



New South Wales

# Trade Measurement (Pre-packed Articles) Regulations 1997

under the  
Trade Measurement Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulations under the *Trade Measurement Act 1989*.

FAYE LO PO' MP  
Minister for Fair Trading

## Explanatory note

The object of these Regulations is to repeal and remake, without change, the provisions of the *Trade Measurement (Pre-packed Articles) Regulations 1991*.

The Regulations:

- require pre-packed articles to be marked with the name and address of the packer (and confer various exemptions from this general requirement),
- require pre-packed articles to be marked with the measurement of the contents of the package,
- impose restrictions on the way in which the measurement is to be marked (including restrictions on the position, set-out and form of the measurement marking and on the size of the characters and units of measurement to be used),
- impose special requirements on the measurement marking for certain articles (such as eggs, bedsheets, curtains and tarpaulins),

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- impose special requirements on the marking of measurement on “inner” and “outer” packaging,
- require certain goods (eg fruit, cheese, vegetables and meat) to bear an additional marking of total price and price per kilogram (with certain exceptions for goods packed in “standard” sizes),
- permit certain articles to be marked with expressions such as “mass when packed” and “mass at standard condition” (as an exception to the general prohibition in the Act against the use of such expressions),
- prescribe the extent of the discrepancy between actual and marked measurement that is necessary to constitute the offence of “short measure”.

The Regulations are made under the *Trade Measurement Act 1989*, including section 80 (the general regulation-making power).

The Regulations deal with matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

The Regulations are made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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## Trade Measurement (Pre-packed Articles) Regulations 1997

### Part I Preliminary

#### 1 Name of Regulations

These Regulations are the *Trade Measurement (Pre-packed Articles) Regulations 1997*.

#### 2 Commencement

These Regulations commence on 1 September 1997.

#### 3 Definitions—general

In these Regulations, unless the contrary intention appears:

*approved printing device* means a printing device that conforms to a pattern in relation to which there is in force under the National Measurement (Patterns of Instruments) Regulations of the Commonwealth a certificate that approves the use of the device for trade.

*characters* includes letters, figures and symbols.

*main display part*, in relation to a package, means:

- (a) if the name or brand appears on the package once only—the part of the package on which it appears, or
- (b) if the name or brand appears on more than one part of the package with equal prominence in each case—any one of those parts, or
- (c) if the name or brand appears on more than one part of the package but not always with equal prominence—the part of the package on which it is more prominent or any part of the package on which it is most prominent, or
- (d) if the name or brand of the article in the package does not appear on the package—that part of the package which will be most prominent when the package is exposed for sale in the manner in which it is likely to be exposed for sale.

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*measurement marking* means the marking of measurement required by these Regulations to be made on the package containing a pre-packed article.

*the Act* means the *Trade Measurement Act 1989*.

**4 Definitions—packaged articles**

In these Regulations, unless the contrary intention appears:

*cheese* and *cheese products* do not include articles for sale as processed cheese or cheese spreads.

*compressed or liquefied gas* does not include liquefied petroleum gas.

*cream* does not include clotted cream or sour (cultured) cream.

*dried or dehydrated fruit* includes glace and crystallised fruit and fruit peel.

*dried or dehydrated mixed fruit* includes any such fruit mixed with nuts.

*garden landscape material* means soil, pebbles, crushed tile, crushed white quartz, Grawin gravel, crushed western red, crushed snowflake, New Zealand lava scoria, Pacific coral, river stones, crushed material mix and any like substance for use in gardens.

*ice cream* includes any form of frozen confection containing ice cream, flavoured ice, fruit-ice, water-ice or a substitute for ice cream.

*liquid chemicals* includes solvents packed for sale for pharmaceutical, laboratory or industrial use.

*paint* includes enamel but does not include a two-pack paint, artists' paint or powder coatings.

*poultry* means any kind of bird used for human consumption, whether it is cooked or uncooked or consists of poultry pieces.

*poultry piece* means leg, wing, breast or other part detached from a poultry carcase and any division of a poultry carcase.

*resins* includes natural resins, synthetic resins and polymeric materials other than paint.

*therapeutic goods* means goods for therapeutic use within the meaning of the Therapeutic Goods Act 1966 of the Commonwealth as amended and in force for the time being.

