority.

(2) Schedule 2 to this Act shall have effect with respect to the powers and duties of inspectors and the other matters there mentioned.

(3) The following provisions of the principal Act (which relate to annual reports by local weights and measures authorities, to the investigation of a complaint that the functions of such an authority are not being properly discharged and to breaches by inspectors of their duties under that Act) shall have effect with the following modifications, namely, in section 38(1) the reference to the purposes of that Act, in sections 38(1) and 39(3) the references to functions under that Act and in section 45(1)(c) the reference to a duty imposed by or under that Act shall include respectively references to the purposes of, to functions under and to a duty imposed by or under this Part of this Act.

(4) Nothing in the preceding provisions of this section authorises a weights and measures authority to institute proceedings in Scotland for an offence.

5.—(1) Subsections (2) to (7) of this section apply only to packages containing goods of a prescribed quantity, and references to packages in those subsections shall be construed accordingly. Special provision for certain packages.

(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

PART I

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 of this Act 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 section 1(1) of this Act 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 the following subsection it shall be the duty of—

(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 them 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 the preceding paragraph,

to give before the prescribed time and in the prescribed manner, to the local weights and measures authority for the area in which the packages were packed or, as the case may be, in which the place of intended import is situated, 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 paragraph (b) or (c) of this subsection, 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 perform a duty imposed on him by this subsection 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 paragraph of the preceding subsection 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 section “ the EEC mark ” means such mark as may be prescribed ; and, without prejudice to the generality of section 15(2)(b) of this Act, regulations prescribing a mark in pursuance of this subsection may contain such provisions as 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 prescribed provisions of this section.

PART I

(7) Subsections (1) to (3) of section 3 of this Act shall apply to an offence under this section as they apply to an offence under section 2(1) of this Act.

Co-ordination of control

6.—(1) There shall be a body corporate, to be called the National Metrological Co-ordinating Unit (and hereafter in this Act referred to as “the Unit”), which shall consist of not less than five persons and not more than fifteen persons appointed by the Secretary of State.

The Metrological Co-ordinating Unit.

(2) A person shall not be qualified for appointment in pursuance of the preceding subsection unless he is a member of a local authority ; and it shall be the duty of the Secretary of State, before he makes such an appointment, to consult a body which in his opinion represents such local authorities as he considers appropriate in connection with the appointment.

In this subsection “local authority” means any of the following councils, namely, the council of a county or a district in England or Wales, the council of a region or an islands area in Scotland, the council of a London borough, the Common Council of the City of London and the Council of the Isles of Scilly.

(3) The provisions of Schedule 3 to this Act shall have effect with respect to the Unit.

(4) The Secretary of State may, out of money provided by Parliament, make payments to the Unit from time to time for the purpose of enabling the Unit to defray the whole or part of its expenses.

(5) It is hereby declared that the Unit is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that its property is not to be regarded as property of or held on behalf of the Crown.

7.—(1) It shall be the duty of the Unit—

Functions of Unit.

(a) to keep under review the operation of this Part of this Act and to carry out such research in connection with the review as the Unit considers appropriate ;

PART I

- (b) to make available, to local weights and measures authorities and to packers and importers of packages, such information as the Unit considers appropriate in connection with the operation of this Part of this Act ;
 - (c) to give advice to local weights and measures authorities about arrangements to be made by the authorities for the purpose of discharging the duty imposed on them by section 4(1) of this Act and about such other matters as the Unit considers appropriate in connection with the operation of this Part of this Act ;
 - (d) to seek to collaborate, with any authority in a place outside Great Britain appearing to the Unit to have functions which correspond to those of the Unit or to those conferred on a local weights and measures authority by this Part of this Act, about matters which are connected with packages and are of interest to the Unit and the authority ;
 - (e) to give advice to the Secretary of State about such documents as are mentioned in section 1(8)(b) of this Act which are prepared by persons appearing to the Secretary of State to represent the interests of packers or importers of packages ;
 - (f) to 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 the following subsection ;
 - (g) to make and maintain a record of the names and addresses of persons who make measuring container bottles in any member State of the Economic Community and of the marks put on the bottles for the purpose of enabling the makers of them to be identified ;
 - (h) to perform any duty conferred on the Unit by the preceding paragraphs in accordance with any directions given to the Unit by the Secretary of State.
- (2) The Unit may serve, on any person carrying on business as a packer or importer of packages, a notice requiring him—
- (a) to furnish the Unit from time to time with particulars of the kind specified in the notice of any marks which, otherwise than in pursuance of section 1(4)(c) of this Act, are applied from time to time, 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

PART I

- (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 Unit ;

but a notice given by the Unit in pursuance of this subsection 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 the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 ; and —

- (a) section 50 of the principal Act (which relates to offences by corporations) shall apply to an offence under this subsection as it applies to an offence under that Act ; but
- (b) proceedings for an offence under this subsection shall not be instituted in England or Wales except by or on behalf of the Director of Public Prosecutions or the Unit.

(4) It shall be the duty of the Unit—

- (a) if the Secretary of State so directs, to 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) to make from time to time such alterations of the scheme as the Unit considers appropriate and the Secretary of State approves ;
- (c) to 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.

(5) The functions conferred on the Secretary of State by regulation 6 of the 1977 Regulations (which relates to the approval by the Secretary of State of marks identifying the makers of measuring container bottles) are hereby transferred to the Unit, and accordingly references to the Secretary of State in that regulation shall be construed as references to the Unit ; but any approval given by the Secretary of State in pursuance of that regulation before this subsection comes into force shall have effect thereafter as if given by the Unit.

PART I

(6) In this section and the following section—

“measuring container bottle” has the same meaning as in the 1977 Regulations or, if regulations so provide, such other meaning as is prescribed; and

S.I. 1977/932.

“the 1977 Regulations” means the Measuring Container Bottles (EEC Requirements) Regulations 1977.

Supervision by
Unit of certain
functions of
inspectors.

8.—(1) The Unit may serve on any local weights and measures authority in Great Britain a notice requiring the authority—

(a) to furnish the Unit with information, of such a kind as is specified in the notice (and, if the notice so provides, relating only to persons so specified or packages or measuring container bottles of a kind so specified), with respect to relevant functions which inspectors appointed by the authority have performed or propose to perform during a period so specified; or

(b) to arrange for the performance by an inspector, in relation to persons, premises or equipment specified in the notice or packages or measuring container bottles of a kind so specified and during a period so specified, of such relevant functions as are so specified and to make to the Unit a report containing information of a kind so specified about the results of complying with the notice;

and, subject to paragraph (b)(ii) of subsection (3) of this section, it shall be the duty of the authority to comply with the requirements of the notice.

(2) In the preceding subsection “relevant functions” means the function of carrying out a test in pursuance of section 1(1) of this Act, functions conferred on an inspector by paragraph 1 of Schedule 2 to this Act and regulation 8(1) of the 1977 Regulations (which relates to inspection for the purposes of the 1977 Regulations) and such other functions conferred on an inspector by this Part of this Act as are prescribed; and in relation to a notice served in pursuance of paragraph (b) of the preceding subsection the inspector in question shall be treated as having such reasonable cause as is mentioned in sub-paragraph (1)(a) and (b) of the said paragraph 1 and paragraph (b) of the said regulation 8(1).

