

2009 No. 663

WEIGHTS AND MEASURES

The Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009

<i>Made</i>	- - - -	<i>12th March 2009</i>
<i>Laid before Parliament</i>		<i>19th March 2009</i>
<i>Coming into force</i>	- -	<i>11th April 2009</i>

The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the packaging of products.

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act:

Citation and commencement

1. These Regulations may be cited as the Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009 and come into force on 11th April 2009.

Amendment to the Weights and Measures Act 1985

2.—(1) The Weights and Measures Act 1985^(c) is amended as follows.

(2) For paragraph 2 of Schedule 4 (sand and other ballast) substitute—

“2. Subject to paragraphs 3 and 11 below ballast—

- (a) if made up in advance ready for retail sale or wholesale in a securely closed container, shall be sold only by volume or by net weight, and
- (b) if not so made up, shall be sold only by volume in a multiple of 0.2 cubic metre or by net weight.”.

(3) In paragraph 3 of Schedule 5 (solid fuel)—

(a) for sub-paragraph (1) substitute—

“(1) Solid fuel—

- (a) if made up in advance ready for retail sale or wholesale in a securely closed container, shall be sold only by net weight, and
- (b) if not so made up, shall be sold only in one of the following quantities by net weight, namely—

(a) S.I. 2009/221.

(b) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1).

(c) 1985 c.72; Schedule 5, paragraph 3(1) and Schedule 7, paragraph 5 were amended by S.I. 1994/2866, article 3.

- (i) 25 kilograms;
 - (ii) 50 kilograms;
 - (iii) any multiple of 50 kilograms.”; and
- (b) omit sub-paragraph (2).
- (4) In paragraph 5 of Schedule 6 (miscellaneous goods other than foods), for sub-paragraph (1) substitute—
- “(1) Subject to the following provisions of this Part of this Schedule, any goods to which this Part of this Schedule applies—
- (a) if made up in advance ready for retail sale or wholesale in a securely closed container, shall be sold only by volume, and
 - (b) if not so made up, shall be sold only by volume in a multiple of 0.1 cubic metre.”.
- (5) In Schedule 7 (composite goods and collections of articles)—
- (a) in paragraph 3(2)—
 - (i) after “marked with” insert—
 - “(a) an indication of the total capacity of the container (indicated in such a way as to avoid giving a false impression of the quantity of goods in the container), and
 - (b) ”; and
 - (ii) for “net weight” substitute “net volume”; and
 - (b) in paragraph 5, for “3” substitute “3(2)(b)”.

Amendment to the Weights and Measures (Knitting Yarns) Order 1988

- 3.—(1) The Weights and Measures (Knitting Yarns) Order 1988(a) is amended as follows.
- (2) For paragraph (1) of article 2 substitute—
- “(1) Subject to the following provisions of this Order—
- (a) knitting yarns made up in advance ready for retail sale in a securely closed container must be sold only by net weight in grams; and
 - (b) knitting yarns not so made up must be pre-packed only in one of the following quantities by net weight in grams, that is to say 25, 50, 100, 150, 200, 250, 300, 350, 400, 450, 500, 1000.”.
- (3) In article 3, after “packs of knitting yarn,” insert “then, unless the knitting yarn is made up in advance ready for retail sale in a securely closed container,”.

Amendment to the Weights and Measures (Intoxicating Liquor) Order 1988

- 4.—(1) The Weights and Measures (Intoxicating Liquor) Order 1988(b) is amended as follows.
- (2) For paragraph (2) of article 1 substitute—
- “(2) In this Order, except where the context expressly otherwise requires—
- “the 1979 Act” means the Alcoholic Liquor Duties Act 1979;
 - “beer” and “cider” have the same meanings respectively as in section 1 of the 1979 Act but, in the case of “cider”, as if the definition in section 1(6) did not include the words “(or perry)” in either place where they occur or “or pear”;
 - “CN code” means a code comprised in the Combined Nomenclature;
 - “the Combined Nomenclature” means the Combined Nomenclature of the European Community;

(a) S.I. 1988/895.
 (b) S.I. 1988/2039; Schedule 1 was amended by S.I. 1990/1550.

“made-wine” and “wine” have the same meanings respectively as in section 1 of the 1979 Act; and

references to a subheading are to a subheading of the Combined Nomenclature.”.

(3) After article 3 insert—

“**3A.**—(1) Subject to paragraph (2), the intoxicating liquors specified in column 1 of Schedule A1 to this Order may be pre-packed only if they are made up in one of the quantities specified in column 3, subject to the exceptions specified in column 4.

(2) Paragraph (1) does not apply to the intoxicating liquors specified in column 1 of Schedule A1 to this Order when they are sold duty-free for consumption outside the European Union.

(3) Where two or more pre-packages make up a multi-pack, the quantities specified in column 3 of Schedule A1 to this Order apply to each pre-package.

(4) For the purposes of this article—

(a) “pre-package” means a combination of a product and the individual package in which it is pre-packed; and

(b) “pre-packed” means made up in advance ready for retail sale or wholesale in a securely closed container.”.

(4) Omit article 4.

(5) In article 7, for “Act” substitute “Weights and Measures Act 1985”.

(6) Before Schedule 1 insert Schedule A1 as set out in the Schedule to these Regulations.

(7) In Schedule 1, omit columns 2 and 3.

Amendment to the Weights and Measures (Miscellaneous Foods) Order 1988

5.—(1) The Weights and Measures (Miscellaneous Foods) Order 1988(a) is amended as follows.

