

**EXPLANATORY MEMORANDUM TO
THE WEIGHTS AND MEASURES (PACKAGED GOODS) REGULATIONS**

2006 No. 659

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

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

2. **Description**

- 2.1 The purpose of this Statutory Instrument is to simplify and deregulate existing weights and measures controls on packaged goods. The Regulations set out a complete regime for the average system of quantity control applied to packaged goods. The aim of this control is to protect consumers from short measure and ensure that they can rely on the accuracy of quantity indications, while making reasonable allowances for the small variations in quantity inherent in the use of automatic packing machinery.

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

- 3.1 There are no matters of special interest for the Department to bring to the attention of the Committee.

4. **Legislative Background**

- 4.1 The Regulations are made using powers under section 2(2) of the European Communities Act 1972 and sections 15(1) and 86 of the Weights and Measures Act 1985.

- 4.2 The Regulations repeal and replace Part V of the Weights and Measures Act 1985 and the Weights and Measures (Packaged Goods) Regulations 1986 (SI 1986/2049) as amended. They also remove the statutory effect of provisions contained in the “Code of Practical Guidance for Packers and Importers” and the “Manual of Practical Guidance for Inspectors” so that all the legislative provisions relating to the average system are contained in a single document.

- 4.3 The Regulations re-implement two European Directives, 75/106/EEC and 76/211/EEC which apply to packaged goods. The Regulations also re-implement Directive 80/181/EEC on units of measurement so far as applicable to packaged goods. A transposition note is attached.

5. **Extent**

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Weights and Measures (Packaged Goods) Regulations 2006 are compatible with the Convention rights.

7. Policy background

7.1 The existing legislation is recognised as overly complex and burdensome and both the Better Regulation Task Force and the Committee on Public Accounts have recommended reform.

7.2 The objectives of the SI are to simplify the existing legislation and to remove any unnecessary burdens on business. As a result packers and importers of packaged goods should find it easier to understand what their obligations are and to be able to comply with them.

7.3 The main changes from the existing position are:

- Removal of specific controls over the equipment packers may use for making up packages. (Any suitable equipment may now be used, providing, of course, that it complies with any requirements applicable to that class of equipment, e.g. for non-automatic weighing machines or automatic gravimetric filling instruments.)
- Reduced notification requirements for packers or importers exporting e-marked packages.
- Removal of statutory record keeping requirements for retailers who complete baking process for part baked bread, and who opt to pack to a minimum standard (i.e. the actual quantity is at least as much as the nominal quantity.).
- Replacement of the existing duty on packers to pass a reference test with a more straightforward duty to make up packages in line with the three packers' rules specified by the Directives.
- A more uniform application of the average system to all packages made up in a constant nominal quantity between 5 g or ml and 25 kg or L.
- Simpler rules on e-marking and on labelling of outer containers.
- The consolidation of the statutory provisions as to the marking of weights and volumes on packaged goods into a single, shorter set of Regulations.

7.4 An earlier public consultation exercise between 30 March and 30 June 2004 sought views on the general approach to reform of the existing regulations, and a draft of the Regulations was the subject of a public consultation exercise between 8th July and 7th October 2005. Most responses from both business and the enforcement community were positive overall with a large majority supporting the simpler implementation of the EC requirements, and the deregulatory aspects of the proposals.

In the second consultation, however, businesses recommended that a longer transitional period should be allowed, and also higher minimum thresholds for certain products. The Regulations as now made incorporate these amendments. A detailed breakdown of the responses to that consultation and the Government's reply can be found on the DTI website at <http://www.dti.gov.uk/ccp/consultpdf/wmresponse06.pdf>.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Lynnette Falk at the Department of Trade and Industry Tel: 0207 215 0109 or e-mail: lynnette.falk@dti.gsi.gov.uk can answer any queries regarding the instrument.

