

STATUTORY INSTRUMENTS

1985 No. 1980

WEIGHTS AND MEASURES

**The Weights and Measures Act 1963 (Various Foods)
(Amendment No. 2) Order 1985***Laid before Parliament in draft**Made - - - - - 18th December 1985**Coming into Operation 20th December 1985*

Whereas the Secretary of State pursuant to section 54(2) of the Weights and Measures Act 1963(a) (hereinafter referred to as “the Act”) has consulted with organisations appearing to him to be representative of interests substantially affected by this Order and considered the representations made to him by such organisations with respect to the subject matter of this Order:

And Whereas a draft of this Order has been laid before Parliament and approved by resolution of each House of Parliament pursuant to section 54(3) of the Act:

Now, therefore, the Secretary of State in exercise of the powers conferred by sections 21(2), (3) and (5) and 54(1) and (4) of the Act and now vested in him(b) and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Weights and Measures Act 1963 (Various Foods) (Amendment No. 2) Order 1985 and shall come into operation on 20th December 1985.

2. The Weights and Measures Act 1963 (Intoxicating Liquor) Order 1984(c) is hereby amended as follows:—

(a) in Article 6(3) for the words “10 cl” onwards there shall be substituted the following words:—

“(a) 10 cl, 25 cl, 37.5 cl, 50 cl, 75 cl, 1 L, 1.5 L, 2 L, 3 L, 5 L, 6 L, 9 L and 10 L; and

(b) 18.7 cl for consumption on board aircraft and ships only.”; and

(b) in Article 9 after the words “Nothing in” there shall be inserted the words “the previous provisions of”.

(a) 1963 c.31, as amended by the Weights and Measures &c. Act 1976 (c.77) and the Weights and Measures Act 1979 (c.45).

(b) S.I. 1970/1537.

(c) S.I. 1984/1314.

3. The Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984(a) is hereby amended as follows:—

- (a) in Article 4(1)(d) before the word “fish” there shall be inserted the word “cheese,”;
- (b) for Article 4(7)(a) there shall be substituted the following sub-paragraph:—
 - “(a) bath chaps, cheese, fish, meat or poultry pies, puddings and flans and sausage rolls, provided that in the case of more than one item of food pre-packed in a container not marked with an indication of quantity by net weight the number of items in the container is marked on the container or is clearly visible and capable of being easily counted through the container”;
- (c) in Article 5(6), at the end of sub-paragraphs (a) and (b) respectively there shall be inserted the words “or, in the case of countable produce, either by net weight or by number”; and
- (d) in Article 6 after the words “Nothing in” there shall be inserted the words “the previous provisions of”.

4. The Weights and Measures Act 1963 (Miscellaneous Foods) Order 1984(b) is hereby amended as follows:—

- (a) in Article 2, after the words “Food Labelling Regulations 1984” there shall be added the words “except that “flour confectionery” includes food containing a filling which has as an ingredient vegetable protein material or microbial protein material”;
- (b) in proviso (b) to Article 6(3) there shall be added at the end the words, “if the number of pieces in the container, if more than one, is marked on the container or is clearly visible and capable of being easily counted through the container”;
- (c) in Article 13(1):—
 - (i) after sub-paragraph (a) there shall be added the following sub-paragraph:—
 - “(aa) flour confectionery, except when consisting of uncooked pastry or pastry cases, not containing any filling, or shortbread;”;
 - (ii) at the end there shall be added the following words:—
 - “or, in the case of flour confectionery, if the number of items if more than one in the container is clearly visible and capable of being easily counted through the container”;
- (d) in Article 14(3)—
 - (i) in paragraph (a) the words “, and flour confectionery (except when consisting of or including uncooked pastry or shortbread),” shall be deleted; and

(a) S.I. 1984/1315, as amended by S.I. 1985/988.

(b) S.I. 1984/1316, as amended by S.I. 1985/988.

- (ii) at the end of paragraph (i) there shall be added the words “whether or not they contain other foods to which this Article does not apply.”;
- (e) in Article 15(1) after the words “Nothing in” there shall be inserted the words “the previous provisions of”;
- (f) in Article 16(3) and (4) any reference to foods being pre-packed shall include a reference to foods being otherwise made up in a container for sale; and
- (g) in Schedule 1 in respect of bread in the form of a whole loaf there shall be added in column 4 at the end the words “and the number of items if more than one in the container is marked on the container or is clearly visible and capable of being easily counted through the container”.