(2) In article 3, after paragraph (4) insert—

“(5) If any of the foods (other than chunk honey) specified in column 1 of Schedule 1 to this Order is made up in advance ready for retail sale or wholesale in a securely closed container, the requirement in paragraph (1) that it be sold only in one of the quantities specified in column 2 in relation to the food does not apply.”.

(3) In article 6—

(a) in paragraph (1) omit “, when not pre-packed,”; and

(b) in paragraph (2)—

(i) after “above” insert “— (a)”; and

(ii) at the end insert—

“; and

(b) a whole loaf of bread made up in advance ready for retail sale or wholesale in a securely closed container”.

(4) In article 11, omit paragraph (2).

Amendment to the Aerosol Dispensers (EEC Requirements) Regulations 1977

6.—(1) The Aerosol Dispensers (EEC Requirements) Regulations 1977(b) are amended as follows.

(2) In regulation 3(1)(c) omit “by weight and”.

(a) S.I. 1988/2040, amended by S.I. 1990/1550, 1994/2868, 2005/3057.

(b) S.I. 1977/1140, to which there are amendments not relevant to these Regulations.

12th March 2009

Paul Drayson
Minister of State for Science and Innovation,
Department for Innovation, Universities and Skills

SCHEDULE

Regulation 4

“SCHEDULE A1

<i>(1)</i> <i>Product</i>	<i>(2)</i> <i>Product Definition</i>	<i>(3)</i> <i>Specified Quantities</i>	<i>(4)</i> <i>Exceptions</i>
Still wine	Wine as defined in Article 1(2)(b) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p.1) as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p.1) (CN code ex 2204).	Only the following specified quantities: 100 ml 187 ml 250 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Yellow wine	Wine as defined in Article 1(2)(b) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p.1) as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p.1) (CN code ex 2204) with the designation of origin: “Côtes du Jura”, “Arbois”, “L’Etoile” and “Château-Chalon” in “bottles” as defined in Annex 1, point 3 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4.5.2002, p.1) as last amended by Regulation (EC) No 382/2007 (OJ L 95, 5.4.2007, p.12).	Only the following specified quantity: 620 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Sparkling wine	Wine as defined in Article 1(2)(b) and in Annex 1, points 15, 16, 17, and 18 of	Only the following specified quantities:	Containers of a capacity

	Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p.1) as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p.1) (CN code 2204 10).	125 ml 200 ml 375 ml 750 ml 1500 ml	of less than 125 ml or more than 1500 ml
Liqueur wine	Wine as defined in Article 1(2)(b) and in Annex 1, point 14 of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p.1) as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p.1) (CN code 2204 21 – 2204 29).	Only the following specified quantities: 100 ml 200 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Aromatised wine	Aromatised wine as defined in Article 2(1)(a) of Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails (OJ L 149, 14.6.1991, p.1) as last amended by the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJ L 157, 21.6.2005, p.1) (CN code 2205).	Only the following specified quantities: 100 ml 200 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Spirit drinks	Spirit drinks as defined in Article 1(2) of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks (OJ L 160, 12.6.1989, p.1) as last amended by the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJ L 157, 21.6.2005, p.1) (CN code 2208).	Only the following specified quantities: 100 ml 200 ml 350 ml 500 ml 700 ml 1000 ml 1500 ml 1750 ml 2000 ml	Containers of a capacity of less than 100 ml or more than 2000 ml

”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2007/45/EC of the European Parliament and the Council laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/EEC and amending Council Directive 76/211/EEC (“the Directive”).

The Directive removes restrictions on the placing on the market of products in pre-packages made up otherwise than in “nominal quantities” (“specified quantities” in the UK), subject to the retention of nominal quantities applicable to certain wines and spirits. It requires that aerosol dispensers be marked with an indication of the total capacity of the container, in such a way as to avoid confusion with the volume of its contents. It also provides that aerosol dispensers need no longer indicate the weight of their contents. Products not in pre-packages are outside the scope of the Directive.

Schedules 4, 5 and 6 to the Weights and Measures Act 1985 (“the Act”) provide (at paragraphs 2, 3 and 5 respectively) for the sale of sand and other ballast, solid fuel, ready-mixed cement mortar and ready-mixed concrete in specified quantities. Those provisions apply to the above-mentioned products, whether they are in pre-packages or not. Regulation 2, therefore, amends specified quantity provisions so as to limit their application to sand and other ballast, solid fuel, ready-mixed cement mortar and ready-mixed concrete which are not in pre-packages.

Schedule 7 to the Act makes provision (at paragraph 3) for the quantity marking of aerosol containers. Regulation 2 amends paragraph 3 so as to require that aerosol containers be marked with an indication of the net volume of the contents together with an indication of the total capacity of the container (indicated in such a way as to avoid confusion with the volume of its contents).

Section 22 of the Act allows the Secretary of State by order to provide (amongst other things) that pre-packed goods must be sold only in specified quantities. Regulations 3 and 5 amend orders under section 22 of the Act to exempt products pre-packed in securely closed containers from requirements to be sold in specified quantities.

Regulation 4 implements those requirements of the Directive relating to nominal quantities for certain wines and spirits in pre-packages by partially revoking Schedule 1 to the Weights and Measures (Intoxicating Liquor) Order 1988 and inserting into that Order a new Schedule A1 applicable to those products. Regulation 6 makes an amendment to the Aerosol Dispensers (EEC Requirements) Regulations 1977 consequential to the amendment to Schedule 7 to the Act made by regulation 2.

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