

*Status: Point in time view as at 09/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985, Schedule 4. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### SAND AND OTHER BALLAST

##### PART I

##### GENERAL PROVISIONS

- 1 In this Schedule, " ballast" means any of the following materials, that is to say—
- (a) sand, gravel, shingle, ashes and clinker of any description,
  - (b) broken slag, slag chippings, granite chippings, limestone chippings, slate chippings and other stone chippings (including such materials which have been coated with tar, bitumen or cement),
  - (c) any other material commonly used in the building and civil engineering industries as a hardcore or an aggregate, and
  - (d) any other material commonly known in those industries as ballast.
- [<sup>F1</sup>2 Subject to paragraphs 3 and 11 below ballast—
- (a) if made up in advance ready for retail sale or wholesale in a securely closed container, shall be sold only by volume or by net weight, and
  - (b) if not so made up, shall be sold only by volume in a multiple of 0.2 cubic metre or by net weight.]

##### Textual Amendments

- F1** Sch. 4 para. 2 substituted (11.4.2009) by [The Weights and Measures \(Specified Quantities\) \(Pre-packed Products\) Regulations 2009 \(S.I. 2009/663\)](#), **regs. 1, 2(2)**

- 3 There shall be exempted from the requirements of paragraph 2 above—
- (a) ballast in a quantity both less than [<sup>F2</sup>1 tonne] and less than one cubic metre,
  - (b) any sale with a view to its industrial use of ballast of any description mentioned in paragraph 1(b), (c) or (d) above,
  - (c) any sale in the case of which the buyer is to take delivery in or from a ship,
  - (d) any sale as a whole of ballast produced in the demolition or partial demolition of a building where the buyer is responsible for the removal of the ballast from the site of the building, and
  - (e) any sale in the state in which it was produced of clinker or ashes produced as a by-product, or of any other ballast produced as a casual product, of the carrying on of an industrial process on any premises or of the mining of coal where the buyer is responsible for the removal of the ballast from those premises or, as the case may be, from the colliery tip.

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### Textual Amendments

- F2** Words in Sch. 4 para. 3(a) substituted (1.10.1995) by [The Weights and Measures Act 1985 \(Metrication\) \(Amendment\) Order 1994 \(S.I. 1994/2866\)](#), [art. 3\(4\)\(a\)](#)

- 4 Without prejudice to section 15 of this Act, no article shall be used for trade as a cubic measure of ballast other than a receptacle (which may, if so desired, form part of a vehicle) which conforms with such requirements as to form, capacity, calibration and other matters as may be prescribed ; and any person who uses for trade, or has in his possession for use for trade, as a cubic measure of ballast any article other than such a receptacle shall be guilty of an offence.
- 5 In measuring any ballast against a calibration mark on such a receptacle as mentioned in paragraph 4 above, the ballast shall be filled into all parts of the receptacle as far as, and be levelled off against, that calibration mark as nearly as the nature of the ballast will permit; and where any ballast is measured for the purposes of trade in such a receptacle, any person who—
- (a) being the person carrying out the measuring, fails so to level off the ballast when it is loaded into the receptacle, or
  - (b) causes or permits a heaped load to be sent out in the receptacle, shall be guilty of an offence.

## PART II

### CARRIAGE OF BALLAST BY ROAD

- 6 This Part of this Schedule shall have effect with respect to the carriage of ballast by a road vehicle on a journey any part of which is along a highway.
- 7 (1) If any of the ballast is being carried for delivery to a buyer in pursuance of, or of an agreement for, its sale and paragraph 2 above applies to the sale, the following provisions of this paragraph shall have effect with respect to that ballast.
- (2) There shall, before the journey begins, be delivered to the person in charge of the vehicle a document signed by or on behalf of the seller (in this paragraph referred to as "the delivery document ") stating—
- (a) the name and address of the seller,
  - (b) the name of the buyer, and the address of the premises to which the ballast is being delivered,
  - (c) the type of the ballast,
  - (d) subject to sub-paragraph (4) below, the quantity of the ballast either by net weight or by volume,
  - (e) sufficient particulars to identify the vehicle, and
  - (f) the place, date and time of the loading of the ballast in the vehicle.
- (3) Where the quantity of the ballast is stated in the delivery document by volume, the ballast shall be carried on the vehicle only in such a receptacle as is mentioned in paragraph 4 above.
- (4) The statement referred to in sub-paragraph (2)(d) above shall not be required at any time while the vehicle is travelling between the place where it was loaded and the nearest suitable and available weighing equipment if the whole of the vehicle's load

