1990 No. 410

WEIGHTS AND MEASURES

Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990

Made . . . . . *27th November 1990*

Coming into operation . . *7th January 1991*

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The Department of Economic Development, in exercise of the powers conferred by Articles 2(2)(**a**), 30, 31, 32, 33, 34, 37 and 38 of and paragraph 1 of Schedule 8 to the Weights and Measures (Northern Ireland) Order 1981(**b**) and now vested in it(**c**) and of every other power enabling it in that behalf, and after consultation, in accordance with Article 48(4) of that Order, with such organisations as appear to it to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:—

PART I

PRELIMINARY

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990 and shall come into operation on 7th January 1991.

(2) The Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1979(**d**) and the Weights and Measures (Packaged Goods) (Amendment) Regulations (Northern Ireland) 1980(**e**) are hereby revoked.

Interpretation

2.—(1) In these Regulations—

(*a*) "the Department" means the Department of Economic Development;

(*b*) "the Order" means the Weights and Measures (Northern Ireland) Order 1981;

(*c*) "the Packers' Code" and "the Inspectors' Manual" mean the codes of practical guidance respectively entitled "Code of Practical Guidance for Packers and Importers (Issue No. 1)"(**f**) and "Manual of Practical Guidance for Inspectors (Issue No. 1)"(**g**) issued by the Secretary of State on 6th December 1979; and

(*d*) "the EEC mark" has the same meaning as in Article 34(6) of the Order.

(2) References in these Regulations to packages of classes A and B shall be construed in accordance with regulation 4(1), and references to packages of the same class shall be construed accordingly.

(3) For the purposes of these Regulations, references to a predetermined constant quantity apply in relation to packages in the case where a group of relevant packages containing the same goods is made up in circumstances where, before the goods are placed in the packages, the packer has selected a particular quantity (being the same quantity for all the packages in the group) as the quantity of the goods which he intends the packages to be treated as containing.

(**a**) *See* the definitions of "the Department", "prescribed" and "regulations"
(**b**) S.I. 1981/231 (N.I. 10)
(**c**) By S.I. 1982/846 (N.I. 11) Art. 4
(**d**) S.R. 1979 No. 435
(**e**) S.R. 1980 No. 403
(**f**) ISBN 0 11 512922 7, as amended by Amendment to Issue No. 1 in 1985
(**g**) ISBN 0 11 512501 9, as amended by Amendment to Issue No. 1 in 1985

PART II

GENERAL PROVISIONS WITH RESPECT TO PACKAGES

Prescribed goods

3. The goods which are prescribed for the purposes of the definition of "package" in Article 30(1) of the Order (which provides that in Part VI of the Order that expression means among other things a container containing prescribed goods) are—

(*a*) goods of the description specified in column 1 of Parts I, II and III of Schedule 1, and

(*b*) goods of any other description

which are both intended for sale and normally sold by weight or by volume in containers made up (in the circumstances mentioned in the said definition) in a predetermined constant quantity.

Classes of packages

4.—(1) For the purposes of these Regulations, packages are classified as follows, that is to say—

(*a*) class A packages, being packages containing goods of a description specified in column 1 of Parts I and II of Schedule 1 (other than goods of an excluded category) and in column 1 of Part III of that Schedule, in a case where the packages are made up in a predetermined constant quantity of not less than the lower limit and not more than the upper limit specified in relation to the description in question in column 3 of the said Parts I and II or in column 2 of the said Part III; and

(*b*) class B packages, being packages which are not class A packages.

(2) In paragraph (1), references to goods of an excluded category are references to goods (within a description mentioned in column 1 of Parts I and II of Schedule 1) of a category, mentioned in column 2 of each of those Parts or to goods of a category so mentioned when made up or, as the case may be, made for sale in the quantity, or in the quantity and the circumstances, mentioned in the said column 2 in relation to that category and Part VI of the Order shall apply in relation to packages of those classes subject to the provisions made by regulation 5(2).

Modifications to Part VI of the Order and these Regulations in relation to certain packages

5.—(1) Part VI of the Order shall not have effect in relation to—

(*a*) catchweight packages, that is to say packages not made up in a predetermined constant quantity;

(*b*) packages containing goods of any description in a case where the packages are made up in a predetermined constant quantity of less than 5 g or 5 ml;

(*c*) packages marked with the EEC mark containing goods of any description where—

(i) in a case other than that mentioned in head (ii), the packages are made up in a predetermined constant quantity which exceeds the relevant limit, and

(ii) in the case of packages in relation to which an upper limit of predetermined constant quantity is specified in column 3 of Part I or II of Schedule 1, being a limit which is higher than the relevant limit, the packages are made up in a predetermined constant quantity which exceeds that upper limit.

For the purposes of this sub-paragraph, "the relevant limit" is that one of the limits of quantity secondly specified in paragraph (*a*) or (*b*) of regulation 6 as applies in relation to the packages in question according to the case mentioned in either of those paragraphs;

(*d*) packages of a kind specified in Schedule 2;

(*e*) packages not marked with the EEC mark containing goods of which the only use intended by the packer or the importer of the packages is that the goods shall either—

(i) be subjected to a process or treatment in the course of a trade or business, or

(ii) be used in connection with any such process or treatment to which other goods are to be subjected; and

(*f*) packages not marked with the EEC mark, being packages—

(i) intended for despatch to a destination outside Northern Ireland and any designated country,

(ii) intended for use by Her Majesty's forces or by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(**a**), or

(iii) intended for use as stores within the meaning of the Customs and Excise Management Act 1979(**b**) in a ship, aircraft or hovercraft on a voyage or flight to an eventual destination outside Northern Ireland and any such designated country.

(2) Subject to paragraphs (1) and (3)—

(*a*) Part VI of the Order and these Regulations shall have effect in relation to class A packages of a kind mentioned in column 1 of Part I of Schedule 3 with the modifications specified in relation thereto in column 2 of that Part; and

(*b*) Part VI of the Order shall have effect in relation to class B packages with the modifications specified in Part II of that Schedule.

(3) The modifications set out in column 2 in paragraph 2 of Part I of Schedule 3 shall have effect in relation to packages of the description mentioned in column 1 in paragraph 1 of that Part (instead of the modifications set out in column 2 in paragraph 1 in the case in question so far as they relate to the provisions mentioned in the said column 2) when such packages are made up as mentioned in column 1 in paragraph 2(*b*).

(**a**) 1952 c. 67
(**b**) 1979 c. 2

Quantities relevant for packages marked with the EEC mark

6. The following quantities are prescribed for the purposes of Article 34(1) of the Order (which limits the application of paragraphs (2) to (6) of that Article, dealing with packages marked with the EEC mark, to packages containing goods of a prescribed quantity), namely—

(*a*) any quantity being not less than 5 g and not more than 10 kg (in the case of packages made up by weight); and

(*b*) any quantity being not less than 5 ml and not more than 10 L (in the case of packages made up by volume).

Cases where a person is not to be treated as an importer

7. For the purposes of Article 34(3) of the Order (which relates to packages marked with the EEC mark which are brought into the United Kingdom from a member State of the Economic Community), a person does not import such packages, notwithstanding that since leaving the member State in question they have been in a country which is not such a member State, if at all times while the goods contained in the packages were in any such country either—

(*a*) the goods were in containers bearing a customs seal; or

(*b*) there was no reasonable opportunity for any person to alter the quantity of the goods contained in the packages.

Notice of intention to export packages bearing the EEC mark

8.—(1) A notice which, by virtue of paragraph (4) of Article 34 of the Order, is to be given to the Department by a person who intends to export from the United Kingdom packages marked with the EEC mark in the circumstances mentioned in sub-paragraph (*a*), (*b*) or (*c*) of that paragraph—

(*a*) shall be given in writing before the expiry of the day on which—

(i) in a case falling within the said sub-paragraph (*a*), the packages in question are marked with the said mark, and

(ii) in a case falling within the said sub-paragraphs (*b*) and (*c*), the packages in question are imported; and

(*b*) shall contain the following information about the packages, that is to say—

(i) a description of the goods contained in them,

(ii) the nominal quantity on, or to be marked on, them,

(iii) in a case where they were made up in the United Kingdom, the place where they were made up, and

(iv) in a case where they are to be or have been imported, the place where they will be or, as the case may be, where they were imported.

(2) An inspector may give to any person a notice (as mentioned in Article 34(5) of the Order) relieving him from the obligation to give the notice mentioned in paragraph (1).

Notice of objection to an inspector's instructions

9. The period prescribed for the purposes of paragraph 1 of Schedule 8 to the Order (which provides for the procedure applicable where a person objects to instructions given to him under Article 32(3) of the Order with a view to ensuring that he does not fail to perform his duty under Article 31(9) or (10) of the Order in relation to packages) shall be a period of 21 days.

PART III

MARKING OF PACKAGES

Statement of quantity

10.—(1) Paragraphs (2) to (7) have effect for the purpose of prescribing—

(*a*) in relation to a class A package in pursuance of Article 31(5)(*a*) of the Order; and

(*b*) in relation to a class B package in pursuance of Article 30(1A)(*a*) of the Order (as having effect by virtue of the modifications to Part VI of the Order made by paragraph 5(*b*) of Part II of Schedule 3),

the units of weight or volume in which a statement of quantity is to be marked on the package, and the manner in which the statement is to be marked and, in the case of a class A package, the time before which that statement is to be marked (or a record of a proposed statement is to be kept under Article 31(6) of the Order).

(2) In this regulation—

(*a*) "the principal Regulations" means the Weights and Measures (Marking and Abbreviations) Regulations (Northern Ireland) 1976(**a**);

(*b*) references to units of weight and units of volume are references respectively to the units for the measurement of weight and of volume mentioned in Schedule 2 to the principal Regulations; and

(*c*) references to specified limits of quantity in relation to a package are references to the limits of predetermined constant quantity specified in Schedule 1 in relation to the goods contained in the package.

(3) The units in a statement of quantity with which a class A package is to be marked shall be—

(*a*) units of weight (in the case of a package of which the specified limits of quantity are expressed in such units);

(*b*) units of volume (in the case of a package of which the said limits are expressed in such units); and

(*c*) units of weight or volume (in the case of a package of which the said limits are expressed in both such units).

(4) The units in a statement of quantity with which a class B package is to be marked shall be—

(a) S.R. 1976 No. 155 as amended by S.R. 1978 No. 126, S.R. 1980 No. 84 and S.I. 1980/1070

(*a*) units of weight (in the case of a package made up for sale by weight); and

(*b*) units of volume (in the case of a package made up for sale by volume).

(5) A statement of quantity shall be marked on a class A package before it ceases to be in the possession of the person who made it up or, as the case may be, of the person who is the importer of it.

(6) A record of a statement of quantity which the packer or importer of a class A package proposes to mark on it (being a record made in pursuance of Article 31(6) of the Order) shall be kept for the period beginning with the time when the record is made and ending not earlier than the time when the container included in the package to which the statement relates is marked with that statement or, if it is not so marked, until the time prescribed by paragraph (5) as applicable in relation to the package.

(7) The following provisions of the principal Regulations, that is to say—

Regulations 9 to 11 and 13 to 15, and

Schedule 3,

shall apply (to the extent that they are relevant) for the purpose of prescribing the manner in which a statement of quantity is to be marked on a package.

Name and address, or identifying mark, of a packer or importer

11. The name and address of a packer or importer, or of a person who arranged for a packer to make up a package, or a mark which enables any such name and address to be readily ascertained, being a name and address or a mark which is to be marked on a relevant package in pursuance of Article 31(5)(*b*) of the Order, shall be so marked—

(*a*) before the time prescribed by regulation 10(5) in relation to a statement of quantity to be marked on a package;

(*b*) in a conspicuous place on the package; and

(*c*) in such a manner as to ensure that all the characters in the marking are indelible and clearly legible.

The EEC mark

12.—(1) For the purposes of Article 34(6) of the Order, the EEC mark shall consist of a small letter "e" having the form shown in drawing "A" set out in the Annex to Schedule 1 to the Measuring Instruments (EEC Requirements) Regulations 1988(**a**) and complying with the provisions of that Annex with respect to the dimensions of the mark and, when applied to the container included in a package, the mark shall be—

(*a*) at least 3 mm high;

(*b*) placed in the same field of vision as that of the statement of quantity marked on the package; and

(*c*) indelible, clearly legible and visible under normal conditions of purchase.

(**a**) S.I. 1988/186 as amended by S.I. 1988/1128

(2) An EEC mark which is applied to the container included in a package otherwise than in compliance with paragraph (1) shall be disregarded for the purposes of Article 34(3) and (4) of the Order (which makes special provision for the purposes of Part VI of the Order in relation to packages marked with the EEC mark).

PART IV

MAKING UP AND CHECKING PACKAGES

Equipment for making up and checking packages

13.—(1) Parts II and IV of Schedule 4 shall have effect for prescribing (for the purposes of Article 31(9)(*a*) of the Order) the equipment which is to be used in making up packages.

(2) Parts III and IV of Schedule 4 shall have effect for prescribing (for the purposes of Article 31(9)(*b*) and (10)(*a*) of the Order) the equipment which is to be used in carrying out an adequate check on packages for the purposes of Article 31(1) of the Order.

Time for carrying out checks on packages

14.—(1) Subject to paragraph (2), a check to be carried out—

(*a*) for the purposes of Article 31(9)(*b*) of the Order by a person who makes up packages; and

(*b*) for the purposes of Article 31(10)(*a*) of the Order by a person who is the importer of relevant packages,

shall be carried out before the packages in question leave the possession of that person.

(2) Where, for the purposes of the said Article 31(10)(*a*), a check is to be carried out on behalf of a person mentioned in paragraph (1)(*b*) by another person, the check shall be carried out before the packages in question leave the possession of that other person.

Period for keeping records of checks

15. The record of a check carried out for the purposes of Article 31(9)(*b*) or (10)(*a*) of the Order shall be kept for the period of one year beginning with the day on which the record is made.

Time for obtaining and keeping documents relating to packages

16. Documents containing information about packages obtained by an importer in pursuance of Article 31(10)(*b*) of the Order shall be obtained before the time when the packages in question leave his possession and shall be kept for a period of one year beginning with the day on which he obtained the documents.

Period for verifying information in documents obtained by importers

17. The period within which (for the purposes of Article 33(2)(*b*) of the Order) an importer shall take steps to verify the information contained in documents obtained by him in pursuance of Article 31(10)(*b*) of the Order

shall be 28 days beginning with the day on which he obtained either the documents or the packages to which they relate, whichever is the later.

Practical guidance for determining certain questions

18. The provisions of the Packers' Code specified in column 1 of the following Table shall have effect for the purposes of determining questions as to the matters specified in relation thereto in column 2 of the Table.