WEIGHTS AND MEASURES (PACKAGED GOODS) REGULATIONS 2006

FINAL REGULATORY IMPACT ASSESSMENT

Purpose and Intended Effect

Objective

1. The purpose of the reform is to update and simplify the legislation regulating the quantity control of packaged goods whilst reducing burdens on packers and maintaining safeguards for consumers.
2. The Weights and Measures (Packaged Goods) Regulations 1986 determine which goods are regulated for weights and measures purposes by Part V (the average system) of the Weights and Measures Act 1986 and which remain subject to Part IV (the minimum system). It is proposed to consolidate the treatment of packages from different sectors in terms of application and weight or volume thresholds.
3. The main deregulatory proposal is to give greater freedom to packers over the equipment that they may use for measuring or checking the quantity of goods in their packages. The draft regulations replace the existing prescriptive requirements in Schedule 4 of the Weights and Measures (Packaged Goods) Regulations 1986 with a short and straightforward requirement that equipment should be suitable for the operation for which is being used. Such equipment will also have to comply with other legislation that applies to it. The new Regulations also include specific deregulatory proposals on record keeping for retailers who part-bake bread on their premises, a reduced period of record keeping for date marked products, simpler rules on e-marking and outer containers, and other changes that should enable simpler enforcement.
4. The draft regulations also clarify which packages may benefit from e-marking under Directives 75/106/EEC and 76/211/EEC and create a new offence of applying the e-mark to a package other than as permitted by the Regulations. This is intended to give consumers greater confidence that the e-mark is being applied only to packages that have been made up in accordance with the average system and that the quantity, within permitted tolerances, is accurate.
5. The draft regulations apply to all packages that meet set criteria and which are made up in quantities between 5 g and ml and 25 kg or L, with fewer exemptions or modifications. This replaces the complex application of the current regime which took a product specific approach and for which there were specific product quantity ranges and exemptions. This significantly simplifies the scope of the regulations as well as extending the benefits of the average system to a wider range of packages.
6. The structure and content of the draft regulations is much shorter and simpler than the legislation that it will replace, and all the provisions are included in a single set of Regulations, rather than being spread between primary and secondary legislation and statutory guidance. This should make the legislation easier to understand for all those affected by it.

Background

7. Part V of the Weights and Measures Act 1986 (together with the 1986 Regulations and the Packers Code) implements EU Directives 76/211/EEC and 75/106/EEC which provide that goods sold in packages which have been voluntarily e-marked by the packer, must be marked with a weight or volume indication and the amount of the contents must on average agree with the labelling. Part V of the Weights and Measures Act 1985 extended the regime, in the UK, to packages that were not e-marked in order that there would not be two different regimes for the same product and to allow packers and importers of non-e-marked packages to benefit from the tolerances permitted under the average system.
8. Under the average system packers and importers of packaged goods are responsible for ensuring that their packages meet the requirements of the Act with regard to quantity control, marking, equipment, checks and documentation. Local weights and measures authority inspectors enforce the provisions by conducting checks at the place of production to ensure that packages pass a statistical test as described in the Directives. The Weights and Measures (Packaged Goods) Regulations 1986 SI1986/2049, made under Part V of the Act, determine the scope of the average regime as well as setting out certain details concerning the marking, making up, checking and testing of packages.

Risk Assessment

9. The existing Regulations were made 20 years ago and are based upon legislation dating from 1979. Since then, technological changes and process innovation have resulted in significant improvements to weighing and measuring equipment. For example 20 years ago there was relatively little computer-controlled equipment, but today it is the norm, allowing for much greater standards of accuracy. Therefore, the list of suitable equipment prescribed in Schedule 4 is increasingly out of date. This may act as a barrier to the adoption of new technology by packers and as such a barrier to innovation.
10. The existing Regulations are complex and, although there is a more comprehensible code of practice for packers, it may be hard for some packers to understand the extent of the duties placed upon them. This level of complexity in the Regulations may also act as a barrier to entry for companies new to the market. The Better Regulation Task Force identified Part V of the Weights and Measures Act 1985 as unnecessarily burdensome and complex in their report into Consumer Affairs in May 1998. Both the Committee on Public Accounts and the National Audit Office recommended reform in their respective reports on weights and measures in 2003. The proposed changes will simplify the Regulations and remove unnecessary burdens from packers and importers.
11. There are economic reasons why weights and measures standards are used. In the presence of informational bias they serve to protect consumers and, therefore, help to make markets work more effectively and efficiently.
12. It is costly for consumers to gather quantity information about a product before deciding to make a purchase. Imagine a consumer weighing each package before deciding to buy it. It would be inconvenient and time consuming to do so,

which detracts from the overall consumption benefit. A rational consumer will make use of all the information available to them up to the point where the marginal benefit of collecting additional information equals the marginal cost of doing so. The individual's information, therefore, is likely to be less than precise. This is costly for the economy since the informational problems may lead to poor purchasing decisions. Furthermore there is an incentive for unscrupulous traders to exploit the informational problems to their advantage. This is likely to be at the expense of efficient legitimate businesses, which will lead to the economy losing economic benefit.