*tobacco* includes plug tobacco.

## **5 Exemptions from marking requirements (name, address, measurement)**

- (1) A package containing an article specified in Schedule 1 is exempt from the operation of Parts II (marking of name and address) and III (marking of measurement) in the circumstances specified in that Schedule in relation to the article or, if no circumstances are specified, in all circumstances.
- (2) A package is not exempt from the operation of Parts II and III merely because it contains 2 or more packages each of which would be exempt under clause (1) as separate packages.
- (3) It is not to be assumed that an article described in item 1 under the heading "Textile goods" or "Hardware goods" in Schedule 1 has been packed for sale by measurement merely because it has been packed for sale:
  - (a) as a single item, or
  - (b) as a set (except in the case of identical automotive parts), or
  - (c) as a pair, or as one of a pair, if it is an article ordinarily described by pairs, or as one of a pair.
- (4) An article is not excluded from the description "General goods" in Schedule 1 merely because it could be included in some other description of goods in that Schedule.

## **6 Exemptions for packages containing paper**

- (1) A package containing paper that is a package to which this Regulation applies:
  - (a) is exempt from Regulations 9 and 11, and
  - (b) is permitted to be marked with the expression "gross mass" or any other expression that has a similar meaning to that expression.

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- (2) This Regulation applies to a package containing paper if:
- (a) it was packed at the factory at which the paper was produced,
  - (b) it is packed in a quantity of more than 5 kg, or
  - (c) it contains at least 500 sheets and is marked with the number of sheets and the dimensions of each sheet.

**7 Requirements applicable to both inner and outer packages**

A requirement of these Regulations as to the marking of a package containing a pre-packed article applies to both the immediate package containing the article and any other package containing that package (whether or not with other packages) unless the provision that imposes the requirement otherwise provides.

**8 Exemptions for certain inner and outer packages**

A requirement of these Regulations as to the marking of a package does not apply to:

- (a) any immediate package ordinarily sold only in an outer package that is marked in accordance with the requirement, or
- (b) any outer package in which the immediate package is packed only for the purposes of transportation.



## Part II      Marking of name and address

### 9      Marking of name and address on packages

- (1)      When a pre-packed article is packed or sold, the package containing the article must be marked with the name and address of the person who packed the article or on whose behalf it was packed.
- (2)      That marking must be:
  - (a)      readily visible and legible, and
  - (b)      such as to enable the person named to be identified and located.
- (3)      The address marked must be an address in a State or internal Territory at which, under a law in force in that State or Territory, notices or legal process may be served on the person named.

### 10      Exemption for packaged seed

- (1)      Regulation 9 does not apply to:
  - (a)      public-bred agricultural seed that is of a prescribed variety and is packed in a quantity of 10 kg or more, or
  - (b)      public-bred agricultural seed that is not of a prescribed variety and is packed in a quantity of 25 kg or more, or
  - (c)      non-proprietary varieties of horticultural seed packed in a quantity of 25 kg or more.

- (2)      In this Regulation:

*prescribed variety* means agricultural seed for Rhodes grass, Molasses grass, Buffel grass, Veldt grass, Brachiaria species, Guinea grass, Hamil grass, Gamba grass, Mitchell grass, Creeping Blue grass and Indian Blue grass.

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## **Part III Marking of measurement**

### **Division 1 General requirements for measurement marking**

#### **11 Requirement to mark measurement**

- (1) When a pre-packed article is packed or sold, the package containing the article must be marked with a statement of the measurement of the article.
- (2) The statement must be such as will be clear, conspicuous, readily seen and easily read when the article is exposed for sale in the manner in which it is likely to be exposed for sale.

#### **12 General position of measurement marking**

- (1) The measurement marking on a package must be made:
  - (a) on the main display part of the package, and
  - (b) if another part of the package is, or other parts of the package are, likely to be displayed instead of the main display part when the article is exposed for sale—on that other part or one of those other parts.
- (2) Clause (1) does not apply in the case of:
  - (a) automotive parts, or
  - (b) any other package if the administering authority, by notice published in the Gazette, exempts the package from the operation of this Regulation and any conditions or restrictions specified in the notice are complied with.