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is being delivered to the same person at the same premises and the delivery document states that the quantity of the ballast is to be expressed by net weight determined by means of that equipment and specifies the place at which the equipment is situated.

- (5) In any case to which sub-paragraph (4) above applies, the person in charge of the vehicle at the time when the net weight of the ballast is determined shall forthwith add to the delivery document a statement of that net weight, and if he fails so to do he shall be guilty of an offence.
  - (6) If any of the provisions of sub-paragraph (2) or (3) above is contravened, the seller shall be guilty of an offence.
  - (7) If the vehicle is carrying ballast as mentioned in sub-paragraph (1) above for delivery to each of two or more persons, sub-paragraphs (1) to (3) above shall apply separately in relation to each of those persons ; but this sub-paragraph shall not be construed as prohibiting the use of the same receptacle such as is mentioned in sub-paragraph (3) above for the carriage of ballast for delivery to two or more different persons.
- 8 (1) Subject to sub-paragraph (2) below, if all or any of the ballast on the vehicle is being carried in such circumstances that paragraph 7 above does not apply to it, there shall before the journey begins be delivered to the person in charge of the vehicle a document containing a statement to that effect signed by or on behalf of the person causing that ballast to be carried and giving the name and address of the last-mentioned person, and if this paragraph is contravened the last-mentioned person shall be guilty of an offence.
- (2) Sub-paragraph (1) above shall not apply where all the ballast in the vehicle is being carried in such circumstances that paragraph 7 does not apply to it and is being so carried in a container which does not form part of the vehicle.
- 9 Any document required by paragraph 7 or 8 above shall at all times during the journey be carried by the person for the time being in charge of the vehicle and shall be handed over by him to any other person to whom he hands over the charge of the vehicle in the course of the journey; and in the case of any document such as is mentioned in paragraph 7 above, on the unloading of the ballast to which the document relates at the premises to which that ballast is to be delivered—
- (a) before any of that ballast is so unloaded, the document shall be handed over to the buyer, or
  - (b) if the document cannot be so handed over by reason of the absence of the buyer, it shall be left at some suitable place at those premises;
- and if at any time any of the provisions of this paragraph is contravened without reasonable cause, the person in charge of the vehicle at that time shall be guilty of an offence.
- 10 In the case of any document such as is mentioned in paragraph 7 above, if at any time during the journey or on unloading at the place of delivery the quantity of the ballast to which the document relates is found to be less than that stated in the document, the statement shall nevertheless be deemed for the purposes of this Act to be correct if, but only if, it is proved that the deficiency is solely attributable to the draining away of normal moisture from, or the consolidation of, the ballast during the journey.

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### PART III

#### APPLICATION TO SCOTLAND

- 11 (1) In Scotland, paragraph 2 above and Part II of this Schedule shall have effect only in such areas as the Secretary of State may by order specify.
- (2) In relation to any area specified by order under sub-paragraph (1) above, a sale of ballast in a quantity both less than [<sup>F3</sup>2 tonnes] and less than 2 cubic metres shall be exempted from the requirements of paragraph 2 above if the sale is effected, and the ballast is situated, in Scotland.

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#### Textual Amendments

- F3** Words in Sch. 4 para. 3(a) substituted (1.10.1995) by [The Weights and Measures Act 1985 \(Metrication\) \(Amendment\) Order 1994 \(S.I. 1994/2866\)](#), [art. 3\(4\)\(b\)](#)

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