1988 No. 408

WEIGHTS AND MEASURES

Weights and Measures (Various Foods) Order (Northern Ireland) 1988

Made . . . . . *18th November 1988*

Coming into operation . . *19th December 1988*

The Department of Economic Development, in exercise of the powers conferred by Article 19(2), (3) and (7) of the Weights and Measures (Northern Ireland) Order 1981(**a**) and now vested in it(**b**) and of every other power enabling it in that behalf, and after consultation, in accordance with Article 48(2) of that Order, with such organisations as appear to it to be representative of interests substantially affected by this Order and consideration of the representations made to it by such organisations with respect to the subject matter of this Order, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Weights and Measures (Various Foods) Order (Northern Ireland) 1988 and shall come into operation on 19th December 1988.

Interpretation

2. In this Order—

"cheese" means cheese, whether or not containing flavouring or colouring matter, and whether or not coated or mixed with other food for the purpose of giving the cheese a distinctive appearance or flavour, and includes processed cheese and cheese spread;

"countable produce" means fruit or vegetables specified in Part I of Schedule 1;

"meat" means any part of an animal of any of the following descriptions, that is to say, cattle, sheep and swine;

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

"soft fruits" means fruits of the following descriptions, that is to say, bilberries, blackberries, blackcurrants, boysenberries, brambles, cherries, cranberries, gooseberries, loganberries, mulberries, raspberries, redcurrants, strawberries, tayberries and whitecurrants.

(**a**) S.I. 1981/231 (N.I. 10)
(**b**) By S.I. 1982/846 (N.I. 11) Art. 4

Parts of Schedule 3 to the Order of 1981 to cease to have effect

3. Parts I, II, IV and VIII of Schedule 3 to the Order of 1981 shall cease to have effect.

Cheese, fish, meat and poultry

4.—(1) This Article applies to food of any of the following descriptions, that is to say—

(*a*) cheese;

(*b*) fish, meat or poultry of any description, whether fresh, chilled, frozen, salted, cooked or processed;

(*c*) sausage-meat in any form, whether cooked or uncooked; and

(*d*) any article which, though it also contains other food, consists substantially of cheese, fish, meat, poultry or sausage-meat,

other than dripping, lard, fish paste, meat paste, poultry paste and shredded suet, and any reference in this Article to poultry includes a reference to any part of any poultry.

(2) Subject to paragraphs (7) to (9), any food to which this Article applies which is not pre-packed, shall, if sold by retail, be sold only—

(*a*) by net weight; or

(*b*) if it is sold in a container which does not exceed the appropriate permitted weight specified in Table A of Schedule 2, either by net weight or by gross weight.

(3) Subject to paragraphs (7) and (8), any food (other than cheese and fish) to which this Article applies shall, if sold otherwise than by retail, be sold only—

(*a*) by net weight; or

(*b*) if it is sold in a container which does not exceed the appropriate permitted weight specified in Table A of Schedule 2, either by net weight or by gross weight.

(4) Subject to paragraph (7), any food (other than cheese) to which this Article applies shall be pre-packed only if the container is marked with an indication of quantity by net weight but there shall be exempted from the requirements of this paragraph any food in a quantity of less than 5 grammes.

(5) Subject to paragraph (9)—

(*a*) processed cheese;

(*b*) cheese spread; and

(*c*) natural cheese of any of the following descriptions, that is to say, Caerphilly, Cheddar, Cheshire, Derby, Double Gloucester, Dunlop, Edam, Gouda, Lancashire, Leicestershire and Wensleydale,

shall be pre-packed only if the container is marked with an indication of quantity by net weight.

(6) On or after 1st June 1989, cheese of any description other than that specified in paragraph (5) shall be pre-packed only if the container is marked with an indication of quantity by net weight but there shall be exempted from the requirements of this paragraph—

(*a*) whole Stilton cheese;

(*b*) any cheese in a quantity of less than 25 grammes and more than 10 kilogrammes; and

(*c*) any cheese sold by gross weight in a container which does not exceed the appropriate permitted weight specified in Table A of Schedule 2, if the quantity is made known to the buyer before he pays for or takes possession of the goods.

(7) There shall be exempted from the requirements of paragraphs (2) to (4)—

(*a*) bath chaps, sausage rolls, and pies, puddings and flans containing cheese, fish, meat or poultry provided that in the case of more than one item of food pre-packed in a container not marked with an indication of quantity by net weight the number of items in the container is marked on the container or is clearly visible and capable of being easily counted through the container;

(*b*) any other goods (other than cheese) in a quantity of less than 5 grammes.

(8) There shall be exempted from the requirements of paragraphs (2) and (3)—

(*a*) cooked poultry;

(*b*) shellfish in shell, jellied fish, pickled fish and fried fish;

(*c*) any sale of fish made otherwise than from a market, shop, stall or vehicle;

(*d*) single cooked sausages in natural casings less than 500 grammes in weight; and

(*e*) sausage-meat products other than in sausage form when offered or exposed for sale as a single item in a quantity of less than 500 grammes.

(9) There shall be exempted from the requirements of paragraphs (2) and (5) any cheese in a quantity of less than 25 grammes.