13. Weights and measures standards, backed by monitoring, enforcement and penalties, provide a solution to these problems because they place a responsibility on, and an incentive for, the company to fill the package with the marked amount on average. The consumer therefore benefits from not having to collect information about the quantity or volume in the package, and similarly does not incur the additional costs of verifying that each label is accurate since they know that on average they will get the right amount. This gives consumers confidence when they make their purchases; gives firms an incentive to behave properly and helps the market allocate resources in a way that maximises economic benefit.

Options

Option 1. No change.

Option 2. Update and simplify the Packaged Goods Regulations and allow packers greater flexibility in the choice of measuring equipment.

Option 3. Update the list of prescribed equipment in Schedule 4 of the Packaged Goods Regulations to allow for changes to equipment that have occurred since the schedule was drawn up in 1979.

Option 4. Repeal and revoke Part V of the Weights and Measures Act and the Packaged Goods Regulations and replace them with a new simpler regime. Following consultation with stakeholders, this is the Department's chosen option.

Option 1

14. No change. This proposal would not address any of the concerns over the complexity of the legislation. The existing regime is increasingly out of date and has not been updated or amended in any substantial way for over 25 years. The legislation is widely seen as over complicated and the Better Regulation Task Force, the Committee on Public Accounts and the National Audit Office have all called for reform. There is a risk that this complexity acts as a disincentive to entry into the market of packing or importing pre-packaged goods. This option would not address the concerns of the Better Regulation Task Force, the Committee on Public Accounts or the National Audit Office.

Option 2

15. This option would involve the remaking of the main Regulations made under Part V – the Weights and Measures (Packaged Goods) Regulations 1986 - to update and simplify the current provisions. The main changes would be a consolidation of the application of the regime to all packaged goods above 5 g or 5 ml, the removal of excluded categories of goods, the removal of different treatment for different classes of packages, a clarification of the conditions for e-marking of packages, and a widening of the prescribed kind of measuring equipment that packers may use during production, whilst maintaining standards of measurement accuracy. The main disadvantages are that this option would not address the way in which the duties on packers are expressed and it would still require the types of permitted equipment to be prescribed.
16. At the time of the first consultation on the principles of reform in March 2004, this was the Department's favoured option. However, following that consultation exercise, and taking account of the views from consultees, the Department will make a more comprehensive reform in line with option 4.

Option 3

17. This option is to conduct a straightforward update of Schedule 4 to add in any new equipment that has been introduced since the last update to this Schedule in 1986. This would be a very limited reform but would overcome the difficulty of out of date equipment provisions in Schedule 4. The schedule would need to be regularly updated in the future to take into account new equipment. This option would allow the use of some new equipment not currently prescribed in Schedule 4. It would not address the complexity of the rules set out in both the Regulations and statutory guidance regarding its use. Packers would still be limited to using listed equipment.
18. This option does not address the complexity of the regime more generally or the inconsistency in the scope of the regime across different sectors and types of product. Nor does it allow for the deregulatory proposals included in the draft Regulations. It does however provide some additional flexibility and updating for packers.

Option 4

19. This option involves a comprehensive reform of the regime, by replacing both the primary and secondary legislation with a new set of Regulations to be made under section 2.2 of the European Communities Act 1972. This option has the advantage of addressing all the complexities and unnecessary burdens in the current regime. This is the Department's chosen option. Draft Regulations and guidance were published as part of a public consultation between 6 July and 6 October 2005. Most responses from both business and the enforcement community to that consultation were positive overall with a large majority supporting the simpler implementation of the EC requirements, and the deregulatory aspects of the proposals. However, businesses were in favour of a longer transitional period, and also higher minimum thresholds for certain products and the Regulations have been amended to incorporate these recommendations. A detailed breakdown of the responses to that consultation and the Government's reply can be found on the DTI website at <http://www.dti.gov.uk/ccp/consultpdf/wmresponse06.pdf>

Costs and Benefits

Option 1

20. This option maintains the status quo so will have zero impact on costs. There will be no additional benefit for business, consumers or Government.

Option 2

Business

21. The changes proposed under Option 2 mean packers are likely to have greater scope for process innovation. Packers will have a wider choice of legal measuring equipment allowing them greater flexibility in how they organise production.