(3) If the Unit is of opinion that a local weights and measures authority has not complied with a requirement contained in a notice served on the authority in pursuance of subsection (1)

of this section, the Unit may refer the matter to the Secretary of State who, if he is also of that opinion, may—

PART I

- (a) serve a notice on the authority requiring it to comply with the requirement within a period specified in the notice ; or
- (b) in the case of a requirement in pursuance of paragraph (b) of subsection (1) of this section—
 - (i) make such arrangements as the Secretary of State considers appropriate for securing that the requirement is complied with by persons acting on his behalf,
 - (ii) serve on the authority a notice stating that he proposes to make the arrangements and prohibiting the authority from complying with the requirement,
 - (iii) by an instrument in writing appoint a person specified in the instrument to be an inspector for the purpose of carrying out the arrangements and to exercise accordingly for that purpose any power which by virtue of this Part of this Act or the 1977 Regulations is conferred on an inspector, and
 - (iv) recover from the authority the reasonable cost of making and carrying out the arrangements.

9.—(1) It shall be the duty of the Unit to make in each year a report to the Secretary of State on the performance during the preceding year of its functions, and it shall be the duty of the Secretary of State to publish, in such manner as he thinks fit, each report received by him in pursuance of this subsection. Annual reports by Unit.

(2) In preparing such a report the Unit shall have regard to the need for excluding, so far as it is practicable to do so, any matter which relates to the private affairs of an individual or which relates specifically to the affairs of a particular person where the publication of that matter would, in the opinion of the Unit, seriously and prejudicially affect the interests of that individual or person.

(3) For the purposes of the law of defamation every publication of such a report shall be absolutely privileged.

10.—(1) It shall be the duty of the Unit—

Accounts and audit.

- (a) to keep proper accounts and proper records in relation to the accounts ; and
- (b) to prepare in respect of each accounting year, in such form as the Secretary of State may with the approval

PART I

of the Treasury direct, a statement of those accounts ;
and

- (c) to send the statement to the auditors for the time being appointed in pursuance of this subsection and to do so within six months beginning with the last day of the accounting year to which the statement relates ;

and the accounts kept and the statements prepared in pursuance of this subsection shall be audited by auditors appointed by the Treasury.

(2) As soon as the accounts and statement of accounts of the Unit for any accounting year have been audited, the Unit shall send to the Secretary of State a copy of the statement and a copy of any report made by the auditors on the statement or on the accounts of the Unit, and it shall be the duty of the Secretary of State to lay before each House of Parliament a copy of every statement and report of which a copy is received by him in pursuance of this subsection.

(3) On and after 1st April 1980 the preceding provisions of this section shall have effect with the following amendments—

- (a) in subsection (1) the words from “ in such ” to “ direct ” in paragraph (b) shall be omitted and for the words “ appointed by the Treasury ” there shall be substituted the words “ appointed by the Unit ” ;
- (b) after that subsection there shall be inserted the following subsection—

(1A) A person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies—

the Institute of Chartered Accountants in England and Wales ;

the Institute of Chartered Accountants of Scotland ;

the Association of Certified Accountants ;

the Institute of Chartered Accountants in Ireland ;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State ;

but a Scottish firm may be so appointed if each of the partners in the firm is qualified to be so appointed. ;

(c) for subsection (2) there shall be substituted the following subsection—

PART I

(2) It shall be the duty of the Unit to include, in the first report it makes in pursuance of section 9 of this Act after the accounts and statement of accounts of the Unit for any accounting year have been audited, a copy of the statement and of any report made by the auditors on the statement or the accounts.

(4) The Secretary of State may, before 1st April 1980 or any later date for the time being specified in the preceding subsection by virtue of this subsection, direct that the preceding subsection shall have effect with the substitution for the reference to the date there specified of a later date specified in the direction.

(5) In this section “accounting year” means the period of twelve months ending with 31st March in any year except that a particular accounting year shall, if the Secretary of State so directs, be such other period not longer than two years as is specified in the direction.

11.—(1) The Secretary of State may by order confer on the Unit such functions as he thinks fit in addition to the functions conferred on the Unit by this Act.

Power to extend or transfer Unit's functions and to abolish Unit.

(2) The Secretary of State may by order—

- (a) transfer any function of the Unit to himself ;
- (b) establish a body and transfer to it any function of the Unit and any function transferred by virtue of the preceding paragraph ;
- (c) where all the functions of the Unit are transferred by virtue of the preceding paragraphs, abolish the Unit.

(3) An order made by virtue of this section may—

- (a) make such modifications of section 6(1) to (3) and (5) of this Act and Schedule 3 to this Act, and of references to the Unit in any provision of this Act except section 6, as the Secretary of State considers appropriate in connection with the conferring or transfer of any function, the establishment of a body or the abolition of the Unit in pursuance of this section ;
- (b) contain such supplemental and transitional provisions as the Secretary of State considers appropriate as aforesaid.

PART I

(4) If the Secretary of State proposes to make an order in pursuance of this section it shall be his duty, before he makes the order, to consult a body which in his opinion represents such local authorities (within the meaning of section 6(2) of this Act) as he considers appropriate in connection with the proposal.

(5) The Secretary of State may make payments out of money provided by Parliament, to any body established by virtue of this section, for the purpose of enabling the body to defray its expenses.

(6) The powers to make orders conferred by this section shall be exercisable by statutory instrument; but no order shall be made by virtue of this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

*Miscellaneous***Disclosure of information.**

12.—(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 of this Act when he was a member of the Unit, a person employed by the Unit, an inspector, a person who accompanied an inspector by virtue of paragraph 3(1) of Schedule 2 to this Act or a person appointed by the Secretary of State in pursuance of section 8(3)(b)(iii) of this Act,

he shall be guilty of an offence unless the disclosure was made in the performance of his duty as a member, inspector or other person mentioned in paragraph (b) of this subsection, or, in the case of an inspector, was made to the Unit in consequence of a request by the Unit.

(2) For the purposes of the preceding subsection 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.

(3) A person guilty of an offence under this section 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; and in this subsection “the statutory maximum” means the

prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 as respects England and Wales and section 289B of the Criminal Procedure (Scotland) Act 1975 as respects Scotland (which is £1,000 or another sum fixed by order to take account of changes in the value of money).

PART I

1977 c. 45.

1975 c. 21.

13. Regulations may provide—

Power to

modify
Part I.

- (a) that in relation to packages of a prescribed kind the provisions of this Part of this Act, except this section, shall have effect with prescribed modifications;
- (b) for the said provisions to apply, with prescribed modifications, to goods of a prescribed kind which are not comprised in packages.

14.—(1) In this Part of this Act—

Interpretation
of Part I.

- “container” includes any wrapping;
- “functions” includes powers and duties;
- “goods”, in relation to a package, excludes the container included in the package;
- “importer”, in relation to a package, means, subject to section 5(3) of this Act, the person by whom or on whose behalf the package is entered for customs purposes on importation;
- “modifications” includes additions, omissions and alterations;
- “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 section 5(1) of this Act, 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;
- “prescribed”, except in section 12(3), means prescribed by regulations;

PART I

“regulations” means regulations made by the Secretary of State by virtue of this Part of this Act ;

“relevant package” means 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 ;

“the Unit” has the meaning assigned to it by section 6(1) of this Act ;

and other expressions used in this Part of this Act and defined by subsection (1) of section 58 of the principal Act have in this Part of this Act the meanings assigned to them by that subsection.

(2) For the purposes of this Part of this Act 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 of this Act.

(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 of this Act.

(5) In this Part of this Act, except this subsection, references to this Part of this Act include Schedules 1 to 3 to this Act.

