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STATUTORY INSTRUMENTS

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**1981 No. 231**

**Weights and Measures (Northern Ireland) Order 1981**

**PART I** **N.I.**  
**INTRODUCTORY**

**Title and commencement** **N.I.**

- 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) <sup>F1</sup> . . . <sup>F2</sup> . . . ,<sup>F3</sup> 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.]

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

**Interpretation** **N.I.**

- 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—

[<sup>F4</sup>“the Act of 1985” means the Weights and Measures Act 1985;]

[<sup>F5</sup>“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<sup>F4</sup> 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;

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*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

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“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<sup>[F6]</sup> Food Safety (Northern Ireland) Order 1991];

“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;

[<sup>F7</sup>“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<sup>[F5]</sup>, 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 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 **N.I.**

### STANDARDS OF MEASUREMENT

#### Northern Ireland local standards **N.I.**

3.—(1) The Department shall provide and maintain standards, which shall be known as Northern Ireland local standards, of all the measures set out in Parts I and IV of Schedule 1 other than capacity measures of more than<sup>F8</sup> 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<sup>F9</sup> 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<sup>F9</sup> 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.

- F8 SR 1995/226
- F9 1985 c. 72

*Status: Point in time view as at 16/12/2013.*

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## Northern Ireland working standards and testing and stamping equipment **N.I.**

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<sup>[F10]</sup> Act of 1985].

**F10** 1985 c. 72

## PART III **N.I.**

### WEIGHING AND MEASURING FOR TRADE

#### Meaning of “use for trade” **N.I.**

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** **N.I.**

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.

(3) A person who contravenes—

- (a) this Article, or
- (b) any provision in Part VI of Schedule 1, or Part VI of Schedule 2,

shall be guilty of an offence, and any measure or weight used, or in any person's possession for use, in contravention of any of these provisions shall be liable to be forfeited.

(4) Subject to paragraph (5), the Department may by order amend Schedule 1 or 2—

- (a) by adding to or removing from Schedule 1 any linear, square, cubic or capacity measure, or any weight,
- (b) by adding to or removing from Schedule 2 any unit of measurement,
- (c) by adding to, varying or removing from Part VI of Schedule 1 or Part VI of Schedule 2 any restriction on the cases or circumstances in which, or the conditions subject to which, a unit of measurement, measure or weight may be used for trade, or possessed for use for trade.

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[<sup>F11</sup>(5) Without prejudice to paragraph (4)(c) an order under paragraph (4) shall not remove the pint from Part IV of Schedule 2.]

(6) An order under this Article may contain such transitional or other supplemental or incidental provisions as appear to the Department to be expedient.

[<sup>F11</sup>(7) This Article has effect subject to—

- (a) paragraph (7A), and
- (b) Articles 7 and 53.

(7A) Nothing in this Article precludes the use for trade<sup>F12</sup> . . . of any supplementary indication; and for this purpose any indication of quantity ("the imperial indication") is a supplementary indication if—

- (a) it is expressed in a unit of measurement other than a metric unit,
- (b) it accompanies an indication of quantity expressed in a metric unit ("the metric indication") and is not itself authorised for use in the circumstances as a primary indication of quantity, and
- (c) the metric indication is the more prominent, the imperial indication being, in particular, expressed in characters no larger than the metric indication.]

(8) In this Article "unit of measurement" means a unit of measurement of length, area, volume, capacity, mass or weight.

**F11** SR 1995/226

**F12** Words in art. 6(7A) omitted (6.12.2010) by virtue of [Units of Measurement Regulations \(Northern Ireland\) 2010 \(S.R. 2010/365\)](#), reg. 3

## Dual marking and conversion charts **N.I.**

7.—(1) The Department may make regulations—

- (a) requiring or authorising a person who uses a metric unit for trade to afford, for explanatory purposes, information giving the equivalent, in the imperial system, of the relevant quantity in the metric system, and
- (b) specifying the manner in which the information is to be given, and in particular specifying the cases in which any obligation to give information in metric units is to be extended to include the same information in imperial units.

(2) The Department may make regulations requiring or authorising the display on premises where metric units are used for trade of conversion tables or other material for converting metric units into imperial units.

(3) Regulations under this Article—

- (a) may prescribe the form and manner in which any information or other material is to be given or displayed,
- (b) may prescribe appropriate conversion factors by reference to which, in prescribed cases or circumstances, an amount expressed in imperial units is to be treated as equivalent to a given amount expressed in metric units,
- (c) may prescribe the persons to whom, and the cases and circumstances in which, the regulations apply,
- (d) may contain such consequential, incidental or supplementary provisions as appear to the Department to be expedient.

(4) A person contravening regulations made under this Article shall be guilty of an offence.

(5) In this Article “unit” in the expressions “metric unit” and “imperial unit” means any unit of measurement of length, area, volume, capacity, mass or weight.

(6) Regulations under this Article imposing obligations apply whether or not the relevant imperial unit may lawfully be used for trade, and regulations authorising, but not requiring, anything to be done authorise it to be done notwithstanding that the relevant imperial unit may not be lawfully used for trade, but do not in any other respect authorise what is unlawful.

### **Multiples and fractions of units** **N.I.**

8.—(1) Save as may be prescribed and subject to any regulations made under Article 13—

- (a) a linear measure specified in Part I of Schedule 1 may be marked in whole or in part with divisions and subdivisions representing any shorter length or lengths;
- (b) no capacity measure specified in Part IV of Schedule 1 shall be used for trade by means of any division or subdivision marked thereon as a capacity measure of any lesser quantity.

(2) Any person who contravenes paragraph (1)(b) shall be guilty of an offence, and any measure used, or in any person's possession for use, in contravention of that sub-paragraph shall be liable to be forfeited.

(3) The Department may by regulations prescribe what may be treated for the purposes of use for trade as the equivalent of, or of any multiple or fraction of, any unit of measurement included in<sup>F13</sup> Schedule 1 to the Act of 1985] in terms of any other such unit, so however that the Department shall not by any such regulations prescribe an equivalent of, or of any multiple or fraction of, any unit of measurement which is inconsistent with any equivalent of that unit, multiple or fraction for the time being prescribed by regulations under<sup>F13</sup> section 10(3) of the Act of 1985].

(4) Nothing in any regulations under paragraph (3) shall apply to any transaction in drugs.

(5) The Department of Health and Social Services may by regulations, which shall have effect notwithstanding anything in, or in any instrument made under, any other enactment—

- (a) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any unit of measurement<sup>F13</sup> which is included in Schedule 1 to the Act of 1985 or was on 25th October 1967 included in Schedule 1 to the Weights and Measures Act 1963] in terms of any other such unit;
- (b) require that any person carrying out any such dealing with drugs as is specified in the regulations for the purposes of which the quantity of the drugs is expressed in terms of any such unit as aforesaid which is so specified shall carry out that dealing in terms of such equivalent quantity prescribed under sub-paragraph (a) as is so specified.

F13 1985 c. 72

### **Weighing or measuring equipment for use for trade** **N.I.**

9.—(1) The provisions of this Article shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed.

(2) No person shall use any article for trade as equipment to which this Article applies, or have any article in his possession for such use, unless that article, or equipment to which this Article applies in which that article is incorporated or to the operation of which the use of that article is incidental, has been passed by an inspector<sup>F14</sup> or approved verifier] as fit for such use and, except as otherwise expressly provided by or under this Order, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear; and if any person

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contravenes this paragraph, he shall be guilty of an offence and any article in respect of which the offence was committed shall be liable to be forfeited.

(3) Any person requiring any equipment to which this Article applies to be passed<sup>[F14]</sup> by an inspector] as fit for use for trade shall submit the equipment to<sup>[F14]</sup> the inspector] in such manner as the Department may direct and, subject to the provisions of this Order and of any regulations made under Article 13 and to the payment by that person of the prescribed fee, the inspector shall—

- (a) test the equipment by means of such Northern Ireland local standards or such Northern Ireland working standards and such testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose; and
- (b) if the equipment submitted falls within such limits of error as may be prescribed, except as otherwise expressly provided by or under this Order, cause it to be stamped with the prescribed stamp; and
- (c) if the equipment submitted falls within such limits of error as may be prescribed, and by virtue of paragraph (7) is not required to be stamped as mentioned in sub-paragraph ( b), give to the person submitting it a statement in writing to the effect that it is passed as aforesaid;

and each inspector shall keep a record of every such test carried out by him.

<sup>[F14]</sup>(3A) An approved verifier may (subject to the provisions of this Order, to any regulation under Article 13 and to any conditions included in his approval)—

- (a) test any equipment to which this Article applies by means of other equipment which has already been tested and which the verifier considers suitable for the purpose;
- (b) if the equipment being tested falls within such limits of error as may be prescribed, except as otherwise expressly provided by or under this Order, stamp it with the prescribed stamp; and
- (c) if the equipment being tested falls within such limits of error as may be prescribed, and by virtue of paragraph (7) is not required to be stamped as mentioned in sub-paragraph (b), make a statement in writing to the effect that it is passed fit for use for trade.]