#### **13 Set-out and form of measurement marking**

- (1) The required measurement marking must:
  - (a) be close to, and marked to be read in the same direction as, any name or brand of the article to which it relates, and
  - (b) be at least 2 mm from the limits of the package and separated by at least 2 mm in all directions from other graphic matter or copy, and

- (c) be in a form in which units of measurement under the metric system are ordinarily written in the English language, and
  - (d) in the case of a decimal sub-multiple, be preceded by a zero or other numeral.
- (2) If a package is entirely or substantially cylindrical, spheroidal, conical or of oval cross-section, the measurement marking must, in addition to complying with clause (1), be positioned so that no part of the marking is further than one-sixth of the circumference of the package from the line that vertically bisects that part of the package on which the marking is required to be made.
- (3) For the purposes of clause (2), the circumference of a package is the circumference where the measurement marking is made.

#### **14 Size etc of characters in measurement marking**

- (1) The characters used in a measurement marking must be clear and:
- (a) stamped or printed in a colour that provides a distinct contrast with the colour of the background and be of at least the minimum height required by clause (2), or
  - (b) stamped or embossed and be of at least 3 times the minimum height required by clause (2), or
  - (c) marked by an approved printing device in characters at least 3 mm high, or
  - (d) legibly handwritten, if permitted by clause (3).
- (2) The minimum height for the characters in a measurement marking is the height specified in Column 2 of the Table to this Regulation opposite the maximum dimension of the package specified in Column 1 of that Table.
- (3) A measurement marking may be legibly handwritten in the following cases:
- (a) when the article is packed to be sold on the premises on which it is packed, or
  - (b) when the package contains cake or is one to which Regulation 28 applies, or

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- (c) when the package contains a roll of ribbon, lace or elastic or other article of haberdashery, or
- (d) when the article is, by notice published in the Gazette by the administering authority, declared to be an article to which this clause applies and any conditions applicable to the packaging of the article and specified in the notice are complied with.

### Table

<b>Column 1</b> <b>(Maximum dimension of package)</b>	<b>Column 2</b> <b>(Minimum character height)</b>
120 mm or under	2.0 mm
Over 120 mm but not over 230 mm	2.5 mm
Over 230 mm but not over 360 mm	3.3 mm
Over 360 mm	4.8 mm

For the purposes of this Table, the maximum dimension of a package is:

- (a) if the package is rectangular—the measurement of the breadth, height or length of the package, whichever is the greatest, or
- (b) if the package is cylindrical, spheroidal, conical or of oval cross-section—the height, length or maximum diameter of the package, whichever is the greatest.

### 15 Unit etc of measurement to be used

- (1) Except for an article specifically provided for by clause (2), the measurement marking of an article must be expressed as follows:
  - (a) if the article is ordinarily sold by number—by reference to number,
  - (b) if the article is ordinary sold by linear or superficial measurement—by reference to that kind of measurement,
  - (c) if the article is a liquid—by reference to volume,

- (d) if the article is solid (including in the form of powder or flakes), semi-solid or partly solid and partly liquid, and is not included in paragraph (a)—by reference to mass.
- (2) The measurement marking of an article of a kind described in Column 1 of Schedule 2 must be expressed by reference to the kind of measurement specified in Column 2 of that Schedule opposite the description of the article.
- (3) A measurement marking (other than in terms of number) must be expressed in terms of a unit of measurement permissible as specified in Schedule 3.

#### **16 Fractions, significant figures**

- (1) If a measurement marking includes a fraction of a unit of measurement, it must be expressed as a decimal sub-multiple of the unit.
- (2) Whether a measurement marking is a whole multiple or a sub-multiple, or a combination of both, it must express a degree of accuracy to not more than 3 significant figures.

#### **17 Special provision—marking by approved printing device**

If a measurement marking is made by an approved printing device:

- (a) the measurement marking may express a degree of accuracy to more than 3 significant figures if the certificate of approval approves use of the device to measure the degree of accuracy expressed, and
- (b) a measurement marking in terms of mass made by use of the device in accordance with the certificate of approval may be expressed in terms of grams.