Supplemental. 15.—(1) Section 57 of the principal Act (which among other things enables provisions of that Act to be applied with modifications to the Crown by Order in Council) shall have effect as if the references to that Act in subsection (1) of that section included the provisions of this Part of this Act except this subsection.

(2) Any power to make regulations conferred by this Part of this Act—

(a) includes power to make different provision for different circumstances and provision relating only to specified circumstances ;

(b) 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 Secretary of State considers appropriate ; and

PART I

(c) shall be exercisable by statutory instrument ;

and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) When the Secretary of State proposes to make regulations it shall be his duty, before he makes the regulations, to consult on the proposal such organisations as he considers are representative of interests which would be substantially affected by the regulations.

(4) Any document required or authorised by virtue of this Part of this Act to be served on a person may be so served—

(a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address ;
or

(b) if the person is a body corporate, by serving it in accordance with the preceding paragraph on the secretary or clerk of that body ; or

(c) if the person is a partnership, by serving it as aforesaid on a partner or on a person having the control or management of the partnership business.

(5) For the purposes of the preceding subsection and section 7 of the Interpretation Act 1978 (which relates to the service of documents by post) in its application to the preceding subsection, the proper address of any person on whom a document is to be served by virtue of this Part of this Act shall be his last known address except that—

(a) in the case of service on a body corporate or its secretary or clerk it shall be the address of the registered or principal office of the body ;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business it shall be the principal office of the partnership ;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(6) A statement applied to a package in pursuance of section 1(4)(a) of this Act shall be deemed not to be a trade description within the meaning of the Trade Descriptions Act 1968.

1968 c. 29.

(7) It is hereby declared that a person discharges the duty imposed on him by section 1(1) of this Act in respect of a group

PART I of packages if the quantity of goods in each package is or exceeds the nominal quantity on the package.

PART II

1963 c. 31

AMENDMENTS OF WEIGHTS AND MEASURES ACT 1963

Weighing or measuring equipment for use for trade.

16.—(1) In section 11 of the principal Act (which relates to weighing or measuring equipment for use for trade)—

- (a) in paragraph (b) of subsection (3) after the word “error” there shall be inserted the words “and by virtue of subsection (5) of this section is not required to be stamped as mentioned in paragraph (c) of this subsection”;
- (b) in subsection (4) the words from “or of” to “that section” shall be omitted;
- (c) after subsection (5) there shall be inserted the following subsections—

(5A) Where a person submits equipment to an inspector under this section, 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 section 49 of this Act.

(5B) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this section 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.;

- (d) in subsection (6) for the words “been retested by an inspector” there shall be substituted the words “again been passed under this section” and for the words “be retested” there shall be substituted the words “be again so passed”.

(2) In accordance with the preceding subsection the said section 11 is to have effect as set out in Schedule 4 to this Act.

(3) In section 14 of the principal Act, after subsection (1) (which among other things enables provision to be made by regulations with respect to the testing of weighing or measuring equipment for use for trade) there shall be inserted the following subsection—

- (1A) Regulations under the foregoing subsection with respect to the testing of equipment may provide—

PART II

- (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 .

17.—(1) In section 12 of the principal Act (which relates to the approval of patterns of equipment for use for trade)—

- (a) in subsection (1) the words from “ on payment ” to “ determine ” and the words from “ and may ” onwards shall be omitted ;

Approved patterns of equipment for use for trade.

- (b) after subsection (1) there shall be inserted the following subsection—

(1A) The foregoing subsection applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this subsection “ approved pattern ” means a pattern in respect of which a certificate of approval under the foregoing subsection is in force. ;

- (c) in subsection (2)—

(i) for the words from “ the foregoing subsection ” to “ purpose ” there shall be substituted the words “ subsection (1) of this section may be granted or renewed subject to such conditions as the Secretary of State thinks fit ”,

(ii) for the words “ knowing that such a condition ” there shall be substituted the words—

“ (a) knowing that a condition other than a condition mentioned in section 12A(1)(b) of this Act ”,

and

(iii) for the words “ or disposes ” there shall be substituted the words—

“ or

(b) knowing that any condition has been imposed with respect to any equipment, disposes ” ;

- (d) in subsection (3) the words “ or authorisation ” wherever they occur and the words “ or incorporating the modification ” shall be omitted ; and

- (e) after subsection (3) there shall be inserted the following subsection—

(3A) The provisions of the last foregoing subsection relating to offences and forfeiture shall not

PART II

apply in consequence of the revocation of a certificate of approval if the notice of the revocation published under that subsection states that instead of those provisions the provisions of section 12A(4) of this Act are to apply in consequence of the revocation.

(2) In accordance with the preceding subsection the said section 12 is to have effect as set out in Schedule 4 to this Act.

(3) After the said section 12 there shall be inserted the following section—

Provisions
supple-
mentary
to s. 12.

12A.—(1) A certificate of approval under section 12(1) of this Act—

(a) shall, unless previously revoked and subject to the next following paragraph, 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 section 12(2) of this Act, 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 Secretary of State on an application made in such manner and during such period as may be prescribed and on payment, except in such cases as the Secretary of State may determine, of a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury.

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

(3) Where a person submits a pattern of equipment to the Secretary of State under section 12(1) of this Act the Secretary of State may—

(a) require the person to provide such assistance as the Secretary of State thinks fit in connection with the examination in question (and shall not be obliged to proceed with

PART II

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 aforesaid;
- (c) if he is satisfied that equipment of that pattern is suitable for use for trade, require the person to deposit with the Secretary of State 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 section 13(2) of this Act in respect of the pattern until the person complies with the requirement.

(4) Where a certificate of approval under section 12(1) of this Act ceases to have effect by the effluxion of time or by virtue of a notice under subsection (2) of this section or is revoked in a case falling within section 12(3A) of this Act, 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 ceased to have effect or been revoked as aforesaid, 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 section 12 of this Act and in force immediately before the day when this subsection comes into force; and
- (b) an authorisation of modifications so granted and in force; and

PART II

(c) a certificate which is deemed by virtue of section 12(5) of this Act to be a certificate of approval so granted and is in force as aforesaid,

shall have effect on and after that day as if it were a certificate of approval so granted on that day 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 subsection (1)(b) of this section 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 section 12(3) of this Act 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 subsection (5) of this section 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 subsection (3) of section 12 of this Act and the provisions of subsection (2) of that section relating to offences and forfeiture apply to a certificate continued in force by virtue of subsection (2) or subsection (4)(a) of this section.

(4) In subsection (1) of section 52 of the principal Act (which as amended by the following section provides for offences under the provisions of that Act mentioned in that subsection to be punishable on summary conviction by a fine of up to £200) after the figures "12(3)," there shall be inserted the figures "12A(4),".

Alteration of penalties.

18.—(1) In subsection (1) of section 52 of the principal Act (which provides for offences under the provisions of that Act mentioned in that subsection to be punishable on summary conviction by a fine of up to £50)—

(a) the words "31 and 49(1)" shall be omitted; and

(b) for the word "£50" there shall be substituted the word "£200".

(2) In subsection (2) of that section (which provides that a person guilty of an offence under provisions of that Act other than those mentioned in subsection (1) of that section shall be liable on summary conviction to a fine of up to £100, or up to £250 in the case of a second or subsequent offence under the

same provision, or to imprisonment for up to three months or to both) for the words from “ shall be liable ” onwards there shall be substituted the words “ and the following subsection shall be liable on summary conviction to a fine not exceeding £1,000.”.