<sup>[F14]</sup>(3B) In this Order “approved verifier”, in relation to weighing or measuring equipment of any class or description, means a person who-

- (a) is for the time being approved under Article 9A in relation to the testing, passing and stamping of weighing or measuring equipment of that class or description; or
- (b) is for the time being approved under the corresponding provisions of the law of Great Britain in relation to the testing, passing and stamping of weighing or measuring equipment of a similar class or description.]

(4) Except as otherwise expressly provided by or under this Order, no weight or measure shall be stamped as mentioned in<sup>[F14]</sup> paragraph (3)(b) or (3A)(b)] unless it has been marked in the prescribed manner with its purported value.

(5) Subject to paragraph (6), where any equipment submitted to an inspector under paragraph (3) is of a pattern in respect of which a certificate of approval granted under Article 10 is for the time being in force, the inspector shall not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade.

(6) If the inspector is of opinion that the equipment is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Department and it has been established to the satisfaction of the Department that the equipment is suitable for the purpose for which it is intended.



(7) The requirements of paragraphs (2) to (4) with respect to stamping and marking shall not apply to any weight or measure which is too small to be stamped or marked in accordance with those requirements.

(8) Where a person submits equipment to an inspector under this Article, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and shall not be obliged to proceed with the test until the person provides it; but a failure to provide the assistance shall not constitute an offence under Article 42.

(9) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this Article and is requested by the person by whom the equipment was submitted to give reasons for the refusal, the inspector shall give to that person a statement of those reasons in writing.

(10) In the case of any equipment which is required by regulations made under Article 13 to be passed and stamped under this Article only after it has been installed at the place where it is to be used for trade, if after the equipment has been so passed and stamped it is dismantled and reinstalled, whether in the same or some other place, it shall not be used for trade after being so reinstalled until it has again been passed under this Article.

(11) If any person—

- (a) knowingly uses that equipment in contravention of paragraph (10), or
- (b) knowingly causes or permits any other person so to use it, or
- (c) knowing that the equipment is required by virtue of paragraph (10) to be again so passed disposes of it to some other person without informing him of that requirement,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(12) Any equipment to which this Article applies which has been duly stamped before 25th October 1967 under any enactment repealed by the Weights and Measures Act (Northern Ireland) 1967 shall be treated for the purposes of this Order as if it had been duly stamped under this Article.

(13) If at any time the Department is satisfied that, having regard to the law for the time being in force in, or in any part of, Great Britain, any of the Channel Islands or the Isle of Man, it is proper so to do, the Department may by order provide for any equipment to which this Article applies duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with that law, to be treated for the purposes of this Order as if it had been duly stamped in Northern Ireland under this Article.

**F14** 2000 c. 5(NI)

#### [<sup>F15</sup>Approval of persons to verify equipment manufactured etc. by them **N.I.**

**9A.**—(1) Paragraph (2) applies where, as regards a person who carries on business (whether in Northern Ireland or elsewhere) as a manufacturer, installer or repairer of equipment to which Article 9 applies, the Department—

- (a) is satisfied that the person would, if approved under this Article, satisfy the requirements set out in Part II of Schedule 2A; and
- (b) considers the person a fit and proper person to be so approved.

(2) The Department may approve the person for the purpose of—

- (a) testing any equipment to which Article 9 applies and which is manufactured, installed or repaired by him;
- (b) passing any such equipment as fit for use for trade; and
- (c) stamping any such equipment with the prescribed stamp.

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(3) Before granting an approval under this Article, the Department may carry out such audits and inspections of the person's systems and procedures as it considers necessary to establish that the conditions of the approval would be observed.

(4) Schedule 2A (which relates to approvals under this Article and matters connected with such approvals) shall have effect.

(5) In this Schedule “approval” means an approval under this Article and “the verifier”, in relation to such an approval, shall be construed accordingly.]

F15 2000 c. 5(NI)

#### [<sup>F16</sup>Testing by official EEA testers **N.I.**

**9B.**—(1) This Article applies where—

- (a) any equipment which has been tested by an official EEA tester is at any time submitted to an inspector under Article 9(3);
- (b) the test report of the official EEA tester is submitted to the inspector at that time; and
- (c) that report states which tests have been applied to the equipment and sets out the results of those tests.

(2) Article 9 shall have effects as if—

- (a) sub-paragraph (a) of paragraph (3) required the inspector not to test the equipment in the manner mentioned in that sub-paragraph; and
- (b) sub-paragraph (b) and (c) of that paragraph required him to rely, for the purposes of those sub-paragraphs, on the test report of the official EEA tester.

(3) In this Article “official EEA tester”, in relation to the testing of equipment of any description, means a person who, at the time when the tests were applied—

- (a) had responsibility in an EEA State for the metrological control of equipment of that description; or
- (b) was accredited in an EEA State as a person operating a laboratory, in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description.

(4) In paragraph (3) “EEA State” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.]

F16 2000 c. 5(NI)

#### **Approved patterns of equipment for use for trade **N.I.****

**10.**—(1) Where any pattern of weighing or measuring equipment is submitted to the Department for the purpose by any person in such manner as may be prescribed, the Department shall examine in such manner as it thinks fit the suitability for use for trade of equipment of that pattern, having regard in particular to the principle, materials and methods used or proposed to be used in its construction, and if the Department is satisfied that such equipment is suitable for use for trade, then, subject to Article 12(2), it shall issue a certificate of approval of that pattern and cause particulars of the pattern to be published.

(2) Paragraph (1) applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this paragraph “approved pattern” means a pattern in respect of which a certificate of approval under paragraph (1) is in force.

(3) A certificate of approval under paragraph (1) may be granted or renewed subject to such conditions as the Department thinks fit; and if any person—

- (a) knowing that a condition other than a condition mentioned in Article 11(1)( b) has been imposed with respect to any equipment, uses, or causes or permits any other person to use, that equipment in contravention of that condition; or
- (b) knowing that any condition has been imposed with respect to any equipment, disposes of that equipment to any other person in a state in which it could be used for trade without informing that other person of that condition,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(4) The Department, after consultation with such persons as appear to the Department to be interested, may at any time revoke any certificate granted under this Article, and shall cause notice of any such revocation to be published; and where the Department so revokes any certificate, then if any person, knowing that the certificate has been revoked, and save as may be permitted by any fresh certificate granted in respect of it—

- (a) uses for trade, or has in his possession for such use; or
- (b) causes or permits any other person so to use, any equipment of the pattern in question; or
- (c) disposes of any such equipment to any other person in a state in which it could be so used without informing that other person of the revocation;

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(5) The provisions of paragraph (4) relating to offences and forfeiture shall not apply in consequence of the revocation of a certificate of approval if the notice of the revocation published under that paragraph states that instead of those provisions the provisions of Article 11(4) are to apply in consequence of the revocation.

(6) Any equipment of a pattern in respect of which a certificate of approval has been granted under this Article may, and in such cases as may be prescribed shall, be marked in the prescribed manner so as to identify it with the pattern in question.

(7) A certificate granted under section 6 of the Weights and Measures Act 1904 in respect of any pattern of weighing or measuring equipment shall be deemed for the purposes of this Order to be a certificate of approval of that pattern granted under this Article.

(8) If the Department by notice published in the Belfast Gazette so directs, a certificate granted or deemed to have been granted by the Secretary of State in respect of any pattern of weighing or measuring equipment for the purposes of section 12 of the<sup>F17</sup> Act of 1985] shall be deemed, or shall cease to be deemed, for the purposes of this Order to be a certificate of approval of that pattern or, as the case may be, granted and published under this Article; and

- (a) where a certificate such as is first-mentioned was granted subject to a condition corresponding to a condition which may be imposed under paragraph (3), that paragraph shall apply as if the condition had been imposed under that paragraph; and
- (b) where either a certificate such as is first-mentioned at any time ceases to be deemed to be a certificate granted under this Article, paragraph (4) shall have effect as if it had then been revoked.

F17 1985 c. 72

**Provisions supplementary to Article 10 N.I.**

11.—(1) A certificate of approval under Article 10—

- (a) shall, unless previously revoked and subject to sub-paragraph (b), cease to have effect on the expiration of the period of ten years beginning with the date when it was granted or last renewed;
- (b) may, without prejudice to the generality of Article 10(3), be granted or renewed subject to a condition under which it ceases to be in force on the expiration of a specified period of less than ten years; and
- (c) may be renewed by the Department on an application made in such manner and during such period as may be prescribed and on payment of an amount ascertained in such manner as the Department may determine with the approval of the Department of Finance.

(2) Where such an application as is mentioned in paragraph (1)(c) is made for the renewal of a certificate mentioned in that paragraph, the certificate shall continue in force until the Department gives to the applicant, in such manner as may be prescribed, notice of the Department's decision with respect to the application.

(3) Where a person submits a pattern of equipment to the Department under Article 10(1) the Department may—

- (a) require the person to provide such assistance as the Department thinks fit in connection with the examination in question and shall not be obliged to proceed with the examination until the person provides it;
- (b) require the person to pay in respect of the examination a fee of an amount ascertained as mentioned in paragraph (1)(c);
- (c) if satisfied that equipment of that pattern is suitable for use for trade require the person to deposit with the Department parts of equipment of that pattern or a model or drawings of such equipment or parts of it and withhold a certificate of approval of the pattern or, as the case may be, a declaration in pursuance of Article 12(2) in respect of the pattern until the person complies with the requirement.