TABLE

1 *Provisions of the Packers' Code*	2 *The questions*
Paragraphs 5, 7 and 8 of Appendix E	the suitability of any equipment prescribed by regulation 13.
Paragraph 28 of Chapter 2; Paragraph 1 of Appendix D	the appropriate manner of using any such equipment.
Paragraph 9 of Annex 1 to Chapter 6; Paragraph 8 of Appendix C	the adequacy of checks carried out for the purposes of Article 31(9)(*b*) and (10)(*a*) of the Order.
Paragraph 11 of Annex 1 to Chapter 6; Paragraph 36 of Appendix C	the adequacy of records of such checks kept for the purposes of the said Article 31(9)(*b*) and (10)(*a*).
Paragraph 69 of Chapter 6	the adequacy of information obtained for the purposes of Article 31(10)(*b*) of the Order.

Prohibition on use for trade not to apply to certain equipment

19. The use and the possession for use, for the purposes of Article 31(9) and (10) of the Order, of a liquid capacity measure (to the extent that it is equipment prescribed by regulation 13) shall not constitute a contravention of Article 6(1)(*b*) of the Order (which among other things prohibits the use for trade of any measure or weight not mentioned in Schedule 1 to the Order).

PART V

TESTING PACKAGES

Interpretation of Part V

20.—(1) In this Part "reference test", in relation to a group of packages, means a test carried out on the group for the purposes of Article 31(1) of the Order, being the test prescribed by regulation 22 and carried out in accordance with the provisions of Schedule 5 as applicable to the test in question.

(2) For the purposes of regulations 21(4) and 24 and paragraph 17(11) of Schedule 5, a group of packages shall be treated as rejected if a reference test has been carried out on the group as a result of which it is shown that the packer or importer of the packages has failed to perform the duty imposed on him by Article 31(1) of the Order in respect of the packages.

Selection of a group of packages for a reference test

21.—(1) This regulation has effect for prescribing the manner in which a group of packages (being packages made up in the same predetermined constant quantity and containing goods of the same description) is to be selected for the purposes of a reference test.

(2) In a case where a reference test is to be carried out on a group of packages taken for that purpose from a packing line, the group shall comprise that number of consecutively produced packages which is equal to the number produced in the course of a production run lasting for one hour at the same rate as that at which the packages are being produced at the time when the group is selected, except that in the case of a production run lasting for less than one hour, the group shall comprise all the packages produced in the course of that production run.

(3) Subject to paragraph (4), in a case where a reference test is to be carried out on a group of packages after it has left the packing line, the group shall comprise packages taken from the same production run and shall not exceed 10,000 in number.

(4) In a case where a group of packages selected as mentioned in paragraph (2) or (3) has been rejected (the "rejected packages") and the packer of those packages makes up, in a different production run, other packages in the same predetermined constant quantity as, and containing the same goods as, the rejected packages, a reference test may be carried out on a group of packages taken from the combined packages.

(5) For the purposes of this regulation, in relation to packages—

(*a*) references to a packing line are references to those stages in the process of making up packages which occur between the time at which the goods to be made up are divided for that purpose (whether or not by means of machinery) and the time at which the packages, having been made up and brought together (whether or not by such means), are set aside for the purposes only of storage or distribution; and

(*b*) references to a production run are references to the process whereby packages are made up in the same place during a period or periods in which the conditions under which (including the rate at which) the packages are made up do not materially alter.

(6) The foregoing provisions of this regulation have effect subject to such further provision with respect to the manner of selecting a group of packages for the purposes aforesaid set out in paragraph 3.2 of Chapter 6 of the Inspectors' Manual.

Reference tests

22.—(1) Subject to paragraph (2)—

(*a*) Parts I to III and V of Schedule 5 have effect for prescribing the manner in which reference tests are to be carried out; and

(*b*) Part IV of that Schedule has effect (in addition to Parts I to III) with respect to reference tests to be carried out in relation to a group of packages mentioned in paragraph 17(1) of that Schedule,

subject to such further provision with respect to the carrying out of such tests set out in section 3 of Chapter 15 of the Inspectors' Manual.

(2) A reference test prescribed by Part II of Schedule 5, insofar as it is carried out for the purposes of determining whether the duty mentioned in paragraph (1) of Article 31 of the Order, so far as it relates to sub-paragraph (*a*) of that paragraph, has been complied with in relation to the group of packages being tested, shall not be completed unless an appropriate allowance is made for random deviations by applying the provisions of paragraph 12(1) of that Schedule in connection with the test.

(3) For the purposes of Article 31(1)(*b*) of the Order, paragraphs 8(2), 9(2) and (5)(*a*), 11(*a*) and 15 of Schedule 5 shall have effect for prescribing, in the cases indicated in those provisions, the number of non-standard packages (within the meaning of Article 30(2) of the Order) as acceptable in relation to the number tested.

The tolerable negative error

23.—(1) The amount prescribed for the purposes of Article 30(2) of the Order (being the amount relevant for determining whether a package is non-standard as defined by that paragraph) shall be the amount set out in the following Table in relation to the nominal quantity on the package.

TABLE

Nominal quantity in grams or millilitres	*Tolerable negative error*	
	As a percentage of nominal quantity	*g or ml*
5 to 50	9	—
from 50 to 100	—	4.5
from 100 to 200	4.5	—
from 200 to 300	—	9
from 300 to 500	3	—
from 500 to 1,000	—	15
from 1,000 to 10,000	1.5	—
from 10,000 to 15,000	—	150
above 15,000	1	—

(2) In calculating, in units of weight or volume, the amount of a tolerable negative error in the cases shown in the Table where the error is to be taken as a percentage of nominal quantity, that amount shall be rounded up to the nearest one-tenth of a gram or millilitre as the case may be.

Disposal of rejected packages

24. For the purposes of Article 31(4)(*a*) of the Order, a person who is in possession of a group of packages which has been rejected is authorised to dispose of the packages (unless he is otherwise authorised in writing for that purpose by an inspector) only in any of the following cases, that is to say, where he does so—

(*a*) by destroying the packages or by so treating them that they cannot thereafter be used for the purpose for which they were made up;

(*b*) in a case where he is not the packer or importer of the packages, by returning them to the person who is the packer or importer of them or to any other person from whom he obtained them;

(*c*) in a case where he is the packer or importer of the packages, in pursuance of a sale of any of them—

(i) to a local or public authority or any charity, or

(ii) to a person or body of persons acting in the capacity of owner, governor, manager or trustee of an educational establishment, or

(iii) to a person employed by him;

(*d*) in the case of packages containing food intended for human consumption, by disposing of them for use only for animal consumption; and

(*e*) by giving them away,

and in the cases specified in paragraphs (*c*) to (*e*), only if, at the time when the packages are disposed of, he informs the person receiving them that the packages have been rejected and must not be sold.

PART VI

SPECIAL PROVISION FOR CERTAIN CASES

Outer containers

25.—(1) For the purposes of this regulation, an outer container is a container which contains either—

(*a*) packages (the "inner packages") each of which contains goods of the same description, being packages which—

(i) are of the same class, or

(ii) are catchweight packages (within the meaning of regulation 5(1)(*a*)); or

(*b*) other containers of goods (the "inner containers"), whether or not the goods are of the same description, being containers which are not packages.

(2) Subject to paragraph (8), this regulation applies in relation to an outer container where—

(*a*) the inner packages or, as the case may be, the inner containers are placed in the outer container otherwise than in the presence of a person purchasing the outer container, or, as the case may be, any of the inner packages or inner containers; and

(*b*) none of the inner packages or inner containers can be removed from the outer container without opening it.

(3) In a case mentioned in paragraph (1)(*a*)(i) where each of the inner packages is made up in the same predetermined constant quantity and either the outer container or each of the inner packages would normally be regarded as appropriate for sale to an ultimate consumer as a separate item (whether or not it is intended for such sale), the outer container shall be disregarded for the purposes of Part VI of the Order except as mentioned in, and subject to the modifications specified in, Part I of Schedule 6, and for those purposes and the purposes of these Regulations, the outer container shall be treated as a package of the same class as that of the inner packages.

(4) In a case mentioned in paragraph (1)(*a*)(i) where—

(*a*) the inner packages are not class A packages but would be if the predetermined constant quantity in which they are made up were such as to equal or exceed the lower limit mentioned in regulation 4(1)(*a*) in relation to the goods contained in them;

(*b*) the total quantity of the goods contained in the inner packages is such as to equal or exceed that lower limit but not to exceed the upper limit so mentioned; and

(*c*) the outer container is intended, and would normally be regarded as appropriate, for sale to an ultimate consumer as a separate item but the inner packages are not so intended and would not normally be so regarded,

the outer container shall be treated for the purposes of Part VI of the Order and these Regulations as if it were a class A package (any reference in the said Part VI and these Regulations to the container included in a package being construed as a reference to the outer container included in the package).

(5) In a case mentioned in paragraph (1)(*a*)(i) where each of the inner packages is made up in the same predetermined constant quantity and where each is intended, and would normally be regarded as appropriate, for sale to an ultimate consumer as a separate item, but the outer container is not so intended and would not normally be so regarded, the outer container shall be disregarded for the purposes of Part VI of the Order and these Regulations.

(6) In a case mentioned in paragraph (1)(*a*)(i) where—

(*a*) paragraph (4)(*a*) applies with respect to the inner packages; and

(*b*) those packages are primarily intended to be served as part of a meal or refreshments supplied in the course of a trade or business,

Part VI of the Order shall not have effect in relation to the outer container.

(7) In a case mentioned in paragraph (1)(*a*)(ii) and (*b*) where each of the inner packages or, as the case may be, the inner containers are intended, and would normally be regarded as appropriate, for sale to an ultimate consumer as a separate item (whether or not the outer container is so intended and would normally be so regarded), Part VI of the Order shall not have effect in relation to the outer container.

(8) In a case where more than one outer container is contained in another container, the foregoing provisions shall apply as if the references therein to an outer container did not include that other container.

Packages of desiccating goods

26.—(1) In this regulation, "desiccating goods" means any goods (other than bread within the meaning of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989(**a**), knitting yarn or rug yarn) which, notwithstanding that they are made up in packages, lose weight or volume solely through evaporation when they are so made up, and "desiccate", in relation to goods, shall be construed accordingly.

(2) This regulation applies to relevant packages containing desiccating goods in a case where the goods, when made up in packages which are kept in normal conditions of storage, are liable to desiccate to a material extent by reason of the manner in which the goods are made up.

(3) Subject to paragraph (4), Part VI of the Order shall have effect in relation to the cases of packages to which this regulation applies which are specified in column 1 of Part II of Schedule 6 subject to the modifications specified in relation thereto in column 2 of that Part.

(4) In relation to the cases of packages to which this regulation applies which are specified in paragraphs 1 and 2(*a*) of the said Part II, nothing in paragraph (3) shall be taken as preventing an inspector from carrying out at any time a reference test (within the meaning of regulation 20(1)) on a group of any such packages, but such a test shall not be carried out in any case where the packer of the packages or, as the case may be, the importer of them has taken reasonable steps to ensure that the inspector who proposes to carry out the test knows or can readily ascertain—

(*a*) in a case mentioned in the said paragraph 1, that the packages in question were made up or, as the case may be, were imported more than 7 days before the beginning of the day on which he proposes to carry it out; and

(*b*) in a case mentioned in the said paragraph 2(*a*), that the packages were made up more than twenty-four hours before the beginning of the day on which he proposes to carry it out.

Application of the Order and these Regulations to certain goods not comprised in packages

27. Part VI of the Order and these Regulations shall apply to goods of a description specified in column 1 of Part I of Schedule 7 when made up or, as the case may be, made for sale as mentioned in Article 30(1A) in relation to that description (as having effect by virtue of the modifications to Part VI of the Order made by paragraph 6 of Part II of Schedule 7) and in a predetermined constant quantity not less than the lower limit and not more than the upper limit specified in column 2 of Part I of that Schedule in relation to that description with the modifications specified in Part II of that Schedule.

Sealed with the Official Seal of the Department of Economic Development on 27th November 1990.

(L.S.) *A. H. McAlister*
Assistant Secretary

(**a**) S.R. 1989 No. 69 as amended by S.R. 1990 No. 395

SCHEDULE 1 regulations 3 and 4

PRESCRIBED GOODS AND OTHER MATTERS RELATING TO PACKAGES

Part I: Foodstuffs and natural mineral waters (excluding goods specified in Part III)

1 *Description of goods* *(see regulation 3)*	2 *Excluded category of such goods* *(see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*	
(Note: Items 1-28 specify goods to be made up by weight except where such goods are made up as specified in items 35 and 36). 1. Barley kernels, pearl barley, rice (including ground rice and rice flakes), sago, semolina and tapioca.		5 g	10 kg
2. Biscuits and shortbread. In this item "biscuits" includes wafers, rusks, crispbreads, extruded flatbread, oatcakes and matzos.	shortbread in a piece or pieces each weighing 200 g or more and biscuits made up in a predetermined constant quantity of less than 100 g for sale on the premises on which they are made up	50 g	10 kg
3. Bread within the meaning of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989 in single loaf form.		300 g per loaf	10 kg per loaf

4. Caseins and casinates within the meaning of the Caseins and Caseinates Regulations (Northern Ireland) 1986(**a**).		5 g	10 kg
5. Cereal breakfast foods in flake form, flour of oats, oatflakes and oatmeal.		5 g	10 kg
6. Cheese of any of the following descriptions:— (*a*) processed cheese; (*b*) cheese spread; (*c*) cottage cheese; and (*d*) the following types of natural cheese:— Caerphilly, Cheddar, Cheshire, Derby, Double Gloucester, Dunlop, Edam, Gouda, Lancashire, Leicestershire and Wensleydale. In this item "cheese" means cheese whether or not containing flavouring or colouring matter, and whether or not coated with or mixed with other food for the purpose of giving the cheese a distinctive appearance or flavour.		25 g	10 kg

(a) S.R., 1986 No. 40 to which there are amendments not relevant to these Regulations

1 *Description of goods* *(see regulation 3)*	2 *Excluded category of such goods* *(see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*	
7. Cocoa products and chocolate products within the meaning of the Cocoa and Chocolate Products Regulations (Northern Ireland) 1976(**a**).		50 g	10 kg
8. Coffee and coffee mixtures within the meaning of the Coffee and Coffee Products Regulations (Northern Ireland) 1979(**b**) and coffee bags within the meaning of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989.		5 g	10 kg
9. Coffee extract products and chicory extract products consisting of solid and paste coffee and chicory products within the meaning of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989.		5 g	10 kg

