

EXPLANATORY MEMORANDUM TO
THE WEIGHTS AND MEASURES (SPECIFIED QUANTITIES) (UNWRAPPED
BREAD AND INTOXICATING LIQUOR) ORDER 2011

2011 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument amends the legislation that requires unwrapped bread and certain non pre-packaged alcoholic drinks to be sold only in fixed sizes, known as specified quantities. It removes the requirement for unwrapped bread to be sold in specified quantities and replaces it with a requirement for labelling where new sizes are introduced. It also amends the specified quantities for alcoholic drinks by deregulating wine sold by the glass in a quantity below 75 ml; introducing a new size of 2/3 pint for draught beer and cider; and replacing the specified quantities for fortified wines with measures that reflect existing trade practice.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None.

4. **Legislative Context**

4.1 This instrument follows on from Directive 2007/45/EC on nominal quantities for pre-packages which was implemented by the Weights and Measures (Specified Quantities) (Pre-packed Products) Regulations 2009 (SI 2009/663). That Directive and Regulations apply only to pre-packaged products. However, the UK also has in place specified quantities for a small number of non pre-packaged goods, notably unwrapped bread and intoxicating liquor. As part of the review of pre-packaged specified quantities, the National Measurement Office considered the future of specified quantities for unwrapped bread and non pre-packaged intoxicating liquor, which are outside the scope of the Directive, to ensure that they remain appropriate and do not impose any unnecessary burdens on business.

5. **Territorial Extent and Application**

5.1 The Weights and Measures (Specified Quantities)(Unwrapped Bread and Intoxicating Liquor) Order 2011 applies to Great Britain.

6. European Convention on Human Rights

The Rt. Hon David Willetts MP, Minister of State for Universities and Science has made the following statement regarding Human Rights:

In my view the provisions of the Weights and Measures (Specified Quantities) (Unwrapped Bread and Intoxicating Liquor) Order 2011 are compatible with the Convention rights.

7. Policy background

7.1 Legislation in this area is aimed at protecting consumers from short measure and ensuring they have sufficient information on quantity to enable them to make informed purchasing decisions. The use of specified quantities protects consumers against marginal reductions in quantity and makes it easier to compare the unit price. In addition, regulating the quantities available for intoxicating liquor helps drinkers to keep track of their intake for health and safety reasons. Under existing provisions, the UK regulates the quantities available for the sale of non pre-packed beer, cider, wine, vodka, rum, gin and whisky and unwrapped bread. The Instrument amends existing provisions so that consumers receive sufficient protection, but gives greater flexibility on sizes and removes provisions that are unnecessarily restrictive.

7.2 Under the Weights and Measures (Miscellaneous Foods) Order 1988 (SI1988/2040) any unwrapped loaf above 300 g must be sold only in a multiple of 400 g. Article 3 of this Instrument amends that Order to deregulate specified quantities for unwrapped bread and bring the treatment of unwrapped bread into line with the that of pre-packaged bread, which can already be sold in any size. This change will free up the market to allow for innovation. Article 3 also requires that only where any new sizes are adopted, information on quantity must be provided in the form of a ticket or notice. This will ensure that consumers have sufficient information on quantity, without imposing new burdens on those businesses that choose not to adopt new sizes.

7.3 The Government's policy is to continue to regulate the quantities in which alcoholic drinks are served. This is in recognition of the special characteristics of alcohol as a commodity and to help consumers' awareness of the quantity of alcohol that they are consuming. This Instrument makes amendments to bring the regulation of sizes for intoxicating liquor up to date.

7.4 Article 4(2) of the Order amends the Weights and Measures (Intoxicating Liquor) Order 1988 to permit the sale of draught beer and cider in 2/3 pint measures. This provision provides additional flexibility for licensed premises to offer a greater range of sizes and more choice for consumers.

7.5 Article 4(3) of the Order exempts fortified wines from the specified quantities that apply to wine sold by the glass and replaces them with specified quantities of 50 ml and 70 ml or a multiple of either. This reflects the sizes which are already widely in use by the trade.

7.6 Article 4(3) also exempts wine of a quantity less than 75 ml from the requirement to display quantity information or use a specified quantity. The removal of this restriction will encourage innovation in the market for wine and allow consumers the choice to sample wines in small quantities.

8. Consultation outcome

8.1 A public consultation on proposals to update the legal framework for prescribed quantities for unwrapped bread and alcohol was conducted between 23 October 2008 and 1 January 2009. The consultation document was sent directly to around 150 stakeholders and a total of 127 responses were received. The responses were predominantly from businesses, trading standards and individual consumers.

A vast majority were in favour of retaining specified quantities for non pre-packaged alcohol. However, the consultation identified demand from some businesses for specific changes to specified quantities for alcoholic drinks to give them greater flexibility by introducing additional sizes or deregulating very small sizes.

In particular there was strong support for the deregulation of very small glasses of wine, i.e. those below 75 ml. The existing regulation prevents the sale of samples or tasters of wine because the smallest quantity in which wine can be sold is 125 ml.

There was also support from some businesses for the introduction of 2/3 pint. At present draught beer and cider may only be sold in 1/3 pint, 1/2 pint or a multiple of 1/2 pint. Some businesses would like greater flexibility to offer a size between 1/2 pint and 1 pint which would give consumers more choice. Responses to the consultation also supported bringing the specified quantities for fortified wines into line with trade practice.

A majority of respondents to the consultation supported the deregulation of fixed sizes for unwrapped bread, although many with a caveat that universal quantity labelling should be introduced for unwrapped loaves to ensure that consumers had sufficient information on quantity.

9. Guidance

9.1 The National Measurement Office circulated guidance on the changes being introduced in the Instrument to business and trading standards officers in June 2011. A copy of this guidance is also available on the NMO website.

10. Impact

10.1 The impact on business, charities or voluntary bodies will be neutral. The legislation either reflects current trade practice or is deregulatory and the costs arising will be zero. However, it seems highly likely that innovation by businesses (e.g. two thirds pint, unwrapped bread in non-traditional sizes, sample servings of wine) will be

driven by opportunities to benefit commercially and so there is the potential for an overall net benefit.

10.2 The impact on the public sector will be neutral. Enforcement costs are expected to be zero as they will be absorbed into trading standards' existing enforcement activities.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation applies to small business as a large proportion of licensed premises are small businesses,

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken was to ensure that groups representing those affected were fully consulted at all stages and that their views were taken into account. It is anticipated that any benefits will be available proportionately to small firms.

12. Monitoring & review

12.1 The operation of weights and measures legislation is subject to regular review via a bi-annual meeting of the National Measurement Office, the Local Government Metrology Group and the Trading Standards Institute. In addition a post implementation review will be undertaken in 2015 to measure the effectiveness of the measures and the extent to which the costs and benefits have been realised.

13. Contact

Lynnette Falk at the National Measurement Office, Department for Business, Innovation and Skills Tel: 0207 215 0109 or email: lynnette.falk@bis.gsi.gov.uk can answer any queries regarding the instrument.