#### **18 Marking by reference to minimum measurement**

- (1) A marking on the package containing a pre-packed article of the measurement of the article (whether or not for the purposes of these Regulations) must not be made by reference to minimum measurement unless:

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- (a) permitted by this Regulation (or required by Regulation 19 in the case of eggs), and
  - (b) the reference to minimum measurement is marked in the same way as the required measurement marking.
- (2) Re-packed dressed poultry (other than poultry pieces) may be marked with a measurement in terms of minimum mass if:
- (a) the mass stated is a whole number multiple of 100 g, and
  - (b) (except in the case of cooked poultry) the package is also marked, in characters not less than 10 mm in height, with a size number calculated by dividing the stated minimum mass by 100.
- (3) Pre-packed preserved sausage may be marked with a measurement in terms of minimum mass.

### **Division 2 Special provision for measurement marking of certain articles**

#### **19 Eggs**

The measurement marking of a pre-packed article containing eggs must be made:

- (a) by reference to the number of eggs in the package, and
- (b) by reference to the minimum mass of each egg.

#### **20 Articles packed in sheets**

Re-packed aluminium foil, facial tissues, toilet paper and waxed paper are articles that do not require a measurement marking on the package if the number of usable sheets of specified dimensions is marked on the package as if the number and dimensions marked were a measurement marking.

#### **21 Number of pre-packed articles comprising 1 tonne**

If 45 or fewer packages of an article that is ordinarily sold by mass have a total mass of 1 tonne, the measurement marking of the mass of the article may be made on each package by referring to the number of packages to the tonne in such a manner as to imply that the mass of each package is 1 tonne divided by that number.

**22 Bedsheets, tarpaulins etc**

- (1) The measurement marking relating to:
  - (a) bedsheets (not designed as fitted or semi-fitted bedsheets) or other sheets of hemmed fabric material, or
  - (b) tarpaulins,must be expressed in terms of the finished size of the article.
- (2) The measurement marking relating to:
  - (a) a mattress protector, or
  - (b) a bedsheet designed as a fitted or semi-fitted bedsheet,must be expressed in terms of the suitability of its finished size to fit a mattress of specified dimensions expressed as length x width x depth.

**23 Pairs of window curtains**

The measurement marking relating to window curtains designed to cross over when hung in pairs must be expressed in terms of the finished size of the maximum width, and the maximum drop, of each curtain.

**24 Marking of width or thickness if it directly affects price**

If a measurement marking may be made in terms of the length of an article, the marking shall include any measurement of the thickness or width of the article, or both, that bears a direct relationship to the price of the article.

**Division 3 Special provision concerning measurement marking of outer packages****25 Package containing packages of articles of the same kind and measurement**

- (1) This Regulation applies to 2 or more pre-packed articles of the same kind and apparently with the same measurement:
  - (a) each of which is separately packed in its own package (an *inner package*), and
  - (b) all of which are also packed together in another package (the *outer package*).

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- (2) The measurement marking on the outer package may:
  - (a) state the total measurement of all the articles in the outer package, or
  - (b) state (as if it were a measurement marking) the number of packages in the outer package and the measurement of each of them.
- (3) A measurement marking need not be marked on the outer package if
  - (a) the outer package contains not more than 8 inner packages, and
  - (b) the inner packages are ordinarily sold only while in the outer package, and
  - (c) the whole or part of the outer package is transparent and the measurement marking on each of the inner packages is clearly visible through the packaging of the outer package.

### 26 Inner and outer packages of single article

- (1) This Regulation applies to a pre-packed article consisting of an article contained in a package (the *inner package*) that is contained in another package (the *outer package*).
- (2) A measurement marking need not be marked on the outer package if:
  - (a) the inner package is ordinarily sold only while in the outer package, and
  - (b) the whole or part of the outer package is transparent and the measurement marking on the inner package is clearly visible through the packaging of the outer package.

### 27 Package containing articles of different kinds or different measurements

- (1) This Regulation applies to a pre-packed article consisting of a package (the *outer package*) containing at least 2 articles of which at least 1 is a pre-packed article, but does not apply in a case to which Regulation 25 applies (pre-packed articles of the same kind and measurement).



- (2) None of the articles in the outer package is required to be marked with a measurement marking if
  - (a) all the articles in the outer package are ordinarily sold only while in the outer package, and
  - (b) the outer package is marked in the same way as a measurement marking with a description of each article in the outer package and a statement of its measurement.
- (3) The provisions of Regulation 12 as to the position of a measurement marking do not apply to a marking referred to in clause (2) (b) if the packaging of the outer package is transparent and all the articles it contains are clearly visible through it.

