

2014 No. 2975

WEIGHTS AND MEASURES

**The Weights and Measures (Food) (Amendment) Regulations
2014**

<i>Made</i>	- - - -	<i>9th November 2014</i>
<i>Laid before Parliament</i>		<i>14th November 2014</i>
<i>Coming into force</i>	- -	<i>13th December 2014</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to food and drink intended for sale for human consumption, including the presentation, packaging, labelling, marketing and advertising of such food and drink.

There has been a consultation, as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(c), during the preparation and evaluation of the following Regulations.

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation and Commencement

1. These Regulations may be cited as the Weights and Measures (Food) (Amendment) Regulations 2014 and come into force on 13th December 2014.

Amendments to the Weights and Measures Act 1985

2. The Weights and Measures Act 1985(d) is amended as set out in Regulations 3 to 12.

3. In section 27 (exemption from requirements of section 26), after subsection (2) insert—

“(3) Nothing in section 26 above shall apply to goods that are subject to the FIC Regulation.”

4. In section 30 (offences where quantity less than stated)—

- (a) in subsection (1) for “goods pre-packed” substitute “goods that are pre-packed within the meaning of this Act or are prepacked food within the meaning of the FIC Regulation and (in either case) are”;

(a) S.I. 2005/2766, to which there are amendments not relevant to these Regulations.
(b) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part 1 of the Schedule.
(c) OJ No L 31, 1.2.2002, p 1, last amended by Commission Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p 14).
(d) 1985 c.72.

- (b) in subsection (1)(b) after “pre-packed” insert “within the meaning of this Act or were prepacked food within the meaning of the FIC Regulation and (in either case) were”;
- (c) in subsection 2(a) after “pre-packed” insert “within the meaning of this Act or prepacked food within the meaning of the FIC Regulation”;
- (d) in subsection (3)(b)(i), after “subsection (1)” insert “or required by the FIC Regulation to be prepacked food as mentioned in that subsection”; and
- (e) in subsection (3)(b)(ii), after “other than section 26” insert “or required by the FIC Regulation”.

5. After section 31 insert—

“31A Non-compliance with certain requirements of the FIC Regulation

(1) Subject to subsection (2) below, a food business operator to which Article 1(3) of the FIC Regulation applies is guilty of an offence if that food business operator fails to comply with—

- (a) any of the provisions of Article 8 of the FIC Regulation (responsibilities of food business operators) applicable to the food business operator, to the extent that the provisions relate to net quantity;
- (b) Article 9(1)(e) of the FIC Regulation (mandatory indication of net quantity of food), except to the extent that it relates to a failure to comply with Article 13(5) of the FIC Regulation; or
- (c) Chapter V of the FIC Regulation (voluntary food information), to the extent that it imposes requirements in respect of net quantity.

(2) A food business operator is not guilty of an offence under subsection (1) if the food business operator acts in accordance with any of the following—

- (a) an exception contained in Chapter IV of the FIC Regulation;
- (b) national measures adopted under Article 40 of the FIC Regulation (milk and milk products);
- (c) national measures maintained under Article 42 of the FIC Regulation (measures adopted before 12 December 2011);
- (d) transitional measures under Article 54(1) of the FIC Regulation.

(3) In this section “food business operator” and “net quantity” have the same meanings as in the FIC Regulation.”

6. In section 32 (offences due to default of third person), after “under this part of this Act”, insert “(other than section 31A)”.

7. In section 35(3) (defence: deficiency due to evaporation or drainage), after “required by or under this Part of this Act”, insert “or the FIC Regulation”.

8. In section 37(1)(b) (provisions as to testing), after “required by or under this Part of this Act”, insert “or the FIC Regulation”.

9. In section 38 (special powers of inspectors), in subsections (1)(b), (c)(i) and (iii) and (3) after “this Part of this Act” each time it appears, insert “or the FIC Regulation”.

10. In section 42 (power to make test purchases), after “under either of those Parts”, insert “and the provisions of the FIC Regulation”.