(4) Where a certificate of approval under Article 10(1) ceases to have effect by the effluxion of time or by virtue of a notice under paragraph (2) of this Article or is revoked in a case falling within Article 10(5), then—

- (a) the certificate shall continue in force in relation to any equipment of the pattern in question which was used for trade at a time when the certificate was in force otherwise than by virtue of this paragraph; but
- (b) if a person—
  - (i) knows that the certificate has so ceased to have effect or been so revoked, and
  - (ii) supplies to another person equipment of that pattern which is marked with a stamp and which was not used for trade at such a time,

he shall be guilty of an offence and the equipment supplied shall be liable to be forfeited.

(5) Each of the following instruments, namely—

- (a) a certificate of approval granted under Article 10 and in force immediately before 4th April 1979; and
- (b) an authorisation of modifications so granted and in force; and
- (c) a certificate which is deemed by virtue of Article 10(7) to be a certificate of approval so granted and is in force as mentioned in sub-paragraph (a),

shall have effect on and after 4th April 1979 as if it were a certificate of approval so granted on that date and, in the case of a certificate of approval actually granted subject to a condition relating to a

specified period, as if that condition were imposed by virtue of paragraph (1)( b) and provided for the certificate to cease to be in force on the expiration of a period equal to that period and beginning with the day when the certificate was actually granted.

(6) The power conferred by Article 10(4) to revoke a certificate of approval of a pattern shall, in the case of a certificate in respect of which an authorisation of modifications has effect by virtue of paragraph (5) of this Article as if it were a further certificate of approval, include power to revoke the first-mentioned certificate as it has effect apart from the modifications without revoking it as it has effect with the modifications.

(7) It is hereby declared that Article 10(4) and the provisions of Article 10(3) relating to offences and forfeiture apply to a certificate continued in force by virtue of paragraph (4)( a).

### General specifications of equipment for use for trade **N.I.**

12.—(1) The Department may by regulations prescribe general specifications for the construction of equipment to which Article 9 applies and, subject to paragraph (4), while any such specification is for the time being so prescribed no equipment which does not conform with it shall be passed or stamped by an inspector<sup>F18</sup> or approved verifier] under Article 9 unless it is of a pattern in respect of which a certificate of approval under Article 10 is in force.

(2) If the Department is satisfied that any pattern submitted to it under paragraph (1) of Article 10 conforms to any general specification for the time being prescribed under this Article, it may, instead of issuing a certificate of approval under that paragraph, publish in the Belfast Gazette a declaration to that effect.

(3) Where any specification prescribed by regulations under this Article is varied or revoked by further regulations under this Article, then if any person uses for trade, or has in his possession for such use, or causes or permits any other person so to use, any equipment which conformed to that specification but which to his knowledge no longer conforms to any specification so prescribed, or disposes of any such equipment to any other person in a state in which it could be so used without informing that other person that it no longer so conforms, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(4) Where, in the case of any particular equipment, it appears to the Department that there are special circumstances which make it impracticable or unnecessary for that equipment to comply with any particular requirement of any specification prescribed under this Article, the Department may exempt that equipment from that requirement subject to compliance with such conditions, if any, as it thinks fit; and if any person knowingly contravenes any condition imposed with respect to any equipment by virtue of this paragraph, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(5) Regulations made under this Article may direct that general specifications prescribed by the Secretary of State under<sup>F19</sup> section 14 of the Act of 1985] shall apply to Northern Ireland as if they were prescribed under paragraph (1), and any reference in this Order to specifications prescribed under this Article shall include a reference to specifications so applied.

F18 2000 c. 5(NI)

F19 1985 c. 72

### Regulations relating to weighing or measuring for trade **N.I.**

13.—(1) The Department may make regulations with respect to—

- (a) the materials and principles of construction of weighing or measuring equipment for use for trade;

*Status: Point in time view as at 16/12/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

- (b) the inspection, testing, passing as fit for use for trade and stamping of such equipment, including—
  - (i) the prohibition of the stamping of such equipment in such circumstances as may be specified in the regulations;
  - (ii) the circumstances in which an inspector may remove or detain any such equipment for inspection or testing;
  - (iii) the marking of any such equipment found unfit for use for trade;
- (c) the circumstances in which, conditions under which and manner in which stamps may be destroyed, obliterated or defaced;
- (d) where any stamp on weighing or measuring equipment is lawfully destroyed, obliterated or defaced, the circumstances in which, and conditions subject to which, the equipment may be used for trade without contravening Article 9(2);
- (e) the purposes for which particular types of weighing or measuring equipment may be used for trade;
- (f) the manner of erection or use of weighing or measuring equipment used for trade;
- (g) the abbreviations of or symbols for units of measurement which may be used for trade;
- (h) the manner in which the tare weight of road vehicles, or of road vehicles of any particular class or description, is to be determined;

and, subject to paragraph (3), if any person contravenes any regulation made by virtue of subparagraph ( e ), ( f ), ( g ) or ( h ), he shall be guilty of an offence, and any weighing or measuring equipment in respect of which the contravention was committed shall be liable to be forfeited.

- (2) Regulations under paragraph (1) with respect to the testing of equipment may provide—
  - (a) that where a group of items of equipment of the same kind is submitted for testing and prescribed conditions are satisfied with respect to the group, the testing may be confined to a number of items determined by or under the regulations and selected in the prescribed manner; and
  - (b) that if items so selected satisfy the test other items in the group shall be treated as having satisfied it.

(3) Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations made under this Article should be complied with, the Department may, by an authorisation in writing, dispense with the observance of that requirement.

(4) Where an authorisation under paragraph (3) is granted subject to conditions, any person who knowingly contravenes any condition imposed by the authorisation with respect to any equipment shall be guilty of an offence and the equipment shall be liable to be forfeited.

#### <sup>F20</sup>Pre-test stamping by certain manufacturers **N.I.**

**13A.**—(1) Subject to paragraph (2), an approved verifier who is the manufacturer of any equipment to which Article 9 applies may apply the prescribed stamp to the equipment, notwithstanding that it has not been passed as fit for use for trade, if he is satisfied on reasonable grounds that it will not be used (whether for trade or otherwise) unless either—

- (a) the equipment has been passed as fit for use for trade; or
- (b) the stamp has been destroyed, obliterated or defaced.

(2) A prescribed stamp shall not be applied under paragraph (1) unless the stamp includes the approved verifier's number.

(3) If any person contravenes paragraph (2), he shall be guilty of an offence and any equipment in respect of which the offence was committed shall be liable to be forfeited.

(4) A prescribed stamp which has been duly applied to any equipment under paragraph (1) shall have effect as follows—

- (a) at any time before the equipment is passed as fit for use for trade, as an indication that, at the time when the stamp was applied, the approved verifier was satisfied as mentioned in paragraph (1); and
- (b) at any time after the equipment is so passed, as evidence of the passing of the equipment as fit for such use.

(5) Where equipment to which a prescribed stamp has been duly applied under paragraph (1) is passed as fit for use for trade, nothing in Article 9(3) or (3A)(b) shall require another such stamp to be applied to it.

(6) Where the approved verifier fails to pass as fit for use for trade equipment to which a prescribed stamp has been applied under paragraph (1), he may destroy, obliterate or deface the stamp—

- (a) in any case where there is a prescribed manner of doing so, in that manner; and
- (b) in any other case, in such reasonable manner as will leave no doubt that the stamp has been intentionally destroyed, obliterated or defaced.

(7) References in paragraphs (4) to (6) prescribed stamps which have been applied do not include references to such stamps which have subsequently been destroyed, obliterated or defaced.]

F20 2000 c. 5(NI)

#### Offences in connection with stamping of equipment **N.I.**

14.—(1) Any person who in the case of any weighing or measuring equipment used or intended to be used for trade—

- (a) not being an inspector<sup>F21</sup> or approved verifier] or a person acting under the instructions of an inspector<sup>F21</sup> or approved verifier], marks in any manner any plug or seal used or designed for use for the reception of a stamp; or
- (b) forges, counterfeits or, except as permitted by or under this Order, in any way alters or defaces any stamp; or
- (c) removes any stamp and replaces it or inserts it into any other such equipment; or
- (d) makes any alteration in the equipment after it has been stamped such as to make it false or unjust; or
- (e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment;

shall be guilty of an offence.

(2) Sub-paragraphs ( a ) and ( b ) of paragraph (1) shall not apply to the destruction or obliteration of any stamp, plug or seal, and sub-paragraph ( e ) of that paragraph shall not apply to anything done, in the course of the adjustment or repair of weighing or measuring equipment, by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, such equipment.

(3) Any person who uses for trade, sells, or exposes or offers for sale any weighing or measuring equipment which to his knowledge—

*Status: Point in time view as at 16/12/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

- (a) bears a stamp which is a forgery or counterfeit, or which has been transferred from other equipment, or which has been altered or defaced otherwise than as permitted by or under this Order; or
- (b) is false or unjust as the result of an alteration made in the equipment after it has been stamped,

shall be guilty of an offence.

(4) Any weighing or measuring equipment in respect of which an offence under this Article is committed, and any stamp or stamping implement used in the commission of the offence, shall be liable to be forfeited.