#### **Division 4 Other markings concerning measurement**

##### **28 Unit price marking—retail sales of certain foods by mass**

- (1) This Regulation applies to the following pre-packed foods:
  - (a) fruit,
  - (b) dried fruit, dehydrated fruit and dried or dehydrated mixed fruit,
  - (c) cheese and cheese products,
  - (d) dressed poultry not marked in terms of minimum mass in accordance with Regulation 18,
  - (e) fish (including crustaceans),
  - (f) mushrooms,
  - (g) vegetables,
  - (h) meat,
  - (i) smallgoods (including bacon, corned beef and ham),except when the package is a rigid container.
- (2) When a pre-packed article to which this Regulation applies is sold (except for the purpose of being resold) the package containing the article must (in addition to being marked with the measurement of the article) be marked with its total price and price per kilogram unless:

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- (a) the total price and price per kilogram are adequately displayed at the time of sale, as provided by clause (4), or
  - (b) the article is described in Column 1 of the Table to this Regulation and is packed in a quantity specified in Column 2 of that Table opposite the description.
- (3) The marking on a package required by this Regulation must be made as if it were a measurement marking.
- (4) The total price and price per kilogram are adequately displayed if displayed on or immediately adjacent to the receptacle in or on which the article is exposed for sale, in characters not less than 10 mm high and in such a manner as to be readily seen and easily read.

### Table

Column 1	Column 2
Cheese and cheese products	100 g 125 g 200 g 250 g 375 g 500 g 750 g 1 kg integral multiples of 500 g
Dressed poultry and meat	100 g 125 g 200 g 250 g 500 g 1 kg integral multiples of 1 kg
Dried fruit, dehydrated fruit, dried or dehydrated mixed fruit	100 g 125 g 150 g 200 g 250 g 375 g 500 g 750 g 1 kg 1.5 kg integral multiples of 1 kg
Fruit, fish (including crustaceans), mushrooms and vegetables	15 g 20 g 25 g 50 g 75 g 100 g 125 g 150 g 200 g 250 g 375 g 500 g 750 g 1 kg 1.25 kg 1.5 kg 2.5 kg integral multiples of 1 kg
Smallgoods (including bacon, corned beef and ham)	50 g 125 g 175 g 250 g 375 g 500 g integral multiples of 500 g

## **Part IV Prohibited and restricted expressions**

### **29 Marking of “mass when packed”**

- (1) This Regulation applies to bar soaps, cotton wool, flax, glauber salts, jute, manila, fresh mushrooms, oven-baked animal biscuits, personal deodorant tablets, personal soap tablets (medicinal or toilet), sisal, soap flakes, soap powder (excluding detergent powders), tobacco, washing soda and whole hams.
- (2) Pre-packed articles of the kind to which this Regulation applies that are not packed in a hermetically sealed package may be marked “mass when packed”, or with other words that have a similar meaning to those words, if they are marked in the same way as the appropriate measurement marking.

### **30 Marking of “mass at standard condition”**

A package containing pre-packed yarn or cotton wool that is not an hermetically sealed package may be marked with the words “mass at standard condition” or with other words that have a similar meaning to those words if

- (a) the words are marked in the same way as the appropriate measurement marking, and
- (b) (when the yarn or cotton wool is composed of a mixture of fibres)—the package is also marked in the same way as the appropriate measurement marking with a correct statement of the proportion by mass of each of the kinds of fibre of which the yarn or cotton wool is composed.

### **31 Restrictions on use of “gross mass”**

- (1) For the purposes of section 30 of the Act, the expression “gross mass” and any other expression that has a similar meaning to that expression are restricted expressions.
- (2) A package may be marked with such an expression only if permitted by Regulation 6 (exemptions for packages containing paper) or if
  - (a) the package is used only for the purpose of transporting an article, and

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- (b) the expression is immediately followed by the words “for transport purposes only” and a statement of the appropriate quantity, and
- (c) immediately below or following the expression the net mass is marked and designated as such or stated as a net amount in words that correspond to those used to express the gross amount.

### **32 Prohibited expressions**

For the purposes of section 30 of the Act, the following are prohibited expressions:

- (a) any expression (other than a marking required or permitted by the Act or these Regulations) that directly or indirectly relates to or qualifies a measurement marked on the package,
- (b) a statement that directly or indirectly relates or refers to the measurement of the article or any ingredient or component of the article, or of any source from which the article is derived, if the statement cannot be tested for truth by testing the article.