22. The measuring equipment industry may also benefit from the changes. Manufacturers may be reluctant to develop new ideas because of the need to comply with existing standards. Hence, there may be more innovation in the measuring equipment industry.

23. However, both the effect of process innovation in packaging industries and product innovation in the measuring equipment industry are difficult to quantify *ex ante*.

24. Increased clarity and simplicity in the Regulations should contribute to an overall reduction in compliance costs. There may also be a cost benefit in terms of the time taken by new entrants to the market in understanding their duties and responsibilities under the Regulations. It is again difficult to estimate any potential cost saving for new entrants.

25. The new simpler duty on packers to use equipment which is suitable and meets any legal requirements that apply to it, should give packers greater freedom over the equipment that may be used.

26. There may be some small regulatory learning costs incurred by businesses in terms of time taken to familiarise themselves with the new Regulations. These costs should be minimised by the availability of new guidance for packers before the Regulations come into force.

Consumers

27. Consumers are unlikely to gain any significant benefit. It is possible that the packers may pass some of the cost of any savings on to consumers in the form of lower prices, especially those in competitive markets. However, benefits to consumers will be very difficult to quantify in advance of new Regulations being introduced. Furthermore, if some of the benefits to business are passed on to consumers, then it will be a direct transfer of the benefits from business to consumers. The approach adopted above to measure the business cost savings from new Regulations will therefore encapsulate all the benefits that consumers are likely to receive from the cost savings. An alternative approach is to assume

that the consumer receives 10-20% of the total cost savings, with business receiving the rest.

Government

28. It is estimated that there will be no overall change in the costs to Government. There will be negligible one off administrative costs produced by the regulatory re-write. Enforcement of the regime by local authority weights and measures inspectors will be unchanged although there will be a need for inspectors to familiarise themselves with the new Regulations.

Option 3

Business

29. This option allows for the addition of more up to date equipment onto the list of prescribed equipment. In terms of cost savings the freedom to use more up to date equipment as specified in a revised Schedule 4 may result in long term cost savings for those manufacturers who chose to exercise that choice by enabling more accurate filling or measurements and reducing the extent of over-fill necessary to comply with the average quantity requirements. There will be some small regulatory learning costs incurred by businesses in terms of time taken to familiarise themselves with the new list of prescribed equipment.

Consumers

30. Consumers are unlikely to gain any significant benefit. It is possible that packers may pass some of the cost of any savings on to consumers in the form of lower prices, especially those in competitive markets.

Government

31. It is estimated that there will be no overall change in the costs to Government. There will be some small administrative costs incurred by the re-write of Schedule 4 plus the need for continued minor administrative costs to keep the schedule updated on a regular basis taking account of further improvements in technology.

Option 4

Business

32. The reform of Part V, re-implementing the relevant EC directives to express in simpler terms the duties on packers and importers and clarifying the rules governing e-marking should contribute to an overall reduction in compliance costs. In addition, the costs and benefits outlined under Option 2 will be achieved under this Option. It is again difficult to estimate the value of potential cost saving in terms of compliance costs. Views were invited, particularly from packers and importers, on the cost and benefits of the new regime in the consultation on the draft regulations in July 2005. From the limited information received we estimate that the new Regulations will result in cost savings to business in the region of £6 million per annum, with up to £5 million being saved if retailers take advantage of the changes to record keeping for part-baked bread and a further potential £1

million savings from simpler and shorter regulations. There will be some short-term costs associated with familiarisation with the new regime, but these should be cancelled out by savings anticipated from shorter and simpler Regulations.

Consumers

33. There will be no significant cost benefit or detriment from this proposal for consumers. As with options 2 and 3 there is potential for any savings made by packers to be passed on to consumers.

Government

34. There may also be cost benefits to enforcement through a simpler system of offences and defences. There will be negligible one off administrative costs incurred by the reform.

Business Sectors affected

35. The following business sectors may be affected by the proposals. However, not all manufacturers within these sectors package products in predetermined constant quantity. Therefore only a proportion of manufacturers in any particular sector will be affected by the proposals.