PART II

(3) After subsection (2) of that section there shall be inserted the following subsection—

(3) A person guilty of an offence under section 16(3) or 20(3)(b) of this Act or paragraph 6 of Part I of Schedule 6 to this Act shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both, and a person guilty of an offence under section 48(5) of this Act shall be liable, on summary conviction, to a fine not exceeding £1,000 and, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

19. In ascertaining the quantity of any beer or cider for any of the purposes of Part VI of Schedule 4 to the principal Act or section 22 or 24 of that Act (which respectively regulate particular transactions and penalise short weight etc), the gas comprised in any foam on the beer or cider shall be disregarded ; and in this subsection “ beer ” and “ cider ” have the same meanings as in the said Part VI.

Beer and
cider.

20. The provisions of the principal Act mentioned in Schedule 5 to this Act shall have effect with the amendments specified in that Schedule, and in that Schedule references to sections and Schedules are to sections and Schedules of that Act.

Other
amendments
of principal
Act.

PART III

GENERAL

21. Schedule 6 to this Act shall have effect for modifying this Act in its application to Northern Ireland.

Application
to Northern
Ireland.

22.—(1) Any administrative expenses of the Secretary of State under this Act shall be defrayed out of money provided by Parliament ; and any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

Expenses
etc.

(2) There shall be defrayed out of money provided by Parliament or paid into the Consolidated Fund any increase attributable to this Act in the sums which, by virtue of any other Act, are payable out of money so provided or, as the case may be, into that Fund.

PART III
Repeals.
 1859 c. 56.
 1878 c. 49.

23.—(1) Section 6 of the Weights and Measures Act 1859 as set out in Schedule 6 to the Weights and Measures Act 1878 (which relates to the provision of scales etc by owners of markets) shall cease to have effect.

(2) The enactments mentioned in the first and second columns of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**Citation,
 interpretation
 and com-
 mencement.**
 1976 c. 77.
 1963 c. 31.

24.—(1) This Act may be cited as the Weights and Measures Act 1979, and the principal Act and the Weights and Measures &c. Act 1976 and this Act may be cited together as the Weights and Measures Acts 1963 to 1979.

(2) In this Act “the principal Act” means the Weights and Measures Act 1963.

(3) The provisions of this Act mentioned in paragraphs (a) to (c) of this subsection shall come into force as provided by those paragraphs, that is to say—

(a) Part I (except sections 6, 7 and 14), Schedules 1 and 2, paragraph 16 of Schedule 5 and section 20 so far as it relates to that paragraph, and section 23 and Schedule 7, except so far as they relate to provisions of the principal Act and the Weights and Measures &c. Act 1976 other than section 60 of the principal Act and the figures “60(3)” in section 54(4)(c) of that Act, shall come into force on 1st January 1980 ;

(b) sections 6, 7 and 19 and Schedule 3 shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument, and different dates may be appointed in pursuance of this paragraph for different provisions and for different purposes of the same provision ; and

(c) paragraph 1 of Schedule 5 and section 20 so far as it relates to that paragraph shall come into force on the expiration of the period of six months beginning with the date of the passing of this Act ;

and accordingly, except as provided by those paragraphs this Act comes into force on the date of the passing of this Act.

SCHEDULES

SCHEDULE 1

Section 2(3).

INSTRUCTIONS UNDER SECTION 2(3)

1. Instructions given to a person by an inspector in pursuance of section 2(3) of this Act 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 Secretary of State.

2. Where in pursuance of the preceding paragraph a person gives to an inspector notice of objection to instructions, it shall be the duty of the inspector to refer the instructions to the Unit and it shall be the duty of the Unit to seek to obtain the person's agreement in writing to the instructions either without modifications or with such modifications as the Unit considers acceptable; and if at the expiration of the prescribed period beginning with the day when the instructions are received by the Unit the Unit considers that it has not obtained the person's agreement as aforesaid, it shall be the duty of the Unit to refer the instructions to the Secretary of State.

3. Where instructions are referred to the Secretary of State in pursuance of the preceding paragraph, it shall be his duty—

- (a) to invite representations in writing about the instructions from the Unit, from the inspector who gave them and from the person to whom they were given and to consider any representations made in response to the invitations within the periods specified in the invitations; and
- (b) to 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 Unit and to the inspector and the person in question.

SCHEDULE 2

Section 4(2).

POWERS AND DUTIES OF INSPECTORS ETC

1.—(1) An inspector may, within the area for which he is appointed an inspector and 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 packages belonging to the importer of them are on the premises or that relevant packages intended for sale are on the premises;

SCH. 2

- (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 subsections (6) and (7) of section 1 of this Act ;
- (c) inspect, and measure in such manner as he thinks fit, any thing 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 any thing purporting to be, a record, document or certificate mentioned in subsections (5) to (8) of section 1 of this Act ;
- (e) require any person on premises which the inspector is authorised to enter by virtue of paragraph (a) of this sub-paragraph to provide such assistance as the inspector reasonably considers necessary to enable the inspector to exercise effectively any power conferred on him by paragraphs (a) to (d) of this sub-paragraph ;
- (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 the following paragraph.

(2) An inspector may serve, on any person carrying on business as the packer or importer of packages in the area for which the inspector is appointed an inspector, a notice requiring the person—

- (a) to furnish the inspector from time to time with particulars of the kind specified in the notice of any marks which, otherwise than in pursuance of section 1(4)(c) of this Act, are applied from time to time, 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.

2. If a justice of the peace, on sworn information in writing—

- (a) is satisfied 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 the preceding paragraph is on any premises or that an offence under section 2 of this Act is being or is about to be committed on any premises ; and

(b) is also satisfied 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,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an inspector to enter the premises if need be by force.

In the application of this paragraph to Scotland "justice of the peace" includes a sheriff.

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

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

4. Where an inspector has reasonable cause to believe that an offence under section 2 or 5 of this Act 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.

5.—(1) A local weights and measures authority shall have power to purchase goods, and to authorise any of its officers to purchase goods on behalf of the authority, for the purpose of ascertaining whether an offence under section 2 or 5(2) of this Act has been committed.

(2) If an inspector breaks open a package in pursuance of paragraph 1(1)(c) of this Schedule otherwise than on premises occupied by the packer or importer of the package and the package is not inadequate, it shall be the duty of the inspector, if the owner of the package requests him to do so, to buy the package on behalf of the local weights and measures authority for the area in which he broke it open.

6. A person who wilfully obstructs an inspector acting in pursuance of this Schedule or Part I of this Act 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) of this Schedule shall be guilty of an offence; and subsections (1) to (3) of section 3 of this Act shall apply to such offences as they apply to an offence under section 2(1) of this Act.

SCH. 2

Sections 6(3),
11(3)(a).

SCHEDULE 3**FURTHER PROVISIONS RELATING TO CONSTITUTION OF
METROLOGICAL CO-ORDINATING UNIT***Tenure of members*

1.—(1) Subject to the following paragraph, a member shall hold office as a member until the Secretary of State gives him notice that his appointment as a member is terminated.

(2) Without prejudice to the generality of the Secretary of State's power to give notices in pursuance of the preceding sub-paragraph, it shall be his duty to give a member such a notice if the Secretary of State is satisfied that the member is no longer a member of any local authority.

2. A person may at any time resign his office as a member by giving to the Secretary of State a notice signed by that person and stating that he resigns that office.

Proceedings

3. The quorum of the Unit and the arrangements relating to meetings of the Unit shall be such as the Unit may determine.

4. The validity of any proceedings of the Unit shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Chairman

5. The Unit may appoint a member to be the chairman of the Unit and may terminate an appointment made in pursuance of this paragraph.

