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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 187**

**The Weights and Measures (Food) (Amendment)  
Regulations (Northern Ireland) 2016**

**Citation and commencement**

1. These Regulations may be cited as the Weights and Measures (Food) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 18th April 2016.

**Interpretation**

2. The Interpretation Act (Northern Ireland) 1954(1) shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendments to the Weights and Measures (Northern Ireland) Order 1981**

3. The Weights and Measures (Northern Ireland) Order 1981(2) is amended as set out in regulations 4 to 12.

4. In Article 2(2) (interpretation)(3) before the definition of “gross weight” insert—  
““the FIC Regulation” means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(4);”.
5. In Article 21 (quantity to be stated in writing in certain cases), after paragraph (6) insert—  
“(7) There shall be exempt from the requirements of this Article goods that are subject to the FIC Regulation.”
6. In Article 22 (Short weight etc)—
- (a) in paragraph (3) for “goods pre-packed” substitute “goods that are pre-packed within the meaning of this Order or are prepacked food within the meaning of the FIC Regulation and (in either case) are” and after “were pre-packed” insert “within the meaning of this Order or were prepacked food within the meaning of the FIC Regulation and (in either case) were”;
  - (b) in paragraph (4)(a) after “pre-packed” insert “within the meaning of this Order or prepacked food within the meaning of the FIC Regulation”;
  - (c) in paragraph (5)(b)(i), after “paragraph (3)” insert “or required by the FIC Regulation to be prepacked food as mentioned in that paragraph”; and
  - (d) in (5)(b)(ii), after “other than Article 21” insert “or required by the FIC Regulation”.

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(1) 1954 c. 33 (N.I)

(2) S.I.1981/231 (N.I. 10)

(3) Article 2(2) was amended by the Weights and Measures Act 1985 (c. 72 Schedule 12 paragraph 10 (3), the Weights and Measures (Amendment) Act (Northern Ireland) 2000 the schedule paragraph 2, the Food Safety (Northern Ireland) Order 1991 Article 2 and the Weights and Measures Packaged Goods Regulations (Northern Ireland) 2011 Schedule 1 part 2 paragraph 2

(4) OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 (OJ No L 27, 30.1.2014, p 7).

7. After Article 22 insert—

**“Non-compliance with certain requirements of the FIC Regulation**

**22A.**—(1) Subject to paragraph (2), a food business operator to which Article 1(3) of the FIC Regulation applies is guilty of an offence if that food business operator fails to comply with—

- (a) any of the provisions of Article 8 of the FIC Regulation (responsibilities of food business operators) applicable to the food business operator, to the extent that the provisions relate to net quantity;
- (b) Article 9(1)(e) of the FIC Regulation (mandatory indication of net quantity of food), except to the extent that it relates to a failure to comply with Article 13(5) of the FIC Regulation; or
- (c) Chapter V of the FIC Regulation (voluntary food information), to the extent that it imposes requirements in respect of net quantity.

(2) A food business operator is not guilty of an offence under paragraph (1) if the food business operator acts in accordance with any of the following—

- (a) an exception contained in Chapter IV of the FIC Regulation;
- (b) national measures adopted under Article 40 of the FIC Regulation (milk and milk products);
- (c) national measures maintained under Article 42 of the FIC Regulation (measures adopted before 12 December 2011);
- (d) transitional measures under Article 54(1) of the FIC Regulation.

(3) In this Article “food business operator” and “net quantity” have the same meanings as in the FIC Regulation.”

**8.** In Article 24(3) (defence: deficiency due to evaporation or drainage), after “required by or under this Order”, insert “or the FIC Regulation”.

**9.** In Article 24(6)(b) (reasonable number to be tested), after “required by or under this Order”, insert “or the FIC Regulation”.

**10.** In Article 25 (offences due to default of third person), in paragraph (2) after “under this Part”, insert “(other than Article 22A)”.

**11.** In Article 26 (special powers of inspectors with respect to certain goods), in paragraph (1)(b) and (c) and (2) after “under this Order” each time it appears, insert “or the FIC Regulation”.

**12.** In Schedule 7 (composite goods and collections of articles)—

(a) in paragraph 2(1), after head (a) insert—

“(aa) that are subject to the FIC Regulation, or”;

(b) in paragraph 3, after subparagraph (1) insert—

“(1A) This paragraph does not apply to aerosol products containing goods that are subject to the FIC Regulation.”

(c) in paragraph 4, after subparagraph (1) insert—

“(1A) This paragraph does not apply to a collection containing any goods that are subject to the FIC Regulation.”

## **Amendments to the Weights and Measures (Various Foods) Order (Northern Ireland) 1988**

13. The Weights and Measures (Various Foods) Order (Northern Ireland) 1988<sup>(5)</sup> is amended as set out in regulations 14 to 16.

