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