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## Part V Short measure

### 33 Extent of deficiency necessary to constitute short measure

- (1) This Part makes provision for the deficiency in actual measurement and average measurement of pre-packed articles permitted under section 33 of the Act before the actual measurement of a pre-packed article is to be regarded as being less than the measurement marked on the package.
- (2) In this Part:

*permissible actual deficiency* means the deficiency in actual measurement permitted for the purposes of section 33 (1) (a) of the Act.

*permissible average deficiency* means the deficiency in the average of the actual measurements of a number of like articles permitted for the purposes of section 33 (1) (b) of the Act.

### 34 Articles marked “mass when packed” etc

If the package containing a pre-packed article is, in accordance with Regulation 29, marked “mass when packed” or with other words that have a similar meaning to those words:

- (a) the permissible actual deficiency, if measured on the day the article is packed, is a deficiency of 5 per cent, and
- (b) the permissible average deficiency, if measured on the day the article is packed, is nil, and
- (c) the permissible actual deficiency, if measured after the day the article is packed, is the deficiency specified in Column 2 of the Table to this Regulation opposite the description of the article in Column 1 of that Table, and
- (d) the permissible average deficiency, if measured after the day the article is packed, is the deficiency specified in Column 3 of the Table to this Regulation opposite the description of the article in Column 1 of that Table.

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**Table—Permissible deficiencies after day of packing**

<b>Column 1 (Description of article)</b>	<b>Column 2 (Permissible actual deficiency—percent)</b>	<b>Column 3 (Permissible average deficiency—percent)</b>
Bar soaps	21	16
Cotton wool	7	2
Flax	8	3
Glauber salts	7	2
Jute	9	4
Manila	8	3
Mushrooms (fresh)	18	13
Oven-baked animal biscuits	9	4
Personal deodorant tablets	12	7
Personal soap tablets (medicinal or toilet)	11	6
Sisal	8	3
Soap flakes	10	5
Soap powder (excluding detergent powders)	15	10
Tobacco	10	5
Washing soda	7	2
Whole hams	7	2

### **35 Articles marked “mass at standard condition”**

- (1) If the package containing a pre-packed article is, in accordance with these Regulations, marked “mass at standard condition” or with other words that have a similar meaning:
  - (a) the permissible actual deficiency is the deficiency specified in Column 2 of the Table to this Regulation opposite the description of the class of article in Column 1 of that Table, and

- (b) the permissible average deficiency is the deficiency specified in Column 2 of the Table to this Regulation opposite the description of the class of article in Column 1 of that Table.
- (2) If the article consists of a mixture of any 2 or more of class A, B or C fibres (as described in Column 1 of the Table to this Regulation):
- (a) the permissible actual deficiency is the deficiency, expressed as a percentage, calculated in accordance with the formula  $6x + 2y + 5$ , and
- (b) the permissible average deficiency is the deficiency, expressed as a percentage, calculated in accordance with the formula  $6x + 2y$ ,

where:

- x is the proportion that the mass of all class A fibre (if any) in the article bears to the total mass of the article, and
- y is the proportion that the mass of all class B fibre (if any) in the article bears to the total mass of the article.

**Table**

<b>Column 1</b> <b>(Class of article)</b>	<b>Column 2</b> <b>(Permissible actual deficiency—percent)</b>	<b>Column 3</b> <b>(Permissible average deficiency—percent)</b>
Class A fibre (wool or other animal fibre, viscose or cuprammonium rayon, or a mixture of any 2 or more of them)	11	6
Class B fibre (silk, cotton or cellulose acetate or a mixture of any 2 or more of them)	7	2
Class C fibre (a fibre, or a mixture of fibres, that is not a Class A or Class B fibre)	5	0

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Regulation 36 Trade Measurement (Pre-packed Articles) Regulations 1997

Part V Short measure

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### **36 Other pre-packed articles**

If the package containing a pre-packed article is not one to which Regulation 34 or 35 applies:

- (a) the permissible actual deficiency is 5 per cent, and
- (b) the permissible average deficiency is nil.

