

SCHEDULES

SCHEDULE 5

Articles 19(1), 26(1)(a)(i), 28(1), 47(1)
and (2) and 48(2).

SOLID FUEL

PART I

GENERAL

1. This Schedule applies to goods of any of the following descriptions (in this Schedule referred to as “solid fuel”), that is to say, coal, coke and any solid fuel derived from coal or of which coal or coke is a constituent.

2.—(1) Subject to sub-paragraph (2), solid fuel shall be sold only by net weight.

(2) There shall be exempted from the requirements of sub-paragraph (1) any solid fuel pre-packed in a securely closed container marked with an indication of quantity by net weight.

3.—(1) Subject to sub-paragraph (3), solid fuel shall be made up in a container for sale or for delivery after sale only if—

(a) it is made up in one of the following quantities by net weight, that is to say,^{F1} . . . 10, 15, 25, 50 or 62.5 kilogrammes; and

(b) except in a case where the provisions of paragraph 5 or of an order under paragraph 7(2)(a) or the provisions of Part III of this Schedule apply, the quantity by net weight of solid fuel so made up is made known to the buyer before or at the time when he takes possession of the solid fuel.

(2) Subject to sub-paragraph (3), where solid fuel of any description made up in containers in any of the following quantities, that is to say,^{F1} . . . 25, 50 or 62.5 kilogrammes, is carried on a road vehicle on a highway for sale or for delivery after sale, solid fuel of that description so made up in any other of those quantities shall not at the same time be carried on that vehicle; and if this sub-paragraph is contravened the seller shall be guilty of an offence.

(3) There shall be exempted from all the requirements of sub-paragraphs (1) and (2) solid fuel made up in a container only for ease of handling as part of the load of a vehicle or ship where the whole of that load so far as it consists of solid fuel is being delivered to—

(a) a single buyer; or

(b) not more than three separate buyers in pursuance of, or of any agreement for, the sale thereof otherwise than by retail.

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4. Solid fuel shall be sold by means of, or offered or exposed for sale in, a vending machine only if there is displayed on or in the machine—

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- (a) an indication of the quantity by net weight of the fuel comprised in each item for sale by means of that machine; and
- (b) except where the machine is on premises at which the seller carries on business, a statement of the name and address of the seller.

5.—(1) This paragraph applies to any vehicle on or from which any solid fuel available for purchase in a quantity of^{F2} . . . 200 kilogrammes or less is sold or kept or exposed for sale.

(2) On every vehicle to which this paragraph applies there shall, in respect of solid fuel of every description which is available as described in sub-paragraph (1), be displayed a notice specifying the quantity in which solid fuel of that description is kept or exposed for sale in containers or is made available for delivery in containers after sale and the name and address of the seller.

(3) Every such notice—

- (a) shall be constructed of wood or other durable material;
- (b) shall be clearly and permanently inscribed in characters—
 - (i) of a height of not less than^{F2} 62.5 millimetres]; and
 - (ii) composed of strokes of a breadth of not less than^{F2} 12.5 millimetres];
- (c) shall be securely and conspicuously affixed to the vehicle in such a position as to be easily read from either side of the vehicle.

(4) If in the case of any vehicle there is a contravention of any of the requirements of this paragraph, the person by or on behalf of whom the solid fuel is made available for purchase as described in sub-paragraph (1), and any other person who is in charge of the vehicle at the time of the contravention, shall each be guilty of an offence.

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6. Any person who, with intent to defraud or deceive, damps any solid fuel shall be guilty of an offence.

7.—(1) This paragraph applies to any vehicle which is used on highways for carrying solid fuel for sale, or for delivery after sale, or on or from which any solid fuel is sold or kept or exposed for sale, and in this paragraph “container” means any container in which solid fuel is carried on such a vehicle, or is delivered from such a vehicle.

(2) The Department may by order make provision—

- (a) for securing the display on any such vehicle of an indication of the quantities in which solid fuel is made up in containers;
- (b) for requiring all containers carried on or delivered from any one vehicle to be made up in the same quantity, or for regulating in any other way the quantities in which they are made up;
- (c) for imposing any requirement as to the loading of the vehicle, or the delivery of solid fuel from the vehicle, which appears to the Department appropriate for securing that purchasers are not misled as to the quantity of fuel they purchase.

(3) An order under sub-paragraph (2) may—

- (a) make provision for any of the purposes mentioned in that sub-paragraph by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any of the provisions of this Part;
- (b) contain such consequential, incidental or supplementary provisions, whether of such kinds as aforesaid or otherwise, as appear to the Department to be expedient;

- (c) make provision, in respect of contraventions of the order for which no penalty is provided by this Order, for the imposition of penalties not exceeding those provided by Article 47 for an offence under this Order.