Fresh fruits and vegetables other than potatoes

5.—(1) This Article applies to food consisting of fruits or vegetables of any description, other than potatoes—

(*a*) in the state in which they were harvested;

(*b*) in the said state apart from cleaning or trimming;

(*c*) in the case of beetroots, in the said state apart from having been cooked; or

(*d*) in the case of peas, in the said state apart from having been shelled.

(2) Where fruits or vegetables of any description to which this Article applies have been divided into pieces or have had part thereof removed or both, then, subject to paragraph (7), paragraph (6) shall apply to any food consisting of, or including any part of, any of those fruits or vegetables which have not been subjected to any further process.

(3) Subject to paragraphs (7) to (9), fruits and vegetables of any description, other than soft fruits and mushrooms, shall be pre-packed only if

the container is marked with an indication of quantity by net weight or, in the case of countable produce, either by net weight or by number.

(4) Subject to paragraphs (7) and (9), fruits and vegetables of any description, other than soft fruits and mushrooms, which are not pre-packed, shall, if sold by retail, be sold only—

(*a*) by net weight;

(*b*) in the case of countable produce, either by net weight or by number; or

(*c*) if the food is sold in a container which does not exceed the appropriate permitted weight specified in Table A of Schedule 2, either by net weight or by gross weight.

(5) Subject to paragraph (7), any fruits or vegetables consisting of soft fruits or mushrooms shall, if sold by retail, be sold only—

(*a*) by net weight; or

(*b*) if the food is sold in a container which does not exceed the appropriate permitted weight specified in Table B of Schedule 2, either by net weight or by gross weight,

and the quantity shall be made known to the buyer before he pays for or takes possession of the food.

(6) Any food to which this paragraph applies by virtue of paragraph (2) shall—

(*a*) if not pre-packed and if sold by retail, be sold only by net weight or, in the case of countable produce, either by net weight or by number; or

(*b*) be pre-packed only if the container is marked with an indication of quantity by net weight or, in the case of countable produce, either by net weight or by number.

(7) The following shall be exempted from any requirement of paragraph (3), (4) or (5) which would otherwise apply thereto, that is to say—

(*a*) food pre-packed in the same container with other goods (except potatoes) to which none of those requirements applies;

(*b*) food pre-packed in the same container with goods of two or more other descriptions to which some requirement of this Article would otherwise apply or which include potatoes;

(*c*) any food in a quantity of more than 5 kilogrammes;

and there shall be exempted from all requirements of this Article any goods in a quantity of less than 5 grammes.

(8) There shall be exempted from the requirements of paragraph (3) a pre-packed collection of not more than eight articles of countable produce, if the container is such that all the articles can be clearly seen by a prospective buyer.

(9) There shall be exempted from the requirements of paragraphs (3) and (4) any vegetables specified in Part II of Schedule 1, if sold in a bunch.

(10) Where at any premises other than a vehicle or ship any food to which this Article applies has been sold by weight when made up in a container, and the sale is otherwise than by retail, the buyer may require all or any of the following weighings to be carried out at those premises, that is to say—

(*a*) a weighing of that container while the food is therein;

(*b*) a weighing of that container after the removal of the food therefrom;

(*c*) a weighing of a similar container which is empty, and thereupon the seller shall either carry out or permit the buyer to carry out the weighing or weighings so required; and if the seller without reasonable cause contravenes this requirement he shall be guilty of an offence.

(11) The occupier of any premises at which any food to which this Article applies is made up in a container for sale by weight otherwise than by retail, or of any premises (other than a vehicle or ship) at which such food so made up is so sold, shall provide suitable weighing equipment and make that equipment available for any weighing or weighings required under paragraph (10) to be carried out at those premises; and if he without reasonable cause contravenes any of the requirements of this paragraph he shall be guilty of an offence.

(12) Any person guilty of an offence under paragraph (10) or (11) shall be liable on summary conviction to a fine not exceeding £2,000.

Multipacks

6. Nothing in the foregoing provisions of this Order shall require any container to be marked with any information if all the following provisions are satisfied—

(*a*) the contents of the container in which any foods to which this Order applies are pre-packed consist of two or more packs of goods;

(*b*) where any pack, if sold individually, would be required by the Order to be marked with an indication as to the quantity of the goods, the pack is so marked;

(*c*) (i) the container is marked with a description of the goods in each pack, the total number of packs containing goods of each description and where paragraph (*b*) applies with an indication as to the quantity of the goods in each such pack; or

(ii) where each pack to which paragraph (*b*) applies contains the same quantity of identical goods, an indication as to the quantity of the goods in at least one such pack is clearly visible, and the total number of such packs is clearly visible and capable of being easily counted, through the container; or

(iii) where each pack does not contain goods of the same description or does contain such goods but does not contain them in the same quantity, an indication as to the quantity of any goods in each pack to which paragraph (*b*) applies, or if there are two or more identical such packs an indication as to the quantity of the goods in at least one of them is clearly visible, and the total number of such packs of each description is clearly visible and capable of being easily counted, through the container.