Packagers and Importers

- 15.1 Production, processing and preserving of meat and meat products
- 15.2 Processing and preserving of fish and fish products
- 15.3 Processing and preserving of fruit and vegetables
- 15.4 Manufacture of vegetable and animal oils and fats
- 15.5 Manufacture of dairy products
- 15.6 Manufacture of grain mill products, starches and starch products
- 15.7 Manufacture of prepared animal feeds
- 15.8 Manufacture of other food products
- 15.9 Manufacture of beverages
- 16.0 Manufacture of tobacco products
- 24.2 Manufacture of pesticides and other agro-chemical products
- 24.3 Manufacture of paints, varnishes and similar coatings, printing ink and mastics
- 24.5 Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations
- 24.6 Manufacture of other chemical products
- 74.82 Packaging activities

Measuring equipment manufacturers

- 33.2 Manufacture of instruments and appliances for measuring, checking, testing, navigating and other purposes, except industrial process control equipment

Equity and Fairness

36. The proposals for reform will affect packers and importers of packaged goods. The proposals will not have a disproportionate affect on any particular group. Certain sectors will be affected by proposals to consolidate the weights and volume thresholds for the application of the regime.
37. Retailers of packaged goods will not be affected (unless they are also packing products in constant predetermined quantities on their premises.) Consumers should not be affected as the proposals aim to maintain the same level of consumer protection as at present.

Small Firms Impact Test

38. The majority of pre-packaged goods for sale in the UK are produced by major packers. The packing carried out by small firms is most often of packages that are not produced in constant predetermined quantities and as such are not subject to the average system. However, there are a number of small firms involved in producing pre-packaged goods under the average system. The impact of the favoured option (4) on small firms should be beneficial. Small firms are most likely to suffer from the complexity in the existing regime because they are less likely to have access to specialist or legal advice. Although the existing code of practice attempts to make the regime more easily understandable the new Regulations, in particular in terms of scope, structure, rules on e-marking and on marking outer containers are significantly more straightforward and should be easier to understand and comply with, particularly for small firms. New guidance has been provided to explain the new regime and to give examples of how packers can comply.

Competition Assessment

39. Lowering the cost of compliance for all UK based firms, which is essentially a lump-sum sunk cost, exerts a downward pressure on prices. The scope of this may be constrained by foreign imports for non-perishable goods. In addition, by reducing burdens and complexity arising from the UK's implementation of the EC directives, UK exporters may have greater scope to compete on price in other European markets. A further round of pricing benefit may occur as a result of firms seeking to gain a cost advantage as a result of process innovation.
40. Purchasers of measuring equipment may also benefit from better quality, more variety or lower prices as a result of product innovation in the measuring equipment industry, which may occur because of the Government widening the variety of legal equipment.

Enforcement and Sanctions

41. The average system will continue to be subject to enforcement carried out by local weights and measures authorities, which are usually part of local authorities trading standards departments. The methods of enforcement will remain

unchanged with the main enforcement tool being a reference test of batches of packages at the place of production.

Monitoring and Review

42. The Regulations will be monitored to ensure that they are operating effectively. Quarterly discussions are held between the Department and the weights and measures representatives of the Local Authority Co-ordinators of Regulatory Services (LACORS) and the National Weights and Measures Laboratory to discuss the operation of the system.

Summary and recommendation

43. The recommended course of action is to reform the regime by setting out a complete new regime to replace Part V of the 1985 Act and the Weights and Measures (Packaged Goods) Regulations 1986 (Option 4). The new regulations update and simplify the regime and to remove unnecessary burdens on packers.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

Signed by the responsible Minister

Gerry Sutcliffe

Parliamentary Under Secretary of State for

Employment Relations and Consumer Affairs

13th March 2006

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WEIGHTS AND MEASURES (PACKAGED GOODS) REGULATIONS 2006

TRANSPOSITION TABLE

The Regulations do more than is necessary to implement the two Directives on packaged goods by extending the application of the regime to packages up to 25 litres or kilograms which would otherwise be subject to the minimum rules under Part IV of the Weights and Measures Act 1985.

Directive 75/106/EEC on the approximation of the laws of the Member States relating to the making-up by volume of certain pre-packaged liquids as last amended by Council Directive 89/676/EEC of 21 December 1989.