8. An order under Article 19 may amend or repeal this Part.

PART II

WEIGHING OF SOLID FUEL AT BUYER'S REQUEST

9. If in the case of any solid fuel sold otherwise than by means of a vending machine, the buyer so requests—

- (a) with respect to any of that fuel the delivery of which has not at the time of the request been completed; or
- (b) if the request is made before the departure from the premises at which the fuel is delivered of the person delivering it, with respect to any of that fuel the delivery of which has been completed but which is still capable of identification,

the seller shall cause the fuel to be weighed by means of suitable weighing equipment in the presence of the buyer and, in the case of any fuel such as is mentioned in sub-paragraph (a), before the delivery of that fuel is completed; and if this paragraph is contravened, the seller shall be guilty of an offence.

10. Where a request under paragraph 9 is made in respect of the whole load of a vehicle, the requirements of that paragraph shall be deemed to be satisfied, notwithstanding that the weighing is not done in the presence of the buyer, if the seller causes the vehicle to be check-weighed and the statements of the weights found by the person or persons attending to the check-weighing to be delivered to the buyer.

11. Where after weighing in pursuance of a request under paragraph 9 the weight of the solid fuel is found to be not less than, as the case may be,—

- (a) that purporting to be contained in the relevant number of any securely closed containers in which the fuel is made up, having regard to the weight marked on each of those containers;
- (b) that which is made known to the buyer in accordance with paragraph 3(1)(b);
- (c) that purporting to be contained in the relevant number of containers having regard to the weight stated on a notice displayed on a vehicle in accordance with paragraph 5(2) or an indication of quantities so displayed in accordance with an order under paragraph 7(2)(a); or
- (d) that stated by the seller in any document delivered to the buyer at or before the delivery of the fuel to him;

the buyer shall be liable to repay to the seller all costs reasonably incurred by the seller in connection with the weighing.

PART III

CARRIAGE OF SOLID FUEL BY ROAD

12. This Part shall have effect with respect to the carriage by a road vehicle on a journey any part of which is along a highway of any solid fuel required by paragraph 2 to be sold only by net weight (in this Part referred to as “relevant goods”).

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13.—(1) If the vehicle is carrying any relevant goods for delivery to a buyer in pursuance of, or of an agreement for, a sale of such goods, then before the journey begins, there shall be delivered to the person in charge of the vehicle a document such as is described in sub-paragraph (2); and if this sub-paragraph is contravened the seller shall be guilty of an offence.

(2) The document referred to in sub-paragraph (1) is a document signed by or on behalf of the seller stating—

- (a) the name and address of the seller;
- (b) the name of the buyer and the address of the premises to which the goods to which the document relates are being delivered;
- (c) the type of the said goods;
- (d) subject to sub-paragraph (3), the aggregate net weight of the said goods; and
- (e) where any of the said goods are made up in containers—
 - (i) the number of those containers; and
 - (ii) except in circumstances such as are described in paragraph 3(3), the net weight of the goods in each of those containers.

(3) Where the whole of the vehicle's load consists of relevant goods not made up in containers and is being delivered to the same person at the same premises, the statement referred to in sub-paragraph (2)(d) shall not be required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the document aforesaid states that the quantity of the relevant goods is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated.

(4) In any case to which sub-paragraph (3) applies, the person in charge of the vehicle at the time when the net weight of the relevant goods is determined shall forthwith add to the document aforesaid a statement of that net weight, and if he fails so to do he shall be guilty of an offence.

(5) If the vehicle is carrying relevant goods to which sub-paragraph (1) applies for delivery to each of two or more buyers—

- (a) that sub-paragraph shall apply separately in relation to each of those buyers; and
- (b) subject to sub-paragraph (6), the relevant goods for delivery to each respectively of those buyers shall be carried on the vehicle made up separately in containers or in separate compartments;

and if head (b) is contravened the seller shall be guilty of an offence.

(6) Sub-paragraph (5)(b) shall not apply where the vehicle is constructed or adapted for the mechanical making up in containers of the fuel carried thereon and incorporates weighing equipment approved by the Department for that purpose nor shall it apply in circumstances such as are described in paragraph 3(3)(b).

14.—(1) Subject to sub-paragraph (2), if all or any of the relevant goods on the vehicle are being carried in such circumstances that paragraph 13(1) does not apply there shall, before the journey begins, be delivered to the person in charge of the vehicle a document signed by or on behalf of the person causing the goods to be carried giving the name and address of the last-mentioned person and containing a statement to the effect that all or part of the relevant goods on the vehicle are goods to which paragraph 13(1) does not apply, and if this paragraph is contravened the last-mentioned person shall be guilty of an offence.

(2) Sub-paragraph (1) shall not apply where the total quantity of the relevant goods carried on the vehicle does not exceed^{F3} 125 kilograms].

15. Any document required by paragraph 13 or 14 shall at all times during the journey be carried by the person for the time being in charge of the vehicle and shall be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and in the case of any document such as is mentioned in paragraph 13, on the unloading of the goods to which the document relates at the premises to which those goods are to be delivered—

- (a) before any of those goods are so unloaded, the document shall be handed over to the buyer;
or
- (b) if the document cannot be so handed over by reason of the absence of the buyer, it shall be left at some suitable place at those premises;

and if at any time any of the requirements of this paragraph is contravened without reasonable cause, the person in charge of the vehicle at that time shall be guilty of an offence.

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