F21 2000 c. 5(NI)

#### **Other offences in connection with equipment** N.I.

15.—(1) If any person uses for trade, or has in his possession for use for trade, any weighing or measuring equipment which is false or unjust, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(2) Without prejudice to the liability of any equipment to be forfeited, it shall be a defence for any person charged with an offence under paragraph (1) in respect of the use for trade of any equipment to show—

- (a) that he used the equipment only in the course of his employment by some other person; and
- (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, the equipment to be false or unjust.

(3) If any fraud is committed in the using of any weighing or measuring equipment for trade, the person committing the fraud and any other person party thereto shall be guilty of an offence and the equipment shall be liable to be forfeited.

## PART IV N.I.

### PUBLIC WEIGHING OR MEASURING EQUIPMENT

#### **Keepers of public equipment to hold certificate** N.I.

16.—(1) No person shall attend to any weighing or measuring by means of weighing or measuring equipment available for use by the public, being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from the chief inspector that he has sufficient knowledge for the proper performance of his duties.

(2) Any person refused a certificate such as is mentioned in paragraph (1) by the chief inspector may appeal against the refusal to the county court and the court, if satisfied that the certificate should be granted, shall make an order directing the chief inspector to grant the certificate.

(3) Any person who contravenes, or who causes or permits any other person to contravene, paragraph (1) shall be guilty of an offence.



### Provision of public equipment by district councils **N.I.**

17.—(1) Without prejudice to any functions conferred or imposed by any other enactment, any district council may provide and maintain within its district for use by the public such weighing or measuring equipment as may appear to the council to be expedient.

(2) Without prejudice to the provisions of any other enactment, and subject to Article 16, a district council may employ persons to attend to any weighing or measuring by means of equipment provided by that council for use by the public.

(3) Except in the case of a weighing or measuring for which, under any other enactment, the charge falls to be regulated by some other person, a district council by whom any weighing or measuring equipment is provided for use by the public may make such charges for any weighing or measuring by means of that equipment as it may think fit.

### Offences in connection with public equipment **N.I.**

18.—(1) Paragraph (2) shall apply where any article, vehicle (whether loaded or unloaded) or animal has been brought for weighing or measuring, being a weighing or measuring for which a charge is made, by means of weighing or measuring equipment which is available for use by the public and is provided for the purpose of weighing or measuring articles, vehicles or animals of the description in question.

(2) If any person appointed to attend to weighing or measuring by means of the equipment in question—

- (a) without reasonable cause fails to carry out the weighing or measuring on demand; or
- (b) carries out the weighing or measuring unfairly; or
- (c) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found; or
- (d) fails to make a record of the weighing or measuring, including the time and date thereof and, in the case of the weighing of a vehicle, such particulars of the vehicle and of any load thereon as will identify that vehicle and that load,

he shall be guilty of an offence.

(3) If in connection with the equipment in question—

- (a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring; or
- (b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment,

he shall be guilty of an offence.

(4) If in the case of a weighing or measuring of any article, vehicle or animal carried out by means of the equipment in question the person bringing the article, vehicle or animal for weighing or measuring on being required by the person attending to the weighing or measuring to give his name and address, fails to do so, he shall be guilty of an offence.

(5) The person making any weighing or measuring equipment available for use by the public shall retain for a period of not less than two years any record of any weighing or measuring by means of that equipment made by any person appointed to attend to any such weighing or measuring, and any inspector, subject to the production if so requested of his credentials, may require the first-mentioned person to produce any such record for inspection at any time while it is retained by him; and if the first-mentioned person fails so to retain or produce any such record, or if any person wilfully destroys or defaces any such record before the expiration of two years from the date when it was made, the person in question shall be guilty of an offence.

## PART V **N.I.**

### REGULATION OF CERTAIN TRANSACTIONS IN GOODS

#### Transactions in particular goods **N.I.**

**19.**—(1) Schedules 3, 4, 5, 6 and 7 shall have effect for the purposes of transactions in the goods mentioned in those Schedules.

(2) The Department may by order make provision with respect to any goods specified in the order for all or any of the following purposes, that is to say, to ensure that, except in such cases or in such circumstances as may be so specified, the goods in question—

- (a) are sold only by quantity expressed in such manner as may be so specified; or
- (b) are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, only if the container is marked with such information as to the quantity of the goods as may be so specified; or
- (c) are pre-packed, or are otherwise made up for sale or for delivery after sale, only in or on a container of a size or capacity so specified; or
- (d) are sold, or are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, or are made for sale, only in such quantities as may be so specified; or
- (e) are not sold without the quantity sold expressed as mentioned in sub-paragraph (a) being made known to the buyer at or before such time as may be so specified; or
- (f) are sold by means of, or are offered or exposed for sale in, a vending machine only if there is displayed on or in the machine—
  - (i) such information as to the quantity of the goods in question comprised in each item for sale by means of that machine as may be so specified; and
  - (ii) a statement of the name and address of the seller; or
- (g) are carried for reward only in pursuance of an agreement made by reference to the quantity of the goods in question expressed as mentioned in sub-paragraph (a); or
- (h) in such circumstances as may be so specified, have associated with them in such manner as may be so specified a document containing a statement of the quantity of the goods in question expressed in such manner, and a statement of such other particulars, if any, as may be so specified; or
- (i) when carried on a road vehicle along a highway are accompanied by a document containing such particulars determined in such manner as may be so specified as to the weight of the vehicle and its load apart from the goods in question.

(3) An order under paragraph (2) may be made with respect to any goods, including goods to which any of the provisions of any of the Schedules mentioned in paragraph (1) applies, and may—

- (a) make provision for any of the purposes mentioned in paragraph (2) in such manner, whether by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any provision of this Order or otherwise,
- (b) make such, if any, different provision for retail and other sales respectively, and
- (c) contain such consequential, incidental or supplementary provision, whether by the means such as are mentioned in sub-paragraph (a) or otherwise,

as may appear to the Department to be expedient, and may in particular 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(5) for an offence under this Order.

(4) Without prejudice to the generality of the powers conferred by virtue of paragraph (2)(c) an order made by virtue of that paragraph may require a container to be marked with such information concerning it or its contents as is specified in the order.

(5) Without prejudice to the generality of those powers, an order made by virtue of paragraph (2)(c) may, in order to prevent size or capacity from giving a false impression of the quantity of the goods in a container, prescribe a minimum quantity for the goods in a container of a given capacity, and the minimum quantity may be expressed by weight or volume, by percentage of the capacity of the container or in any other manner.

(6) The Department may make regulations—

- (a) as to the manner in which any container required by any of the provisions of any of the Schedules mentioned in paragraph (1) or of any order under paragraph (2) to be marked with information (including, in particular, information as to quantity or capacity) is to be so marked;
- (b) as to the manner in which any information required by any of the provisions of any of the Schedules mentioned in paragraph (1) to be displayed on or in a vending machine is to be so displayed;
- (c) as to the conditions which must be satisfied in marking with information as to the quantity of goods made up in the container in or on which any goods are made up for sale (whether by way of pre-packing or otherwise) where those goods are goods on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold is required by any of the provisions of any of the Schedules mentioned in paragraph (1) to be made known to the buyer at or before a particular time;
- (d) as to the units of measurement to be used in marking any container or machine such as is mentioned in sub-paragraphs (a) to (c) with any information;
- (e) for securing, in the case of pre-packed goods, that the container is so marked as to enable the packer to be identified;
- (f) as to the method by which and conditions under which quantity is to be determined in connection with any information with respect to such quantity required by or under this Article;
- (g) permitting in the case of such goods and in such circumstances as may be specified in the regulations the weight of such articles used in making up the goods for sale as may be so specified to be included in the net weight of the goods for the purposes of this Order;

and any person who contravenes any regulation made under this paragraph otherwise than by virtue of sub-paragraph (f) or (g) shall be guilty of an offence.

(7) The Department may by order grant with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any requirements imposed by or under this Article; and, until otherwise provided by such an order, the following shall be exempted from all such requirements, that is to say,—

- (a) goods made up in or on a container for sale only 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 and not sold or offered, exposed or in any person's possession for sale for any other use;
- (b) any sale of goods in the case of which the buyer gives notice in writing to the seller before the sale is completed that the goods are being bought—
  - (i) for despatch to a destination outside Northern Ireland and any designated country; or
  - (ii) for use as stores within the meaning of the Customs and Excise Management Act 1979 in a ship or aircraft on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man;

*Status: Point in time view as at 16/12/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

- (c) any goods sold for, or offered, exposed or in any person's possession for sale only for, use or consumption at the premises of the seller, not being intoxicating liquor;
- (d) any assortment of articles of food pre-packed together for consumption together as a meal and ready for such consumption without being cooked, heated or otherwise prepared.

### Offences in transactions in particular goods **N.I.**

**20.**—(1) Subject to the provisions of this Part, in the case of any goods which, when not pre-packed, are required by or under this Order to be sold only by quantity expressed in a particular manner or only in a particular quantity, any person shall be guilty of an offence who—

- (a) whether on his own behalf or on behalf of another person, offers or exposes for sale, sells or agrees to sell, or
- (b) causes or suffers any other person to offer or expose for sale, sell or agree to sell on his behalf,

those goods otherwise than by quantity expressed in that manner or, as the case may be, otherwise than in that quantity.