### **37 Method of determining average measurement (sec 33)**

- (1) For the purposes of this Part, the average of the actual measurements of a number of like articles shall be determined by calculating the average of the measurements of the contents of at least 12 packages or, if less than 12 are available, of such number (not less than 6) as are available.
- (2) If more than 12 packages are available, the actual number to be tested shall be as determined by an inspector.
- (3) Each of the packages measured must be of the same kind and have the same measurement marking and must be selected by an inspector without having been measured by an inspector.



## Part VI Miscellaneous

### 38 Mass of frozen pre-packed scallops

For the purposes of the Act and these Regulations, the mass of frozen scallops packed as a pre-packed article shall be determined as follows:

- (a) measure and record the mass of an appropriate perforated container,
- (b) place the entire contents of the package into a suitable impermeable bag,
- (c) suspend or immerse the bag in running water until the contents have thawed,
- (d) empty contents into the perforated container,
- (e) drain the perforated container and the contents until minimal drip loss is recorded,
- (f) measure and record the mass of the perforated container plus contents,
- (g) subtract the mass of the perforated container from the mass of the perforated container and contents to obtain the net mass of the contents.

### 39 Application for permit to sell certain articles

An application for a permit under section 38 of the Act for the sale of an article must:

- (a) be made to the administering authority in writing signed by or on behalf of the applicant, and
- (b) specify the grounds in section 39 of the Act that are relied on by the applicant, and
- (c) give particulars of the facts justifying reliance on those grounds.

### 40 Repeal

- (1) The *Trade Measurement (Pre-packed Articles) Regulations 1991* are repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Trade Measurement (Pre-packed Articles) Regulations 1991*, had effect under those Regulations continues to have effect under these Regulations.

## Schedule 1 Exemptions from marking

(Regulation 5)

### Textile goods

- 1 Textile, wearing apparel and other similar articles that are not packed for sale by measurement and are not ordinarily so sold.
- 2 Textiles that are:
  - (a) packed for sale by mass and are sold in packages each containing more than 4 kg, or
  - (b) packed for sale by length and are sold in packages each containing more than 25 m, or
  - (c) packed for sale by area and are sold in packages each containing more than 25 m<sup>2</sup>.

### Food goods

- 1 Chaff, maize, oats, potatoes, wheat and other like agricultural produce grown and packed on the same property by the grower and sold by mass in sacks of more than 25 kg gross mass.
- 2 Confectionery, nuts, popcorn, potato crisps and savouries that are:
  - (a) packed on premises for sale on those premises if the package is displayed for sale on those premises in a receptacle that bears a statement that can be readily seen and easily read in characters not less than 10 mm high of the mass and of the price of the contents of the package and if the mass of the contents does not exceed 200 g, or
  - (b) packed in or with another article if the value of the combined articles is substantially represented by that other article.
- 3 Confectionery packed singly in a novelty shape and an Easter egg packed singly.
- 4 Honey in the comb in original frames.
- 5 Hay.

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- 6 Ice cream packed in a quantity less than 200 mL.
  - 7 Kippers.
  - 8 Pies or pasties made for use as an individual serve of which the mass is less than 250 g.
  - 9 Cakes, puddings and sponges packed singly in a quantity less than 125 g.
  - 10 Alcoholic liquors packed in a quantity more than 10 L.

**Medicinal and toilet goods**

- 1 Therapeutic goods, being goods the sale or supply of which to the public is prohibited by law except on the written prescription of a person recognised by law as competent to prescribe them.
- 2 A toilet preparation in a compact and a refill of such a preparation.
- 3 Single application hair dyes or hair bleaches or single application home permanent hair waving kits.
- 4 Vaccine packed in a quantity less than 25 mL or a single dose of any substance packed in a vial or ampoule for sale for use as an injection.

**Hardware goods**

- 1 Articles of hardware that are not packed for sale by measurement and are not ordinarily so sold.
- 2 Tinters or colouring agents for use in paint that are packed in a quantity less than 100 g or 100 mL.
- 3 Colouring material in a package on which is marked directions for mixing it, or a specified quantity of it, with a specified type and volume of paint—if the quantity of the material to be mixed does not exceed 10 per cent of the volume of the paint with which it is to be mixed.