11. In section 94(1)(a) (general interpretation of the Act) before the definition of “gross weight” insert—

(a) Section 94(1) was amended by the Food Safety Act 1990 (c. 16) section 59(1) and Schedule 3 paragraph 34, the Statute Law (Repeals) Act 1993 (c. 50) Schedule 1 Part 14, S.I. 1999/503 articles 2(14) and 4(3), S.I. 2006/659 Regulation 1(2) and Schedule 1 Part 2 paragraph (16), and S.I. 2009/2748 Schedule 1 Part 1 paragraph 4(2).

“the FIC Regulation” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(a);”.

12. In Schedule 7 (composite goods and collections of articles)—

(a) in paragraph 2(1), after paragraph (a) insert—

“(aa) that are subject to the FIC Regulation, or”;

(b) in paragraph 3, after sub-paragraph (1) insert—

“(1A) This paragraph does not apply to aerosol products containing goods that are subject to the FIC Regulation.”

(c) in paragraph 4, after subparagraph (1) insert—

“(1A) This paragraph does not apply to a collection containing any goods that are subject to the FIC Regulation.”

Amendments to the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984

13. The Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984(b) is amended as set out in Regulations 14 to 16.

14.—(1) Article 2 is renumbered as article 2(1).

(2) In the renumbered article 2(1)—

(a) before the definition of “meat” insert—

““mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;” and

(b) after the definition of “meat” insert—

““pre-packed”, in relation to food to which this Order applies, means either or both of—

(a) made up for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation(c)) by way of retail;

(b) made up in advance ready for retail sale in an open container;

“relevant wholesale”, in relation to food to which this Order applies, means a sale by way of wholesale, but does not include any of the following:

(a) a sale to a mass caterer;

(b) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or

(c) a supply to which Article 8(8) of the FIC Regulation applies(d);”.

(3) After the renumbered article 2(1) insert—

“(2) References in this Order to items being “loose” include items packed at the request of the customer.”

(a) OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 (OJ No L 27, 30.1.2014, p 7).

(b) S.I. 1984/1315, relevant amending instruments are S.I. 1984/1315, 1985/988, 1985/1980.

(c) The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in section 94(1) of the Weights and Measures Act 1985.

(d) Article 8(8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient information must be provided to the recipient food business operator to enable that food business operator to meet its obligations under Article 8(2) of the FIC Regulation, which requires the food business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions.

15. In article 4—

- (a) in paragraph (2) for “not pre-packed, shall” substitute “sold loose must”; and
- (b) for paragraph (3) substitute—

“(3) Subject to paragraphs (7) and (8), where food to which this article applies (other than cheese and fish) is sold in a relevant manner (as defined in paragraph (3A)), it must be sold only—

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

(3A) For the purposes of paragraph (3), food is sold “in a relevant manner” if it is sold—

- (a) pre-packed otherwise than by retail sale;
- (b) loose to a mass caterer; or
- (c) by relevant wholesale.”

16. In article 5—

- (a) in paragraph (4) for “not pre-packed, shall” substitute “sold loose must”;
- (b) in paragraph (5) after “mushrooms” insert “which are sold pre-packed or loose”; and
- (c) in subparagraph (a) of paragraph (6) for “not pre-packed” substitute “sold loose”.

Amendments to the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987

17. The Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987(a) are amended as set out in Regulation 18.

18. In regulation 2(1), after “under Part IV of the Act” each time it appears, insert “(other than section 31A)”.

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

19. The Weights and Measures (Miscellaneous Foods) Order 1988(b) is amended as set out in Regulations 20 to 32.

20.—(1) Article 2 is renumbered as 2(1).