14.—(1) Article 2 is renumbered as article 2(1).

(2) In the renumbered article 2(1)—

(a) before the definition of “meat” insert—

““mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;” and

(b) after the definition of “the Order of 1981” insert—

““pre-packed”, in relation to food to which this Order applies, means either or both of—

(a) made up for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation<sup>(6)</sup> by way of retail;

(b) made up in advance ready for retail sale in an open container;

“relevant wholesale”, in relation to food to which this Order applies, means a sale by way of wholesale, but does not include any of the following:

(a) a sale to a mass caterer;

(b) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or

(c) a supply to which Article 8(8) of the FIC Regulation<sup>(7)</sup> applies;”.

(3) After the renumbered article 2(1) insert—

“(2) References in this Order to items being “loose” include items packed at the request of the customer.”

15. In article 4—

(a) in paragraph (2) for “not pre-packed, shall” substitute “sold loose must”; and

(b) for paragraph (3) substitute—

“(3) Subject to paragraphs (7) and (8), where food to which this article applies (other than cheese and fish) is sold in a relevant manner (as defined in paragraph (3A)), it must be sold only—

(a) by net weight; or

(b) if it is sold in a container which does not exceed the permitted weight specified in Table A of Schedule 2, either by net weight or gross weight.

(3A) For the purposes of paragraph (3), food is sold “in a relevant manner” if it is sold—

<sup>(5)</sup> S.R. 1988 No. 408.

<sup>(6)</sup> The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in Article 2(2) of the Weights and Measures (Northern Ireland) Order 1981

<sup>(7)</sup> Article 8 (8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient information must be provided to the recipient food business operator to enable the food business operator to meet its obligations under Article 8 (2) of the FIC Regulation, which requires the food business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions

- (a) pre-packed otherwise than by retail sale;
- (b) loose to a mass caterer; or
- (c) by relevant wholesale.”

**16.** In article 5—

- (a) in paragraph (4) for “not pre-packed, shall” substitute “sold loose must”;
- (b) in paragraph (5) after “mushrooms” insert “which are sold pre-packed or loose”; and
- (c) in subparagraph (a) of paragraph (6) for “not pre-packed” substitute “sold loose”.

**Amendments to the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989**

**17.** The Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989<sup>(8)</sup> is amended as set out in regulations 18 to 30.

**18.—(1)** Article 2 is renumbered as article 2(1).

**(2)** In the renumbered article 2(1)—

- (a) for the definition of ““chicory”, “chicory extract paste”, “coffee”, “coffee mixture”, “coffee extract paste”, “instant chicory”, “instant coffee”, “liquid chicory extract” and “liquid coffee extract””, substitute—

““chicory”, “chicory extract paste”, “coffee extract paste”, “instant chicory”, “instant coffee”, “liquid chicory extract” and “liquid coffee extract”, have the same meanings as in the Coffee Extracts and Chicory Extracts Regulations (Northern Ireland) 2001<sup>(9)</sup>”;

- (b) for the definition of ““chocolate confectionery”, “flour confectionery” and “sugar confectionery””, substitute—

““chocolate confectionery” means any food which is ready for consumption without further preparation, of which a characterising ingredient is chocolate, cocoa or non-fat cocoa solids, and includes food of which a characterising ingredient is carbohydrate sweetening matter and which has a chocolate or chocolate-flavoured coating, but does not include any biscuits, chocolate products, flour confectionery or edible ice;”;

- (c) for the definition ““cocoa product”, “chocolate product”, “fancy chocolate product”, “container” in relation to these products and “reserved description””, substitute—

““chocolate product” means any chocolate product to which the Cocoa and Chocolate Products Regulations (Northern Ireland) 2003<sup>(10)</sup> apply;

“cocoa product” means any cocoa product to which the Cocoa and Chocolate Products Regulations (Northern Ireland) 2003 apply;”;

- (d) before the definition of “coffee bag” insert—

““coffee” means the dried seed of the coffee plant whether such seed has been roasted or ground or both roasted and ground;”;

- (e) for the definition of ““condensed milk” and “dried milk””, substitute—

““condensed milk” means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, dried milk or

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<sup>(8)</sup> S.R. 1989 No. 69, amended by S.R. 1990 No. 230, 1995 No. 230, 2005 No. 516, 2010 No. 203, 2011 No. 331, 2013 No. 261.