(a) S.R. 1976 No. 183 to which there are amendments not relevant to these Regulations
(b) S.R. 1979 No. 51 as amended by S.R. 1982 No. 298 and S.R. 1988 No. 23

10. Dried fruits of any one or more of the following descriptions, that is to say, apples (including dried apple rings), apricots, currants, dates, figs, muscatels, nectarines, peaches, pears (including dried pear rings), prunes, raisins, sultanas and dried fruit salad.		5 g	10 kg
11. Dried vegetables of any of the following descriptions, that is to say, beans, lentils and peas (including split peas).		5 g	10 kg
12. Edible fats of any of the following descriptions:— (*a*) butter, margarine, any mixture of butter and margarine, and low fat spreads (butter or margarine substitutes); (*b*) dripping and shredded suet; (*c*) lard and compound cooking fat and substitutes therefor; and (*d*) solidified edible oil (except in gel form).		5 g	20 kg
13. Fish of any description, whether fresh, chilled, frozen, salted, cooked or processed, including any article which, though it also contains other food, consists substantially of fish.	fish pies	5 g	10 kg
14. Flour, namely flour of bean, maize, pea, rice, rye, soya bean or wheat and flour products being cake flour, cornflour or self-raising flour.		5 g	10 kg

1 *Description of goods (see regulation 3)*	2 *Excluded category of such goods (see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity (see regulation 4(1)(a))*	
15. Herbs and spices.		25 g	4 kg
16. Honey.		5 g	10 kg
17. Jam and marmalade.		5 g	10 kg
18. Jelly preserves.		5 g	10 kg
19. Meat of any description, whether fresh, chilled, frozen, salted, cooked or processed, including any article which, though it also contains other food, consists substantially of meat. In this item, "meat" means any part of an animal of any of the following descriptions, that is to say, cattle, sheep and swine, and includes sausagemeat in any form whether cooked or uncooked.	(i) bath chaps, meat pies, meat puddings and sausage rolls; (ii) single cooked sausages in natural casings made up in a predetermined constant quantity of less than 500g; and (iii) sausagemeat products other than in sausage form made up in a predetermined constant quantity of less than 500g	5 g	10 kg
20. Molasses, syrup and treacle.		5 g	10 kg
21. Pasta.		5 g	10 kg
22. Potato crisps and other similar products commonly known as snack foods.		25 g	10 kg

23. Poultry of any description, whether fresh, chilled, frozen, salted, cooked or processed, including any article which, though it also contains other food, consists substantially of poultry. In this item "poultry" includes any part of any poultry.	poultry pies	5 g	20 kg
24. Preserved milk. In this item "preserved milk" means condensed milk (including evaporated milk) or dried milk and "condensed milk" and "dried milk" have the same meanings as they have in the Condensed Milk and Dried Milk Regulations (Northern Ireland) 1977(**a**).		5 g	10 kg
25. Salt.		5 g	10 kg
26. Sugar.		50 g	10 kg
27. Sugar confectionery and chocolate confectionery within the meaning of the Food Labelling Regulations (Northern Ireland) 1984(**b**).	(i) Easter eggs; (ii) figurines of sugar or of chocolate; (iii) rock or barley sugar in sticks or novelty shapes; and (iv) a collection of articles each of which is either an article mentioned in (i) to (iii) or an article in a container marked with a statement of quantity	50 g	10 kg

(**a**) S.R. 1977 No. 196 to which there are amendments not relevant to these Regulations
(**b**) S.R. 1984 No. 407 to which there are amendments not relevant to these Regulations

1 *Description of goods* *(see regulation 3)*	2 *Excluded category of such goods* *(see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*	
28. Tea (including tea in a tea bag).		5 g	10 kg
(Note: Items 29-33 specify goods to be made up by volume except where such goods are made up as specified in items 35 and 36). 29. Alcoholic beverages.		5 ml	5 L
30. Edible oil in liquid or gel form.		5 ml	20 L
31. Liquid coffee extract and liquid chicory extract and blends thereof within the meaning of the Coffee and Coffee Products Regulations (Northern Ireland) 1979.		5 ml	10 L
32. Milk from cows in any liquid form other than that of condensed milk within the meaning of the Condensed Milk and Dried Milk Regulations (Northern Ireland) 1977 (including evaporated milk) or of cream.		5 ml	10 L

33. Natural mineral waters.		5 ml	10 L
(Note: Items 34-37 specify goods to be made up by wieght or by volume but item 34 excludes goods specified in items 35 and 36).			
34. Cream.		5 g or 5 ml	10 kg or 10 L
35. Single portion vending machine beverage packs.		25 g or 25 ml	10 kg or 10 L
36. Single portion catering packs.		25 g or 25 ml	10 kg or 10 L
37. Food (including drink) for human consumption of any description (excluding a description mentioned in any of the foregoing items or specified as goods of an excluded category in relation to any such item).	cheese not falling within item 6; flour confectionery within the meaning of the Food Labelling Regulations (Northern Ireland) 1984 (except when consisting of or including uncooked pastry or shortbread), including bun loaves, fruit loaves, malt loaves and fruited malt loaves; fresh fruits or vegetables of any description; iced lollies, water ices and freeze drinks; ice cream; single toffee apples; and soft drinks of any description in a syphon.	5 g or 5 ml	10 kg or 10 L

SCHEDULE 1 — *continued*

Part II: Non-Foodstuffs (excluding goods specified in Part III)

1 *Description of goods* *(see regulation 3)*	2 *Excluded category of such goods* *(see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*	
(Note: Items 1-13 specify goods to be made up by weight). 1. Agricultural liming materials and agricultural salt.	calcareous sand	25 g	10 kg
2. Bird seed.		125 g	10 kg
3. Inorganic fertilisers.	liquid fertilisers	25 g	50 kg
4. Knitting yarn and rug yarn.	rug yarn in cut pack form	10 g	10 kg
5. Nails.	nails when made up by number	25 g	10 kg
6. Paint and distemper in powder form.		250 g	25 kg
7. Paint remover in solid form.		25 g	10 kg
8. Pet foods (other than bird seed).	animal feed in biscuit or cake form packed in a quantity by number not exceeding 16	25 g	10 kg
9. Portland cement.		25 g	5 kg
10. Rolled oats.		25 g	10 kg

11. Soap, soap flakes, washing and cleaning products in powder form, washing soda, scouring powders and lavatory cleaners in powder form.	liquid soap	25 g	50 kg
12. Solid fuel.		1 kg	100 kg
13. Tobacco for pipes and for cigarettes rolled by hand or by the use of a device operated only by hand.	hard pressed uncut tobacco and uncut spun-roll tobacco	25 g	1 kg
(Note: Items 14-18 specify goods to be made up by volume).			
14. Anti-freeze fluid for internal combustion engines.		150 ml	10 L
15. Dentifrice in tubes.		12 ml	10 L
16. Liquid fertilisers.		25 ml	50 L
17. Liquid soap, liquid detergents, dishwashing rinse aids, liquid bleaches and fabric conditioners in liquid form.		125 ml	50 L
18. Paint in liquid or gel form, linseed oil, paint thinner, turpentine, turpentine substitute, varnish, wood preservative fluid (including fungicides and insecticides), paint remover in liquid or gel form, petrifying fluid and rust remover.		150 ml	25 L
(Note: Items 19-25 specify goods to be made up by weight or by volume).			
19. Dentifrices other than in tubes.	pharmaceutical preparations	12 g or 12 ml	10 kg or 10 L

1 *Description of goods* *(see regulation 3)*	2 *Excluded category of such goods* *(see regulation 4(1)(a) and (2))*	3 *Lower and upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*	
20. Disinfectants and cleaning products which incorporate disinfectants.		25 g or 25 ml	50 kg or 50 L
21. Liquid fuel, lubricating oil (including any mixture of such fuel and oil) and lubricating grease.	liquefied petroleum gas in returnable containers	250 g or 250 ml	10 kg or 10 L
22. Other toilet preparations for use on the hair or scalp of human beings.	(i) pharmaceutical preparations; (ii) products specifically manufactured for, and sold for use by, hairdressers in hairdressing salons	20 g or 20 ml	10 kg or 10 L
23. Other toilet preparations for external use on any other part of the human body.	pharmaceutical preparations	12 g or 12 ml	10 kg or 10 L
24. Perfumes and toilet waters.	pharmaceutical preparations	12 g or 12 ml	10 kg or 10 L
25. Polishes and dressings analogous to polishes.		30 g or 30 ml	50 kg or 50 L

SCHEDULE 1 — *continued*

Part III: Composite goods

1 *Description of goods* *(see regulation 3)*	2 *Lower and (as applicable) upper limits of predetermined constant quantity* *(see regulation 4(1)(a))*
Note: Items 1, 2 and 3 specify goods to be made up by weight or by volume).	5 g or 5 ml — the relevant upper limit
1. Goods (being neither aerosol products nor goods of any of the descriptions mentioned in column 1 of Part I, other than goods of an excluded category mentioned in column 2 of that Part) which consist of a mixture constituted wholly or mainly of goods of any of those descriptions.	
2. Goods (being neither aerosol products nor goods of any of the descriptions mentioned in column 1 of Part II, other than goods of an excluded category mentioned in column 2 of that Part) which consist of a mixture constituted wholly or mainly of goods of any of those descriptions. For the purposes of paragraphs 1 and 2, "the relevant upper limit" means the limit specified in column 3 of Part I or II as applicable in relation to the goods of which the mixture in question is wholly or mainly constituted when they are made up in packages otherwise than as mentioned in this paragraph.	25 g or 25 ml — the relevant upper limit
3. Aerosol products containing goods of any of the descriptions mentioned in column 1 of Parts I and II, including goods of an excluded category mentioned in column 2 of each of those Parts.	25 g or 25 ml

SCHEDULE 2 regulation 5(1)

Cases of Packages to which Part VI of the Order does not Apply

1. Packages contining paint which consists of a mixture of base paint and of a quantity of colouring agent in the case where the package is made up by the addition of the colouring agent into a package of the base paint by a person other than the person who made up the last-mentioned package.

2. Packages which are not intended, and would not normally be regarded as appropriate, for sale to an ultimate consumer as separate items, containing goods of a description mentioned in paragraph (1)(*a*) of regulation 4 in a case where the goods are made up as separate items, none of which is separately made up in a container but each of which —

(*a*) is made up in a quantity such as not to equal or exceed that specified in the said paragraph (1)(*a*) as the lower limit of predetermined constant quantity in relation to the goods in question when made up in packages; and

(*b*) is intended, and would normally be regarded as appropriate, for sale as mentioned above.

For the purposes of this paragraph, except sub-paragraph (*a*), references to goods include goods of an excluded category mentioned in the said regulation 4.

3. Packages containing alcoholic beverages when made up in bottles where —

(*a*) the beverage has an alcoholic strength by volume of more than 1.2 per cent.; and

(*b*) the packages were made up before, but not imported until on or after, 1st January 1980.

SCHEDULE 3 regulation 5(2)

Modifications to Part VI of the Order and these Regulations in Relation to Certain Packages

Part I

CERTAIN CLASS A PACKAGES

1 *Description of packages*	2 *The modifications*
1. Packages containing — (*a*) milk when made up in transparent containers in predetermined constant quantities of ⅓ pint, ½ pint or 1 pint; or (*b*) bread within the meaning of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989; or (*c*) poultry but not including part only of any poultry.	1(A) Part VI of the Order shall have effect as if — (*a*) in the case mentioned in sub-paragraph (*a*) in column 1— (i) in Article 31(1) for the words "marked with the same nominal quantity" there were substituted the words "made up in the same predetermined constant quantity" and for the words "than the nominal quantity on those packages" there were substituted the words "than that quantity", (ii) in Article 31(2) for the words "the nominal quantity on the package." there were substituted the words "the predetermined constant quantity in relation to which the package was made up.", (iii) Article 31(5), (6) and (7) were omitted, (iv) in Article 33(1) for the words "a nominal quantity which was not on the packages" there were substituted the words "a quantity other than the predetermined

1 *Description of packages*	2 *The modifications*
	constant quantity in which the packages were made up", (v) Articles 33(3) and 34 were omitted, (vi) in Article 30(1) for the definition of "nominal quantity" there were substituted ""nominal quantity", in relation to a package, means the predermined constant quantity in which the package is made up, and any reference in this Order to the nominal quantity (as defined by Article 30(1)) on the package shall be construed accordingly;" and at the end of that paragraph there were added the following words:— "and for the purposes of this Part references to a predetermined constant quantity shall be construed in like manner as, by virtue of regulation 2(3) of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990, they are to be construed for the purposes of those Regulations.", (vii) in Article 30(2) for the words "the nominal quantity on the package" there were substituted the words "the pre-determined constant quantity in relation to which the package was made up", and

1 *Description of packages*	2 *The modifications*
	(viii) Article 30(4) were omitted; (*b*) in the case mentioned in sub-paragraph (*b*) in column 1 — (i) at the end of sub-paragraph (*b*) of Article 31(5) there were added the words "but this sub-paragraph shall not apply in the case of a person who makes up bread in packages and sells them on any premises if there is displayed on those premises as the name or style under which his business is carried on a name or style which is the same as, or substantially similar to, that displayed on the premises on which the packages are made up.", and (ii) sub-paragraph (*b*)(ii) of Article 31(9) was omitted in relation to a person who makes up such packages for so long as, and to the extent to which, there is in force, in relation to that person, a notice in writing given to him by the chief inspector of weights and measures that the said sub-paragraph (*b*)(ii) does not apply. 1(B). These Regulations shall have effect as if — (*a*) in the case mentioned in sub-paragraph (*a*) in column 1— (i) regulations 6, 7, 8, 10, 11 and 12 were omitted, (ii) in regulation 23(1) for the words "the nominal quantity on the package." there were substituted the words "the predetermined constant quantity in relation to which the

1 *Description of packages*	2 *The modifications*
	package was made up.", and in the Table in, and in paragraph (2) of, that regulation for the references to nominal quantity there were substituted references to predetermined constant quantity, (iii) regulation 25(1)(*b*) and (3), (4), (6) and (7) were omitted, (iv) in Schedules 4 and 5 for any reference to the nominal weight on a package there were substituted a reference to the predetermined constant quantity in relation to which the package was made up, and (v) Part I of Schedule 6 were omitted; (*b*) in the case mentioned in sub-paragraph (*b*) in column 1— (i) in a case where packages containing bread are not made up by means of a continuous process and are not consecutively produced, for regulation 21 there were substituted the following regulation:— "21.—(1) This regulation has effect for prescribing the manner in which a group of packages containing bread (being packages made up in the same predetermined constant quantity and containing bread of the same description) is to be selected for the purposes of a reference test. (2) Subject to paragraph (4), in a case where a reference test is to be carried out on a group of packages where it is reasonably practicable to