6. A person shall cease to hold office as the chairman of the Unit if he ceases to be a member.

Staff

7. The Unit may employ, on such terms as are applicable to comparable employment in the service of a local authority, such persons as are needed to assist the Unit in the performance of its functions.

Instruments

8. The fixing of the common seal of the Unit shall be authenticated by the signature of the chairman or of any other member authorised by the Unit to authenticate it.

9. A document purporting to be duly executed under the seal of the Unit shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

Interpretation

10. In the preceding provisions of this Schedule "member", except in relation to a local authority, means member of the Unit, and "local authority" has the same meaning as in section 6(2) of this Act.

SCHEDULE 4

Sections 16(2),
17(2).

SECTIONS 11 AND 12 OF PRINCIPAL ACT

Weighing or
measuring
equipment
for use
for trade.

11.—(1) The provisions of this section 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 section applies, or have any article in his possession for such use, unless that article, or equipment to which this section 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 as fit for such use and, except as otherwise expressly provided by or under this Act, 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 subsection, 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 section applies to be passed as fit for use for trade shall submit the equipment to an inspector in such manner as the local weights and measures authority may direct and, subject to the provisions of this Act and of any regulations made under section 14 thereof and to the payment by that person of the prescribed fee, the inspector shall—

- (a) test the equipment by means of such local or working standards and 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 the prescribed limits of error and by virtue of subsection (5) of this section is not required to be stamped as mentioned in paragraph (c) of this subsection, give to the person submitting it a statement in writing to the effect that it is passed as aforesaid; and
- (c) except as otherwise expressly provided by or under this Act, cause it to be stamped with the prescribed stamp;

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

Provided that, except as otherwise expressly provided by or under this Act, no weight or measure shall be

SCH. 4

stamped as mentioned in paragraph (c) of this subsection unless it has been marked in the prescribed manner with its purported value.

(4) Where any equipment submitted to an inspector under subsection (3) of this section is of a pattern in respect of which a certificate of approval granted under section 12 of this Act 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:

Provided that 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 Board, and the Board's decision thereon shall be final.

(5) The requirements of subsections (2) and (3) of this section 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.

(5A) Where a person submits equipment to an inspector under this section, 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 section 49 of this Act.

(5B) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this section 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.

(6) In the case of any equipment which is required by regulations made under section 14 of this Act to be passed and stamped under this section 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 section; and if any person knowingly uses that equipment in contravention of this subsection, or knowingly causes or permits any other person so to use it, or knowing that the equipment is required by virtue of this subsection 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.

SCH. 4

(7) Subject to the last foregoing subsection, a stamp applied to any equipment under this section shall have the like validity throughout Great Britain as it has in the place in which it was originally applied, and accordingly that equipment shall not be required to be re-stamped because it is used in any other place; and any equipment to which this section applies which has been duly stamped before the commencement of this section under any enactment specified in Part I of Schedule 9 to this Act shall be treated for the purposes of this Act as if it had been duly stamped under this section.

(8) Nothing in any local Act passed before this Act shall make unlawful the use for trade as equipment to which this section applies of any article such use of which is not unlawful under this section or require any such article to be stamped otherwise than as required by this section.

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

Approved
patterns of
equipment
for use
for trade.

12.—(1) Where any pattern of weighing or measuring equipment is submitted to the Board for the purpose by any person in such manner as may be prescribed, the Board shall examine in such manner as they think 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 Board are satisfied that such equipment is suitable for use for trade then, subject to section 13(2) of this Act, they shall issue a certificate of approval of that pattern and cause particulars thereof to be published.

(1A) The foregoing subsection applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this subsection "approved pattern" means a pattern in respect of which a certificate of approval under the foregoing subsection is in force.

(2) A certificate of approval under subsection (1) of this section may be granted or renewed subject to such conditions as the Secretary of State thinks fit; and if any person—

(a) knowing that a condition other than a condition mentioned in section 12A(1)(b) of this Act has

SCH. 4

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.

(3) The Board, after consultation with such persons appearing to them to be interested as they think fit, may at any time revoke any certificate granted under this section, and shall cause notice of any such revocation to be published ; and where the Board so revoke 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 thereof, uses for trade, or has in his possession for such use, or causes or permits any other person so to use, any equipment of the pattern in question, 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 of the revocation, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(3A) The provisions of the last foregoing subsection 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 subsection states that instead of those provisions the provisions of section 12A(4) of this Act are to apply in consequence of the revocation.

(4) Any equipment of a pattern in respect of which a certificate of approval has been granted under this section 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.

(5) 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 Act to be a certificate of approval of that pattern granted under this section.

Section 20.

SCHEDULE 5

OTHER AMENDMENTS OF PRINCIPAL ACT

1. In section 4(5) (which provides for certificates of fitness for local standards to be in force for periods of two, five and ten years) for the words from "following period" to "ten years" there shall

be substituted the words "prescribed period"; but the amendment made by this paragraph shall not affect a certificate of fitness which is in force immediately before the date when this paragraph comes into force.

SCH. 5

2. In section 5 (which requires local weights and measures authorities to provide working standards and testing and stamping equipment) after subsection (1) there shall be inserted the following subsection—

(1A) An authority may, with the approval of the Secretary of State—

- (a) provide a particular working standard or item of equipment as required by subsection (1) of this section 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 authority under subsection (1) of this section, except stamping equipment, to be made available to the other person ;

and the provisions of subsection (3) of this section relating to the premises at which things are to be kept shall not apply to things which are the subject of arrangements under paragraph (a) of this subsection.

Nothing in the preceding provisions of this subsection prejudices the operation of the Local Authorities (Goods and Services) Act 1970, section 101 of the Local Government Act 1972 or section 56 of the Local Government (Scotland) Act 1973 (which among other things enable a local authority to arrange for the provision of goods or services and the discharge of its functions by another local authority).

3.—(1) In subsection (1) of section 6 (which among other things enables certain articles and equipment to be accepted, on payment of a fee, for testing for accuracy by the Secretary of State)—

- (a) the words from "and on payment" to "determine" shall be omitted ; and
- (b) after the word "accuracy" there shall be inserted the words "or compliance with any specification" ; and
- (c) at the end of paragraph (b) there shall be inserted the words "and
- (c) any other metrological equipment, and
- (d) any article for use in connection with equipment mentioned in paragraph (b) or (c) above," ;

and at the end of the subsection there shall be inserted the words "The Secretary of State may charge, in respect of any article or equipment accepted by him in pursuance of this subsection, a fee of an amount ascertained in such manner as he may determine with the approval of the Treasury."

(2) In subsection (3) of section 6 (of which the proviso limits the fee for a certain test of apparatus to £15 or a higher sum specified by order) the proviso shall be omitted.

SCH. 5

4. Section 7 (which provides for the establishment and constitution of the Commission on Units and Standards of Measurement) and section 8 (which relates to the functions of the Commission) shall be omitted.

5. In subsection (1) of section 15 (which among other things makes it an offence to alter or deface a stamp on weighing or measuring equipment used for trade)—

(a) after paragraph (d) there shall be inserted the words “; or

(e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment”; and

(b) in the proviso (under which certain provisions of that subsection do not apply to things done by specified persons in the course of adjusting or repairing the equipment in question) before the words “in the course of” there shall be inserted the words “, and paragraph (e) of this subsection shall not apply to anything done.”

6. In subsection (9) of section 24 (which excludes certain transactions from the provisions of that section) paragraph (b) (which relates to the sale of goods with a view to their industrial or constructional use) shall be omitted.