(2) <sup>F22</sup>Subject to the provisions of this Part, in the case of any goods required by or under this Order to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities, or to be pre-packed, or to be otherwise made up as aforesaid, only if the container is marked with particular information or only in or on a container of a particular description, any person shall be guilty of an offence who—

- (a) whether on his own behalf or on behalf of another person, has in his possession for sale, sells or agrees to sell, or
- (b) except in the course of carriage of the goods for reward, has in his possession for delivery after sale, or
- (c) causes or suffers any other person to have in his possession for sale or for delivery after sale, sell or agree to sell on behalf of the first-mentioned person,

any such goods pre-packed, otherwise made up as aforesaid or made otherwise than in that quantity or otherwise than in or on a container so marked or a container of that description, as the case may be, whether the sale is, or is to be, by retail or otherwise.

(3) Subject to the provisions of this Part, in the case of any sale where the quantity of the goods sold expressed in a particular manner is required by or under this Order to be made known to the buyer at or before a particular time and that quantity is not so made known, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.

(4) Subject to the provisions of this Part, where any goods required by or under this Order to be sold by means of, or to be offered or exposed for sale in, a vending machine only if certain requirements are complied with are so sold, offered or exposed without those requirements being complied with, the seller or person causing the goods to be so offered or exposed shall be guilty of an offence.

*Para. (5) rep. by 1996 NI 11*

[<sup>F23</sup>(6) For the purposes of this Article the quantity of goods in a package, or of a loaf of bread, to which the packaged goods regulations apply shall be deemed to be the nominal quantity (within the meaning of those regulations) of the package or the loaf of bread.]

**F22** SR 1989/69

**F23** Art. 20(6) added (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 2 para. 3** (with regs. 3, 21)

## Quantity to be stated in writing in certain cases **N.I.**

21.—(1) Subject to paragraph (6), the provisions of this Article shall have effect on any sale of goods—

- (a) which is required by or under this Order to be a sale by quantity expressed in a particular manner; or
- (b) in the case of which the quantity of the goods sold expressed in a particular manner is required by or under this Order to be made known to the buyer at or before a particular time; or
- (c) which, being a sale by retail not falling within sub-paragraph (a) or (b), is, or purports to be, a sale by quantity expressed in a particular manner other than by number.

(2) Subject to paragraphs (3), (4) and (5), unless the quantity of the goods sold expressed in the manner in question is made known to the buyer at the premises of the seller and the goods are delivered to the buyer at those premises on the same occasion as, and at or after the time when, that quantity is so made known to him, a statement in writing of that quantity shall be delivered to the consignee at or before delivery of the goods to him; and if this paragraph is contravened, then, subject to the provisions of this Part, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.

(3) If at the time when the goods are delivered the consignee is absent, it shall be sufficient compliance with paragraph (2) if the document referred to in that paragraph is left at some suitable place at the premises at which the goods are delivered.

(4) Paragraph (2) shall not apply to any sale otherwise than by retail where, by agreement with the buyer, the quantity of the goods sold is to be determined after their delivery to the consignee.

(5) Where any liquid goods are sold by capacity measurement and the quantity sold is measured at the time of delivery and elsewhere than at the premises of the seller, paragraph (2) shall not apply but, unless the quantity by capacity measurement of the goods sold is measured in the presence of the buyer, the person by whom the goods are delivered shall immediately after the delivery hand to the buyer, or if the buyer is not present leave at some suitable place at the premises at which the goods are delivered, a statement in writing of the quantity by capacity measurement delivered, and if without reasonable cause he fails so to do he shall be guilty of an offence.

(6) The Department may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements of this Article; and, until otherwise provided by such an order, nothing in paragraphs (1) to (5) shall apply to—

- (a) a sale by retail from a vehicle of—
  - (i) any of the following in a quantity not exceeding<sup>[F24]</sup> 187.5 kilograms], that is to say, any solid fuel within the meaning of Schedule 5 and peat and wood fuel;
  - (ii) any of the following in a quantity not exceeding<sup>[F24]</sup> 25 litres], that is to say, liquid fuel, lubricating oil, and any mixture of such fuel and oil;
- (b) a sale by retail of—
  - (i) bread within the meaning of the Weights and Measures (Bread) (Termination of Imperial Quantities) Order (Northern Ireland) 1979 ;
  - (ii) milk within the meaning of the Weights and Measures (Milk) Order (Northern Ireland) 1980 ;
- (c) goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with a statement in writing with respect to the quantity of the goods expressed in the manner in question, being a container which is delivered with the goods;

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- (d) a sale of goods in the case of which a document stating the quantity of the goods expressed in the manner in question is required to be delivered to the buyer or consignee of the goods by or under any other provision of this Order;
- (e) any such goods or sales as are mentioned in Article 19(7)( a) to ( d);
- (f) a sale of intoxicating liquor for consumption at the premises of the seller;
- (g) a sale by means of a vending machine; or
- (h) goods delivered at premises of the buyer by means of an installation providing a connection of a permanent nature between those premises and premises of the seller.

F24 SR 1995/226

**Short weight, etc. N.I.**

22.—(1) Subject to the provisions of this Part, any person who, in selling or purporting to sell any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer a lesser quantity than that purported to be sold or than corresponds with the price charged shall be guilty of an offence.

(2) <sup>F25</sup> .....

(3) If, in the case of any goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then, subject to the provisions of this Part and in particular to Article 24(2), any person who has those goods in his possession for sale, and (if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by, the buyer) any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, shall be guilty of an offence.

(4) If—

- (a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods; or
- (b) in the case of any goods which, in connection with a sale or agreement for the sale of the goods, have associated with them a document containing such a statement as is mentioned in sub-paragraph ( a),

the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by, the buyer, and subject to the provisions of this Part and in particular to Article 24(2) and (3) and paragraph 10 of Schedule 4, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence.

(5) Paragraphs (3) and (4) shall have effect notwithstanding that the quantity stated is expressed to be the quantity of the goods at a specified time falling before the time in question, or is expressed with some other qualification of whatever description, except where—

- (a) that quantity is so expressed in pursuance of an express requirement of this Order or any instrument made under it; or
- (b) the goods, although falling within paragraph (3) or paragraph (4)( a)—
  - (i) are not required by or under this Order to be pre-packed as mentioned in paragraph (3) or, as the case may be, to be made up for sale or for delivery after sale

in or on a container only if the container is marked as mentioned in paragraph (4) (a); and

- (ii) are not goods on a sale of which (whether any sale or a sale of any particular description) the quantity sold is required by or under any provision of this Order other than Article 21 to be made known to the buyer at or before a particular time; or
- (c) the goods, although falling within sub-paragraph (b) of paragraph (4) are not required by or under this Order to have associated with them such a document as is mentioned in that sub-paragraph.

(6) In any case to which, by virtue of paragraph (5)(a), (b) or (c), the provisions of paragraph (3) or (4) do not apply, if it is found at any time that the quantity of the goods in question is less than that stated and it is shown that the deficiency is greater than can be reasonably justified on the ground justifying the qualification in question, then, subject to the provisions of this Part—

- (a) in the case of goods such as are mentioned in paragraph (3), if it is further shown as mentioned in that paragraph, then—
  - (i) where the container in question was marked in Northern Ireland, the person by whom, and any other person on whose behalf, the container was marked, or
  - (ii) where the container in question was marked outside Northern Ireland, the person by whom, and any other person on whose behalf, the goods were first sold in Northern Ireland,

shall be guilty of an offence;

- (b) in the case of goods such as are mentioned in paragraph (4), the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence if, but only if, he would, but for paragraph (5)(a), (b) or (c), have been guilty of an offence under paragraph (4).

(7) Without prejudice to paragraphs (4) to (6), if in the case of any goods required by or under this Order to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document for the purposes of this Order or any instrument made under it while that statement was contained therein shall be guilty of an offence.

(8) For the purposes of this Article, any statement, whether oral or in writing, as to the weight of any goods shall be deemed, unless otherwise expressed, to be a statement as to the net weight of the goods.

(9) Nothing in this Article shall apply in relation to—

- (a) any such goods or sales as are mentioned in Article 19(7)(a) or (b);
- (b) any pre-package of wine or grape must within the meaning of the Pre-packaging and Labelling of Wine and Grape Must (EEC Requirements) Regulations 1978 .

[<sup>F26</sup>(10) For the purposes of this Article the quantity of goods in a package, or of a loaf of bread, to which the packaged goods regulations apply shall be deemed to be the nominal quantity (within the meaning of those regulations) of the package or the loaf of bread.]