1 *Description of packages*	2 *The modifications*
	identify all the packages as containing bread baked in the same oven at the same time, the group shall comprise packages containing bread baked in the same oven at the same time, subject to a maximum of 10,000 in number. (3) Subject to paragraph (4), in a case where a reference test is to be carried out on a group of packages after it has ceased to be reasonably practicable to identify all the packages as containing bread baked in the same oven at the same time, the group shall comprise packages containing bread baked at the same bakery, subject to a maximum of 10,000 in number. (4) In a case where a group of packages selected as mentioned in paragraph (2) or (3) has been rejected (the "rejected packages") and the packer of the rejected packages makes up other packages in the same predetermined constant quantity as, and containing bread of the same description and from the same bakery as, the rejected packages, the group may comprise rejected packages as well as such other packages.", (ii) in regulation 22(1), sub-paragraph (*b*) were omitted, (iii) in Schedule 4, paragraphs 3 to 5 and 8 to 12, and in Schedule 5, Part IV were omitted, and (iv) for paragraph 6 of Schedule 4 there were substituted the following paragraph:— "6.—(1) Subject to sub-paragraph (2), weighing

1 *Description of packages*	2 *The modifications*
	equipment described in paragraph 2(1) and (2). (2) In the case of a package containing bread Table 2, set out in paragraph 2(2), shall have effect as if the references to 350g, 500g, 2lb and 4lb were deleted and as if for the reference to 1.5kg there were substituted a reference to 400g."; and (*c*) in the case mentioned in sub-paragraph (*c*) in column 1— (i) in regulation 2(3) the words ", before the goods are placed in packages," were omitted, (ii) at the end of regulation 10(7) there were added the words "Provided that in the case of packages other than packages marked with the EEC mark, for the provisions referred to in this paragraph there shall be substituted the following provisions:— regulation 9(1), (4), (6) and (8), regulation 11(1) and (2), regulation 13(1), and regulation 14.", and (iii) in regulations 21(2) after the words "consecutively produced packages" and "all the packages" there were added the words "of the same nominal quantity".
2. Packages made up— (*a*) in returnable containers first marked with embossed or fired-on markings before 1st January, 1980; or	2(A) Part VI of the Order shall have effect as if, in both cases mentioned in column 1, Articles 31 (5)(*b*) and 33(3) were omitted.

1 *Description of packages*	2 *The modifications*
(*b*) by a retailer for sale only— (i) on premises where the packages were made up, or (ii) by delivery from a vehicle used solely by him.	2(B) These Regulations shall have effect as if— (*a*) in the case mentioned in sub-paragraph (*a*) in column 1, regulation 11 were omitted; and (*b*) in the case mentioned in sub-paragraph (*b*) in column 1, regulation 11 and in Schedule 4, paragraph 2(1)(*d*), (2)(*b*) and (3)(*b*) were omitted.
3. Packages to which Article 34(3) of the Order applies.	3. In Article 30(1), in the definition of "relevant package" for the reference to a package imported on or after 1st January, 1980 there shall be substituted a reference to a package brought into the United Kingdom on or after that date.

PART II

CLASS B PACKAGES

General modifications

1. In the following provisions of Part VI of the Order, that is to say—

paragraphs (1), (3), (4), (5), (9) and (10) of Article 31,

paragraphs (5) and (6) of Article 32,

sub-paragraphs (*b*), (*c*) and (*d*) of paragraph (1) and paragraphs (2) and (4) of Article 35,

for the first reference or, as the case may be, for the reference (in the said Article 32(5), for the first and fourth references) to packages or a package (whether or not preceded by the word relevant) there shall respectively be substituted a reference to class B packages marked both with a statement of quantity and the EEC mark or to a class B package so marked.

Particular modifications

2. In Article 31—

(*a*) in paragraph (5), sub-paragraph (*a*) shall be omitted;

(*b*) after paragraph (5) there shall be inserted the following paragraphs—

"(5A) It shall be the duty—

(*a*) of the packer of relevant class B packages the containers included in which, at the time when the packages are made up, are not marked both with a statement of quantity and the EEC mark, or are marked with the one but not the other, and which he intends to mark so that they are marked with both and then to export from the United Kingdom; and

(*b*) of the importer of relevant class B packages the containers included in which, at the time when the packages are imported, are not so marked and which he intends to mark so that they are marked with both and then to export from the United Kingdom,

to ensure that the containers included in the packages are not so marked—

(i) unless the packer or, as the case may be, the importer has, before the expiry of the day on which the containers are so marked, given notice to the Department of his intention so to mark them, specifying such information with respect to the packages as is mentioned in regulation 8(1)(*b*) of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990, and

(ii) otherwise than in the prescribed manner and (as respects a statement of quantity) in prescribed units either of weight or of volume.

(5B) It shall be the duty of an importer who has given notice in pursuance of paragraph (5A) to give such further information about the packages in question as an inspector may specify in a notice served on the importer by the inspector.

(5C) An inspector may give notice to a person who is a packer or an importer as mentioned in paragraph (5A) providing that, until an inspector informs the person in writing that the notice is cancelled, any requirement of sub-paragraph (i) of that paragraph 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.

(5D) Where a notice in pursuance of paragraph (5A) has been given, the container included in any of the packages to which the notice relates shall, until the time at which it is actually marked with the statement of quantity specified in the notice, be treated for the purposes of this Part as marked with the statement so specified; but this paragraph shall cease to apply in relation to the container in question if before the time it is so marked the person who gave the notice gives the Department a further notice cancelling the previous notice.";

(*c*) paragraphs (6) and (7) shall be omitted;

(*d*) in paragraph (8), for "A statement" to "paragraph (5)(*a*)" there shall be substituted "Where a class B package is marked both with a statement of quantity and the EEC mark, the statement of quantity";

(*e*) in paragraph (9), at the end there shall be added the following:—"Except that sub-paragraph (*a*) shall not apply in a case where the containers included in the packages in question are not marked with a statement of quantity at the time when the packages are made up."; and

(*f*) in paragraph (10), at the end there shall be added the following:—

"Except that sub-paragraph (*b*) shall not apply in a case where the containers included in the packages in question were not marked with a statement of quantity at the time when the packages were imported.".

3. In Article 33, after paragraph (1) there shall be inserted the following paragraph:—

"(1A) Where a person is charged with an offence under Article 32(1) of failing to perform the duty imposed on him by paragraph (5A) of Article 31 in respect of any class B packages, it shall be a defence to prove that the packages in question were not in his possession at the time when they were marked as mentioned in that paragraph.".

4. In Article 35—

(*a*) in paragraph 1(*d*)(i) for "packages" there shall be substituted "such packages";

(*b*) in paragraph (2) for "to packages", in both places where they occur, there shall be substituted "to such packages"; and

(*c*) in paragraph (4) for "packages", in the second, third and fourth places where it occurs, there shall be substituted "such packages".

5. In Article 30—

(*a*) in paragraph (1)—

(i) at the end of the definition of "package" there shall be added —

"and references to class B packages are references to packages so classified by virtue of regulation 4(1)(*b*) of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990",

(ii) for the definition of "relevant package" there shall be substituted the following definition:—

" ''relevant package'' means a package which is made up in the United Kingdom or imported on or after 1st January 1980 or, in the case of a package to which Article 34(3) applies, is brought into the United Kingdom on or after that date.", and

(iii) after the definition of "relevant package" there shall be added the following definition:—

""the EEC mark" has the meaning assigned to it by Article 34(6).."; and

(*b*) after paragraph (1) there shall be inserted the following paragraph:—

"(1A) For the purposes of this Part—

(*a*) references to class B packages marked with a statement of quantity, or to a class B package so marked, are references to such packages the containers included in which are marked in the prescribed manner with a statement of quantity in prescribed units either of weight or of volume, and references to such containers not marked with a statement of quantity shall be construed accordingly;

(*b*) references to class B packages marked with the EEC mark, or to a class B package so marked, are references to such packages the containers included in which are so marked and so as to comply with all the provisions made under paragraph (6) of Article 34 with respect to the matters mentioned in that paragraph in relation to the EEC mark, and references to such containers not marked with the EEC mark shall be construed accordingly; and

(*c*) where—

(i) at the time when a class B package is made up or imported the container included in the package is not marked both with a statement of quantity and the EEC mark, or is marked with the one but not the other, and

(ii) the packer or importer of the package subsequently marks the container so that it is marked with both,

then, whether or not he has performed the duty imposed on him by paragraph (5A) of Article 31 in relation to the package, he shall be treated for the purposes of this Part (except the said paragraph (5A)) in relation to the package as the packer or, as the case may be, the importer of a package which is so marked.".

6. In Schedule 9—

(*a*) in paragraph 1(2)—

(i) for "packages", in the first place where it occurs, there shall be substituted "class B packages marked both with a statement of quantity and the EEC mark", and

(ii) for "packages", in the second and third places where it occurs, there shall be substituted "such packages"; and

(*b*) in paragraph 5(2) for "package", in the first place where it occurs, there shall be substituted "a class B package marked both with a statement of quantity and the EEC mark and he does so".

SCHEDULE 4 regulation 13

Equipment to be used for Making up and Checking Packages

PART I

INTERPRETATION

1.—(1) In this Schedule—

(*a*) "the 1988 Regulations" means the Measuring Instruments (EEC Requirements) Regulations 1988(**a**);

(*b*) in relation to weighing or measuring equipment—

(i) "the EEC mark of initial verification" means the mark described in paragraph 5 of Schedule 1 to the 1988 Regulations, and

(ii) "approved pattern" means a pattern in respect of which a certificate of approval granted or deemed to have been granted and published under Article 10 of the Order or an EEC pattern approval granted under the 1988 Regulations or by any member State of the Economic Community other than the United Kingdom is for the time being in force;

(*c*) in relation to weighing equipment, "approved minimum load" means the minimum load for which, in relation to weighing equipment of an approved pattern, that pattern has been approved;

(*d*) in relation to packages for the making up or checking of which weighing equipment is used, references to the nominal weight and the aggregate of the nominal weights on the packages include references respectively to the weight and the aggregate of the weights which correspond to their nominal volume; and

(*e*) "automatic weighing machine", "load receptor", "non-automatic weighing machine" and "maximum capacity" have the same meaning as in the Weighing Equipment (Filling and Discontinuous Totalising Automatic Weighing Machines) Regulations (Northern Ireland) 1986(**b**) and other expressions defined by the Weights and Measures Regulations (Northern Ireland) 1967(**c**) and used in this Schedule have the same meaning as in those Regulations.

(2) In relation to the checking equipment prescribed in sub-paragraphs (2) to (5) of paragraph 7, references to set points are references to the following weights as applicable to the packages being checked by the equipment, that is to say—

(*a*) the nominal weight on the packages increased by the relevant allowances (the "target set point");

(*b*) the nominal weight on the packages increased by the relevant allowances (the "Q_n set point");

(*c*) the nominal weight on the packages decreased by the relevant tolerable negative error and increased by the relevant allowances (the "T_1' set point"); and

(*d*) the nominal weight on the packages decreased by twice the relevant tolerable negative error and increased by the relevant allowances (the "T_2' set point"),

and —

(a) S.I. 1988/186 as amended by S.I. 1988/1128
(b) S.R. 1986 No. 311
(c) S.R. & O. (N.I.) 1967 No. 237; the relevant amending Regulations are S.R. & O. (N.I.) 1971 No. 114, S.R. & O. (N.I.) 1972 No. 278, S.R. 1974 No. 280, S.R. 1979 No. 436, S.R. 1984 No. 85, S.R. 1985 No. 319, S.R. 1985 No. 364, S.R. 1986 No. 308 and S.R. 1986 No. 311

(i) in relation to the above set points, the relevant allowances are those (so far as applicable to the packages in question) mentioned in Appendix D to the Packers' Code and which fall to be determined in the manner set out in that Appendix, and

(ii) the relevant tolerable negative error is that which falls to be determined in relation to the packages in question in accordance with regulation 23.

(3) For the purposes of the said sub-paragraphs (2) to (5), "the relevant duty" means the duty mentioned in paragraph (1) of Article 31 of the Order so far as it relates to sub-paragraph (*a*) of that paragraph, as applicable in relation to the packages being checked by the weighing equipment in question.

PART II

EQUIPMENT FOR MAKING UP PACKAGES

2. Weighing equipment which is prescribed and stamped or which bears the EEC mark of initial verification (other than equipment marked with the symbol (IIII), in accordance with Council Directive No. 73/360/EEC(**a**)), being equipment which is—

(1) a non-automatic weighing machine of the self-indicating or semi-self-indicating class—

(*a*) if used with loose weights, is so used only with weights which are prescribed and stamped or which bear the EEC mark of initial verification;

(*b*) while being used for weighing, requiring the intervention of an operator—

(i) to place the load being weighed on, and to remove it from, the load receptor, and

(ii) to ascertain the weight indicated by the machine;

(*c*) in the case of a machine of an approved pattern marked with the approved minimum load, used only for making up packages of a nominal weight not less than that minimum load; and

(*d*) except in the case of a machine of an approved pattern marked with the approved minimum load, having a weight indicator which shows—

(i) in the case of a machine with an analogue indicator, a maximum scale interval specified in column 2 of Table 1 in relation to the limits of weight specified in column 1 of that Table as being applicable in the case where the least nominal weight on the packages for the making up of which the machine is used lies within those limits, and

(ii) in the case of a machine with a digital indicator, a maximum scale interval which, in relation to the said limits, does not exceed one-half of those specified in the said column 2.

(**a**) O.J. No. L335, 5.12.1973, p. 1, as amended by Commission Directive No. 76/696/EEC (O.J. No. L236, 27.8.1976, p. 26)

TABLE 1

(1) *Limits relevant to least nominal weight*	(2) Applicable maximum scale interval	
	Metric	Imperial
5 g up to a weight less than 10 g	0.2 g	1/3500 lb or 2 grains
10 g up to a weight less than 20 g	0.5 g	1/1400 lb or 5 grains
20 g up to a weight less than 50 g	1 g	1/700 lb or 10 grains
50 g up to a weight less than 200 g	2 g	1/16 oz or 1 dram
200 g up to a weight less than 1 kg	5 g	¼ oz
1 kg up to a weight less than 2.5 kg	10 g	
2.5 kg up to a weight less than 5 kg	20 g	1 oz
5 kg up to a weight less than 10 kg	50 g	2 oz
10 kg up to a weight less than 40 kg	100 g	4 oz
40 kg up to and including 100 kg	200 g	8 oz

(2) a non-automatic weighting machine not of the self-indicating or semi-self-indicating class—

(*a*) in respect of which sub-paragraphs (1)(*a*), (*b*) and (*c*) apply; and

(*b*) except in the case of a machine of an approved pattern marked with the approved minimum load, having a maximum capacity not exceeding that specified in column 2 of the relevant Table in relation to the least nominal weight specified in column 1 of that Table as being applicable in the case of the least nominal weight on the packages for the making up of which the machine is used.