7. In section 26, for subsection (1) (under which it is a defence for a person charged with an offence under Part IV of the principal Act in respect of any goods to prove that the commission of the offence was due to a mistake or to an accident or some other cause beyond his control and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence in respect of the goods by himself or any person under his control) there shall be substituted the following subsection—

(1) In any proceedings for an offence under this Part of this Act or an instrument made thereunder, 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.

but the amendment made by this paragraph and the repeal by this Act of section 26 (4) (which is consequential upon that amendment) shall not apply in relation to an offence committed before the date when this paragraph comes into force.

8. For section 27 (which relates to offences due to the default of a third person) there shall be substituted the following section—

27.—(1) If in any case the defence provided by section 26(1) of this Act 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 prosecutor 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 of this Act or an instrument made thereunder 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 subsection (2) of this section a person is charged with an offence with which some other person might have been charged, the reference in section 26(7) of this Act 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.

but the amendment made by this paragraph shall not apply in relation to an offence committed before the date when this paragraph comes into force.

9. Section 28 (which relates to offences originating in certain countries outside Great Britain) shall be omitted; but the repeal by this Act of that section shall not affect the application of that section to an offence committed before the date when this paragraph comes into force.

10. In section 38(1) (which as amended by section 4(3) of this Act requires each local weights and measures authority to make a report to the Secretary of State about the operation during each financial year of the arrangements made to give effect in the area of the authority to the purposes of the principal Act and Part I of this Act)—

- (a) the reference to those arrangements shall include arrangements for giving effect to functions relating to weights and measures which are conferred on the authority otherwise than by or under the principal Act and Part I of this Act and which are specified, in a notice in writing given to the authority by the Secretary of State and not withdrawn, as functions to which this paragraph applies; and
- (b) the reference to functions under the principal Act shall include functions so specified.

11. In section 42 (which among other things provides for examinations to be held for the purpose of ascertaining whether persons are qualified for appointment as inspectors) after subsection (1) there shall be inserted the following subsection—

(1A) The Secretary of State may if he thinks fit arrange with some other person for that person to hold examinations for the purpose aforesaid.

and in subsection (3) of that section (which relates to the fees for any such examination as aforesaid) after the word "aforesaid" there shall be inserted the words "which is held by the Secretary of State".

12. For subsection (1) of section 44 (which provides that no reduction in an inspector's fees shall be made for assistance given in the inspection, testing or stamping of equipment except where the

SCH. 5 assistance is given by a manufacturer of the equipment) there shall be substituted the following subsection—

(1) Where a person gives assistance in connection with the inspection, testing or stamping of weighing or measuring equipment by an inspector, the local weights and measures authority may reduce, by a sum which the authority considers is 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.

13.—(1) In subsection (2) of section 48, for paragraph (b) (which authorises an inspector to seize and detain any document which is displayed with certain goods and relates to the price or quantity of them and which may be required as evidence in proceedings under the principal Act) there shall be substituted the following paragraph—

(b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Act.

(2) In subsection (5) of section 48 (which penalises a person who improperly discloses information about any manufacturing process or trade secret which he has obtained in a work-place he entered by virtue of that section) before the word “manufacturing” there shall be inserted the word “secret”.

14. In section 51 (of which subsection (2) provides among other things that proceedings for an offence mentioned in that subsection shall not be instituted unless in certain cases a notice giving particulars of the alleged offence has been served on the accused within fifteen days from the date of the alleged offence and shall not be instituted after three months from that date)—

(a) in subsection (2)(b) for the words “fifteen days beginning with the date aforesaid” there shall be substituted the words “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”;

(b) in subsection (2)(c) for the words from “three months” onwards there shall be substituted the words “twelve months beginning with the date mentioned in paragraph (a) of this subsection or three months beginning with the date mentioned in paragraph (b) of this subsection, whichever first occurs”; and

(c) after subsection (3) there shall be inserted the following subsection—

(4) For the purposes of subsection (2) of this section—

(a) a certificate of a person who institutes proceedings for an offence mentioned in that subsection 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.

SCH. 5

but the amendments made by this paragraph shall not apply in relation to an offence committed before the date when this paragraph comes into force.

15. In subsection (1) of section 58 (which assigns meanings to certain expressions used in the principal Act), in the definition of "credentials" for the words "authority in writing from a person who is for the time being a justice of the peace (or, in Scotland, either the sheriff or a justice of the peace)" there shall be substituted the words "authority in writing from the local weights and measures authority who appointed him".

16. Section 60 (which relates to cran and quarter cran measures) shall be omitted.

17. In Part II of Schedule 1 and Schedule 1A, for the word "Dekare" there shall be substituted the word "Decare".

18. In paragraph 3 of Part VI of Schedule 4 (which provides for certain liquors to be sold by retail for consumption on the premises of the seller only in one of the quantities there mentioned and for the quantity to be the same for all those liquors)—

- (a) after the word "retail" there shall be inserted the words "
", by or on behalf of the licensee of licensed premises or a licensed canteen within the meaning of the Licensing Act 1964, or the Licensing (Scotland) Act 1976,"; and
- (b) after the word "same" there shall be inserted the words "for those parts of the premises of which he is the licensee and".

19. In paragraph 1 of Part IX of Schedule 4 (of which subparagraph (d), as amended by the Weights and Measures Act 1963 (Cereal Breakfast Foods and Oat Products) Order 1975, provides that the foods to which that Part applies include rolled oats) subparagraph (d) shall be omitted. S.I. 1975/1177.

20. For Part XII of Schedule 4 there shall be substituted the following—

PART XII

Tables of permitted weights for containers

TABLE A

| Gross weight | Permitted weight of container |
|---------------------------|---|
| Not exceeding 500g | 5g |
| Exceeding 500g | a weight at the rate of 10g per kg of the gross weight. |

SCH. 5

TABLE B

| Gross weight | Permitted weight of container |
|--------------------------------------|---|
| Not exceeding 500g | 9g |
| Exceeding 500g but not exceeding 1kg | a weight at the rate of 16g per kg of the gross weight. |
| Exceeding 1kg but not exceeding 2kg | a weight at the rate of 12g per kg of the gross weight. |
| Exceeding 2kg | a weight at the rate of 10g per kg of the gross weight. |

TABLE C

| Gross weight | Permitted weight of container |
|--------------------------------------|--|
| Not exceeding 250g | a weight at the rate of 120g per kg of the gross weight. |
| Exceeding 250g but not exceeding 1kg | a weight at the rate of 100g per kg of the gross weight. |
| Exceeding 1kg but not exceeding 3kg | a weight at the rate of 90g per kg of the gross weight. |
| Exceeding 3kg | a weight at the rate of 60g per kg of the gross weight. |

21. At the end of paragraph 1 of Part VIII of Schedule 7 (which lists miscellaneous goods which are to be sold by or marked with net weight) there shall be inserted the words "(f) rolled oats".

SCHEDULE 6

Section 21.

APPLICATION TO NORTHERN IRELAND

1. Sections 6, 8 to 11 and 22 and Schedules 3 and 4 shall be omitted.

2. Subject to the following provisions of this Schedule, for any such reference as is specified in column 1 of the table set out below there shall be substituted the reference specified in column 2.