(2) In the renumbered article 2(1)—

- (a) for the definition of ““chicory”, “chicory extract paste”, “coffee”, “coffee mixture”, “coffee extract paste”, “instant chicory”, “instant coffee”, “liquid chicory extract” and “liquid coffee extract””, substitute—

““chicory”, “chicory extract paste”, “coffee extract paste”, “instant chicory”, “instant coffee”, “liquid chicory extract” and “liquid coffee extract”, have the same meanings—

- (a) in relation to the application of this Order to England, as in the Coffee Extracts and Chicory Extracts (England) Regulations 2000(c);
- (b) in relation to the application of this Order to Scotland, as in the Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001(d), and
- (c) in relation to the application of this Order to Wales, as in the Coffee Extracts and Chicory Extracts (Wales) Regulations 2001(e);”;

(a) S.I. 1987/1538, amended by S.I. 2006/659; there are other amending instruments but none is relevant.

(b) S.I. 1988/2040, amended by S.I. 1990/1550, 1990/2868, 1994/2868, 2005/3057, 2006/659, 2009/663, 2011/2331.

(c) S.I. 2000/3323, amended prospectively by S.I. 2014/1855; there are other amending instruments but none is relevant.

(d) S.S.I. 2001/38, to which there are amendments not relevant to these Regulations.

(e) S.I. 2001/1440 (W. 102), relevant amending instruments are S.I. 2002/329 (W.42), prospectively S.I. 2014/2303 (W. 227).

- (b) for the definition of ““chocolate confectionery”, “flour confectionery” and “sugar confectionery”” substitute—
- ““chocolate confectionery” means any food which is ready for consumption without further preparation, of which a characterising ingredient is chocolate, cocoa or non-fat cocoa solids, and includes food of which a characterising ingredient is carbohydrate sweetening matter and which has a chocolate or chocolate-flavoured coating, but does not include any biscuits, chocolate products, flour confectionery or edible ice;”;
- (c) for the definition ““cocoa product”, “chocolate product”, “fancy chocolate product”, “container” in relation to these products and “reserved description””, substitute—
- ““chocolate product” means—
- (a) in relation to the application of this Order to England, any chocolate product to which the Cocoa and Chocolate Products (England) Regulations 2003(a) apply;
- (b) in relation to the application of this Order to Scotland, any chocolate product to which the Cocoa and Chocolate Products (Scotland) Regulations 2003(b) apply; and
- (c) in relation to the application of this Order to Wales, any chocolate product to which the Cocoa and Chocolate Products (Wales) Regulations 2003(c) apply;
- “cocoa product” means—
- (a) in relation to the application of this Order to England, any cocoa product to which the Cocoa and Chocolate Products (England) Regulations 2003 apply;
- (b) in relation to the application of this Order to Scotland, any cocoa product to which the Cocoa and Chocolate Products (Scotland) Regulations 2003 apply; and
- (c) in relation to the application of this Order to Wales, any cocoa product to which the Cocoa and Chocolate Products (Wales) Regulations 2003 apply;”;
- (d) before the definition of “coffee bag” insert—
- ““coffee” means the dried seed of the coffee plant whether such seed has been roasted or ground or both roasted and ground;”;
- (e) for the definition of ““condensed milk” and “dried milk”” substitute—
- ““condensed milk” means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, dried milk or sucrose, which has been concentrated by the partial removal of water, but does not include dried milk;”;
- (f) before the definition of “liquid coffee and chicory products” insert—
- ““container”, in relation to cocoa products, chocolate products and fancy chocolate products, includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band, but does not include any crimp case used to support the base or the base and sides of any chocolate product;
- “dried milk” means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, which has been concentrated to the form of powder, granule or solid by the removal of water;
- “fancy chocolate product” includes any chocolate product in the form of figurines, cigarettes or eggs or enclosed in a seasonal selection pack;
- “flour confectionery” means any cooked food which is ready for consumption without further preparation (other than reheating), of which a characterising ingredient is

(a) S.I. 2003/1659, amended prospectively by S.I. 2014/1855; there is another amending instrument but it is not relevant.

(b) S.S.I. 2003/291, to which there are amendments not relevant to these Regulations.

(c) S.I. 2003/3037 (W. 285), amended prospectively by S.I. 2014/2303 (W. 227); there is another amending instrument but it is not relevant.

ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases, and also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded flat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish or shellfish;”;

(g) before the definition of “Member State” insert—

““mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;”;

(h) before the definition of “preserved milk” insert—

““pre-packed”, in relation to food to which this Order applies, means either or both of—

(a) made up for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation(a)) by way of retail;

(b) made up in advance ready for retail sale in an open container;”;

(i) before the definition of “solid and paste coffee and chicory products” insert—

““relevant wholesale”, in relation to food to which this Order applies, means a sale by way of wholesale, but does not include any of the following—

(a) a sale to a mass caterer;

(b) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or

(c) a supply to which Article 8(8) of the FIC Regulation applies(b);”;

(j) after the definition of “solid and paste coffee and chicory products” insert—

““sugar confectionery” means any food which is ready for consumption without further preparation, of which a characterising ingredient is carbohydrate sweetening matter, and includes sweetened liquorice and chewing gum, but does not include any chocolate confectionery, chocolate products, cocoa products, flour confectionery, edible ice, table jellies, slab marzipan or sugar.”

(3) After the renumbered article 2(1) insert—

“(2) References in this Order to items being “loose” include items packed at the request of the customer.”

21. For article 3 substitute—

“Scope of application

3.—(1) Subject to the following provisions of this Order, the following must be made up in a container marked with an indication of quantity by net weight—

(a) the foods specified in column 1 of Schedule 1, when pre-packed; and

(b) cocoa products and chocolate products, solid and paste coffee and chicory products and sugar, when made up in a container for relevant wholesale,

subject to the exemptions specified in column 2 of Schedule 1.

(a) The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in section 94(1) of the Weights and Measures Act 1985.

(b) Article 8(8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient information must be provided to the recipient food business operator to enable that food business operator to meet its obligations under Article 8(2) of the FIC Regulation, which requires the food business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions.

(2) Unless sold loose or packaged in a quantity of less than 5 g, honey must be made up in a container marked with an indication of quantity by net weight.

(3) Subject to the following provisions of this Order, the foods specified in column 1 of Schedule 1 must, when sold loose, if sold by retail be sold only by net weight.

(4) Paragraph (3) above shall not apply in relation to any of the following—

- (a) biscuits (except to wafer biscuits which are not cream filled) when sold in a quantity of eight or less;
- (b) bread;
- (c) chunk honey; or
- (d) comb honey.”

22. In paragraph (1) of article 4—

- (a) after “pre-packed” omit “otherwise”; and
- (b) for “sale” substitute “relevant wholesale”.

23. In article 5—

- (a) in paragraph (1) omit “and (2)”;
- (b) in paragraph (5) for “not pre-packed shall” substitute “sold loose must”; and
- (c) for paragraph (6) substitute—

“(6) Shortbread, when sold loose must, if sold by retail, be sold only by net weight, unless sold in a quantity of eight pieces or fewer.”

24. For article 7 substitute—

“7. In the case of caseins and caseinates for human consumption, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight.”

25. In article 8—

- (a) for paragraph (1) substitute—

“(1) Subject to paragraph (2) below, in the case of cocoa products and chocolate products, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight, unless sold in a quantity by net weight of less than 50 g.”; and
- (b) in paragraph (3) for “not pre-packed shall” substitute “sold loose must”.

26. In article 9—

- (a) for paragraph (1) substitute—

“(1) In the case of liquid coffee and chicory products, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by capacity measurement, unless sold in a quantity of less than 5 ml.”; and
- (b) in paragraph (2)—
 - (i) omit “otherwise”; and
 - (ii) for the word “sale” where it first appears, substitute “relevant wholesale”.

27. In paragraph (1) of article 11, for “not pre-packed” substitute “sold loose or made up in a container for relevant wholesale”.

28. For article 12 substitute—

“12. In the case of preserved milk for human consumption, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight, unless sold in a quantity of less than 5 g.”