For the purposes of this head—

(i) the relevant Table, in relation to a machine of a particular description, is that one of Tables 2 to 5 which specifies in its heading machines of that description, and

(ii) in relation to a machine marked in metric units, column 2 of each of the said Tables 2 to 5 shall be treated as if it specified capacities in metric units which do not exceed a weight which is equal to or, if less, is nearest to the weight equal to, that so specified.

TABLE 2

COUNTER MACHINES

1 *Relevant least nominal weight*	2 *Applicble maximum capacity*
150 g	1 lb
350 g	2 lb
500 g	4 lb
1.5 kg	7 lb
2 kg	10 lb
3 kg	28 lb
4 kg	56 lb
8 kg	112 lb

TABLE 3

BEAM SCALES

(Note: In this Table the reference to Class B machines is a reference to a machine marked with the inscription "Class B" in accordance with the Weights and Measures Regulations (Northern Ireland) 1967 or with the symbol (II) in accordance with Council Directive No. 73/360/EEC, and the reference to Class C machines is a reference to a machine marked with the inscription "Class C" in accordance with those Regulations or with the symbol (III) in accordance with that Directive).

1 *Relevant least nominal weight*	2 *Applicable maximum capacity*	
	Class B machines	*Class C machines*
5 g	2 lb	1 oz
10 g	4 lb	1 lb
20 g	7 lb	2 lb
35 g	14 lb	4 lb
100 g	14 lb	7 lb
150 g	28 lb	10 lb
200 g	28 lb	14 lb
300 g	56 lb	14 lb
1 kg	112 lb	28 lb
2 kg	112 lb	56 lb
3 kg	112 lb	112 lb

TABLE 4

DEADWEIGHT MACHINES AND PLATFORM MACHINES

1 *Relevant least nominal weight*	2 *Applicable maximum capacity*
5 kg	112 lb
20 kg	336 lb
30 kg	560 lb
40 kg	784 lb
50 kg	1120 lb

TABLE 5

STEELYARDS

1 *Relevant least nominal weight*	2 *Applicable maximum capacity*
20 kg	112 lb
50 kg	336 lb

(3) an automatic weighing machine itself capable of indicating weight—

(*a*) in respect of which sub-paragraph (1)(*c*) applies;

(*b*) except in the case of a machine of an approved pattern marked with the approved minimum load, having a weight indicator which shows a maximum scale interval as provided by sub-paragraph (1)(*d*);

(*c*) provided with means for facilitating, by manual intervention, the correction of any deficiency in the quantity of the goods in a package made up by the machine in relation to the nominal weight on that package or the rejection of any package which contains less than that nominal weight; and

(*d*) so constructed either—

(i) that a container must be placed manually in the position on the machine where the goods are to be placed in the container, or

(ii) that in a case where the machine has ceased to place the goods in a container or, as the case may be, on the load receptor before a given quantity has been so placed, there are automatic means for preventing the removal of the container from the position mentioned in (i) or the discharge of any of the goods from the load receptor.

3. A liquid capacity measure which is prescribed and stamped.

4. A liquid capacity measure which is not prescribed, being a measure in respect of which the following provisions apply, that is to say:—

(*a*) it shall be made of clear glass which is substantially free from visible defects and well annealed;

(*b*) it shall be marked with its nominal capacity and with scale marks which comply with the following requirements, that is to say:—

(i) the marks shall represent amounts (each being the same) above and below that nominal capacity, being amounts in millilitres equal to 1×10^n, 2×10^n or 5×10^n, the index n being a positive or negative whole number or zero,

(ii) they shall include marks marked "T" and "2 × T" respectively representing the amounts, expressed in units of volume, of the tolerable negative error and twice that error which, in relation to a measure of a particular nominal capacity, would fall to be determined in accordance with regulation 23 as that applicable in relation to a package of a nominal quantity equivalent to that capacity,

(iii) there shall be at least three scale marks representing amounts above the said nominal capacity,

(iv) there shall be at least two scale marks representing amounts between the said nominal capacity and the amount represented (in accordance with head (ii)) by the scale mark "T",

(v) the scale mark which represents the lowest amount shall be such that the amount is equal to or less than the amount represented (in accordance with head (ii)) by the scale mark "2 × T", and

(vi) the limit of error in excess of, or in deficiency in, any amount represented by any of the marks shall be two-fifths of the amount which is equal to the difference between the amounts represented by any two successive such marks;

(*c*) that part of the measure which bears the scale marks shall be cylindrical in shape and shall have no undue variation in internal diameter or wall thickness;

(*d*) the measure shall be so constructed that the addition or removal of an amount of liquid which corresponds to the quantity between two successive such scale marks (except where one of them is marked with the symbol "T" or "2 × T") would result in a change of at least 2 millimetres in the level of liquid in the measure;

(*e*) the measure shall be marked with an identification number and with the name or trade mark of the person who made it; and

(*f*) before the first occasion of its use, it shall have been inspected, tested and certified by an inspector as complying with the foregoing provisions of this paragraph.

5. Measuring container bottles (as defined by paragraph 17(2) of Schedule 5) and other relevant measuring containers of the description set out in Article 1 of Council Directive No. 75/107/EEC(**a**) which conform with the provisions of Annex 1 to that Directive subject to the modifications specified in Appendix E to the Packers' Code together (in the case of both such classes of equipment) with the associated equipment described in Part IV of this Schedule.

PART III

EQUIPMENT FOR CHECKING PACKAGES

6. Weighing equipment described in paragraph 2(1) and (2).

7. Weighing equipment which is not prescribed and stamped and which does not bear the EEC mark of initial verification, being equipment which is—

(1) a non-automatic weighing machine of the self-indicating or semi-self-indicating class—

(*a*) in respect of which paragraph 2(1)(*a*) and (*b*) applies;

(*b*) in the case of a machine of an approved pattern marked with the approved minimum load, used only for checking packages of a nominal weight not less than that minimum load or, where the aggregate of the nominal weights on more than one package is determined simultaneously, only where that aggregate is not less than that minimum load;

(*c*) except in the case of a machine of an approved pattern marked with the approved minimum load, having a weight indicator which shows—

(i) in the case of a machine with an analogue indicator, a maximum scale interval specified in column 2 of Table 1 set out in paragraph 2(1) in relation to the limits of weight specified in column 1 of that Table as being applicable in the case where the least nominal weight on the packages for the checking of which the machine is used or, where the aggregate of the nominal weights on more than one package is determined simultaneously, that aggregate, lies within those limits, and

(ii) in the case of a machine with a digital indicator, a maximum scale interval which, in relation to the said limits, does not exceed one-half of those specified in the said column 2; and

(*d*) of which the maximum limits of error in excess or deficiency are one scale interval.

(a) O.J. No. L42, 15.2.1975, p. 14

For the purposes of this sub-paragraph, the heading to column 1 of the said Table 1 shall be read as if it included a reference to such an aggregate of nominal weights as aforesaid;

(2) an automatic checkweighing machine not equipped with means for checking that the relevant duty has been complied with, being a machine so constructed that it can be operated either at the Q_n set point, the T_1' set point or the T_2' set point and that, when so operated, it will automatically reject any package which is lighter than that set point;

(3) an automatic checkweighing machine equipped with means for checking, by count, that the relevant duty has been complied with, being a machine so constructed that—

(*a*) it can be operated at the target set point and either at the T_1' set point or the T_2' set point;

(*b*) it can automatically determine, and give a visible indication of, the number of packages which are heavier than the target set point, and either—

(i) the number in respect of which the relevant duty has been complied with, or

(ii) the number which are heavier than the T_1' set point or, as the case may be, the T_2' set point but lighter than the target set point; and

(*c*) it will automatically reject any package which is lighter than the T_1' set point or, as the case may be, the T_2' set point;

(4) an automatic checkweighing machine (not forming part of an automatic weighing machine of the gravimetric filling class) equipped with means for checking and recording, by reference to a tare weight pre-set in the machine, that the relevant duty has been complied with, being a machine so constructed that—

(*a*) it can be operated either at the T_1' set point or the T_2' set point;

(*b*) it can automatically produce, in relation to a production run (within the meaning of regulation 21(5)(*b*)) lasting for one hour, being a production run of packages made up in the same predetermined constant quantity and containing goods of the same description, and by reference to the tare weight mentioned above, either a visible indication or a permanent printed record (or a record capable of being readily printed from an electronic source) of the number of packages in respect of which the relevant duty has been complied with together (in each case) with the average of the net weights of those packages;

(*c*) it will automatically reject any package which is lighter than the T_1' set point or, as the case may be, the T_2' set point; and

(*d*) it has automatic means either—

(i) in a case where the relevant duty has not been complied with in respect of a number of packages not exceeding one-half of the number referred to in head (*b*), for giving a clear visual or audible warning of that fact, or

(ii) where the machine is operated in association with weighing equipment used for making up the packages being checked for adjusting the operation of that equipment, at intervals of not more than half an hour, to ensure so far as necessary that the packages are made up in compliance with the relevant duty; and

(5) an automatic checkweighing machine (forming part of an automatic weighing machine of the gravimetric filling class) equipped with means for checking and recording, by direct weighing of the goods to be made up into packages, either when those goods are in the load receptor of the weighing machine, or by weighing the goods after they have been made up into packages and when the packages are on the

said load receptor, that the relevant duty has been complied with, being a machine constructed as mentioned in sub-paragraph (4).

8. A liquid capacity measure described in paragraphs 3 and 4.

9. A liquid capacity measure used solely for measuring the contents of packages consisting of bottles which contain an alcoholic beverage, being a measure in respect of which the following provisions apply, that is to say—

(*a*) its capacity shall be one of those specified in the Table;

(*b*) its limits of error shall be such as not to exceed those indicated in that Table in relation to a measure of that capacity;

(*c*) the materials and principles of its construction shall be such as to comply with such of the provisions of regulation 12(1) to (17) of the Weights and Measures Regulations (Northern Ireland) 1967 as are relevant to the measure in question; and

(*d*) before the first occasion of its use, it shall have been inspected, tested and certified by an inspector as complying with the foregoing provisions of this paragraph.

TABLE

1 *Capacity*	2 *Limit of error in excess or deficiency*
2.25 L	5 ml
4.5 L	6 ml
9 L	12 ml
12 L	15 ml
18 L	20 ml

10. Measuring container bottles and other relevant measuring containers described in paragraph 5 together (in the case of both such classes of equipment) with the associated equipment mentioned in that paragraph.

PART IV

ASSOCIATED EQUIPMENT FOR MEASURING CONTAINER BOTTLES AND OTHER RELEVANT MEASURING CONTAINERS

11. A templet, being a gauge for ascertaining the actual liquid level in a measuring container bottle or other relevant measuring container of a description mentioned in paragraph 5, in respect of which the following provisions apply, that is to say—

(*a*) it shall be constructed in one of the three forms indicated in Figures 1, 2 and 3 set out at the end of this Schedule;

(*b*) it shall be made of a sheet material of a stiffness sufficient to maintain its efficiency under normal conditions of use;

(*c*) it shall be so constructed that it can give a measurement either by using it in relation to the naked brim of a container or in relation to a container provided with a closure if, in the latter case, the variation in thickness and positioning of

the closure is such as to contribute not more than one millimetre in excess or in deficiency to the variability of measurement of the level of liquids in the container;

(*d*) it shall be legibly and clearly marked with—

(i) an appropriately denominated scale which corresponds to that one of Figures 4, 5 and 6 set out at the end of this Schedule as applicable to the templet in question, one of the scale marks of which (shown in those Figures as ''nominal quantity in millilitres'') being such as to correspond to the nominal capacity indicated on the measuring container bottle with which the templet is designed to be used, or, in the case of a templet designed to be used with such an other relevant measuring container as aforesaid, the fill level referred to in paragraph 7 of Appendix E to the Packers' Code,

(ii) a reference number or mark identifying the pattern or design of the measuring container bottle or other relevant measuring container (including that of any closure appropriate to the use of the bottle or other container in question) for which the templet is designed to be used,

(iii) the operational temperature of the liquid and, if that temperature is other than 20° Celsius, a description of the liquid for which the templet is designed to be used and the thermal coefficient of cubical expansion by reference to which the templet has been graduated,

(iv) the manufacturer's name or trade mark, and

(v) an identification number; and

(*e*) before the first occasion of its use, it shall have been inspected and tested in accordance with the provisions of paragraphs 7 and 8 of Appendix E to the Packers' Code and certified by an inspector as complying with the foregoing provisions of this paragraph.

12. A thermometer which complies with any one of the following British Standard Specifications, that is to say:—

(*a*) BS 5471: 1977 (''Thermometers for use with alcohol hydrometers''), published on 31st March 1977, as amended by amendment slip No. 1, published on, and effective from, 30th March 1979 under the reference AMD 2788(**a**);

(*b*) BS 593: 1989 (''Laboratory thermometers''), published on 31st January 1990(**b**);

(*c*) BS 5074: 1974 (''Short and long solid-stem thermometers for precision use''), published on 29th November 1974(**c**).

(**a**) ISBN 0 580 09832 X
(**b**) ISBN 0 580 17865 X
(**c**) ISBN 0 580 08492 2

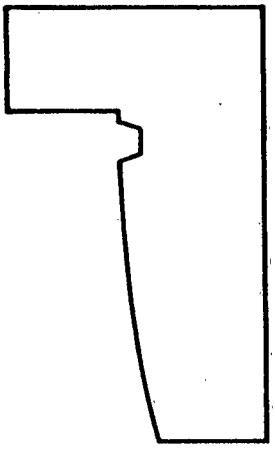


FIGURE 1. Flat single-sided form.

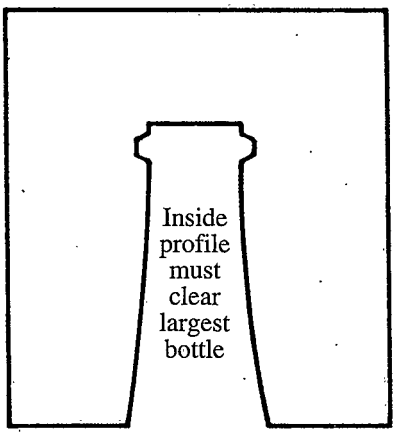


FIGURE 2. Flat double-sided form.