Transitional provisions

7.—(1) A person specified in paragraph (3) in the cases specified in that paragraph shall not be guilty of an offence under Article 20 of the Order of 1981 by reason only of the fact that the foods specified in the preceding

Articles are not pre-packed or sold by retail in accordance with the provisions of this Order, if the foods are pre-packed or sold by retail as the case may be in accordance with the conditions set out in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the requirements of the Order revoked by this Order (if the former Order were not revoked by this Order), or the requirements of Schedule 3 to the Order of 1981 (if Article 3 were not to apply) would be met.

(3) The cases and persons referred to in paragraph (1) are—

(*a*) in the case of foods pre-packed in Northern Ireland before 2nd June 1989 and of foods imported pre-packed into Northern Ireland before that date, all persons;

(*b*) in the case of foods pre-packed in Northern Ireland on or after that date and of foods imported pre-packed into Northern Ireland on or after that date, all persons other than—

(i) where the foods were pre-packed in Northern Ireland, the person who pre-packed them and if he pre-packed them on behalf of another person, that other person;

(ii) where the foods were imported into Northern Ireland, the person who imported them and if he imported them on behalf of another person, that other person;

(*c*) in the case of foods which are not pre-packed but which are sold by retail in Northern Ireland before 2nd April 1989, all persons.

(4) The provisions of paragraphs (1), (2) and (3) shall cease to have effect on 1st April 1990.

Revocation

8. The Weights and Measures (Cheese) Order (Northern Ireland) 1978(**a**) is hereby revoked.

Sealed with the Official Seal of the Department of Economic Development on 18th November 1988.

(L.S.) *R. G. Smartt*
Assistant Secretary

(**a**) S.R. 1978 No. 122

SCHEDULE 1 Articles 2 and 5(9)

PART I

Countable Produce

Apples
Apricots
Artichokes (globe)
Aubergines
Avocados

Bananas
Beetroots (including cooked)

Cabbage
Capsicum
Carrots
Cauliflower
Celery
Coconuts
Corn on the Cob
Cucumber

Fennel
Figs (fresh)

Garlic
Grapefruit
Greengages
Guavas

Kiwi fruit
Kohlrabi

Leeks
Lemons
Lettuce
Limes

Mandarines
Mangoes
Marrows
Melons

Nectarines

Onions (other than spring)
Oranges

Parsnips
Passion fruit
Pawpaw
Peaches
Pears
Pineapple
Plums
Pomegranates
Pomelo
Pumpkins

Radishes

Shaddock
Shallots
Soft citrus fruits
Spring greens
Swedes

Tangerines
Tomatoes
Turnips

Ugli

PART II

Vegetables which may be sold by the bunch

Asparagus
Beetroots
Carrots
Celery (Soup)
Chives
Endives
Garlic
Leeks
Mint
Mustard and cress
Onions (including spring)
Parsley
Parsnips
Radishes
Salad cress
Swedes
Turnips
Watercress

SCHEDULE 2 Articles 4 and 5

Tables of permitted weights for containers

TABLE A

Gross weight	*Permitted weight of container*
Not exceeding 500 grammes	5 grammes.
Exceeding 500 grammes	a weight at the rate of 10 grammes per kilogramme of the gross weight.

TABLE B

Gross weight	*Permitted weight of container*
Not exceeding 250 grammes	a weight at the rate of 120 grammes per kilogramme of the gross weight.
Exceeding 250 grammes but not exceeding 1 kilogramme	a weight at the rate of 100 grammes per kilogramme of the gross weight.
Exceeding 1 kilogramme but not exceeding 3 kilogrammes	a weight at the rate of 90 grammes per kilogramme of the gross weight.
Exceeding 3 kilogrammes	a weight at the rate of 60 grammes per kilogramme of the gross weight.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order—

(*a*) implements the requirements of Article 8 of Council Directive No. 79/112/EEC (OJ No. L33, 8.2.1979, p. 1) insofar as that Directive relates to the quantity marking of the foods covered by this Order;

(*b*) replaces Parts I and II of Schedule 3 to the Weights and Measures (Northern Ireland) Order 1981 (''the Order of 1981'') which relate to the sale of meat and food containing meat, fish, poultry and sausage-meat (Articles 3 and 4);

(*c*) replaces Part IV of Schedule 3 to the Order of 1981 which relates to the sale of fresh fruits and vegetables (Articles 3 and 5);

(*d*) replaces Part VIII of Schedule 3 to the Order of 1981 which provides for permitted weights for containers for foods covered by this Order (Article 3 and Schedule 2);

(*e*) replaces the Weights and Measures (Cheese) Order (Northern Ireland) 1978 which relates to the pre-packing of cheese and the sale by retail of cheese which is not pre-packed (Articles 4 and 8);

(*f*) contains transitional provisions to allow time for foods which comply with the provisions of the legislation replaced by this Order, but do not comply with the Order itself, to be sold — the transitional periods vary depending on whether or not the foods are pre-packed, the time of pre-packing or importation and the status of the person concerned (Article 7).

Contravention of Articles 4 and 5 of this Order gives rise to offences for which the penalty on summary conviction is a fine not exceeding level 5 on the standard scale (currently £2,000).