STATUTORY INSTRUMENTS

1981 No. 231 (N.I. 10)

Weights and Measures (Northern Ireland) Order 1981

- - - - - - 18th February 1981

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Weights and Measures (Northern Ireland) Order 1981.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of one month from the day on which it is made.

(3) [F1]. . . [F2]. . . ,**[**[F3] shall come into operation on such date or dates as may be appointed by the Secretary of State under subsection (2) of section 43 of the Act of 1985 for the coming into force of that section.**]**

F1 1996 NI 11
F2 SR 1986/226
F3 1985 c. 72

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[[F4]"the Act of 1985" means the Weights and Measures Act 1985;**]**

[[F5]"approved verifier" has the meaning given by Article 9(3B);**]**

"beer" has the same meaning as in the Alcoholic Liquor Duties Act 1979 ;

"capacity measurement" means measurement in terms of a unit of measurement included in Part IV of Schedule 1 to the**[**[F4] Act of 1985**]**;

"check-weighed", in relation to any vehicle, means weighed with its load by means of the nearest suitable and available weighing equipment, and weighed again after it has been unloaded by means of the same or other suitable weighing equipment;

"cider" has the same meaning as in the Alcoholic Liquor Duties Act 1979;

"container" includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band;

"credentials", in relation to an inspector, means some duly authenticated document showing that he is authorised to act as an inspector;

"the Department" means the Department of Commerce;

"designated country" in any provision of this Order means such, if any, of the following countries, that is to say, Great Britain, any of the Channel Islands and the Isle of Man, as the Department, having regard to the law for the time being in force in that country, designates for the purposes of that provision by order;

"drugs" and "food" have the same meanings respectively as for the purposes of the**[**F6 Food Safety (Northern Ireland) Order 1991**]**;

[F7"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;**]**

"gross weight", in relation to any goods, means the aggregate weight of the goods and any container in or on which they are made up;

"indication of quantity", in relation to any container in or on which goods are made up, means a statement in writing to the effect that those goods are of, or of not less than, a specified quantity by net weight, gross weight or other measurement or by number, as the case may require;

"inspector" means a chief or other inspector of weights and measures within the meaning of Article 40; and "chief inspector" means such a chief inspector of weights and measures;

"instrument" has the same meaning as in section 1(*c*) of the Interpretation Act (Northern Ireland) 1954 ;

"intoxicating liquor" means spirits, beer, wine, made-wine or cider as defined in section 1 of the Alcoholic Liquor Duties Act 1979;

"mark" includes a label;

"Northern Ireland local standard" means a standard maintained under Article 3;

"Northern Ireland working standard" means a standard maintained under Article 4;

"occupier", in relation to any stall, vehicle, ship or aircraft or in relation to the use of any place for any purpose, means the person for the time being in charge of the stall, vehicle, ship or aircraft or, as the case may be, the person for the time being using that place for that purpose;

[F8"packaged goods regulations" means the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011;**]**

"premises", except in Article 29(3), includes any place and any stall, vehicle, ship or aircraft;

"pre-packed" means made up in advance ready for retail sale in or on a container; and on any premises where articles of any description are so made up, or are kept or stored for sale after being so made up, any article of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved; and it shall not be sufficient proof of the contrary to show that the container has not been marked in accordance with the requirements of this Order or any instrument made under it with respect to the pre-packing of such articles;

"prescribed" except in Article 36(3), means prescribed by the Department by regulations;

"regulations" means regulations made by the Department;

"ship" includes any boat and any other description of vessel used in navigation;

"stamp" means[F5, subject to Article 13A(4),] a mark for use as evidence of the passing of weighing or measuring equipment as fit for use for trade, whether applied by impressing, casting, engraving, etching, branding, or otherwise howsoever;

"testing equipment" means testing equipment maintained under Article 4;

"weighing or measuring equipment" means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is constructed to give an indication of the measurement made or other information determined by reference to that measurement.

(3) Any reference in this Order to any person, other than a reference to an inspector, shall be construed as a reference to that person or some other person acting on his behalf in the matter in question.

(4) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

(5) The provisions of this Order which re-enact provisions of an order made under any statutory provision shall have no greater effect by virtue of their re-enactment.

F4 1985 c. 72
F5 2000 c. 5(NI)
F6 1991 NI 7
F7 Words in art. 2(2) inserted (18.4.2016) by The Weights and Measures (Food) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/187), regs. 1, **4**
F8 Art. 2(2): definition of "packaged goods regulations" inserted (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 2 para. 2** (with regs. 3, 21)

PART II

STANDARDS OF MEASUREMENT

Northern Ireland local standards

3.—(1) The Department shall provide and maintain standards, which shall be known as Northern Ireland local standards, of all the meaures set out in Parts I and IV of Schedule 1 other than capacity measures of more than[F9 8 pints] or ten litres, and of all the weights set out in Part V of Schedule 1.