TABLE

| <i>Reference</i> | <i>Substituted references</i> |
|--|--|
| The Secretary of State (except the references in sections 1(2) and (8)(b), 5(6), 7(5) and 24(3)(b)). | The Department of Commerce for Northern Ireland. |
| Section 9A. | Section 3A. |
| Schedule 3. | Schedule 1. |
| Section 22. | Section 16. |
| Section 24. | Section 18. |
| A local weights and measures authority. | The Department of Commerce for Northern Ireland. |
| Section 51. | Section 33. |
| The Unit. | The Department of Commerce for Northern Ireland. |
| Section 58. | Section 41. |
| Section 57. | Section 37. |
| Section 11. | Section 5. |
| Section 14 (except the reference in section 24(3)(a)). | Section 8. |
| Section 12 (except the reference in section 14(1)). | Section 6. |
| Section 12A. | Section 6A. |
| The Treasury. | The Department of Finance for Northern Ireland. |
| Section 13. | Section 7. |
| Section 52. | Section 34. |
| Section 31. | Section 25(1). |
| Section 49. | Section 29. |
| Section 16. | Section 10. |
| Section 20. | Section 14. |
| Section 48. | Section 28. |
| Schedule 4. | Schedule 2. |
| Schedule 6. | Schedule 4. |
| Section 60. | Section 4(4). |

3. In section 1(2) and (8)(b) after the words "Secretary of State" there shall be inserted the words "or, as the case may be, the Department of Commerce for Northern Ireland".

4. In section 3—

(a) in subsection (2)—

(i) for the words "England and Wales" there shall be substituted the words "Northern Ireland";

SCH. 6

- (ii) for the words "chief officer of police for a police area" there shall be substituted the words "Director of Public Prosecutions for Northern Ireland";
 - (iii) for the word "(4)" there shall be substituted the word "(3)";
 - (b) subsection (3) shall be omitted.
5. In section 4—
- (a) in subsection (1) the words "within the area of the authority" shall be omitted;
 - (b) for subsection (3) there shall be substituted the following subsection—
 - (3) In section 32(1)(c) of the principal Act (which relates to breaches by inspectors of their duties under that Act) the reference to a duty imposed by or under that Act shall include a reference to a duty imposed by or under this Part of this Act;
 - (c) subsection (4) shall be omitted.
6. In section 5—
- (a) in subsection (4) the words from "for the area" to "is situated" shall be omitted;
 - (b) in subsection (6) after the words "Secretary of State" there shall be inserted the words "or, as the case may be, the Department of Commerce for Northern Ireland";
 - (c) in subsection (7) for the words "to (3)" there shall be substituted the words "and (2)".
7. In section 7—
- (a) in subsection (1)—
 - (i) in paragraph (b) the words "to local weights and measures authorities and" shall be omitted;
 - (ii) paragraph (c) shall be omitted;
 - (iii) in paragraph (d) for the words "Great Britain" there shall be substituted the words "Northern Ireland" and the words from "or to those" to "of this Act" shall be omitted;
 - (iv) paragraphs (e), (g) and (h) shall be omitted;
 - (b) in subsection (3)—
 - (i) paragraph (a) shall be omitted;
 - (ii) in paragraph (b) for the words "England or Wales" there shall be substituted the words "Northern Ireland" and after the word "Prosecutions" there shall be inserted the words "for Northern Ireland";
 - (c) in subsection (4)—
 - (i) in paragraph (a) the words "if the Secretary of State so directs" shall be omitted;
 - (ii) in paragraph (b) the words "and the Secretary of State approves" shall be omitted.
8. In section 11—
- (a) in subsection (1) for the words in paragraph (b) from "a member" onwards there shall be substituted the words "an

inspector or a person who accompanied an inspector by virtue of paragraph 3(1) of Schedule 2 to this Act”, for the words “a member, inspector” there shall be substituted the words “an inspector” and the words from “or, in the case” onwards shall be omitted;

SCH. 6

- (b) in subsection (3) in the definition of “statutory maximum” for the reference to England and Wales there shall be substituted a reference to Northern Ireland,

and for the purposes of the definition of “statutory maximum” as so amended the provisions of the Criminal Law Act 1977 which relate to the sum mentioned in that definition shall extend to Northern Ireland. 1977 c. 45.

9. In section 14—

- (a) in subsection (1) the definition of “the Unit” shall be omitted;
- (b) in subsection (5) for the words “to 3” there shall be substituted the words “and 2”.

10. In section 15—

- (a) in subsection (2) for the words from “by statutory instrument” to the end of the subsection there shall be substituted the words “by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958, and shall be subject to negative resolution as defined by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act”;
- (b) subsections (4) and (5) shall be omitted.

11. In section 16—

- (a) in subsection (1)(a)—
- (i) for the word “error” there shall be substituted the word “prescribed”;
- (ii) for the words “paragraph (c) of this subsection” there shall be substituted the words “sub-paragraph (ii)”;
- (b) subsection (2) shall be omitted.

12. In section 17—

- (a) in subsection (1)(c)(i) for the words “the foregoing subsection” there shall be substituted the words “subsection (1)”;
- (b) subsection (2) shall be omitted.

13. In section 24—

- (a) in subsection (2) for the word “1963” there shall be substituted the words “(Northern Ireland) 1967”;
- (b) in subsection (3)—
- (i) in paragraph (a) the words from “paragraph 16” to “that paragraph” and the words “and the figures ‘60(3)’ in section 54(4)(c) of that Act,” shall be omitted;
- (ii) in paragraph (b) the words “and Schedule 3” shall be omitted;
- (iii) paragraph (c) shall be omitted.

SCH. 6

14. In Schedule 1—

- (a) in paragraph 2 the words from “and it shall” to the end of the paragraph shall be omitted;
- (b) in paragraph 3 the words “from the Unit” and the words “the Unit and to” shall be omitted.

15. In Schedule 2—

- (a) in paragraph 1(1) the words “within the area for which he is appointed an inspector and” shall be omitted;
- (b) in paragraph 1(2) the words “in the area for which the inspector is appointed an inspector” shall be omitted;
- (c) in paragraph 2 for the word “information” there shall be substituted the word “complaint” and the words from “In the application” to the end of the paragraph shall be omitted;
- (d) in paragraph 5(2) the words “for the area in which he broke it open” shall be omitted;
- (e) in paragraph 6 for the words “to (3)” there shall be substituted the words “and (2)”.

16. For Schedule 5 there shall be substituted the following Schedule—

SCHEDULE 5

OTHER AMENDMENTS OF PRINCIPAL ACT

1. In section 2 (which requires the Department to provide working standards and testing and stamping equipment) after subsection (1) there shall be inserted the following subsection—

(1A) The Department may—

- (a) provide a particular working standard or item of equipment as required by subsection (1) of this section 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 subsection (1) of this section, except stamping equipment, to be made available to the other person.

2. In subsection (1) of section 9 (which among other things makes it an offence to alter or deface a stamp on weighing or measuring equipment used for trade), after paragraph (d) there shall be inserted the words “; or

- (e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment”;

and in subsection (2) of that section (under which certain provisions of the said subsection (1) do not apply to things done by specified persons in the course of adjusting or repairing the equipment in question) before the words “in the course of” there shall be inserted the words “, and paragraph (e) of that subsection shall not apply to anything done.”.

3. In subsection (9) of section 18 (which excludes certain transactions from the provisions of that section) paragraph (b) (which relates

to the sale of goods with a view to their industrial or constructional use) shall be omitted.