<sup>(9)</sup> S.R. 2001 No. 45, amended by S.R. 2014 No. 223; there are other amending regulations but none is relevant

<sup>(10)</sup> S.R. 2003 No. 313, amended by S.R. 2014 No.223; there are other amending regulations but none are relevant

sucrose, which has been concentrated by the partial removal of water, but does not include dried milk;”;

- (f) before the definition of “liquid coffee and chicory products” insert—

““container”, in relation to cocoa products, chocolate products and fancy chocolate products, includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band, but does not include any crimp case used to support the base or the base and sides of any chocolate product;

“dried milk” means milk, partly skimmed milk or skimmed milk or any combination thereof, whether with or without the addition of cream, which has been concentrated to the form of powder, granule or solid by the removal of water;

“fancy chocolate product” includes any chocolate product in the form of figurines, cigarettes or eggs or enclosed in a seasonal selection pack;

“flour confectionery” means any cooked food which is ready for consumption without further preparation (other than reheating), of which a characterising ingredient is ground cereal, including shortbread, sponges, crumpets, muffins, macaroons, ratafias, pastry and pastry cases, and also includes meringues, petits fours and uncooked pastry and pastry cases, but does not include bread, pizzas, biscuits, crispbread, extruded flat bread or any food containing a filling which has as an ingredient any cheese, meat, offal, fish or shellfish;”;

- (g) before the definition of “Member State” insert—

““mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;”;

- (h) before the definition of “preserved milk” insert—

““pre-packed”, in relation to food to which this Order applies, means either or both of—

(a) made up for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation<sup>(11)</sup>) by way of retail;

(b) made up in advance ready for retail sale in an open container;”;

- (i) before the definition of “solid and paste coffee and chicory products” insert—

““relevant wholesale”, in relation to food to which this Order applies, means a sale by way of wholesale, but does not include any of the following—

(a) a sale to a mass caterer;

(b) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or

(c) a supply to which Article 8(8) of the FIC Regulation applies<sup>(12)</sup>;”;

- (j) after the definition of “solid and paste coffee and chicory products” insert—

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<sup>(11)</sup> The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in Article 2(2) of the Weights and Measures (Northern Ireland) Order 1981.

<sup>(12)</sup> The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in Article 2(2) of the Weights and Measures (Northern Ireland) Order 1981

““sugar confectionery” means any food which is ready for consumption without further preparation, of which a characterising ingredient is carbohydrate sweetening matter, and includes sweetened liquorice and chewing gum, but does not include any chocolate confectionery, chocolate products, cocoa products, flour confectionery, edible ice, table jellies, slab marzipan or sugar.”

(3) After the renumbered article 2(1) insert—

“(2) References in this Order to items being “loose” include items packed at the request of the customer.”

19. For article 4 substitute—

**“Scope of application**

4.—(1) Subject to the following provisions of this Order, the following must be made up in a container marked with an indication of quantity by net weight—

- (a) the foods specified in column 1 of Schedule 1, when pre-packed; and
- (b) cocoa products and chocolate products, solid and paste coffee and chicory products and sugar, when made up in a container for relevant wholesale, subject to the exemptions specified in column 2 of Schedule 1.

(2) Unless sold loose or packaged in a quantity of less than 5 g, honey must be made up in a container marked with an indication of quantity by net weight.

(3) Subject to the following provisions of this Order, the foods specified in column 1 of Schedule 1 must, when sold loose, if sold by retail be sold only by net weight.

(4) Paragraph (3) above shall not apply in relation to any of the following—

- (a) biscuits (except to wafer biscuits which are not cream filled) when sold in a quantity of eight or less;
- (b) bread;
- (c) chunk honey; or
- (d) comb honey.”

20. In paragraph (1) of article 5—

- (a) after “pre-packed” omit “otherwise”; and
- (b) for “sale” substitute “relevant wholesale”.

21. In article 6—

- (a) in paragraph (1) omit “and (2)”; and
- (b) in paragraph (5) for “not pre-packed shall” substitute “sold loose must”; and
- (c) for paragraph (6) substitute—

“(6) Shortbread, when sold loose must, if sold by retail, be sold only by net weight, unless sold in a quantity of eight pieces or fewer.”

22. For article 8 substitute—

“8. In the case of caseins and caseinates for human consumption, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight.”