Articles	Objectives	Implementation	Responsibility
Article 1 1st paragraph	Scope of application: packages intended for sale in units of volume between 5 ml and 5 L.	Regulation 3(1)(a). The Regulations also apply to outer containers which contain packages and packages up to 25 L.	Secretary of State
	2nd paragraph: disapplication to certain packages	Regulations apply to these packages to produce a uniform regime.	
Article 2	Defines “pre-package” and “pre-packed” for the purposes of the Directive.	Regulation 2 – definition of package.	
Article 3	3(1) limits the packages that may bear the E-mark to those that meet the requirements of the Directive.	Regulation 5(3) implements the restrictions on e-marking. Regulation 6(2) allows outer containers containing packages which may be E-marked also to be E-marked.	
	3(2) requires E-marked packages to be subject to metrological control in accordance with section 5 of Annex I and Annex II.	Regulation 10 places a duty on Local Weights and Measures Authorities to enforce the Regulations. The procedures for metrological control of packages set out in paragraph 5 of Annex I and Annex II are	

Articles	Objectives	Implementation	Responsibility
		implemented in Schedule 2 to the Regulations.	
Article 4 paragraph 1	<p>Requires packages to be marked with the nominal volume in accordance with Annex I and permits supplementary indications in imperial units</p> <p>The transitional measure in paragraph 2 is now spent.</p>	Implemented in regulation 5(1), and 8. If a package is not marked when made up or imported then a statement of nominal quantity must be made and kept until the package has been marked.	
Article 5	Prohibits Member States from restricting placing on the market of packages that satisfy the requirements of the Directive, for reasons concerning matters covered by the Directive.	Regulation 3(5) exempts E-marked imports from other Member States from the main requirements of the Regulations. This has the effect of removing such packages from metrological control in the UK.	
Article 6	Procedure for adopting amendments to adapt Annexes I and II to technical progress	Does not require implementation	
Article 7	Original implementation dates and transitional provisions	Does not require implementation	
Annex I: 1.Objectives	Requires pre-packages covered by the Directive to be made up in a way to satisfy three rules.	Regulation 4 requires packages to be made up in a way to satisfy these three rules.	
Annex I: 2.Definitions and Basic Provisions	Defines: “nominal quantity” “actual contents” and “tolerable negative error” and provides that the “tolerable negative error” be fixed in accordance with table there set out.	Regulation 2 defines “nominal quantity” and “tolerable negative error”. The tolerable negative error is set out in Schedule 3.	
Annex I: 3.	Sets out the markings that must	Implemented in regulations 5(1), and	

Articles	Objectives	Implementation	Responsibility
Inscriptions and Markings	<p>be included on a pre-package and how they should be presented. The markings required are a) the nominal quantity including the unit of measurement (and for the UK permitted supplementary indication in imperial units) b) a mark or inscription identifying the packer or importer established in the Community, c) the E-mark.</p>	<p>8. The E-mark is illustrated in Schedule 4 to the Regulations.</p>	
Annex I: 4. Responsibility of the Packer or Importer	<p>Makes packer or importer responsible for:</p> <p>(a) ensuring packages meet requirements of Directive; and</p> <p>(b) measuring or checking the quantity of product in their pre-packages using a suitable legal measuring instrument. One way of meeting the measuring or checking requirements is to use Measuring Container Bottles under the conditions set out in Directive 75/105/EEC.</p> <p>The check may be carried out by sampling or by procedures recognised by the Member</p>	<p>Regulation 9 places duties on packers and importer to measure or check packages and to keep records of the check, using equipment that is suitable for effecting the operation for which it is being used.</p> <p>The legal controls on measuring equipment are not contained in these Regulations</p> <p>If packages are checked, the system of sampling and tests used must be sufficiently rigorous to ensure</p>	

Articles	Objectives	Implementation	Responsibility
	<p>State. Other provisions are made for checking and for packages imported from non Member States.</p>	<p>compliance with the three rules set out in Regulation 4. This condition constitutes under the Regulations the “recognised procedures” required by the Directive.</p>	
<p>Annex I: 5. Checks to be carried out by the Competent Departments</p>	<p>Paragraph 5 requires Competent Departments to carry out checks to ensure that pre-packages comply with the Directive.</p> <p>The method of checking must be statistically equivalent to that provided in Annex II.</p>	<p>Regulation 10 places a duty on Local Weights and Measures Authorities to enforce the Regulations. Schedule 7 provides powers for inspectors and local weights and measures authorities for this purpose.</p> <p>Regulation 4(2) provides that compliance with the three rules set out in regulation 4(1) shall be determined by the reference test set out in Schedule 2 which is that set out in Annex II to the Directive with the addition of an equivalent single sample plan.</p>	
<p>Annex I: 6. Other Checks by the Competent Departments</p>	<p>The Directive does not prevent other checks at any stage in the marketing process by the competent departments to verify that pre-packages meet the requirements of the Directive.</p> <p>Paragraph 3.3 of the Annex invokes article 12 of Directive 71/316/EEC requiring Member States to take all necessary</p>	<p>Schedule 7 provides powers for inspectors and weights and measures authorities to conduct checks on packages at any stage.</p> <p>Regulation 15 prohibits misuse of the E-mark</p>	