**F25** Art. 22(2) revoked (26.5.2008) by Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1)(3), Sch. 2 para. 77, Sch. 4 Pt. 2 (with savings in reg. 28(2)(3))

**F26** Art. 22(10) added (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, Sch. 1 Pt. 2 para. 4 (with regs. 3, 21)

**Pleading of warranty as defence** **N.I.**

**23.**—(1) Subject to the provisions of this Article, in any proceedings for an offence under this Part or any instrument made under it, being an offence relating to the quantity or pre-packing of any goods, it shall be a defence for the person charged to prove—

- (a) that he bought the goods from some other person—
  - (i) as being of the quantity which the person charged purported to sell or represented, or which was marked on any container or stated in any document to which the proceedings relate; or
  - (ii) as conforming to the statement marked on any container to which the proceedings relate, or to the requirements of this Order, and any instrument made under it, with respect to the pre-packing of goods,
 as the case may require; and
- (b) that he so bought the goods with a written warranty from that other person that they were of that quantity or, as the case may be, did so conform; and
- (c) that at the time of the commission of the offence he had no reason to believe the statement contained in the warranty to be inaccurate, that he did in fact believe in its accuracy and, if the warranty was given by a person who at the time he gave it was resident outside Northern Ireland and any designated country, that the person charged had taken such steps, if any, as were reasonably practicable to check the accuracy of that statement; and
- (d) in the case of proceedings relating to the quantity of any goods, that he took all reasonable steps to ensure that, while in his possession, the quantity of the goods remained unchanged and, in the case of such or any other proceedings, that apart from any change in their quantity the goods were at the time of the commission of the offence in the same state as when he bought them.

(2) Where the proceedings are in respect of an offence committed by the person charged in the course of his employment, it shall be a defence for him to prove—

- (a) that if his employer had been charged the employer would have had a defence under paragraph (1) in respect of a warranty; and
- (b) that at the time of the commission of the offence the person charged had no reason to believe the statement contained in the warranty to be inaccurate.

(3) Where the person charged intends to set up a defence under this paragraph he shall, not more than fourteen days after the date of the service of the summons on him nor less than seven clear days before the date of the hearing—

- (a) send to the complainant a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person by whom it is alleged to have been given; and
- (b) send to the last-mentioned person a notice giving the date and place of the hearing and stating that he intends to rely on the warranty.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

(5) If the person charged in any such proceedings as aforesaid wilfully attributes to any goods a warranty given in relation to any other goods, he shall be guilty of an offence.

(6) A person who, in respect of any goods sold by him in respect of which a warranty might be pleaded under this Article, gives to the buyer a false warranty in writing shall be guilty of an offence unless he proves that when he gave the warranty he took all reasonable steps to ensure that the statements contained in it were, and would continue at all relevant times to be, accurate.



(7) Where in any such proceedings as aforesaid the person charged relies successfully on a warranty given to him or to his employer, any proceedings under paragraph (6) in respect of the warranty may, at the option of the complainant, be taken either before a court having jurisdiction in the place where the first-mentioned proceedings were taken or before a court having jurisdiction in the place where the warranty was given.

(8) For the purposes of this Article, any statement with respect to any goods which is contained in any document required by or under this Order to be associated with the goods or in any invoice, and, in the case of goods made up in or on a container for sale or for delivery after sale, any statement with respect to those goods with which that container is marked, shall be deemed to be a written warranty of the accuracy of that statement.

#### **Additional defences and safeguards for traders** **N.I.**

**24.**—(1) In any proceedings for an offence under this Part or any instrument made under it, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) In any proceedings for an offence under this Part or any instrument made under it by reason of the quantity—

- (a) of any goods made up for sale or for delivery after sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity; or
- (b) of any goods which, in connection with a sale or agreement for the sale thereof, have associated therewith a document purporting to state the quantity of the goods; or
- (c) of any goods required by or under this Order to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities,

being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be, it shall be a defence for the person charged to prove that the deficiency arose—

- (i) in a case falling within sub-paragraph (a), after the making up of the goods and the marking of the container;
- (ii) in a case falling within sub-paragraph (b), after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document;
- (iii) in a case falling within sub-paragraph (c) after the making up or making, as the case may be, of the goods for sale,

and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be.

(3) In the case of a sale by retail of food, not being food pre-packed in a container which is, or is required by or under this Order to be, marked with an indication of quantity, in any proceedings for an offence under this Part or any instrument made under it by reason of the quantity delivered to the buyer being less than that purported to be sold, it shall be a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage.

(4) If in any proceedings for an offence under this Part or any instrument made under it, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged shall not be found guilty of

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that offence unless it is shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment.

(5) In any proceedings for an offence under this Part or any instrument made under it, being an offence in respect of any excess in the quantity of any goods, it shall be a defence for the person charged to prove that the excess was attributable to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in those or other goods.

(6) If proceedings for an offence under this Part or any instrument made under it in respect of any deficiency or excess in the quantity—

- (a) of any goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity;
- (b) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required by or under this Order to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities,

are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession for sale or for delivery after sale, were available for testing, the person charged shall not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested.

(7) In any proceedings for an offence under this Part or any instrument made under it, the court—

- (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, shall have regard to the average quantity in all the articles tested;
- (b) if the proceedings are with respect to a single article, shall disregard any inconsiderable deficiency or excess; and
- (c) shall have regard generally to all the circumstances of the case.

(8) Paragraphs (6) and (7) shall apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as it applies to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods.

### **Offences due to default of third person** N.I.

**25.**—(1) If in any case the defence provided by Article 24(1) involves an allegation that the commission of the offence in question was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, before the beginning of the period of seven days ending with the date when the hearing of the charge began, he served on the prosecution a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(2) Where the commission by any person of an offence under this Part or an instrument made under it is due to the act or default of some other person, the other person shall be guilty of the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

(3) Where by virtue of paragraph (2) a person is charged with an offence with which some other person might have been charged, the reference in Article 24(6) to articles or goods sold by or in the possession of the person charged shall be construed as a reference to articles or goods sold by or in the possession of that other person.

## Special powers of inspector with respect to certain goods **N.I.**

26.—(1) Subject to paragraph (3), where any person—

- (a) makes in any manner any representation as to the quantity of any goods offered or exposed for sale by him; or
- (b) has in his possession or charge awaiting or in the course of delivery to the buyer any goods which have been sold or agreed to be sold, and the sale is, or purports to be, or is required by or under this Order to be, by quantity expressed in a particular manner, or is such that the quantity of the goods sold is required by or under any provision of this Order other than Article 21 to be made known to the buyer at or before a particular time; or
- (c) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any goods pre-packed or otherwise made up in or on a container for sale or for delivery after sale which are required by or under this Order to be pre-packed, or to be otherwise so made up, as the case may be, only in particular quantities or only if the container is marked with particular information, or any goods pre-packed in or on a container marked with an indication of quantity, or any goods required by or under this Order to be made for sale only in particular quantities; or
- (d) has in his possession or charge for sale or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any goods subject to a requirement imposed by virtue of Article 19(2)( c);

the powers of an inspector under Article 41 shall include power to require that person either to do in the presence of the inspector, or to permit the inspector to do, all or any of the following things, that is to say—

- (i) weigh or otherwise measure or count the goods;
- (ii) weigh or otherwise measure any container in or on which the goods are made up;
- (iii) in the case of goods within sub-paragraph (d), do anything else as respects the goods or container which is reasonably necessary to ascertain whether the requirement there mentioned is complied with, and which does not damage or depreciate the goods or container;
- (iv) if necessary for any of the purposes of heads (i) to (iii), break open any container of goods or open any vending machine in which goods are offered or exposed for sale,

and, in the case of any of the goods which are not already sold, power to require that person to sell any of them to the inspector.

(2) Where any container of goods is broken open under paragraph (1) and all requirements of, and of any instrument made under, this Order which are applicable to those goods are found to have been complied with, then, if the container can be resealed without injury to the contents, the inspector may reseat it with a label certifying that all such requirements have been complied with or, if he does not so reseat it or it cannot be so resealed without injury to the contents, shall at the request of the person mentioned in paragraph (1) buy the goods on behalf of the Department.

(3) The powers conferred by paragraph (1) shall not be exercisable in relation to milk within the meaning of the Weights and Measures (Milk) Order (Northern Ireland) 1980 except while the milk is on the premises which are used by a licence holder under the<sup>F27</sup> Milk (Northern Ireland) Order 1983] for making up milk in bottles or other containers, and paragraph (2) shall not apply in relation to such milk.

F27 1983 NI 2

**Powers of inspector with respect to certain documents** **N.I.**

27.—(1) An inspector, subject to the production, if so requested, of his credentials, may require the person in charge of any document required by or under this Order to be associated with any goods to produce that document for inspection.

(2) If the inspector has reasonable cause to believe that any document produced to him under paragraph (1) contains any inaccurate statement, he may either—

- (a) seize and detain the document, giving in exchange therefor a statement signed by him certifying that the document has been seized and giving particulars of the document and particulars of any inaccuracy alleged; or
- (b) without prejudice to any proceedings which may be taken by reason of any inaccuracy alleged, make on the document an endorsement signed by him giving particulars of any such inaccuracy;

and any reference in this Order to any such document shall be deemed to include a reference to a statement given in pursuance of sub-paragraph ( a).

(3) Where, in the case of any goods being carried on a road vehicle, the whole of the vehicle's load is being carried for, or for delivery after, sale to the same person, and any document produced in pursuance of paragraph (1) by the person in charge of the vehicle purports, or is required by or under this Order, to state the quantity of the goods, then, for the purpose of the exercise of his powers under Article 26(1), the inspector may do all or any of the following things, that is to say—

- (a) require the goods to which the document relates to be unloaded from the vehicle;
- (b) require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment;
- (c) require the person in charge of the vehicle to have it check-weighed.