5.—(1) A person specified in paragraph (2) below in the cases specified in that paragraph shall not be guilty of an offence under section 22(2) of the Act by reason only of the fact that the foods specified in paragraph (3) below are not pre-packed in accordance with the provisions of the principal Order in question specified in paragraph (3) below as amended by this Order, if the foods would be pre-packed in accordance with those provisions of the principal Order, if they were not amended by this Order.

- (2) The cases and persons referred to in paragraph (1) above are:—
 - (a) in the case of foods pre-packed in Great Britain on or before 1st January 1987 and of foods imported pre-packed into Great Britain on or before that date, all persons;
 - (b) in the case of foods pre-packed in Great Britain after that date and of foods imported into Great Britain after that date and pre-packed before importation, all persons other than—
 - (i) where the foods were pre-packed in Great Britain, the person who pre-packed them and if he pre-packed them on behalf of another person, that other person;
 - (ii) where the foods were imported into Great Britain, the person who imported them and if he imported them on behalf of another person, that other person.
- (3) The foods and provisions referred to in paragraph (1) above are—
 - (a) the foods referred to in Article 4(7)(a) of the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984 other than cheese and fish pies, puddings and flans, poultry puddings and flans and meat flans; and
 - (b) the following foods referred to in the following Articles of the Weights and Measures Act 1963 (Miscellaneous Foods) Order 1984—
 - (i) shortbread referred to in proviso (b) to Article 6(3) of that Order;
 - (ii) flour confectionery referred to in Article 14(3)(a) of that Order; and
 - (iii) bread referred to in Article 4(1) of that Order and Schedule 1 to that Order.

(4) Any reference in the preceding provisions of this Article to foods being pre-packed shall include a reference to foods being otherwise made up in a container for sale.

(5) The provisions of paragraphs (1) to (3) above shall cease to have effect after 30th June 1987.

18th December 1985.

Lucas of Chilworth,
Parliamentary Under-Secretary of State,
Department of Trade and Industry.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Weights and Measures Act 1963 (Intoxicating Liquor) Order 1984 by adding to the range of prescribed quantities for pre-packed wine and grape must the quantities of 6, 9 and 10 litres and, for consumption on board ships and aircraft only, 18.7 cl. This implements Council Directive 85/10/EEC (OJ No. L 4, 5.1.1985, p.20).

This Order also amends the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984. The changes are as follows:—

(1) Article 4 is extended to apply to any article which, though it also contains other food, consists substantially of cheese.

(2) The exemption in Article 4(7)(a) is extended to cover cheese and fish pies, puddings and flans and is limited to the case where the number of items if more than one in the container is either marked on the container or is clearly visible and capable of being easily counted through the container.

(3) Parts of fruits or vegetables consisting of countable produce may be sold either by net weight or by number.

This Order also amends the Weights and Measures Act 1963 (Miscellaneous Foods) Order 1984. The changes are as follows:—

(1) The definition of “flour confectionery” is amended to make it clear that it includes food consisting of eg pies, puddings and flans filled with vegetable or microbial protein material. This brings such food into line with cheese, fish, meat and poultry puddings and flans covered by the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984.

(2) Article 13(1) is amended to require flour confectionery, other than uncooked and unfilled pastry or shortbread, to be pre-packed only if the container is marked with an indication of quantity by number or if the number of items if more than one in the container is clearly visible and capable of being easily counted through the container, and flour confectionery is deleted from Article 14(3)(a).

(3) The exemption in Article 14(3)(i) in respect of single portion vending machine beverage packs from the requirement to indicate on the container quantity by net weight or capacity measurement applies whether or not the pack contains foods which are otherwise required to be marked with an indication of quantity.

(4) Proviso (b) to Article 6(3) and Schedule 1 are amended so that the exemption from quantity marking in respect of shortbread where each piece weighs more than 200 g and of bread in the form of a whole loaf is limited to the case where the number of items in the container if more than one is clearly visible and capable of being easily counted through the container.

(5) An addition has been made to make it clear that the transitional provisions in Article 16 apply to food which is pre-packed or otherwise made up in a container for sale.

A drafting amendment is made to all the above Orders to make it clear that the provisions as to multipacks apply notwithstanding the previous provisions of the Orders.

Transitional provisions are also included in the Order to allow time for products, which comply with the provisions of the existing principal Orders, to be sold by manufacturers, importers, wholesalers and retailers, notwithstanding that the products do not comply with the Order.

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