Articles	Objectives	Implementation	Responsibility
	measures to prevent the use of marks liable to be confused with (inter alia) the E-mark		
Annex II	Sets out the statistical procedure for checking batches of pre-packages.	Schedule 2 to the Regulations sets out the procedures of the reference test, which is that set out in Annex II to the Directive with the addition of an equivalent single sample plan.	
Annex III	This sets out the specified quantities in which certain liquids must be packed.	Not implemented in these Regulations.	

Directive 76/211/EEC on the approximation of the laws of the Member States relating to the making-up by weight or volume of certain pre-packaged products as last amended by Commission Directive 78/891/EEC of 28 September 1978.

Articles	Objectives	Implementation	Responsibility
Article 1	Sets out the scope of application: (a) packages intended for sale in constant unit nominal quantities; (b) equal to values predetermined by the packer; (c) expressed in units of weight or volume and d) not less than 5 g or ml and not more than 10 kg or L; and (d) to which Directive 75/106/EEC does not apply.	Regulation 3(1)(a). The Regulations also apply to outer containers, unpackaged bread and packages up to 25 kg or L. As the Regulations also implement 75/106/EEC they apply to all packages	Secretary of State
Article 2	Defines “pre-package” and “pre-packed” for the purposes of the Directive.	Regulation 2 – definition of package.	
Article 3	3(1) limits the packages that may bear the E-mark to those that meet the requirements of the Directive. 3(2) requires E-marked packages to be subject to metrological control in accordance with Annex I, section 5 and Annex II.	Regulation 5(3) implements the restrictions on e marking. Regulation 6(2) allows outer containers containing packages which may be E-marked also to be E-marked. Regulation 10 places a duty on Local Weights and Measures Authorities to enforce the Regulations. The procedures for metrological control of packages set out in paragraph 5 and Annex II are implemented in Schedule 2 to the Regulations.	

Articles	Objectives	Implementation	Responsibility
Article 4	<p>Requires packages referred to in Article 3 to be marked with nominal weight or volume in accordance with Annex I.</p> <p>Permits supplementary indications in imperial units.</p>	<p>Implemented in regulation 5(1), and 8. If a package is not marked when made up or imported then a statement of nominal quantity must be made and kept until the package has been marked.</p>	
Article 5	<p>Prohibits Member States from restricting placing on the market of packages that satisfy the requirements of the Directive, for reasons concerning matters covered by the Directive.</p> <p>Paragraph 5(3) specifies quantities in which products listed in the Annex are to be made up.</p>	<p>Regulation 3(5) exempts E-marked imports from other MS from the main requirements of the Regulations. This has the effect of removing such packages from metrological control in the UK.</p> <p>Not implemented in these Regulations.</p>	
Article 6	<p>Procedure for adopting amendments to adapt Annexes I and II to technical progress</p>	<p>Does not require implementation</p>	
Article 7	<p>Original implementation dates</p>	<p>Does not require implementation</p>	
Annex I: 1.Objectives	<p>Requires pre-packages covered by the Directive to be made up in a way to satisfy three rules.</p>	<p>Regulation 4 requires packages to which the Regulations apply to be made up in a way to satisfy the three rules.</p>	
Annex I: 2.Definitions and Basic Provisions	<p>Defines: “nominal quantity” “actual contents” and “tolerable negative error” and provides that the “tolerable negative</p>	<p>Regulation 2 defines “nominal quantity” and “tolerable negative error” in line with the Directive’s definitions. The level of permitted</p>	