**General goods**

- 1 Articles ordinarily sold by number that are packed in a quantity of less than 9 in a package made wholly or partly of transparent material so that when the package is exposed for sale the number of articles contained in the package is readily apparent to a purchaser.

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Schedule 1 Exemptions from marking

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- 2 An article of which the mass exceeds 75 kg or the volume exceeds 150 L.
- 3 An article packed in a quantity less than 15 g or 15 mL other than adhesives, dried vegetables and freeze-dried vegetables, herbs, instant tea, pepper and other spices, therapeutic goods and tobacco.
- 4 Fire extinguisher refills.
- 5 Photographic film and photographic printing paper.
- 6 A bag of clay.
- 7 Fish bait.
- 8 Garden landscape material, including pine-bark feature mix, pine-bark nuggets, pre-planted mushroom spawn, tree-bark, any article that is or contains compost, farmyard manure, garden peat, leaf mould, peatmoss, sphagnum moss, tanbark or other like substance.
- 9 Artists' paint packed in a quantity less than 100 g.
- 10 Candles.
- 11 Legume seed inoculants.
- 12 A pre-packed article sold as authorised by Division 2 (permits) of Part V of the Act.

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## Schedule 2 Expression of measurement marking

(Regulation 15)

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Acids in liquid form	mass or volume
Aerosol products	mass
Compressed or liquefied gases	mass or equivalent volume (cubic metres or litres) at stated temperature and pressure
Cream and cream substitutes	volume
Fencing wire	length
Flavouring essences	mass or volume, if the quantity is not less than 500 g
Heavy residual fuel oil, industrial diesel fuel and furnace oil	mass or volume
Honey, malt extract, golden syrup and treacle	mass
Ice cream	volume
Linseed oil and other vegetable oils	volume if the quantity is not more than 5 L; mass or volume if the quantity is more than 5 L
Liquefied petroleum gas	mass
Liquid chemicals	mass or volume
Paint (other than paste paint), varnish and varnish stains	volume
Paste paint	mass
Perfume compounds	mass or volume, if the quantity is not less than 500 g
Perlite	mass or volume
Resins	mass or volume

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Schedule 2 Expression of measurement marking

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<b>Column 1</b>	<b>Column 2</b>
<b>(Description of article)</b>	<b>(Kind of measurement permissible)</b>
Rope, cord and line— (a) of a diameter less than 1.5 mm (b) of a diameter of 1.5 mm or more	length and mass per specified length length and diameter
Skin cream in jars	mass or volume
Tomato sauce	volume
Toothpaste	mass
Twines, twists and lashings	length and mass per specified length
Yoghurt	mass

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## Schedule 3 Permissible units of measurement

(Regulation 15)

### 1 Mass

If the measurement marking is to be expressed in terms of mass, the permissible units of measurement are as follows:

- (a) kilogram is permissible in all cases,
- (b) gram is also permissible if the mass does not exceed 1 000 grams,
- (c) milligram is also permissible if the mass does not exceed 1 000 milligrams.

### 2 Volume

If the measurement marking is to be expressed in terms of volume, the permissible units of measurement are as follows:

- (a) litre is permissible for liquids in all cases,
- (b) cubic metre is permissible for solids in all cases,
- (c) millilitre is also permissible in the case of a liquid if the volume does not exceed 1 000 millilitres,
- (d) cubic centimetre is also permissible in the case of a solid if the volume does not exceed 1 000 cubic centimetres.

### 3 Linear measurement

If the measurement marking is to be expressed in terms of linear measurement, the permissible units of measurement are as follows:

- (a) metre is permissible in all cases,
- (b) centimetre is also permissible if the length does not exceed 100 centimetres,
- (c) millimetre is also permissible if the length does not exceed 1 000 millimetres,
- (d) millimetre is also permissible in the case of paper lengths not exceeding 10 000 millimetres, building material in sheet form and coated abrasive belts,

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Schedule 3 Permissible units of measurement

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- (e) millimetre is also permissible in the case of an article if it was customary before these Regulations commenced to express the linear measurement of the article in millimetres.

### **4 Superficial measurement**

If the measurement marking is to be expressed in terms of superficial measurement, any unit of superficial measurement is permissible.

### **5 Mass per specified length**

If the measurement marking is to be expressed in terms of mass per specified length, the permissible units of measurement are grams for mass and kilometres for length.