(2) Northern Ireland local standards shall be of such material and form as the Department may determine; and such a standard of any linear or capacity measure may—

(a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

(b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings;

as the Department may direct.

(3) Subject to section 2(1) of the[F10 Act of 1985], which provides that the United Kingdom primary standards are the standards by reference to which, in the United Kingdom, all other standards of the yard, pound, metre and kilogramme and of any other unit of measurement derived wholly or partly therefrom, are to be maintained, the Department shall make such arrangements as appear to it to be appropriate for the purpose of having the value or values of every article proposed to be

used as a Northern Ireland local standard determined or, as the case may be, re-determined under paragraph (4), and such arrangements may provide for the submission of any such article to the Secretary of State for testing as to accuracy and for report under section 6 of the**[**F10 Act of 1985**]**.

(4) Every Northern Ireland local standard, while it remains in use, shall have its value or values re-determined at intervals not exceeding—

(a) five years, in the case of a standard of a weight; or

(b) ten years, in the case of a standard of a measure.

(5) In any proceedings under this Order, a certificate of the Department as to the validity of any Northern Ireland local standard shall be evidence of the facts stated in that behalf in the certificate.

F9 SR 1995/226
F10 1985 c. 72

Northern Ireland working standards and testing and stamping equipment

4.—(1) The Department shall provide for use by inspectors and maintain—

(a) such Northern Ireland working standards of such of the measures and weights set out in Schedule 1,

(b) such testing equipment, and

(c) such stamping equipment,

as the Department considers proper and sufficient for the efficient discharge by the inspectors of their functions.

(2) The Department may—

(a) provide a particular working standard or item of equipment as required by paragraph (1) by making arrangements with another person for the standard or item to be made available by him;

(b) make arrangements with another person for standards or equipment provided by the Department under paragraph (1) except stamping equipment, to be made available to the other person.

(3) Northern Ireland working standards and testing and stamping equipment provided under paragraph (1) shall be of such material and form as the Department may determine.

(4) A Northern Ireland working standard of a linear or capacity measure may—

(a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

(b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit, or have no such markings;

as the Department may direct.

(5) Every Northern Ireland working standard, while it remains in use, shall have its value or values re-determined, at intervals not exceeding six months, by reference to such of the Northern Ireland local standards or such other Northern Ireland working standards as may appear to the Department to be appropriate.

(6) Every article used as testing equipment shall, at intervals not exceeding five years, have its accuracy re-determined in such manner as may appear to the Department to be appropriate; and for the purposes of this paragraph the Department may submit any such article to the Secretary of State for testing as to accuracy and for report under section 6 of the**[**F11 Act of 1985**]**.

F11 1985 c. 72

PART III

WEIGHING AND MEASURING FOR TRADE

Meaning of "use for trade"

5.—(1) For the purposes of this Order, "use for trade" means, subject to paragraph (2), use in connection with, or with a view to, a transaction for—

(a) the transferring or rendering of money or money's worth in consideration of money or money's worth; or

(b) the making of a payment in respect of any toll or duty,

where—

(i) the transaction is by reference to quantity or is a transaction for the purposes of which there is made or implied a statement of the quantity of goods to which the transaction relates; and

(ii) the use is for the purpose of the determination or statement of that quantity.

(2) Paragraph (1) shall not apply where—

(a) the determination or statement is a determination or statement of the quantity of goods required for despatch to a destination outside Northern Ireland and any designated country; and

(b) the transaction is not a sale by retail; and

(c) no transfer or rendering of money or money's worth is involved other than the passing of the title to the goods and the consideration therefor.

(3) Any such equipment as follows, that is to say—

(a) any weighing or measuring equipment which is made available for use by the public, whether on payment or otherwise; and

(b) any equipment which is used for the grading by reference to their weight, for the purposes of trading transactions by reference to that grading, of hens' eggs in shell which are intended for human consumption,

shall be treated for the purposes of this Part as weighing or measuring equipment in use for trade, whether or not it would apart from this paragraph be so treated.

(4) Where any weighing or measuring equipment is found in the possession of any person carrying on trade or on any premises which are used for trade, that person or, as the case may be, the occupier of those premises shall be deemed for the purposes of this Order, unless the contrary is proved, to have that equipment in his possession for use for trade.

Units of measurement, weights and measures lawful for use for trade

6.—(1) No person shall—

(a) use for trade any unit of measurement which is not included in Schedule 2,

(b) use for trade, or have in his possession for use for trade, any linear, square, cubic or capacity measure which is not included in Schedule 1, or any weight which is not so included.

(2) Paragraph (1)(*a*) shall not apply to the prescribing of, or the dispensing of a prescription for, drugs.