Articles	Objectives	Implementation	Responsibility
	error” be fixed in accordance with values set out in the table there set out.	tolerable negative error is set out in Schedule 3.	
Annex I: 3. Inscriptions and Markings	Sets out the markings that must be included on a pre-package and how they should be presented. The markings required are a) the nominal quantity, b) a mark or inscription identifying the packer or importer established in the Community, c) the E-mark.	Implemented in regulation 5(1) and 8. The E-mark is illustrated in Schedule 4 to the Regulations.	
Annex I: 4. Responsibility of the Packer or Importer	<p>Makes packer or importer responsible for:</p> <p>(a) ensuring packages meet requirements of Directive.; and</p> <p>(b) measuring or checking the quantity of product in their pre-packages using a suitable legal measuring instrument.</p> <p>The check may be carried out by sampling or by procedures recognised by the Member State. Other provisions are made for checking and for packages imported from non Member States.</p>	<p>Regulation 9 places duties on packers and importer to measure or to check packages and to keep records of the check using equipment that is suitable for effecting the operation for which it is being used.</p> <p>The legal controls on measuring equipment are not contained in these Regulations.</p> <p>If packages are checked, the system of sampling and tests used must be sufficiently rigorous to ensure compliance with the three rules set out in Regulation 4. This condition is the “recognised procedures” required by the Directive.</p>	

Articles	Objectives	Implementation	Responsibility
Annex I: 5. Checks to be carried out by the Competent Departments On the Premises of the Packer or Importer or of his agent established in the Community	<p>Paragraph 5 requires Competent Departments to carry out checks to ensure that pre-packages comply with the Directive.</p> <p>The method of checking must be statistically equivalent to that provided in Annex II.</p>	<p>Regulation 10 places a duty on Local Weights and Measures Authorities to enforce the Regulations. Schedule 7 provides powers for inspectors and local weights and measures authorities for this purpose.</p> <p>Regulation 4(2) provides that compliance with the three rules set out in regulation 4(1) shall be determined by the reference test set out in Schedule 2 which is that set out in Annex II to the Directive with the addition of an equivalent single sample plan.</p>	
Annex I: 6. Other checks Misuse of E-mark	<p>The Directive does not prevent other checks by Member States' competent Departments.</p> <p>3.3 of the Annex invokes article 12 of Directive 71/316/EEC requiring Member States to take all necessary measures to prevent the use of marks liable to be confused with (inter alia) the E mark</p>	<p>Schedule 7 provides powers for inspectors and weights and measures authorities to conduct checks on packages at any stage.</p> <p>Regulation 15 prohibits misuse of the E-mark</p>	
Annex II	Sets out the statistical procedure for checking batches of pre-packages.	Schedule 2 to the Regulations sets out the procedures of the reference test, which is that set out in Annex II to the Directive with the addition of	

Articles	Objectives	Implementation	Responsibility
		an equivalent single sample plan.	

Directive 80/181/EC on the approximation of the laws of the Member States relating to relating to units of measurement and on the repeal of Directive 71/354/EEC as last amended by Directive 1999/103/EC of 24 January 2000.

These Regulations do what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Articles	Objectives	Implementation	Responsibility
Article 1	Requires that the legal units of measurement used for expressing quantities are those listed in the Annex.	Regulation 8(3) requires that the nominal quantity to be marked on packages be expressed in legal units of measurement in line with the requirements of Article 1.	Secretary of State
Article 2	Sets out the fields in which the requirements under Article 1 apply	Regulation 8(3) applies to any indication of nominal quantity required by Regulations 5(1)(a) or 6(1)(a) to be applied to any package or outer container subject to the Regulations.	
Article 3	Authorises the use of supplementary indications and requires metric units to predominate	Regulations 8(3)(f) and (g) set out how any supplementary indications in imperial units may be expressed.	
Article 4	Original transitional arrangements for markings of measurement on products on the market or replacements for such products	Does not require implementation.	
Article 5	Applies the international standard ISO 2955 to Representations of SI and other units for use in systems with	Does not require implementation.	

Articles	Objectives	Implementation	Responsibility
	limited character sets		
Article 6	Repeals Directive 71/354/EEC	Does not require implementation.	
Article 6a	Provides for issues concerning implementation to be considered under procedures set out in Article 18 of Directive 71/316/EEC.	Does not require implementation.	
Article 7	Original implementation dates	Does not require implementation.	
Article 8	Addresses the Directive to Member States	Does not require implementation.	
Annex I	Sets out the legal units of measurement permitted by Article 1.	The legal units of measurement relevant to packages made up by weight or volume are listed in Regulations 8(3)(b) and 8(3)(g).	