- 29.** In article 14, for “not pre-packed shall” substitute “sold loose must”.
- 30.** In subparagraph (a) of paragraph (1) of article 17—
- (a) omit “otherwise”; and
 - (b) for “sale” substitute “relevant wholesale”.
- 31.** In article 18—
- (a) in paragraph (1)—
 - (i) omit “otherwise” where it first appears; and
 - (ii) for the word “sale” where it first appears, substitute “relevant wholesale”; and
 - (b) in paragraph (2)—
 - (i) omit “otherwise” where it first appears; and
 - (ii) for the word “sale” in the final place it appears, substitute “relevant wholesale”.
- 32.** For Schedule 1, substitute Schedule 1 as set out in the Schedule to these Regulations.

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

33. The Weights and Measures (Intoxicating Liquor) Order 1988(a) is amended as set out in Regulation 34.

- 34.** In article 6—
- (a) for paragraph (1) substitute—

“(1) Where intoxicating liquor or other liquids specified in column 1 of Schedule 1—

 - (a) are pre-packed in a closed container for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation(b)); or
 - (b) are, in the case of those specified in Part III of Schedule 1, made up in a closed container for relevant wholesale,

the container must, subject to the exemptions specified in column 4 of Schedule 1, be marked with an indication of quantity by volume.”;
 - (b) in paragraph (2) after “pre-packed” insert “for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation)”;
 - (c) after paragraph (2) insert—

“(3) For the purposes of this article—

 - (a) “mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer; and
 - (b) “relevant wholesale”, in relation to food to which this article applies, means a sale by way of wholesale, but does not include any of the following:
 - (i) a sale to a mass caterer;
 - (ii) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or
 - (iii) a supply to which Article 8(8) of the FIC Regulation applies(c);”.

(a) S.I. 1988/2039, relevant amending instruments are S.I. 1990/1550, 2009/663.
 (b) The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in section 94(1) of the Weights and Measures Act 1985.
 (c) Article 8(8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient

Amendments to the Weights and Measures (Packaged Goods) Regulations 2006

35. The Weights and Measures (Packaged Goods) Regulations 2006(a) are amended as set out in Regulations 36 to 38.

36. In regulation 2—

- (a) before the definition of “importer” insert—

““food” has the meaning set out in Article 2 of Regulation (EC) No 178/2002;”;
- (b) before the definition of “local weights and measures authority” insert—

““labelling requirements” means the requirements set out in regulations 5(1)(a), 5(2), 6(1)(a), 6(1)(b), 6(2), 7, 8(1) and 8(3)(d);”;
- (c) before the definition of “Member State” insert—

““mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;”;
- (d) in the definition of “nominal quantity”, after “or 6(2)” insert “or, in the case of pre-packed food, the net quantity as required under Regulation 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”; and
- (e) before the definition of “reference test” insert—

““pre-packed” means, in relation to food, any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; ‘pre-packed food’ does not cover foods packed on the sales premises at the consumer’s request or pre-packed for direct sale;”.

37. In regulation 3—

- (a) for subparagraph (4)(g) substitute—

“(g) contain sugar in a quantity of less than 20 g.(b)”;
- (b) for paragraph (6) substitute—

“(6) The labelling requirements do not apply to pre-packed food that is not marked with the E-mark, except that Regulation 8(1) shall continue to apply where trade practice provides that liquid products may be marked with nominal quantity by weight and that packages containing other products may be marked with nominal quantity by volume.”

38. Omit Schedule 6.

9th November 2014

Greg Clark
Minister of State for Universities and Science
Department for Business, Innovation and Skills

information must be provided to the recipient food business operator to enable that food business operator to meet its obligations under Article 8(2) of the FIC Regulation, which requires the food business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions.

- (a) S.I. 2006/659, amended by S.I. 2013/1478.
- (b) Exemptions from the requirements of the Weights and Measures (Packaged Goods) Regulations 2006 for small quantities of certain packaged goods which are not marked with the E-mark are in general incompatible with Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers and cannot be maintained after 13 December 2014. However, Article 11 of that Regulation provides that it is without prejudice to more specific EU provisions on weights and measures: Article 2(2) of Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption provides an exemption from quantity labelling for pre-packed sugar in a quantity of less than 20 g, therefore an exemption is permitted in relation to sugar.

