1979 No. 435

WEIGHTS AND MEASURES

Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1979

Made . . . . . 10*th December* 1979

Coming into operation . . . 1*st January* 1980

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The Department of Commerce, in exercise of the powers conferred on it by sections 1, 3, 5, 13, 14 and 15 of the Weights and Measures Act 1979(**a**) and paragraph 1 of Schedule 1 thereto and of every other power enabling it in that behalf, having consulted pursuant to section 15(3) of that Act with such organisations as it considers are representative of interests which would be substantially affected by these Regulations, hereby makes the following Regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 1979 and shall come into operation on 1st January 1980.

Interpretation

2.—(1) In these Regulations—

(*a*) "the Act" means the Weights and Measures Act 1979;

(*b*) "the Packers' Code" and "the Inspectors' Manual" means the codes of practical guidance respectively entitled "Code of Practical Guidance

(a) 1979 c. 45

for Packers and Importers (Issue No. 1)" and "Manual of Practical Guidance for Inspectors (Issue No. 1)" issued by the Secretary of State on 6th December 1979; and

(*c*) "the EEC mark" has the same meaning as in section 5(6) of the Act.

(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.

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 section 14(1) of the Act (which provides that in Part I of the Act that expression means among other things a container containing prescribed goods) are goods of the descriptions specified in column 1 of Parts I, II and III of Schedule 1 to these Regulations and goods of any other description which are both intended for sale and normally sold by weight or by volume in packages 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 to these Regulations (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 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 not more than the upper limit so specified; 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 to these Regulations) 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.

Modifications to Part I of the Act and these Regulations in relation to certain packages

5.—(1) Part I of the Act 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 of a kind specified in Schedule 2 to these Regulations;

(*d*) 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

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

(i) intended for despatch to a destination outside Northern Ireland and any designated country (within the meaning of section 41(1) of the Weights and Measures Act (Northern Ireland) 1967(**b**)),

(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(**c**), or

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

(2) Subject to paragraph (1)—

(*a*) Part I of the Act 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 to these Regulations with the modifications specified in relation thereto in column 2 of that Part; and

(*b*) Part I of the Act shall have effect in relation to Class B packages with the modifications specified in Part II of that Schedule.

Quantities relevant for packages marked with the EEC mark

6. The following quantities are prescribed for the purposes of section 5(1) of the Act (which limits the application of subsections (2) to (7) of that section, 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);

(*b*) any quantity being not less than 5 ml and not more than 10 l (in the case of packages made up by volume which do not contain goods specified in Annex III to Council Directive No. 75/106/EEC(**e**)); and

(*c*) any quantity being not less than 50 ml and not more than 5 l (in the case of packages which contain goods so specified).

(**b**) 1967 c. 6 (N.I.)
(**c**) 1952 c. 67
(**d**) 1979 c. 2
(**e**) O.J. No. L42, 15.2.1975, p. 1, as corrected by O.J. No. L324, 16.12.1975, p. 31 and as amended by O.J. No. L311, 4.11.1978, p. 21

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

7. For the purposes of section 5(3) of the Act (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 into Northern Ireland, 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 subsection (4) of section 5 of the Act, is to be given to the Department of Commerce by a person who intends to export from the United Kingdom packages marked with the EEC mark in the circumstances mentioned in paragraph (*a*), (*b*) or (*c*) of that subsection—

(*a*) shall be given in writing before the expiry of the day on which the packages in question are marked with the said mark; 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 section 5(5) of the Act) relieving him from the obligation to give the notice mentioned in paragraph (1).

Notice of objection to an inspector's instructions

9. The periods prescribed for the purposes of paragraph 1 of Schedule 1 to the Act (which provide for the procedure applicable where a person objects to instructions given to him under section 2(3) of the Act with a view to ensuring that he does not fail to perform his duty under section 1(6) or (7) of the Act 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 paragraph (*a*) of section 1(4) of the Act; and

(*b*) in relation to a class B package in pursuance of section 14(1A)(*a*) of the Act (as having effect by virtue of the modifications to Part I of the Act made by paragraph 5(*b*) of Part II of Schedule 3 to these Regulations),