SCH. 6

4. In section 20, for subsection (1) (under which it is a defence for a person charged with an offence under Part IV of the principal Act in respect of any goods to prove that the commission of the offence was due to a mistake or to an accident or some other cause beyond his control and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence in respect of the goods by himself or any person under his control) there shall be substituted the following subsection—

(1) In any proceedings for an offence under this Part of this Act or an instrument made thereunder, 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.

but the amendment made by this paragraph and the repeal by this Act of section 20(4) (which is consequential upon that amendment) shall not apply in relation to an offence committed before the date when this paragraph comes into force.

5. For section 21 (which relates to offences due to the default of a third person) there shall be substituted the following section—

21.—(1) If in any case the defence provided by section 20(1) of this Act 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 prosecutor 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 of this Act or an instrument made thereunder 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 subsection (2) of this section a person is charged with an offence with which some other person might have been charged, the reference in section 20(7) of this Act 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.

but the amendment made by this paragraph shall not apply in relation to an offence committed before the date when this paragraph comes into force.

6. Section 22 (which relates to offences originating in certain countries outside Northern Ireland) shall be omitted; but the repeal by this Act of that section shall not affect the application of that section

SCH. 6 to an offence committed before the date when this paragraph comes into force.

7.—(1) In subsection (2) of section 28, for paragraph (b) (which authorises an inspector to seize and detain any document which is displayed with certain goods and relates to the price or quantity of them and which may be required as evidence in proceedings under the principal Act) there shall be substituted the following paragraph—

(b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Act.

(2) In subsection (5) of section 28 (which penalises a person who improperly discloses information about any manufacturing process or trade secret which he has obtained in a work-place he entered by virtue of that section) before the word “manufacturing” there shall be inserted the word “secret”.

8. In section 33 (of which subsection (2) provides among other things that proceedings for an offence mentioned in that subsection shall not be instituted unless in certain cases a notice giving particulars of the alleged offence has been served on the accused within fifteen days from the date of the alleged offence and shall not be instituted after three months from that date)—

(a) in subsection (2)(b) for the words “fifteen days beginning with the date aforesaid” there shall be substituted the words “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”;

(b) in subsection (2)(c) for the words from “three months” onwards there shall be substituted the words “twelve months beginning with the date mentioned in paragraph (a) of this subsection or three months beginning with the date mentioned in paragraph (b) of this subsection, whichever first occurs”; and

(c) after subsection (2) there shall be inserted the following subsection—

(3) For the purposes of subsection (2) of this section—

(a) a certificate of a person who institutes proceedings for an offence mentioned in that subsection 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,

but the amendments made by this paragraph shall not apply in relation to an offence committed before the date when this paragraph comes into force.

9. Section 38(2) (which limits the fee for certain tests of apparatus to £15 or to a higher sum specified by order) shall be omitted.

SCH. 6

10. For subsection (1) of section 40 (which provides that no reduction in an inspector's fees shall be made for assistance given in the inspection, testing or stamping of equipment except where the assistance is given by a manufacturer of the equipment) there shall be substituted the following subsection—

(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.

11. In paragraph 1 of Part IX of Schedule 2 (of which sub-paragraph (d), as amended by the Cereal Breakfast Foods and Oat Products Order (Northern Ireland) 1975, provides that the foods to which that Part applies include rolled oats) sub-paragraph (d) shall be omitted. S.R.(N.I.)
1975/281.

12. For Part XII of Schedule 2 there shall be substituted the following—

PART XII

Tables of permitted weights for containers

TABLE A

| Gross weight | Permitted weight of container |
|---------------------------|---|
| Not exceeding 500g | 5g |
| Exceeding 500g | a weight at the rate of 10g per kg of the gross weight. |

TABLE B

| Gross weight | Permitted weight of container |
|--------------------------------------|---|
| Not exceeding 500g | 9g |
| Exceeding 500g but not exceeding 1kg | a weight at the rate of 16g per kg of the gross weight. |
| Exceeding 1kg but not exceeding 2kg | a weight at the rate of 12g per kg of the gross weight. |
| Exceeding 2kg | a weight at the rate of 10g per kg of the gross weight. |

SCH. 6

TABLE C

| Gross weight | Permitted weight of container |
|--------------------------------------|--|
| Not exceeding 250g | a weight at the rate of 120g per kg of the gross weight. |
| Exceeding 250g but not exceeding 1kg | a weight at the rate of 100g per kg of the gross weight. |
| Exceeding 1kg but not exceeding 3kg | a weight at the rate of 90g per kg of the gross weight. |
| Exceeding 3kg | a weight at the rate of 60g per kg of the gross weight. |

13. At the end of paragraph 1 of Part VIII of Schedule 5 (which lists miscellaneous goods which are to be sold by or marked with net weight) there shall be inserted the words "(f) rolled oats".

Section 23(2).

SCHEDULE 7

ENACTMENTS REPEALED

| Chapter | Short title | Extent of repeal |
|----------------------|--|--|
| 55 Geo. 3. c. 94. | The Herring Fishery (Scotland) Act 1815. | Section 13. |
| 41 & 42 Vict. c. 49. | The Weights and Measures Act 1878. | Section 86. Schedule 6. |
| 52 & 53 Vict. c. 23. | The Herring Fishery (Scotland) Act 1889. | Section 4. |
| 8 Edw. 7. c. 17. | The Cran Measures Act 1908. | The whole Act. |
| 1963 c. 31. | The Weights and Measures Act 1963. | In section 2(3), the words from the beginning to "section 8 of this Act". In section 6, the words from "and on" to "determine" in subsection (1) and the proviso in subsection (3). Sections 7 and 8. In section 9A(7) the figure "60". In section 11(4), the words from "or of" to "that section". In section 12, in subsection (1) the words from "on payment" to "determine" and the words from "and may" onwards, and in subsection (3) the words "or authorisation" wherever they occur and the words "or incorporating the modification". In section 13(1), the words from "or of" onwards |

SCH. 7

| Chapter | Short title | Extent of repeal |
|-----------------------|---|--|
| 1963 c. 31. —cont. | The Weights and Measures Act 1963—cont. | Section 24(9)(b). Section 26(4). Section 28. In section 29(3), the words from “and nothing” onwards. In section 52(1), the words “31 and 49(1)”. In section 54, in subsection (3) paragraphs (b) and (c), and in subsection (4) paragraph (b) and the figures “8(2)” and “60(3)” in paragraph (c). Section 60. In paragraph 1 of Part IX of Schedule 4, sub-paragraph (d). In section 3A(7) the figures “4(4)”. Section 4(4). In section 5(4), the words from “or of” to “that section”. In section 6, in subsection (1) the words from “on payment” to “determine” and the words from “and may” onwards, and in subsection (3) the words “or authorisation” wherever they occur and the words “or incorporating the modification”. In section 7(1), the words from “or of” onwards. Section 18(9)(b). Section 20(4). Section 22. In section 23(3), the words from “and nothing” onwards. In section 34(1), the words “25(1) and 29(1)”. Section 38(2). In paragraph 1 of Part IX of Schedule 2, sub-paragraph (d). In Part I of Schedule 9, the words “Cran Measures Act 1908 ... Section 9(6)”. Sections 2(3)(c), 7(5) and 10(5)(b). In Schedule 2, paragraph 9. |
| 1967 c. 6 (N.I.). | The Weights and Measures Act (Northern Ireland) 1967. | |
| 1971 c. 23. | The Courts Act 1971. | |
| 1976 c. 77. | The Weights and Measures &c. Act 1976. | |
| 1976 c. 86. | The Fishery Limits Act 1976. | |

c. 45

Weights and Measures Act 1979

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

(50018)

ISBN 0 10 544579 7