SCHEDULE

Regulation 21

“SCHEDULE 1

Article 3

FOODS

<i>(1)</i> <i>Foods</i>	<i>(2)</i> <i>Exemptions from quantity marking</i>
Barley kernels, pearl barley, rice (including ground rice and rice flakes), sago, semolina and tapioca	Less than 5 g
Biscuits, other than wafer biscuits which are not cream-filled	50 g or less
Bread in the form of a whole loaf	Where the net weight of each loaf is less than 300 g and the number of items (if more than one in the container) is marked on the container or is clearly visible and capable of being easily counted through the container
Cereal breakfast foods in flake form, other than cereal biscuit breakfast foods	Less than 5 g
Coffee, coffee mixtures and coffee bags	Less than 5 g
Coffee extracts and chicory extracts consisting of solid and paste coffee and chicory products	Less than 5 g
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	Less than 5 g
Dried vegetables of any of the following descriptions, that is to say, beans, lentils and peas (including split peas)	Less than 5 g
Edible fats of any of the following descriptions—	Less than 5 g
(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;	
(d) solidified edible oil (except in gel form)	
Flour, namely flour of bean, maize, pea, rice, rye, soya bean or wheat and flour products of any of the following descriptions—	Less than 5 g
(a) cake flour, other than cake mixtures and sponge mixtures;	
(b) cornflour, other than blancmange powders and custard powders;	

(c) self-raising flour	
Honey	Less than 5 g
Jam and marmalade, other than diabetic jam or marmalade, Jelly preserves	Less than 5 g
Molasses, syrup and treacle	Less than 5 g
Oat products of any of the following descriptions—	Less than 5 g
(a) flour of oats;	
(b) oatflakes and oatmeal	
Pasta	Less than 5 g
Potatoes	(1) Where the net weight of each potato is not less than 175 g and the container is marked with an indication of quantity by number and with a statement to the effect that each potato in the container is of a net weight not less than a weight specified in grams, whether the weight so specified is 175 g or a greater weight.
	(2) Less than 5 g
Salt	Less than 5 g
Sugar	Less than 5 g
Tea in a tea bag, namely a permeable sealed bag, containing tea, which is intended to be immersed in water in the course of preparation to drink	Less than 5 g
Tea, other than instant tea or tea in a tea bag	Less than 5 g”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make the necessary adjustments to remove provisions of national weights and measures law that overlap or conflict with Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers (“the FIC Regulation”). These Regulations enable the enforcement of certain provisions of the FIC Regulation, to the extent that the provisions relate to net quantity. The FIC Regulation sets out common principles, requirements and procedures in relation to food information.

These Regulations amend the Weights and Measures Act 1985 (1985 c.72), the Weights and Measures (Miscellaneous Foods) Order 1988 (S.I. 1988/2040), the Weights and Measures (Intoxicating Liquor) Order 1988 (S.I. 1988/2039), the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984 (S.I. 1984/1315), the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987 (S.I. 1987/1538) and the Weights and Measures (Packaged Goods) Regulations 2006 (S.I. 2006/659).

The national provisions are amended to remove from their scope items falling within the definition of “prepacked food” in Article 2(2)(e) of the FIC Regulation. Due to differences between the definition of “pre-packed” under national legislation (section 94(1) of the Weights and Measures Act 1985), and the definition of “prepacked food” under the FIC Regulation, the national legislation must, on the whole, be maintained, in order to regulate the residual categories that are caught by the national legislation but are not within the scope of the FIC Regulation. Those categories are items that are a) made up for direct sale (within the meaning of the FIC Regulation) by way of retail and/or b) made up in advance ready for retail sale in an open container. Items caught by b) include items that are packaged in the form in which they will be presented for retail sale (where that is in an open container), without further processing or labelling. Both of these categories are captured by the definition of “pre-packed” but do not fall within the scope of “prepacked food” under the FIC Regulation. Consequential amendments have been made to clarify what is meant by “not pre-packed”, which in practice now includes only foods sold loose, and “otherwise made up in a container for sale”, which in practice now includes only foods that are made up in a container for wholesale that do not otherwise fall within the scope of the FIC Regulation or within the scope of limb b) of the definition of “pre-packed” referred to above.