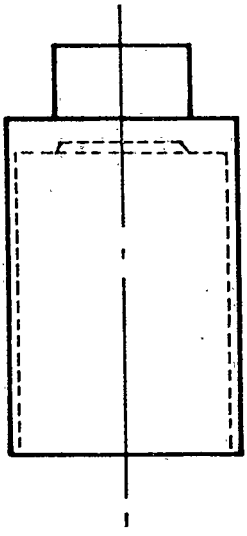


FIGURE 3. Transparent hollow cylindrical form. Scale marks circumscribe the outside of the cylinder.

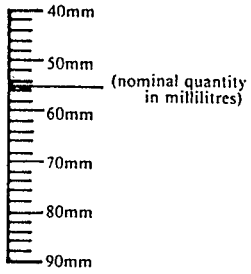


FIGURE 4. Scale interval
2 mm or 5 mm.
Continuous numbering.

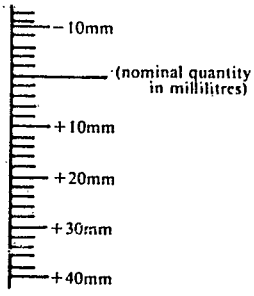


FIGURE 5. Scale interval
2 mm or 5mm.
Plus-and-minum numbering.

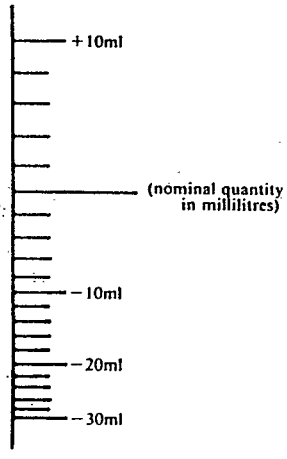


FIGURE 6. Scale interval
1 ml, 2 ml or 5 ml.
Plus-and-minus numbering.
Scale spacing not less than
2 mm at the nominal
quantity scale mark.

SCHEDULE 5 regulations 20 and 22

Procedures for Carrying Out Reference Tests

PART I

GENERAL

Interpretation

1.—(1) In this Schedule—

(*a*) "actual contents", in relation to a package, means the quantity by weight or by volume of the goods contained in the package, that quantity being determined in the case of volume (except where the goods are frozen goods) either by measuring the contents when at a temperature of 20° Celsius or by adjusting arithmetically the result of a measurement made at a different temperature of the volume which the contents would occupy if at a temperature of 20° Celsius;

(*b*) "non-standard package" has the meaning assigned to it by Article 30(2) of the Order;

(*c*) "sample", for the purposes of the reference tests prescribed in Part II and the level check and preliminary test specified in Part IV, means that portion of a group of packages specified (for the purposes of the test or check in question) in the Tables set out respectively in paragraphs 8, 9, 11 and 12 of Part II and in paragraphs 17 and 18 of Part IV in relation to the number of packages in the group which is to be tested or, as the case may be, checked; and

(*d*) "tolerable negative error" has the meaning assigned to it by regulation 23.

(2) For the purposes of this Schedule—

(*a*) testing, in relation to a reference test, is to be treated as destructive if, as a result of the test, the packages on which it is carried out cannot thereafter be used for the purpose for which they were made up, and references to non-destructive testing shall be construed accordingly; and

(*b*) a reference test may be carried out by means of destructive or non-destructive testing, but destructive testing shall be carried out only in a case where it is impracticable to carry out non-destructive testing.

Methods of measurement

2. For the purpose of carrying out a reference test the actual contents of a package shall be measured directly by means of weighing instruments or volumetric measuring instruments or, in the case where the contents are liquid, indirectly by weighing the goods contained in the package and measuring their density, but whichever of these methods is used the error made in the measurement shall be such as not to exceed one-fifth of the tolerable negative error.

PART II

TESTS ON GROUPS OF 100 OR MORE PACKAGES

Application of Part II

3. This Part applies to reference tests carried out on a group of 100 or more packages.

Scope of the test

4.—(1) Subject to sub-paragraph (2), the test shall be carried out by taking a random sample from the group and shall be in two parts consisting of—

(*a*) a check on the actual contents of each package in the sample (for the purposes of Article 31(1)(*b*) of the Order) to be carried out in accordance with the procedures described in paragraphs 7 to 9 or 10 and 11; and

(*b*) a check on the average of the actual contents of the packages in the sample (for the purposes of Article 31(1)(*a*) of the Order) to be carried out in accordance with the procedure described in paragraph 12.

(2) A check under paragraph 8 or 9 need not be carried out for the purpose of the test in a case where the inspector who is to carry out the test is satisfied that, by reason of the circumstances in which the packages are being or have been made up, it is unnecessary to carry out such a check for that purpose.

(3) The group shall be considered as acceptable for the purposes of Article 31(1) of the Order—

(*a*) in a case where both of the checks mentioned in sub-paragraph (1) are carried out, only if the results of both of the checks satisfy the acceptance criteria applicable to the case as indicated in paragraphs 7 to 12; and

(*b*) in a case where a check under paragraph 8 or 9 is not carried out, only if the result of the check carried out in accordance with the procedure described in paragraph 12 satisfies the acceptance criteria indicated in that paragraph.

5. Subject to paragraph 1(2)(*b*), each check mentioned in paragraph 4(1) shall be carried out either by applying a non-destructive sampling plan or a destructive sampling plan, as indicated in the Tables set out in paragraphs 8, 9, 11 and 12.

Selection of sample in cases of non-destrucitve testing

6. Where a check mentioned in paragraph 8 or 9 is to be carried out in addition to the check mentioned in paragraph 12, the sample taken for the purpose of the last-mentioned check shall consist of packages drawn at random from the packages in the sample taken for the purpose of the first-mentioned check.

The check on the actual contents of a package: non-destructive testing

7. Non-destructive testing shall be carried out either in accordance with the single sampling plan as indicated in Table 1 or in accordance with the double sampling plan as indicated in Table 2.

Single sampling plan

8.—(1) The number of packages checked shall be equal to the number in the sample, as indicated in Table 1.

(2) If the number of non-standard packages found in the sample is less than or equal to the acceptance criterion indicated in that Table, the group shall be considered as acceptable for the purposes of the check.

(3) If the number of non-standard packages found in the sample is equal to or greater than the rejection criterion there indicated, the group shall be rejected.

TABLE 1

NON-DESTRUCTIVE TEST FOR NON-STANDARD PACKAGES: SINGLE SAMPLING PLAN

Number in group	*Number in sample*	*Number of non-standard packages*	
		Acceptance criterion	*Rejection criterion*
100 to 500	50	3	4
501 to 3200	80	5	6
3201 and above	125	7	8

Double sampling plan

9.—(1) The first number of packages checked shall be equal to the number of packages in the first sample as indicated in Table 2 and shall be drawn at random from the group.

(2) If the number of non-standard packages found in the first sample is less than or equal to the first acceptance criterion indicated in that Table, the group shall be considered as acceptable for the purpose of the check.

(3) If the number of non-standard packages found in the first sample is equal to or greater than the first rejection criterion there indicated, the group shall be rejected.

(4) If the number of non-standard packages found in the first sample lies between the first acceptance criterion and the first rejection criterion, a second sample taken at random from the remainder of the packages in the group shall be checked, the number of packages in that sample being as indicated in the said Table.

(5) The number of non-standard packages found in the first and second samples shall be added together and—

(*a*) if the aggregate number of them is less than or equal to the second acceptance criterion, the group shall be considered as acceptable for the purpose of the check;

(*b*) if that aggregate number is greater than or equal to the second rejection criterion, the group shall be rejected.

TABLE 2

NON-DESTRUCTIVE TEST FOR NON-STANDARD PACKAGES: DOUBLE SAMPLING PLAN

Number in group	*Samples*		*Number of non-standard packages*		
	Order	*Number*	*Aggregate number*	*Acceptance criterion*	*Rejection criterion*
100 to 500	1st	30	30	1	3
	2nd	30	60	4	5
501 to 3200	1st	50	50	2	5
	2nd	50	100	6	7
3201 and above	1st	80	80	3	7
	2nd	80	160	8	9

The check on the actual contents of a package: destructive testing

10. Destructive testing shall be carried out in accordance with the single sampling plan as indicated in Table 3.

11. The number of packages in the sample to be checked shall be 20 and—

(*a*) if the number of non-standard packages found in the number checked is less than or equal to the acceptance criterion indicated in Table 3, the group shall be considered as acceptable for the purpose of the check;

(*b*) if the number of non-standard packages found in the number checked is equal to or greater than the rejection criterion indicated in that Table, the group shall be rejected.

TABLE 3

DESTRUCTIVE TEST FOR NON-STANDARD PACKAGES

Number in group	*Number in sample*	*Number of non-standard packages*	
		Acceptance criterion	*Rejection criterion*
Any number above 99	20	1	2

The check on the average actual contents of the packages: non-destructive and destructive testing

12.—(1) A group of packages shall be considered as acceptable for the purpose of the check if the average value, $\bar{x}$ (calculated by the method indicated in head (*a*)), of the actual contents of n packages in a sample is not less than the value—

$$Q_n - (s.t_{.(1-a)})/\sqrt{n}$$

and otherwise the group shall be rejected.

In the above formula—

Q_n = the nominal quantity on the packages;
n = the number of packages in the sample taken for the check;
s = the estimated standard deviation of the actual contents of the group (calculated by the method indicated in sub-paragraph (*b*));
$t_{(1-a)}$ = the 0.995 confidence level of a Student distribution with $v=n-1$ degrees of freedom.

and if x_i is the measured value of the actual contents of the i-th package and n is the number of packages in the sample, then—

(*a*) the average, $\bar{x}$, of the measured values in the sample is obtained by the following calculation:—

$$\bar{x} = (\Sigma x_i)/n \quad (i = 1 \text{ to } n)$$

(*b*) the estimated value of the standard deviation, s, is obtained by the following calculations:—

(i) first by determining the sum of the squares of the measured values

$$\Sigma(x_i)^2 \quad (i = 1 \text{ to } n) \qquad \ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots \quad (1)$$

(ii) then by determining the square of the sum of the measured values

$$\left(\sum_{i=1}^{i=n} x_i\right)^2 \quad \ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots \quad (2)$$

(iii) then by dividing (2) by the number of packages in the sample

$$\left(\sum_{i=1}^{i=n} x_i\right)^2/n \quad \ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots \quad (3)$$

(iv) then by obtaining the corrected sum by subtracting (3) from (1)

$$CS = \sum_{i=1}^{i=n}(x_i)^2 - \left(\sum_{i=1}^{i=n} x_i\right)^2/n \quad \ldots\ldots\ldots\ldots\ldots\ldots \quad (4)$$

(v) then by obtaining the value of the estimated variance by dividing the corrected sum by $n-1$

$$v = CS/(n-1) \ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots\ldots \quad (5)$$

(vi) then by calculating the square root of the estimated variance to give the estimated value of the standard deviation, S,

$$s = \sqrt{v}$$

(2) The criteria for the acceptance or rejection of a group of packages in the check are as set out in Tables 4 and 5.

TABLE 4

NON-DESTRUCTIVE TESTING FOR AVERAGE ACTUAL CONTENTS

Number in group	*Number in sample*	*Criteria*	
		Acceptance	*Rejection*
100 to 500	30	$\bar{x} \geq Q_n - 0.503\ s$	$\bar{x} < Q_n - 0.503\ s$
501 and above	50	$\bar{x} \geq Q_n - 0.379\ s$	$\bar{x} < Q_n - 0.379\ s$

TABLE 5

DESTRUCTIVE TESTING FOR AVERAGE ACTUAL CONTENTS

Number in group	*Number in sample*	*Criteria*	
		Acceptance	*Rejection*
Any number above 99	20	$\bar{x} \geq Q_n - 0.640\ s$	$\bar{x} < Q_n - 0.640\ s$

PART III

TESTS ON GROUPS OF LESS THAN 100 PACKAGES

Application of Part III

13. This Part applies to reference tests carried out on a group of less than 100 packages.

Scope of the test

14.—(1) The test shall be carried out on each package in the group and shall be in two parts consisting of —

(*a*) a check on the actual contents of each package (for the purposes of Article 31(1)(*b*) of the Order) to be carried out in accordance with the procedure described in paragraph 15; and

(*b*) a check on the average of the actual contents of the packages in the group (for the purposes of Article 31(1)(*a*) of the Order) to be carried out in accordance with the procedure described in paragraph 16.

(2) The group of packages shall be considered as acceptable for the purposes of Article 31(1) of the Order only if the results of both the checks mentioned in sub-paragraph (1) satisfy the acceptance criteria applicable to the case as indicated in paragraphs 15 and 16.

The check on the actual contents of a package

15. If the number of non-standard packages found does not exceed 5% of the number of packages in the group, the group shall be considered as acceptable for the purpose of the check, and otherwise shall be rejected.

The check on the average actual contents of the packages

16.—(1) The average of the measured values of the actual contents shall be determined by application of the formula set out in paragraph 12(1)(*a*) (in which, for that purpose, 'n' equals the number of packages in the group).

(2) If the average is equal to or greater than the nominal quantity of the packages in the group, the group shall be considered as acceptable for the purpose of the check, and otherwise shall be rejected.

PART IV

ADDITIONAL PROVISION IN RELATION TO PACKAGES MADE UP IN MEASURING CONTAINER BOTTLES

17.—(1) This paragraph and paragraphs 18 to 20 apply to a group of packages containing liquid goods where the number of containers in the group which are measuring container bottles is not less than 90% of all the containers in the group.

(2) For the purposes of the said paragraphs —

(*a*) "measuring container bottle" means a container described in Article 1 of Council Directive No. 75/107/EEC(**a**) which complies with the requirements of Annex 1 (except section 8.2.1) of that Directive and which is not marked with a statement of quantity different from the nominal capacity indicated on the container in accordance with those requirements;

(*b*) "filling level" means the level marked on a templet in accordance with paragraph 11(*d*)(i) of Schedule 4 which indicates the nominal capacity indicated on the measuring container bottle in association with which the templet is designed to be used;

(*c*) "templet" means a gauge for ascertaining the actual liquid level in a measuring container bottle, being a gauge which complies with the provisions of paragraph 11 of Schedule 4; and

(*d*) references to a level check shall be construed in accordance with sub-paragraph (3) and references to a preliminary test shall be construed in accordance with sub-paragraph (8).

(**a**) O.J. No. L42, 15.2.1975, p. 14

(3) In this paragraph, references to a level check, in relation to a group of packages to which this paragraph applies, are references to a check carried out by an inspector for the purpose of ascertaining whether the level of the liquid contained in each of the packages in the group is at or above the filling level, being a check carried out —

(*a*) on a sample taken from the group in accordance with sub-paragraph (4) or (5); and

(*b*) by means of a templet.