(4) The powers conferred by paragraph (3) shall be exercised only to such extent as may appear to the inspector reasonably necessary in order to secure that the provisions of this Order and any instrument made under it are duly observed.

**Check-weighing of certain road vehicles** **N.I.**

28.—(1) Without prejudice to Part II of Schedule 5, where any road vehicle is loaded with goods for sale by weight to a single buyer of the whole of the vehicle's load, or for delivery to the buyer after they have been so sold, the buyer or seller of the goods, or any inspector who shows that he is authorised so to do by the buyer or seller of the goods, may require the person in charge of the vehicle to have it check-weighed, and if that person fails without reasonable cause to comply with any such requirement he shall be guilty of an offence.

(2) Where after the check-weighing in pursuance of a request by the buyer under paragraph (1) the weight of the goods is found to be not less than that stated by the seller in any document delivered to the buyer at or before the delivery of the goods to him, the buyer shall be liable to defray all costs reasonably incurred in connection with the check-weighing, but where the weight of the goods is so found to be less than that so stated, all such costs shall be defrayable by the seller.

**Selling by quantity, making quantity known, and weighing in presence** **N.I.**

29.—(1) Where any goods are required by or under this Order to be sold only by quantity expressed in a particular manner—

- (a) it shall be a sufficient compliance with that requirement in the case of any sale of, or agreement to sell, any such goods if the quantity of the goods expressed in the manner in question is made known to the buyer before the purchase price is agreed;

- (b) no person shall be guilty of an offence under Article 20(1) by reason of the exposing or offering for sale of such goods at any time if both the quantity of the goods expressed in the manner in question and the price at which they are exposed or offered for sale are made known at that time to any prospective buyer.
- (2) For the purposes of this Order and any instrument made under it, without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner, that quantity shall be deemed to be made known to that person—
- (a) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person; or
  - (b) if the goods are made up in or on a container marked with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person; or
  - (c) upon such a statement in writing being delivered to that person.
- (3) Where the Department by order provides that this paragraph is to apply, in the case of such goods in such circumstances as are specified in the order, to any requirement so specified of, or of any instrument made under, this Order with respect to the making known to the buyer of the quantity by weight of such goods sold by retail, then, in any case to which the order applies, that requirement shall be deemed to be satisfied if the goods are bought at premises at which weighing equipment of such description as may be prescribed—
- (a) is kept available by the occupier of those premises for use without charge by any prospective buyer of such goods for the purpose of weighing for himself any such goods offered or exposed for sale by retail on those premises; and
  - (b) is so kept available in a position on those premises which is suitable and convenient for such use of the equipment; and
  - (c) is reserved for use for that purpose at all times while those premises are open for retail transactions,
- and a notice of the availability of the equipment for such use is displayed in a position on the premises where it may be readily seen by any such prospective buyer.
- (4) For the purposes of this Order and any instrument made under it, a person shall not be deemed to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any equipment used for the purpose to be so placed, and so conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that other person a clear and unobstructed view of the equipment, if any, and of the operation, and of any indication of quantity given by any such equipment as the result of that operation.

## PART VI N.I.

### PACKAGED GOODS

#### Interpretation of Part VI N.I.

30. <sup>F28</sup> .....

<b>F28</b> Arts. 30-38 repealed (1.11.2011) by <a href="#">Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331)</a> , reg. 22, <b>Sch. 1 Pt. 1</b> (with regs. 3, 21)
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Quantity control

Duties of packers and importers of packages **N.I.**

31. <sup>F29</sup> .....

**F29** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

Enforcement **N.I.**

32. <sup>F30</sup> .....

**F30** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

Defences to offences under Article 32 **N.I.**

33. <sup>F31</sup> .....

**F31** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

Special provision for certain packages **N.I.**

34. <sup>F32</sup> .....

**F32** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

Co-ordination of control

Functions of the Department under Part VI **N.I.**

35. <sup>F33</sup> .....

**F33** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

Miscellaneous

Disclosure of information **N.I.**

36. <sup>F34</sup> .....

**F34** Arts. 30-38 repealed (1.11.2011) by Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. 2011/331), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

## Power to modify Part VI **N.I.**

37. <sup>F35</sup> .....

**F35** Arts. 30-38 repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

## Regulations under Part VI **N.I.**

38. <sup>F36</sup> .....

**F36** Arts. 30-38 repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

## PART VII **N.I.**

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

#### Function of Department **N.I.**

39. It shall be the duty of the Department to enforce the provisions of this Order.

#### Inspectors of weights and measures **N.I.**

40.—(1) The Department, with the approval of the Department of the Civil Service as to numbers and salaries, shall appoint from among persons holding certificates of qualification under paragraph (2) a chief inspector of weights and measures and such number of other inspectors of weights and measures as may be necessary for the efficient discharge of the functions conferred or imposed on inspectors under this Order or any enactment falling to be repealed by it [<sup>F37</sup>and the packaged goods regulations], and may assign to them their duties, and may regulate the cases and manner in which the inspectors, or any of them, are to execute and perform the functions of inspectors under this Order or any such enactment [<sup>F37</sup>and the packaged goods regulations].

(2) The Department may make such arrangements as it thinks fit for the purpose of ascertaining whether persons possess sufficient skill and knowledge for the proper performance of the functions of an inspector, and for the grant of certificates of qualification to persons who satisfy the Department that they are suitable for appointment as inspectors.

(3) <sup>F38</sup> .....

**F37** Words in art. 40(1) 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. 5** (with regs. 3, 21)

**F38** Art. 40(3) repealed (1.10.2006) by [Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/261\)](#), reg. 53(2), **Sch. 8(1)** (with reg. 50)

#### General powers of inspection and entry **N.I.**

41.—(1) Subject to the production, if so requested, of his credentials, an inspector may at all reasonable times—

- (a) inspect and test any weighing or measuring equipment which is, or which he has reasonable cause to believe to be, used for trade or in the possession of any person or upon any

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premises for such use;<sup>F39</sup> or which has been, or which he has reasonable cause to believe to have been, passed by an approved verifier, or by a person purporting to act as such a verifier, as fit for such use.]

- (b) inspect any goods to which any of the provisions of this Order or any instrument made under it for the time being applies or which he has reasonable cause to believe to be such goods;
  - (c) enter any premises at which he has reasonable cause to believe there to be any such equipment or goods as aforesaid, not being premises used only as a private dwelling-house.
- (2) Subject to the production, if so requested, of his credentials, an inspector may seize and detain—
- (a) any article which he has reasonable cause to believe is liable to be forfeited under this Order, and
  - (b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Order.
- (3) Where a justice of the peace is satisfied by complaint in writing and on oath—
- (a) that there is reasonable ground to believe that any such equipment, goods, articles or documents as are mentioned in paragraph (1) or (2) are on any premises, or that any offence under this Order or any instrument made under it has been, is being or is about to be committed on any premises; and
  - (b) either—
    - (i) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or that the occupier is temporarily absent,
- he may issue a warrant under his hand, which shall continue in force for a period of seven days commencing with the date of issue of the warrant, authorising an inspector to enter the premises, if need be by force.
- (4) An inspector entering any premises by virtue of this Article may take with him such other persons and such equipment as he considers necessary.
- (5) An inspector who leaves premises which he has entered by virtue of paragraph (3) and which are unoccupied or from which the occupier is temporarily absent shall leave the premises as effectively secured against trespassers as he found them.
- (6) If any inspector or other person who enters any premises by virtue of this Article discloses to any person any information with regard to any secret manufacturing process or trade secret obtained by him in the premises, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

**F39** 2000 c. 5(NI)

## **Obstruction of inspectors** **N.I.**

- 42.**—(1) Any person who—
- (a) wilfully obstructs an inspector acting in the execution of this Order or any instrument made under it [<sup>F40</sup> or the packaged goods regulations]; or
  - (b) wilfully fails to comply with any requirement properly made of him by an inspector under Article 26 or 27; or



- (c) without reasonable cause fails to give to any inspector acting as aforesaid any assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under this Order or any instrument made under it [<sup>F41</sup>or the packaged goods regulations],

shall be guilty of an offence.

(2) If any person, in giving to an inspector any such information as is mentioned in paragraph (1), gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in this Article shall be construed as requiring a person to answer any question or give any information (other than his name and address) if to do so might incriminate him.

**F40** Words in art. 42(1)(a) 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. 6** (with regs. 3, 21)

**F41** Words in art. 42(1)(c) 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. 6** (with regs. 3, 21)

#### **Power of Department to provide adjustment service** **N.I.**

**43.** The Department may make arrangements for the provision of a service for the adjustment of weights and measures, but not of other weighing or measuring equipment, subject to the payment, by persons requiring the said service, of the prescribed fee.

#### **Employment of inspectors for provision of certain other services** **N.I.**

**44.** Without prejudice to the functions exercisable by inspectors under any other provision of this Order [<sup>F42</sup>or any provision of the packaged goods regulations], the Department may make arrangements whereby an inspector may, at the request of any person and subject to the payment by that person of such fee as the Department may determine, carry out and submit to that person a report on—

- (a) a weighing or other measurement of any goods submitted for the purpose by that person at such place as the Department may direct or approve;
- (b) a test of the accuracy of any weighing or measuring equipment so submitted.