Regulations 3 and 4 and 6 to 10 amend certain provisions of the Weights and Measures Act 1985 to enable the offence and enforcement provisions of that Act to apply, where relevant, to products regulated by the FIC Regulation.

Regulation 5 inserts a new offence into the Weights and Measures Act 1985 for non-compliance with certain requirements of the FIC Regulation. Those requirements are the provisions of Article 8 (where applicable) and Chapter V, in each case to the extent that they relate to net quantity, and Article 9(1)(e). Article 8 sets out responsibilities of food business operators. Chapter V sets out mandatory requirements where food information is provided on a voluntary basis. Article 9(1)(e) provides for the net quantity requirement, which must be applied in accordance with the relevant provisions of Articles 10 to 35, which includes Article 23 (net quantity) and by reference Annex IX (technical rules relating to net quantity).

Regulation 12 removes products subject to the FIC Regulation from the scope of paragraphs 2 to 4 of Schedule 7.

Regulations 15 and 16 amend the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984 to exclude products that are within the scope of prepacked food as defined in the FIC Regulation and to clarify which products remain within the scope of that Order.

Regulation 18 amends the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations 1987 to clarify that Part II of those Regulations does not apply to products that are within the scope of the FIC Regulation.

Regulations 21 to 32 amend provisions of the Weights and Measures (Miscellaneous Foods) Order 1988 to exclude products that are within the scope of prepacked food as defined in the FIC Regulation and to clarify which products remain within the scope of that Order.

Regulation 34 substitutes Article 6 of the Weights and Measures (Intoxicating Liquor) Order 1988, to exclude intoxicating liquor and other liquids specified in column 1 of Schedule 1 to that Order that are within the scope of prepacked food as defined in the FIC Regulation and to clarify which products remain within the scope of that Order.

Regulations 37 and 38 amend regulation 3 to revoke exemptions from the Weights and Measures (Packaged Goods) Regulations 2006 for small quantities of specific products listed in Schedule 6, other than in relation to sugar, a specific exemption for which is provided in Article 2(2) of Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption; this can be maintained in accordance with Article 11 of the FIC Regulation. Regulation 37 also revokes exemptions in relation to fruits and vegetables listed in Annex I to Council Regulation 2200/96 and frozen poultry meat. These exemptions are no longer compatible with EU law.

Regulation 37 also provides for a new regulation 3(6), which limits the application of the labelling requirements (as defined) under the Weights and Measures (Packaged Goods) Regulations 2006 to those packages which are marked with the e-mark. This recognises that for e-marked packages, the more specific EU rules on weights and measures under Directive 76/211/EEC will continue to apply, in accordance with Article 11 of the FIC Regulation. For pre-packed food that is not e-marked, the provisions of the FIC Regulation will apply and therefore those items are excluded from the quantity labelling requirements of the Weights and Measures (Packaged Goods) Regulations 2006 (other than in relation to Regulation 8(1) of the Weights and Measures (Packaged Goods) Regulations 2006 to the extent that trade practice provides that liquid products may be marked with nominal quantity by weight and that packages containing other products may be marked with nominal quantity by volume; this can continue to be applied to pre-packed food that is not e-marked, in accordance with Article 42 of the FIC Regulation).

An impact assessment was undertaken at the EU level in relation to the FIC Regulation, which is available from http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia_general_food_labelling.pdf. Copies can be obtained from the National Measurement Office, Department for Business, Innovation and Skills, Stanton Avenue, Teddington, TW11 0JZ. The changes made by these Regulations do not impact directly on the costs of businesses, the voluntary sector or the public sector.

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£6.00

UK201411129 11/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/2975>

ISBN 978-0-11-112328-7



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