

**EXPLANATORY MEMORANDUM TO**  
**THE WEIGHTS AND MEASURES (FOOD) (AMENDMENT) REGULATIONS 2014**  
**2014 No. 2975**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends the weights and measures legislation that regulates the quantity labelling aspects of the sale of food. It revokes any provisions which overlap or conflict with the quantity labelling requirements that apply to prepacked foods under the EU Regulation on the provision of Food Information to Consumers (EU Regulation 1169/2011). It provides for breaches of the quantity labelling requirements of EU Regulation 1169/2011 to be brought within the existing weights and measures enforcement regime.

**3. Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 These Regulations have focussed on what is required to be done as result of the adoption of EU Regulation 1169/2011. The Committee will note that these Regulations make extensive textual amendments to a number of existing instruments. The Department plans to carry out a review of these instruments in 2015 with a view to consolidating and modernising them as far as practicable. Resources available to the Department were not sufficient to enable this wider review to be undertaken to coincide with the making of amendments required in connection with the coming into force of EU Regulation 1169/2011. Given the possibility of further adjustments being made to the scope of the instruments amended by these Regulations as a result of this wider review, it was not considered appropriate to consolidate their provisions at this time.

**4. Legislative Context**

4.1 Quantity labelling of pre-packed foods is currently regulated under secondary legislation made under Part IV of the Weights and Measures Act 1985. At present enforcement and offences provisions relating to the manner of sale and the quantity information required for pre-packed foods are set out in Part IV of the Weights and Measures Act, which regulates transactions in goods for weights and measures purposes (including for foods). This instrument revokes any existing provisions of national law which overlap or conflict with the quantity labelling requirements that apply to prepacked foods under EU Regulation 1169/2011 (except to the extent that those national laws are derived from more specific EU legislation on weights and measures). It also deals with consequential matters and provides for enforcement of those rules within the existing national weights and measures framework.

4.2 A full review of the remaining requirements that will continue to be governed by the Weights and Measures (Miscellaneous Foods) Order 1988 and the Weights and

Measures Act 1963 (Cheese, Fish, Fresh Fruit and Vegetables, Meat and Poultry) Order 1984 will take place in 2015.

4.3 DEFRA is the lead Department for EU Regulation 1169/2011 and is bringing forward separate legislation to deal with other aspects of food labelling in England. Similar legislation is being prepared by the Scottish Government and the Welsh Government to deal with other areas of food labelling.

## **5. Territorial Extent and Application**

5.1 The Weights and Measures (Food) (Amendment) Regulations 2014 apply to Great Britain.

## **6. European Convention on Human Rights**

The Rt. Hon Greg Clark MP, Minister of State for Universities and Science has made the following statement regarding Human Rights:

In my view the provisions of the Weights and Measures (Food) (Amendment) Regulations 2014 are compatible with the Convention rights.

## **7. Policy background**

7.1 Legislation in this area is aimed at protecting consumers from short measure and ensuring they have sufficient information on quantity to enable them to make informed purchasing decisions.

7.2 From 13 December 2014 national rules on quantity labelling that apply to prepacked foods intended for supply to consumers or mass caterers will no longer be permitted under EU Regulation 1169/2011, which specifies its own directly applicable requirements relating to quantity labelling of prepacked foods. The aim of the proposed legislation is to revoke national rules on quantity information for pre-packed foods to the extent that they overlap or conflict with EU Regulation 1169/2011, and to provide an effective enforcement regime for the new rules, in accordance with EU law. Having an effective enforcement system will help to ensure trade and consumer confidence in the market.

7.3 It is intended that the enforcement of the quantity labelling provisions under EU Regulation 1169/2011 will be brought into the framework of the Weights and Measures Act 1985. This maintains the current position, by allowing for enforcement of weights and measures in relation to prepacked foods that fall within the scope of EU Regulation 1169/2011 to be treated in the same manner as other pre-packed products, loose foods, and the residual categories of pre-packed food that are within the scope of the existing national regime but are not covered by EU Regulation 1169/2011. This will provide consistency in the application and enforcement of weights and measures requirements across markets (and between identical loose and packaged foods) and will give business and consumers confidence in the accuracy of quantity statements.

## **8. Consultation outcome**

8.1 This measure is necessary to deal with the consequences of policies already agreed at European level, in relation to which consultation was undertaken at an earlier stage. However, a draft of the Regulations and draft Guidance were published for full public consultation in September to ensure that the provisions were clear and workable. A total of 10 responses were received. As a result several drafting changes and additions have been made to both the Regulations and Guidance to deal with specific points raised and to make them clearer and more user-friendly. A full Government Response to the consultation which addresses each point raised will be published on the Gov.uk website shortly. The operation of the remaining provisions in the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984 and the Weights and Measures (Miscellaneous Foods) Order 1988 will be subject to a full public consultation as part of the review to be held next year.

## **9. Guidance**

9.1 The National Measurement Office has produced guidance on the measure which has been circulated to stakeholders and is available on the gov.uk website. It will also make available consolidated versions of the amended legislation to make it clearer which provisions remain and how the amendments have affected their scope.

## **10. Impact**

10.1 The impact of this instrument on business, charities and voluntary bodies will be nil in cost. A Regulatory Impact Assessment has not been prepared for this instrument as it has no direct impact on business, charities or voluntary bodies. The Regulations revoke national provisions that currently apply to prepacked foods that will be within the scope of EU Regulation 1169/2011, or amend those national provisions to remove those foods from their scope. However, as these provisions apply to foods within the scope of EU Regulation 1169/2011 they would in any case cease to have effect from 13 December 2014, when the directly applicable provisions of EU Regulation 1169/2011 take effect. As part of this, the instrument makes some changes to the drafting of the remaining provisions (that is, those which are outside the scope of EU Regulation 1169/2011), in order to ensure that they continue to work and can be easily understood.

10.2 The Regulations also bring enforcement of the quantity labelling requirements of EU Regulation 1169/2011 within the existing weights and measures enforcement regime under the Weights and Measures Act 1985. The effect of this is to ensure that the quantity requirements under EU Regulation 1169/2011 are enforceable in the same way as the national rules that they are replacing.

10.3 The impact on the public sector will be nil in cost. Enforcement costs are expected to be zero as Local Weights and Measures Authorities will continue to have the same responsibility for enforcement of quantity labelling requirements for food as they do now.

## **11. Regulating small business**

11.1 The legislation will have no direct impact on small businesses.

## **12. Monitoring & review**

12.1 The operation of weights and measures legislation is subject to regular review through a bi-annual meeting of the National Measurement Office, the Local Government Metrology Expert Panel and the Trading Standards Institute and an annual meeting of the Joint Consultative Committee of the UK Weighing Federation. The remaining requirements under the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruit and Vegetables, Meat and Poultry) Order 1984 and the Weights and Measures (Miscellaneous Foods) Order 1988 will be subject to review next year.

## **13. Contact**

Lynnette Falk at the National Measurement Office, Department for Business, Innovation and Skills Tel: 0207 215 0109 or email: [lynnette.falk@bis.gsi.gov.uk](mailto:lynnette.falk@bis.gsi.gov.uk) can answer any queries regarding the instrument.