**F42** Words in art. 44 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. 7** (with regs. 3, 21)

#### **Offences in connection with office of inspector** **N.I.**

**45.—(1)** Any inspector who—

- (a) stamps any weighing or measuring equipment in contravention of any provision of this Order or of any instrument made under it [<sup>F43</sup>or the packaged goods regulations], or without duly testing it; or
- (b) derives any profit from, or is employed (otherwise than in pursuance of arrangements made under Article 43) in, the making, adjusting or selling of weighing or measuring equipment; or
- (c) knowingly commits any breach of any duty imposed on him by or under this Order or any enactment falling to be repealed by it or otherwise misconducts himself in the execution of his office,

shall be guilty of an offence.

Status: Point in time view as at 16/12/2013.

Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)

[<sup>F44</sup>(1A) Any approved verifier who—

- (a) stamps any weighing or measuring equipment in contravention of any provision of this Order or of any instrument made under it [<sup>F45</sup>or the packaged goods regulations], or without duly testing it; or
- (b) commits any breach of any duty imposed on him by or under this Order,

shall be guilty of an offence.

(2) If any person who is not an inspector, or is not an approved verifier, acts or purports to act as such, he shall be guilty of an offence.

(3) Articles 24(1) and 25(1) shall apply in relation to proceedings for an offence under paragraph (1A)(b) as they apply in relation to proceedings for an offence under Part V.]

**F43** Words in art. 45(1)(a) 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. 8** (with regs. 3, 21)

**F44** 2000 c. 5(NI)

**F45** By [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 2 para. 8** (with regs. 3, 21) it is provided that in art. 45(1A)(b) after the words "this Order or of any instrument made under it" insert (1.11.2011) "or the packaged goods regulations"

**Prosecution of offences** N.I.

46.—(1) Subject to paragraph (2), no proceedings for an offence under any of the provisions of this Order or any instrument made under it <sup>F46</sup> . . . may be instituted except by the Department or the Attorney General.

(2) <sup>F47</sup> . . . . .

(3) Proceedings for an offence under any provision contained in, or having effect by virtue of, Part V, other than proceedings for an offence under Article 23(6) or proceedings by virtue of Article 25(2), shall not be instituted—

- (a) unless there has been served on the person charged notice in writing of the date and nature of the offence alleged and, where the proceedings are in respect of one or more of a number of articles of the same kind tested on the same occasion, of the results of the tests of all those articles;
- (b) except where the person charged is a street trader, unless the said notice was served before the expiration of the period of thirty days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge;
- (c) after the expiration of the period of—
  - (i) twelve months beginning with the date mentioned in sub-paragraph ( a ), or
  - (ii) three months beginning with the date mentioned in sub-paragraph ( b ),
 whichever first occurs.

(4) For the purposes of paragraph (3)—

- (a) a certificate of a person who institutes proceedings for an offence mentioned in that paragraph which states that evidence came to his knowledge on a particular date shall be conclusive evidence of that fact; and
- (b) a document purporting to be a certificate of such a person and to be signed by him or on his behalf shall be presumed to be such a certificate unless the contrary is proved.

(5) <sup>F48</sup> . . . . .

- F46** Words in art. 46(1) omitted (1.11.2011) by virtue of [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 2 para. 9** (with regs. 3, 21)
- F47** Art. 46(2) repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)
- F48** Art. 46(5) repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

**Penalties** **N.I.**

47.—(1) A person guilty of an offence under Article 6(3), 7(4), 8(2), 9(2), 9(11), 10(3), 10(4), 11(4), 12(3), 12(4), 13(1), 13(4),<sup>F49</sup> 13A(3),] 16(3), 18(2), 18(4) or 18(5), paragraphs 4 and 5 of Schedule 4 or paragraph 5 of Schedule 5, shall be liable on summary conviction to a fine not exceeding £200.

(2) A person guilty of an offence under Article 15(3) or 18(3)(b) or paragraph 6 of Part I of Schedule 5 shall be liable on summary conviction to a fine not exceeding<sup>F50</sup> level 5 on the standard scale] or to imprisonment for a term not exceeding six months or to both.

(3) <sup>F51</sup> .....

(4) A person guilty of an offence under Article 41(6) shall be liable—

- (a) on summary conviction to a fine not exceeding<sup>F50</sup> level 5 on the standard scale];
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) A person guilty of an offence under any provision of this Order other than those mentioned in paragraphs (1) to (4) <sup>F52</sup> . . . shall be liable on summary conviction to a fine not exceeding<sup>F50</sup> level 5 on the standard scale].

- F49** 2000 c. 5(NI)
- F50** 1984 NI 3
- F51** Art. 47(3) repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)
- F52** Words in art. 47(5) omitted (1.11.2011) by virtue of [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 2 para. 10** (with regs. 3, 21)

**Regulations and orders** **N.I.**

48.—(1) Any regulations made under this Order shall be subject to negative resolution.

(2) Before making any order under Articles 6, 19(2), 19(7), 21(6), 29(3) and 53(1) and paragraph (7) of Schedule 5, the Department shall consult with, and consider any representations with respect to the subject-matter of the order made to the Department by, such organisations as appear to the Department to be representative of interests substantially affected by the order.

(3) In the case of an order under Article 6(4) which relates to imperial units, measures or weights the Department in acting under paragraph (2) shall have particular regard to the need to consult, and to consider representations from, organisations representative of the interests of consumers.

(4) <sup>F53</sup> .....

- F53** Art. 48(4) repealed (1.11.2011) by [Weights and Measures \(Packaged Goods\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/331\)](#), reg. 22, **Sch. 1 Pt. 1** (with regs. 3, 21)

*Status: Point in time view as at 16/12/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981. (See end of Document for details)*

### Department to report to Assembly **N.I.**

49. The Department shall not less than once in every three years lay before the Assembly a report of its proceedings under this Order and generally about the operation of this Order.

### Application to Crown **N.I.**

50.—(1) The Secretary of State may by order provide for the application to the Crown of such of the provisions of this Order or of any instrument made under it as may be specified in the order, with such exceptions, adaptations and modifications as may be so specified.

(2) Without prejudice to the generality of paragraph (1), an order under this Article may make special provision for the enforcement of any provisions applied by the order, and, in particular, as to the person liable to be proceeded against for any offence under any such provision.

(3) An order made under this Article shall be subject to negative resolution.

(4) In this Article, references to the Crown shall include references to the Crown in right of Her Majesty's Government in the United Kingdom.

### Supplemental provisions with respect to fees **N.I.**

51.—(1) Where a person gives assistance in connection with the inspection, testing or stamping of weighing or measuring equipment by an inspector, the Department may reduce, by a sum which the Department considers reasonable by reference to the assistance, the amount of any payment falling to be made by that person to the inspector in respect of the inspection, testing or stamping.

(2) The Public Offices Fees Act 1879 shall not apply to any fee such as is referred to in paragraph (1).

*Art. 52 rep. by 1996 NI 2*

### Other savings **N.I.**

53.—(1) Except as the Department may by order otherwise provide, and except in the case of a retail transaction or a transaction with respect to which provision to the contrary effect is for the time being made by or under Part V or any enactment included in the third column of Part III of Schedule 7 to the Weights and Measures Act (Northern Ireland) 1967, nothing in this Order shall make unlawful the use in any transaction, by agreement between the parties to that agreement, of any unit of measurement which—

- (a) was customarily used for trade in the like transactions immediately before 25th October 1967, and
- (b) is not inconsistent with anything for the time being contained in Schedule 1 to the<sup>F54</sup> Act of 1985],

notwithstanding that the unit in question is not for the time being included in the said Schedule 1.

(2) No contract for the sale or carriage for reward of any goods shall be void by reason only of a contravention of any provision of, or any instrument made under, this Order with respect to any document which is, or is required by that provision to be, associated with the goods.

(3) Nothing in this Order or in any instrument made under it, prevents the use of “gram” as an alternative way of spelling “gramme”, and the same applies for other units in the metric system which are compounds of “gramme”.

**F54** 1985 c. 72

## **Consequential amendments and repeals** **N.I.**

*Para.(1), with Schedule 10, effects amendments; para.(2), with Schedule 11, effects repeals*

(3) Where an enactment contained in any local Act passed before 25th October 1967 appears to the Department to have been superseded by, or to be inconsistent with, any provision of this Order or of any instrument made under it, the Department may by order, a draft of which shall be laid before the Assembly, specify that enactment for the purposes of this paragraph and, without prejudice to the operation in the meantime of any rule of law relating to the effect on any such enactment of any such provision, any enactment specified in any such order shall be repealed as from the date of the making of the order.

(4) No power conferred by any Act on any person other than the Department to make provision by instrument with respect to the marking of any food shall extend to the marking of such food with a statement of its quantity by weight or other measurement or by number, if the exercise of such a power would have the effect of making a provision which would be inconsistent with any provision of this Order or any instrument made under it.

**Status:**

Point in time view as at 16/12/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Weights and Measures (Northern Ireland) Order 1981.