STATUTORY INSTRUMENTS

1977 No. 1332

WEIGHTS AND MEASURES

The Weights and Measures Act 1963 (Cocoa and Chocolate Products) Order 1977

Laid before Parliament in draft

Made - - -	*2nd August* 1977
Coming into Operation	*8th August* 1977

Whereas the Secretary of State pursuant to section 54(2) of the Weights and Measures Act 1963(a) (hereinafter referred to as "the Act") has consulted with organisations appearing to him to be representative of interests substantially affected by this Order and considered the representations made to him by such organisations with respect to the subject matter of this Order:

And whereas a draft of this Order has been laid before Parliament and approved by resolution of each House of Parliament pursuant to section 54(3) of the Act:

Now, therefore, the Secretary of State in exercise of the powers conferred by section 21(2), (3) and (5) of the Act and now vested in him (b) and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Weights and Measures Act 1963 (Cocoa and Chocolate Products) Order 1977 and shall come into operation on 8th August 1977.

2.—(1) In this Order—

"cocoa product", "chocolate product", "container", "fancy chocolate product" and "reserved description" have the same meanings as they have in the Cocoa and Chocolate Products Regulations 1976(c); except that "cocoa product" and "chocolate product" shall include a product specially prepared for diabetics or to which a slimming claim (as defined in the said Regulations) is lawfully applied and which has been specially prepared in connection with that claim by the addition of any ingredient other than an edible substance as so defined.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1963 c. 31.
(b) S.I. 1970/1537 (1970 III, p. 5293).
(c) S.I. 1976/541 (1976 I, p. 1586).
(d) 1889 c. 63.

3.—(1) Subject to Article 4 below—

(*a*) Part VIII, other than paragraph 3(*a*) and the exemption thereto in paragraph 4(*b*), and Part XI of Schedule 4 to the Act shall cease to apply to cocoa products and chocolate products after 31st December 1977; and

(*b*) the said paragraph 3(*a*) and the exemption shall cease to apply to cocoa products after 31st August 1978.

(2) Subject to Article 4 below—

(i) in the case of products as respects which there are no requirements in the said Parts with which the products have to comply, they need not comply with the requirements of this Order until 31st December 1977;

(ii) in any other case, the products must, until 31st December 1977 or, as the case may be, 31st August 1978, comply either with the requirements of those Parts or with the requirements of this Order,

and subject as aforesaid, after the relevant date products must comply with the provisions of this Order.

4.—(1) The application of section 22(2) of the Act, as it applies for the purposes of section 21(2)(*c*) in relation to cocoa products and chocolate products which do not comply with the provisions of this Order, but which in the case of products falling within subparagraph (ii) above do comply with the provisions of the said Parts, shall be excluded in the cases and in respect of the persons specified in paragraphs (2) and (3) below.

(2) In the case of products made for sale, pre-packed or otherwise made up in a container for sale in Great Britain on or before 31st December 1977 or, as the case may be, 31st August 1978 and products imported into Great Britain on or before the relevant date and made for sale, pre-packed or otherwise so made up before importation, the exclusion shall be in respect of all persons.

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

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

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

(4) The foregoing provisions of this Article shall cease to have effect, in a case in which the relevant date is 31st December 1977, after 30th April 1978, and in a case in which the relevant date is 31st August 1978, after 31st August 1979.

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

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

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

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

7.—(1) Chocolate products in bar or tablet form of the reserved descriptions specified in paragraph (2) below being a bar or tablet weighing not less than 85g and not more than 500g, shall be made for sale only in one of the following weights, that is to say—

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

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

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

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

This paragraph applies only to products of the following reserved descriptions, that is to say, cocoa bean, cocoa nib, cocoa dust, cocoa fines, cocoa mass, cocoa press cake, fat-reduced cocoa press cake and expeller cocoa press cake.

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

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

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

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

(4) A container need not be marked with an indication of quantity by net weight if it is an outer container in which products are pre-packed and the inner container or, if there is more than one, each inner container is marked with an indication of quantity by net weight which is clearly legible from outside the outer container.

(5) A container need not be marked with an indication of quantity by net weight if it is a container in which fancy chocolate products are pre-packed, except that when the products are on sale by retail the exemption provided by this paragraph shall apply only if an indication of quantity by net weight is given on a ticket or notice displayed on or in immediate proximity to the products.

(6) Where the provisions of both paragraph (2) and paragraph (3) apply in a particular case, the information permitted by paragraph (3) to be marked on the container may be given in a document accompanying the container.

9. Section 22(2) of the Act, in so far as it applies for the purposes of section 21(2)(*b*) of the Act in relation to a contravention of Article 8 above in a case mentioned in paragraph (2), or paragraph (3) as extended by paragraph (6), of that Article, shall have effect subject to the modification that the following provisions be omitted, that is to say—

(*a*) in paragraph (*a*), the words "has in his possession for sale,";

(*b*) paragraph (*b*);

(*c*) in paragraph (*c*), the words "have in his possession for sale or for delivery after sale,"; and

(*d*) the words "whether the sale is, or is to be, by retail or otherwise".

John Fraser,
Minister of State.

2nd August 1977. Department of Prices and Consumer Protection.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order implements the weight provisions of Council Directive No. 73/241/EEC (O.J. No. L228. 16.8.73, p.23) as amended by Council Directives No. 74/411/EEC (O.J. No.L221. 12.8.74, p.17), No. 74/644/EEC

(O.J. No. L349. 28.12.74, p.63), No. 75/155/EEC (O.J. No.L64. 11.3.75, p.21) and No. 76/628/EEC (O.J. No. L223. 16.8.76, p.1) relating to Cocoa and Chocolate Products intended for human consumption, and provides that Parts VIII and XI of Schedule 4 to the Weights and Measures Act 1963 will cease to have effect as respects cocoa and chocolate products.

The principal changes are as follows:

(*a*) weight marking is extended to cover all cocoa and chocolate products weighing 50g (approximately 1¾oz) or more after 31st December 1977, and alternative information is permitted in the case of sales otherwise than by retail, which may be marked on the outer container or given in an accompanying document (Article 8);

(*b*) chocolate bars or tablets of the reserved descriptions specified, weighing not less than 85g (3oz) and not more than 500g (1lb 1½oz), are to be made for sale only in a prescribed range of metric weights after 31st December 1977 (Article 7);

(*c*) after 31st August 1978 cocoa and chocolate powders of the reserved descriptions specified may be pre-packed only in a prescribed range of metric quantities (Articles 3 and 6);

(*d*) transitional provisions are included in the Order to allow time for cocoa and chocolate products as respects which there have hitherto been no statutory requirements, and products which comply with the provisions of the Act to be sold by manufacturers, importers, wholesalers and retailers, notwithstanding that the products do not comply with the Order (Article 4);

(*e*) section 22 of the Act is also modified to take account of the case where the information required by the Order may be given in an accompanying document instead of on the container (Article 9).

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