(4) Where the number of packages in the group is 100 or more, the number of packages in a sample for the purposes of sub-paragraph (3) —

(*a*) in a case where the templet by means of which the check is to be carried out is suitable only for use on containers without closures, shall be 20; and

(*b*) in any other case, shall be as indicated in the following Table —

Number in group	*Number in sample*
100 to 500	30
501 and above	50

(5) Where the number of packages in the group is less than 100, the number of packages in the sample shall be equal to the number of packages in the group.

(6) Subject to sub-paragraph (10), before carrying out a reference test on a group of packages to which this paragraph applies, a level check shall be carried out and if as a result of the check it is found that the liquid level of all the packages in the group is at or above the filling level a reference test shall not be carried out on that group.

(7) Where, as a result of a level check carried out on a group of packages to which this paragraph applies, it is found that the liquid level of any of the packages in the group is not at or above the filling level, then, except in the case where the packages were made up by the use of equipment prescribed by regulation 13, a preliminary test shall be carried out on the group before a reference test is carried out on it.

(8) In sub-paragraph (7), the reference to a preliminary test is a reference to a test carried out by an inspector on the group of packages in question —

(*a*) by means of a templet; and

(*b*) in accordance with sub-paragraph (9),

and if as a result of the test it is found that the group is acceptable (as provided in that sub-paragraph) a reference test shall not be carried out on the group.

(9) For the purposes of a preliminary test mentioned in sub-paragraph (8) —

(*a*) in the case of a templet graduated in millilitre units as indicated in Figure 6 set out at the end of Schedule 4 —

(i) subject to (iii), where the templet by means of which the test is carried out is suitable only for use on containers without closures, the criteria indicated in Table 5 in paragraph 12(2) shall be applied for the purpose of determining whether the group would be considered as acceptable for the purpose of a check mentioned in paragraph 12, and for the purpose of the test the group shall be considered as acceptable if, by virtue of that application of the said criteria, it would be considered as acceptable for the purpose of such a check,

(ii) subject to (iii), where the templet is suitable only for use on closed containers, the criteria indicated in Table 4 in paragraph 12(2) shall be

applied for the purpose of determining whether the group would be considered as acceptable for the purpose of a check mentioned in paragraph 12, and for the purpose of the test the group shall be considered as acceptable if, by virtue of that application of the said criteria, it would be considered as acceptable for the purpose of such a check, and

(iii) where the number of packages in the group is less than 100, the criteria indicated in paragraph 16(2) shall be applied for the purpose of determining whether the group would be considered as acceptable for the purpose of the check mentioned in paragraphs 14(1)(*b*) and 16(1), and for the purpose of the test the group shall be considered as acceptable if, by virtue of that application of the said criteria, it would be considered as acceptable for the purpose of such a check; and

(*b*) in the case of a templet graduated in millimetre units as indicated in Figure 4 or 5 set out at the end of Schedule 4 —

(i) subject to (iii), where the templet by means of which the test is carried out is suitable only for use on containers without closures, the criteria indicated in Table 7 shall be applied for the purpose of determining whether the group would be considered as acceptable for the purpose of the test mentioned in paragraph 18,

(ii) subject to (iii), where the templet is suitable only for the use on closed containers, the criteria indicated in Table 6 shall be applied for the purpose of determining whether the group would be considered as acceptable for the purpose of the test mentioned in the said paragraph 18, and

(iii) where the number of packages in the group is less than 100, the criteria indicated in paragraph 20(2) shall be applied for the purpose of determining whether the group would be considered as acceptable for the purpose of the test mentioned in paragraph 19.

(10) Sub-paragraph (6) shall not apply in a case where, in relation to a group of packages to which this paragraph applies, the packer or importer of the packages, or other person in possession of the group of packages to be tested, fails (at the request of the inspector who is to carry out the test) to provide or otherwise make available to him a templet for the purpose of enabling him to carry out a level check on that group and, in such a case, a reference test may be carried out on the group as if the foregoing provisions of this paragraph did not have effect.

(11) Where a reference test is carried out on a group of packages to which this paragraph applies and, as a result of the test the group is rejected, the inspector who carried out the test shall furnish the packer or importer of the packages, or other person in possession of the group of packages to be tested, with a written statement containing particulars of the result of that test and of any level check or preliminary test carried out on the group by virtue of sub-paragraphs (6) and (7).

18.—(1) This paragraph applies in relation to a preliminary test in a case where the number of packages in the group is 100 or more and the templet used for the test is one mentioned in paragraph 17(9)(*b*).

(2) The group of packages shall be considered as acceptable for the purpose of the test if the average value, $\bar{d}$, of the linear distances, d_i, between the brims of the measuring container bottles and the liquid levels, as measured by means of the templet, of n packages in the sample is not greater than the value —

$$D+(s.t_{(1-a)})/\sqrt{n}$$

and otherwise shall be rejected for that purpose.

In the above formula —

D = the distance from the brim level to the level corresponding to the nominal capacity indicated on the measuring container bottle, adjusted in accordance with paragraph 8 of Appendix E to the Packers' Code if the temperature of the liquid being tested is other than 20° Celsius;

n = the number of packages in the sample taken for the test;

s = the estimated standard deviation of the actual linear distances of the liquid level from the brims of the measuring container bottles in the group, as measured by means of the templet;

$t_{(1-a)}$ = the 0.995 confidence level of a Student distribution with v=n=1 degrees of freedom,

and the average, $\bar{d}$, of the measured values in the sample, and the estimated standard deviation, s, shall be obtained in the manner described in paragraph 12(1), $\bar{d}$ being substituted for $\bar{x}$, and d_i being substituted for x_i, in the formulae set out in that sub-paragraph.

(3) The criteria for the acceptance or rejection of a group of packages in a preliminary test shall be as set out in Tables 6 and 7:

TABLE 6

NON-DESTRUCTIVE TEST FOR AVERAGE LIQUID LEVEL

Number in group	*Number in sample*	*Criteria*	
		Acceptance	*Rejection*
100 to 500	30	$\bar{d} \leq D+0.503\ s$	$\bar{d} > D+0.503\ s$
501 and above	50	$\bar{d} \leq D+0.379\ s$	$\bar{d} > D+0.379\ s$

TABLE 7

DESTRUCTIVE TESTING FOR AVERAGE LIQUID LEVEL

Number in group	*Number in sample*	*Criteria*	
		Acceptance	*Rejection*
Any number above 99	20	$\bar{d} \leq D+0.640\ s$	$\bar{d} > D+0.640\ s$

19.—(1) This paragraph applies in relation to a preliminary test in a case where the number of packages in the group is less than 100.

(2) The test shall be carried out on each package in the group, shall consist of a check on the average of the actual linear distances between the brims of the measuring container bottles and the liquid levels as measured by means of the templet, and shall be carried out in accordance with the procedure described in paragraph 20(1).

(3) The group of packages shall be considered as acceptable for the purpose of the test if the result satisfies the acceptance criteria indicated in paragraph 20(2).

20.—(1) The average value, $\bar{d}$, of the actual linear distances between the brims of the measuring container bottles and the liquid levels, as measured by means of the templet, shall be determined by application of the method described in paragraph 18(2) except that, for the purpose of the test, 'n' equals the number of packages in the group.

(2) If the said average is equal to or less than the linear distance from the brim to the filling level, the group shall be considered as acceptable for the purpose of the preliminary test, and otherwise shall be rejected for that purpose.

PART V

TESTS ON PACKAGES CONTAINING KNITTING YARN OR RUG YARN

21. In relation to a reference test to be carried out on a group of packages containing knitting yarn or rug yarn, this Schedule shall have effect as if —

(*a*) after paragraph 2 there was inserted the following paragraph:—

"2A. Before carrying out a reference test on a group of packages containing knitting yarn or rug yarn, the contents of each package in the sample taken for that purpose or, as the case may be, each package so taken, shall be oven-dried and the appropriate allowance for moisture added in accordance with the procedure set out out in the British Standard entitled 'Method for Determination of net mass of retail packages of knitting and rug yarns', BS 984: 1990, published on 30th September 1990(**a**); and

(*b*) paragraph 1(2)(*b*) provided for the checks referred to in that paragraph to be carried out only by means of non-destructive testing, and accordingly as if paragraphs 5, 10 and 11, and Table 5 in paragraph 12, did not apply.

(**a**) ISBN 0 580 18366 1

SCHEDULE 6 regulations 25(3) and 26(3)

Modifications to Part VI of the Order in Relation to Outer Containers and Packages of Desiccating Goods

PART I

OUTER CONTAINERS

1 *Description of outer containers*	2 *The modifications*
1. An outer container which is to be treated as a package in a case mentioned in regulation 25(3).	(*a*) Article 31(5)(*a*), in relation to an outer container which is to be so treated as a class A package, shall apply as if it provided for that container to be marked with the statement of quantity marked on each of the inner packages and the total number of them in the container unless at least one such statement is clearly legible, and the said total number is readily ascertainable, from outside the container; and (*b*) for paragraph 5(2) of Schedule 9 there shall be substituted the following sub-paragraph:— "(2) If, in pursuance of paragraph 1(1)(*c*), an inspector breaks open an outer container which is to be treated as a package in a case mentioned in regulation 25(3) of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990, and he does so otherwise than on premises occupied by the packer or importer of that container and any package in the container, having been tested in the prescribed manner, is found to be not inadequate, it shall be the duty of the inspector, if the owner of the container requests him to do so, to buy that package on behalf of the Department.".

PART II

PACKAGES OF DESICCATING GOODS

1 *Description of packages*	2 *The modifications*
1. Packages of desiccating goods other than those mentioned in paragraph 2.	1. Paragraph (1) of Article 31 shall have effect as if for "and the packages" there was substituted "if, within a period ending at the end of the seventh day after the day on which they were made up, or, in the case of imported packages, on which they were imported, the packages".
2. Packages of desiccating goods, being goods to which Council Directive No. 76/768/EEC(**a**) applies— (*a*) in the case where the packages are made up in the United Kingdom; and (*b*) in the case where the packages are imported.	2. Part VI of the Order shall have effect as if— (*a*) in the case mentioned in sub-paragraph (*a*) in column 1, in paragraph (1) of Article 31 for "and the packages" there was substituted "if, within a period ending at the end of the day after the day on which they were made up, the packages"; and (*b*) in the case mentioned in sub-paragraph (*b*) in column 1, Articles 31, 32 (except paragraph (5)) and 33 were omitted and the packages were not relevant packages except for purposes of Article 32(5).

(a) O.J. No. L262, 27.9.76, p. 169, as amended by Council Directives No. 79/661/EEC O.J. No. L192, 31.7.79, p. 35, 82/368/EEC O.J. No. L167, 15.6.82, p. 1, 83/574/EEC O.J. No. L332, 28.11.83, p. 30 and 88/667/EEC O.J. No. L38, 31.12.88, p. 46 and Commission Directives No. 82/147/EEC O.J. No. L63, 6.3.82, p. 26, 83/191/EEC O.J. No. L109, 26.4.83, p. 25, 83/341/EEC O.J. No. L188, 13.7.83, p. 15, 83/496/EEC O.J. No. L275, 8.10.83, p. 20, 83/574/EEC O.J. No. L332, 28.11.83, p. 38, 84/415/EEC O.J. No. L228, 25.8.84, p. 31, 85/391/EEC O.J. No. L224, 22.8.85, p. 40, 86/179/EEC O.J. No. L138, 24.5.86, p. 40, 86/199/EEC O.J. No. L149, 3.6.86, p. 38, 87/137/EEC O.J. No. L56, 26.2.87, p. 20, 88/233/EEC O.J. No. L105, 26.4.88, p. 11 and 89/174/EEC O.J. No. L64, 8.3.89, p. 10

SCHEDULE 7 regulation 27

Application, with Modifications, of Parts I and VI of the Order and these Regulations to Certain Goods not comprised in Packages

PART I

THE GOODS AND QUANTITY LIMITS

1 *Description of goods*	2 *Lower and upper limits of predetermined constant quantity*	
1. Relevant items of bread.	300 g per loaf	10kg per loaf
2. Relevant items of knitting yarn and rug yarn.	10 g	10 kg

PART II

MODIFICATIONS TO PART VI OF THE ORDER AND THESE REGULATIONS

General modifications to Part VI of the Order and the Regulations

1. For any reference to a person who is the packer or importer of a package (whether or not that reference is to a relevant package) there shall be substituted a reference to a person who makes up or is the importer of relevant items of bread or of knitting yarn or rug yarn, and accordingly (subject to the modifications made by the following provisions of this Part)—

(*a*) for any references to packages or a package there shall respectively be substituted references to such relevant items or such a relevant item as aforesaid;

(*b*) in relation to relevant items of bread made up in open packs, and to relevant items of knitting yarn and rug yarn, for any reference to the container included in a package there shall be substituted a reference to the open pack in which the bread or, as the case may be, the yarn is made up and in relation to yarn made up as mentioned in Article 30 (1A)(*b*)(ii) of the Order (as having effect by virtue of paragraph 6(*b*)) to the label attached to the item of yarn in question; and

(*c*) in relation to relevant items of unwrapped bread, references to packages containing goods and to goods contained in packages shall respectively be construed as references to the items comprising the bread and the bread comprised in the items.

Particular modifications to Parts I and VI of the Order

2. In relation to relevant items of unwrapped bread, Article 31(5), (6), (7) and (8) and Article 33(3) shall be omitted.

3. In relation to relevant items of bread made up in open packs—

(*a*) Article 31(5)(*a*), (6) and (7) shall be omitted;

(*b*) sub-paragraph (*b*) of Article 31(5) shall have effect as if at the end there were added the words "but this sub-paragraph shall not apply in the case of a person who makes up relevant items of bread made up in open packs and sells them on any premises if there is displayed on those premises as the name or style

under which his business is carried on a name or style which is the same as, or substantially similar to, that displayed on the premises on which the items are made up;".