23. In article 9—

- (a) for paragraph (1) substitute—

- “(1) Subject to paragraph (2) below, in the case of cocoa products and chocolate products, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight, unless sold in a quantity by net weight of less than 50 g.”; and
- (b) in paragraph (3) for “not pre-packed shall” substitute “sold loose must”.
- 24.** In article 10—
- (a) for paragraph (1) substitute—
- “(1) In the case of liquid coffee and chicory products, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by capacity measurement, unless sold in a quantity of less than 5 ml.”; and
- (b) in paragraph (2)—
- (i) omit “otherwise”; and
- (ii) for the word “sale” where it first appears, substitute “relevant wholesale”.
- 25.** In paragraph (1) of article 12, for “not pre-packed” substitute “sold loose or made up in a container for relevant wholesale”.
- 26.** For article 13 substitute—
- “**13.** In the case of preserved milk for human consumption, when pre-packed or made up in a container for relevant wholesale, the container must be marked with an indication of quantity by net weight, unless sold in a quantity of less than 5 g.”
- 27.** In article 14(3), for “not pre-packed shall” substitute “sold loose must”.
- 28.** In subparagraph (a) of paragraph (1) of article 17—
- (a) omit “otherwise”; and
- (b) for “sale” substitute “relevant wholesale”.
- 29.** In article 18—
- (a) in paragraph (1)—
- (i) omit “otherwise” where it first appears; and
- (ii) for the word “sale” where it first appears, substitute “relevant wholesale”; and
- (b) in paragraph (2)—
- (i) omit “otherwise” where it first appears; and
- (ii) for the word “sale” in the final place it appears, substitute “relevant wholesale”.
- 30.** For Schedule 1, substitute Schedule 1 as set out in the Schedule to these Regulations.

### **Amendments to the Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989**

- 31.** The Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989<sup>(13)</sup> is amended as set out in regulation 32.
- 32.** In article 6—
- (a) for paragraph (1) substitute—
- “(1) Where intoxicating liquor or other liquids specified in column 1 of Schedule 1—

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<sup>(13)</sup> S.R. 1989 No. 164, relevant amending rules are S.R. 1990 No. 395, 2010 No. 203, 2013 No. 261

- (a) are pre-packed in a closed container for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation(14)); or
- (b) are, in the case of those specified in Part III of Schedule 1, made up in a closed container for relevant wholesale,
 

the container must, subject to the exemptions specified in column 4 of Schedule 1, be marked with an indication of quantity by volume.”;
- (b) in paragraph (2) after “pre-packed” insert “for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation)”;
- (c) after paragraph (2) insert—
  - “(3) For the purposes of this article—
    - (a) “mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer; and
    - (b) “relevant wholesale”, in relation to food to which this article applies, means a sale by way of wholesale, but does not include any of the following:
      - (i) a sale to a mass caterer;
      - (ii) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or
      - (iii) a supply to which Article 8(8) of the FIC Regulation applies(15);”.

### **Amendments to the Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations (Northern Ireland) 1999**

**33.** The Weights and Measures (Quantity Marking and Abbreviations of Units) Regulations (Northern Ireland) 1999(16) are amended as set out in regulation 34.

**34.** In regulation 2(1), after “under Part V of the Order” each time it appears, insert “(other than Article 22A)”.

### **Amendments to the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011**

**35.** The Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011(17) are amended as set out in regulations 36 to 38.

**36.** In regulation 2—

- (a) before the definition of “importer” insert—
 

““food” has the meaning set out in Article 2 of Regulation (EC) No 178/2002;”;
- (b) before the definition of “Member State” insert—

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(14) The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in Article 2(2) of the Weights and Measures (Northern Ireland) Order 1981

(15) Article 8(8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient information must be provided to the recipient food business operator to enable that food business operator to meet its obligations under Article 8(2) of the FIC Regulation, which requires the business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions.

(16) S.R. 1999 No. 84, amended by S.R. 2011 No. 331; there are other amending instruments but none is relevant

(17) S.R. 2011 No. 331



“labelling requirements” means the requirements set out in regulations 5(1)(a), 5(2), 6(1)(a), 6(1)(b), 6(2), 7, 8(1) and 8(3)(d);

“mass caterer” means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of a business, food is prepared to be ready for consumption by the final consumer;”;

(c) in the definition of “nominal quantity”, after “or 6(2)” insert “or, in the case of pre-packed food, the net quantity as required under Regulation 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers”; and

(d) before the definition of “reference test” insert—

““pre-packed” means, in relation to food, any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; ‘pre-packed food’ does not cover foods packed on the sales premises at the consumer’s request or pre-packed for direct sale;”.

37. In regulation 3—

(a) for paragraph (4)(g) substitute—

“(g) contain sugar in a quantity of less than 20 g.(18)

(b) for paragraph (6) substitute—

“(6) The labelling requirements do not apply to pre-packed food that is not marked with the E-mark, except that regulation 8(1) shall continue to apply where trade practice provides that liquid products may be marked with nominal quantity by weight and that packages containing other products may be marked with nominal quantity by volume.”

38. Omit Schedule 6.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 22nd March 2016



*Jackie Kerr*  
A senior officer of the  
Department of Enterprise, Trade and Investment

(18) Exemptions from the requirements of the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 for small quantities of certain packaged goods which are not marked with the E-mark are in general incompatible with Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provisions of food information to consumers and cannot be maintained after 13 December 2014. However, Article 11 of that Regulation provides that it is without prejudice to more specific EU provisions on weights and measures Article 2(2) of Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption provides an exemption from quantity labelling for pre-packed sugar in a quantity of less than 20 g, therefore an exemption permitted in relation to sugar.