4. In relation to relevant items of bread (whether unwrapped or made up in open packs)—

(*a*) in paragraph (1) of Article 31—

(i) for "marked with the same nominal quantity" there shall be substituted "made up in the same predetermined constant quantity", and

(ii) for "than the nominal quantity on those packages" there shall be substituted "than that quantity";

(*b*) in Article 31(2) for "of packages" to the end of the paragraph there shall be substituted "of relevant items of bread if the quantity of the bread in each item is or exceeds the predetermined constant quantity in relation to which the item was made up.";

(*c*) sub-paragraph (*b*)(ii) of Article 31(9) shall be omitted in relation to a person who makes up such relevant items for so long as, and to the extent to which, there is in force in relation to that person a notice in writing given to him by the chief inspector that the said sub-paragraph (*b*)(ii) does not apply;

(*d*) in Article 33(1) for "in respect of any packages" to the end of the paragraph there shall be substituted "in respect of any relevant items of bread, it shall be a defence to prove that the test in question took place when the items were not in his possession and by reference to a quantity other than the predetermined constant quantity in which the items were made up when they were in his possession.";

(*e*) Articles 33(3), 34(3) to (5) and 35(2) to (4) shall be omitted;

(*f*) in Article 30—

(i) for the definition of "nominal quantity" there shall be substituted the following definition:—

" "nominal quantity", in relation to a relevant item of bread, means the predetermined constant quantity in relation to which the item was made up, and any reference in this Order to the nominal quantity (as defined by Article 30(1)) on the package shall be construed accordingly", and

(ii) at the end of that paragraph there shall be added the following words—

"and for the purposes of this Part references to a predetermined constant quantity shall be construed in like manner as, by virtue of paragraph (3) of regulation 2 of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1990, they are to be construed for the purposes of those Regulations but subject to the modifications made to that paragraph by paragraphs 1 and 7(*b*) of Schedule 7 to those Regulations.

(*g*) for paragraph (2) there shall be substituted the following paragraph:—

"(2) For the purposes of this Part a relevant item of bread is non-standard if the quantity of the bread it contains is less by more than a prescribed amount than the predetermined constant quantity in relation to which the item was made up and is inadequate if the quantity of the bread it contains is less by more than twice that amount than the predetermined constant quantity."; and

(*h*) paragraph (4) shall be omitted;

(*i*) in Schedule 9, paragraph 1(2) and in paragraph 6 the words "or 1(2)" shall be omitted.

5. In relation to relevant items of knitting yarn and rug yarn, Article 34(3) to (5) shall be omitted.

6. In Article 30—

(*a*) in paragraph (1) the defintions of "goods", "package" and "packer", shall be omitted and in the definition of "relevant package" the words "or, if the goods" to the end of that definition, shall be omitted; and

(*b*) after paragraph (1) there shall be inserted the following paragraph:—

"(1A) In this Part references to relevant items of bread and of knitting yarn and rug yarn are references respectively to—

(*a*) bread in single loaf form when made up in open packs or made for sale unwrapped including the following, and any part of the following, that is to say, fancy loaves and milk loaves and "loaf" in relation to bread includes a roll and a bap; and

(*b*) knitting yarn and rug yarn (other than rug yarn in cut pack form) when made up—

(i) in open packs, or

(ii) in separate items, each item having a label attached,

and (except where the context otherwise requires) references to making up relevant items of bread include references to making it for sale unwrapped.".

Particular modifications to the Regulations

7. In regulation 2—

(*a*) for paragraph (2) there shall be substituted:—

"(2) References in these Regulations to relevant items of bread and of knitting yarn and rug yarn shall be construed in accordance with Article 30(1A) of the Order."; and

(*b*) in paragraph (3) for "are placed in" there shall be substituted "are made up into".

8. Regulations 3, 4, 5(2), 7 and 8 shall be omitted.

9. Regulation 10 shall be omitted in relation to relevant items of bread.

10. In regulation 10—

(*a*) for paragraph (1) there shall be substituted:—

"(1) The units in a statement of quantity with which relevant items of knitting yarn and rug yarn are to be marked shall be units of weight."; and

(*b*) paragraphs (3) and (4) shall be omitted.

11. Regulation 11 shall be omitted in relation to relevant items of unwrapped bread.

12. Regulations 12(2) and 22(1)(*b*) shall be omitted.

13. In a case where relevant items of bread are not made up by means of a continuous process and are not consecutively produced, for regulation 21 there shall be substituted the following regulation:—

"21.—(1) This regulation has effect for prescribing the manner in which a group of relevant items of bread (being items made up in the same

predetermined constant quantity and comprising bread of the same description) is to be selected for the purposes of a reference test.

(2) Subject to paragraph (4), in a case where a reference test is to be carried out on a group of relevant items where it is reasonably practicable to identify all the items as comprising bread baked in the same oven at the same time, the group shall comprise relevant items of bread baked in the same oven at the same time, subject to a maximum of 10,000 in number.

(3) Subject to paragraph (4), in a case where a reference test is to be carried out on a group of relevant items after it has ceased to be reasonably practicable to identify all the items as comprising bread baked in the same oven at the same time, the group shall comprise relevant items of bread baked at the same bakery, subject to a maximum of 10,000 in number.

(4) In a case where a group of relevant items selected as mentioned in paragraph (2) or (3) has been rejected (the "rejected items") and the person who made up the rejected items makes up other relevant items in the same predetermined constant quantity as, and comprising bread of the same description and from the same bakery as, the rejected items, the group may comprise rejected items as well as such other relevant items.".

14. Regulation 23 shall apply in relation to relevant items of bread as if for paragraph (1) (other than the Table) there were substituted:—

"(1) The amount prescribed for the purposes of Article 30(2) of the Order (being the amount for determining whether a relevant item of bread is non-standard as defined by that paragraph) shall be the amount set out in the following Table in relation to the predetermined constant quantity in relation to which that item was made up.",

and in the said Table and in paragraph (2) of that regulation for the references to nominal quantity there shall be substituted references to predetermined constant quantity.

15. Regulation 25(1)(*a*) and (3) to (6), in paragraph (7) the references to paragraph (1)(*a*)(ii) and to the inner packages, Schedules 1 to 3 and in Schedule 4, paragraphs 3 to 5 and 8 to 12 shall be omitted.

16. In Schedule 4, paragraph 2(1)(*d*), 2 (*b*) and (3)(*b*) shall be omitted in relation to relevant items of bread when made up by a retailer for sale only—

(*a*) on premises where the items were made up; or

(*b*) by delivery from a vehicle used solely by him.

17. In relation to relevant items of bread, for paragraph 6 of Schedule 4 there shall be substituted the following paragraph:—

"6.—(1) Subject to sub-paragraph (2), weighing equipment described in paragraph 2(1) and (2).

(2) In the case of a relevant item of bread Table 2 set out in paragraph 2(2) shall have effect as if the references to 350g, 500g, 2 lb and 4 lb were deleted and as if for the reference to 1.5 kg there was substituted a reference to 400 g.".

18. Schedules 4 and 5 shall apply in relation to a relevant item of bread as if for any reference to the nominal weight on a package there was substituted a reference to the predetermined constant quantity in relation to which the item was made up.

19. In Schedule 5, Part IV and in Schedule 6, Part I shall be omitted.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations consolidate and amend the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1979, as amended by the Weights and Measures (Packaged Goods) (Amendment) Regulations (Northern Ireland) 1980, which made provision for implementing the system of quantity control (commonly known as "the average system") applicable to the packaging of goods sold by weight or volume. The average system requires the actual contents of packages to be not less, on average, than the nominal quantity marked on the package and the framework was established by Part I of the Weights and Measures Act 1979. The primary weights and measures legislation has now been consolidated by the Weights and Measures (Northern Ireland) Order 1981 ("the Order"). Part VI of the Order together with these Regulations, among other things, gives effect in Northern Ireland to the requirements of Council Directives No. 75/106/EEC (O. J. No. L42, 15.2.1975, p.1) and No. 76/211/EEC (O. J. No. L46, 17.2.1976, p.1) as amended. Part VI of the Order provides for the duties to be complied with by packers and importers of packaged goods, in particular as to the making up and checking of packages, the quantity of goods which packages must contain, and for the statement of quantity to be marked on them.

Part II of the Regulations lays down the coverage of the average system. Regulation 3 specifies that it only applies to goods made up by weight or by volume to a predetermined constant quantity. Regulation 4 divides packages into two classes of which one (Class A) covers the goods listed in column 1 of Parts I-III of Schedule 1. For Class A packages the provisions of Part VI of the Order and these Regulations are mandatory. For the other class of package (Class B) they are made to apply (by virtue of the modifications to Part VI of the Order provided by regulation 5(2) and Part II of Schedule 3) only if the packages are voluntarily marked with a statement of quantity and with the EEC mark referred to in Article 34(6) of the Order.

Regulation 5 provides, together with Schedule 2 and Part I of Schedule 3, exemptions from, and modifications to, Part VI of the Order. Regulations 6 to 8 make detailed provision with respect to the limits of quantity (regulation 6), the importation into the United Kingdom (regulation 7) and the export from the United Kingdom (regulation 8), of packages marked with the EEC mark. Regulation 9 prescribes the period in which packers or importers may object (to the Department) against instructions given by an inspector of weights and measures with respect to the procedures for making up and checking packages which they are required to apply under Article 31(9) or (10) of the Order.

Part III of the Regulations makes provision as to the marking of packages. In particular, regulation 10 prescribes the appropriate units of weight or volume in which a statement of quantity is to be marked and provides for the manner of marking. Regulation 11 prescribes the time and manner in which the name and address (or identifying mark) of a packer or importer is to be marked. Regulation 12 prescribes the character and dimensions of the EEC mark.

Part IV of the Regulations makes provison with respect to the making up and checking of packages. Regulation 13 and Schedule 4 prescribe the equipment to be used for that purpose. Regulation 14 prescribes the time within which such checks shall be carried out and regulations 15, 16 and 17 respectively prescribe the periods for keeping records of such checks and for obtaining, and verifying the accuracy of, documents relating to imported packages. Regulation 18 specifies the questions which are to be determined, in connection with making up and checking packages, by reference to specified provisions of a code of practice (the "Code of Practical Guidance for Packers and Importers") issued by the Secretary of State.

Part V makes provision with respect to the testing of packages for ensuring that the requirements of Part VI of the Order have been complied with. Regulations 20 to 22 (as read with a manual of guidance — the "Manual of Practical Guidance for Inspectors" — issued by the Secretary of State) and Schedule 5 prescribe the tests and the manner of carrying them out. The Appendices to the Packers' Code also contain detailed guidance to packers on the control of their procedures to assist them in passing the tests. Regulation 23 makes provision for determining, in relation to a package, that quantity which it must at least contain if it is lawfully to be sold. Regulation 24 specifies the circumstances in which packages may be disposed of if they have failed the test.

Part VI makes special provision for certain cases. Regulation 25 and Part I of Schedule 6 do so in relation to packages to the extent that they are contained in outer containers. Regulation 26 and Part II of that Schedule do so in relation to packages which contain desiccating goods. Regulation 27 and Schedule 7 provide for Part VI of the Order and the Regulations to apply, with specified modifications, to bread and knitting yarn and rug yarn when made up otherwise than in packages.

The Regulations repeat the provisions of the 1979 Regulations, as amended, subject to the following changes of substance:—

(*a*) regulation 3 is drafted to make clear that the references to goods, which are both intended for sale and normally sold by weight and volume, cover goods in both sub-paragraphs (*a*) and (*b*) of that regulation;

(*b*) regulation 10(7) provides that certain requirements of the Weights and Measures (Marking and Abbreviations) Regulations (Northern Ireland) 1976, as amended, shall apply for the purpose of prescribing the manner in which a statement is to be marked on a package. Additional references to provisions dealing with containers used before 1st January 1978 (1st January 1980 in the case of returnable bottles) and restrictions on units to be employed, had been included in regulation 10(7) of the 1979 Regulations;

(*c*) regulation 26(4A) of the 1979 Regulations which made provision for Part VI of the Order to apply in certain circumstances to an outer container of certain packages of cocoa or chocolate products is not included;

(*d*) regulation 26 (which makes provision for packages of desiccating goods) does not apply to packages containing bread. Its equivalent — regulation 27 of the 1979 Regulations, as amended — did so apply;

(*e*) Schedule 1:—

(i) implements the requirements of Article 8 of Council Directive No. 79/112/EEC (O.J. No. L33, 8.2.1979, p. 1) in relation to the lower limits of the average system. In many cases the lower limit is reduced;

(ii) brings natural mineral waters within the average system;

(iii) extends the upper limit of predetermined constant quantity of all poultry to 20 kg; and

(iv) makes clear that single portion vending machine beverage packs and single portion catering packs below 25 g or 25 ml are excluded even if they contain goods such as milk, butter or jam included in items 1-34;

(*f*) paragraph 1 of Schedule 3 (which modifies Part VI of the Order and these Regulations in relation to certain packages) contains new provisions in respect of bread and whole poultry as follows:—

Bread

(i) paragraph 1 requires that packages containing bread are marked with a statement of quantity;

(ii) in sub-paragraph 1(B)(*b*)(i), for regulation 21 (which makes provision for selection of a group of packages for a reference test) provisions are substituted where packages of bread are not made up as part of a continuous process;

(iii) in sub-paragraph 1(B)(*b*)(iv), for paragraph 6 of Schedule 4, there is substituted a provision permitting counter machines, used by packers or importers to carry out checks in accordance with Article 31(9) and (10) of the Order, to be of a maximum capacity of 7 lb for packages containing bread with a nominal weight of 400 g and 800 g;

Whole Poultry

(iv) in sub-paragraph 1(B)(*c*)(i), regulation 2(3) allows packers to grade by weight poultry after it has been placed in a package;

(v) in sub-paragraph 1(B)(*c*)(ii), regulation 10(7), in the case of packages containing whole poultry, modifies the manner in which the marking requirements of the Weights and Measures (Marking and Abbreviations) Regulations (Northern Ireland) 1976 (as amended) are invoked. In the case of packages not bearing the EEC mark the weight declaration may be hand written or printed in imperial or metric units, or both, and certain requirements are removed;

(vi) in sub-paragraph 1(B)(*c*)(iii), regulation 21, in the case of packages containing whole poultry, removes the requirement (contained in regulation 22 of the 1979 Regulations, as amended) that a group to be selected for a reference test shall comprise only

consecutively produced packages. The group may consist of batches of such packages of the same nominal quantity;

(*g*) Part II of Schedule 6 (which modifies Part VI of the Order in relation to packages of desiccating goods) clarifies the duty imposed on the packer or importer under Article 31(1) of the Order in respect of such packages; and

(*h*) Part II of Schedule 7 (which modifies Part VI of the Order and these Regulations in relation to certain goods not comprised in packages) makes amendments for unwrapped bread corresponding to those for wrapped bread.

Copies of the Code of Practical Guidance for Packers and Importers and the Manual of Practical Guidance for Inspectors may be obtained from Her Majesty's Stationery Office, and copies of the British Standard Specifications (referred to in paragraph 12 of Schedule 4 and paragraph 21 of Schedule 5) may be obtained from any of the sales outlets operated by the British Standards Institution (BSI) or by post from the BSI at Linford Wood, Milton Keynes, MK14 6LE.