



STATUTORY INSTRUMENTS

**S.I. No. 566 of 2008**



EUROPEAN COMMUNITIES (PREPACKED PRODUCTS)  
REGULATIONS 2008

**(Prn. A8/2032)**

EUROPEAN COMMUNITIES (PREPACKED PRODUCTS)  
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I, MARY COUGHLAN, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007<sup>1</sup> laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Prepacked Products) Regulations 2008.

(2) These Regulations come into operation on 11 April 2009.

2. (1) In these Regulations—

“Act of 2007” means the Consumer Protection Act 2007 (No. 19 of 2007);

“aerosol dispenser” has the same meaning as it has in Article 2 of Council Directive 75/324/EEC of 20 May 1975<sup>2</sup> on the approximation of laws of the Member States relating to aerosol dispensers;

“Agency” means the National Consumer Agency established by section 7 of the Act of 2007;

“authorised officer” means a person appointed under section 30 of the Act of 2007;

“Directive” means Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC;

“Minister” means the Minister for Enterprise, Trade and Employment;

“place on the market” means—

(a) import,

(b) sell,

(c) offer or expose for sale,

<sup>1</sup>O.J. No. L.247 of 21.09.2007, p. 17.

<sup>2</sup>O.J. No. L. 147 of 09.06.1975, p. 40.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 26th December, 2008.*

- (d) invite the making by a person of an offer to purchase,
- (e) distribute free of charge, or
- (f) in the case of a manufacturer, supply for any of those purposes.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has the same meaning in these Regulations as it has in the Directive.

3. These Regulations apply to products to which the Directive applies.

4. The European Communities (Aerosol Dispensers) Regulations 1977 (S.I. No. 144 of 1977) are amended—

- (a) in Regulation 2(1), by the substitution of the following definition for the definition of “the Council Directive”:

“ ‘Council Directive’ means Council Directive 75/324/EEC of 20 May 1975<sup>3</sup> as amended by Commission Directive 94/1/EC of 6 January 1994<sup>4</sup> and Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007<sup>5</sup>.”, and

- (b) in Regulation 4 by inserting “(other than paragraph (1)(e) in so far as it relates to weight)”, after “8” in each place that it occurs.

5. (1) A person shall not place a product on the market in an aerosol dispenser that does not indicate the nominal total capacity of the dispenser.

(2) A person who contravenes paragraph (1) shall be guilty of an offence.

(3) A person who, in purported compliance with paragraph (1), places a product on the market in an aerosol dispenser that bears an indication that is reasonably likely to cause a person who reads the indication to form the view that it indicates the nominal volume of the contents of the dispenser shall be guilty of an offence.

6. (1) A person shall not place a prepackaged product on the market in contravention of the requirements of Article 3 of the Directive relating to nominal quantities of contents of prepackages.

(2) For the purposes of paragraph (1), the nominal quantities specified in section 1 of the Annex to the Directive shall—

- (a) in the case of a multipack containing 2 or more prepackages, apply to each such prepackage, and

- (b) in the case of a prepackage containing 2 or more individual packages that are not intended for sale separately, apply to that prepackage.

<sup>3</sup>O.J. No. L. 147 of 9.6.1975, p. 40.

<sup>4</sup>O.J. No. L. 23 of 28.1.94, p. 28.

<sup>5</sup>O.J. No. L. 247 of 21.09.2007, p. 17.

(3) A person who contravenes this Regulation shall be guilty of an offence.

7. (1) Where the Agency is satisfied that a person has placed on the market a product to which the Directive applies in contravention of these regulations or the Directive it may, by direction in writing, require that person to remove the product concerned from the market.

(2) The Agency may withdraw a direction given by it under paragraph (1).

(3) A person who contravenes a direction under paragraph (1) shall be guilty of an offence.

8. (1) A direction under these Regulations shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the direction relates to land, by delivering it to some person over 16 years of age resident or employed on the land or by affixing it in a conspicuous position on or near land.

(2) Where a direction under these Regulations is to be served on or given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words owner or, as the case may require, the occupier.

(3) It shall not be lawful for a person at any time during the 12 months after a direction is affixed under paragraph (d) of paragraph (1) to remove, damage or deface the direction without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

9. Section 30 of the Act of 2007 shall apply for the purposes of these Regulations and, accordingly, references in that section to relevant statutory provisions shall be construed as including references to these Regulations.

10. (1) A person guilty of an offence under these Regulations shall be liable—

(a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 2 months or both, or

(b) on conviction on indictment to a fine not exceeding €60,000 or imprisonment for a term not exceeding 18 months or both.

(2) A person who is convicted of an offence consisting of a contravention of a direction under Regulation 8 shall, on each day on which he or she continues to contravene the direction after having been so convicted be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding €500, or

(b) on conviction on indictment to a fine not exceeding €20,000.

(3) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under these Regulations as if, in lieu of the penalties specified in subsection (3) (a) of that section, there were specified the penalties provided for in paragraph (1) (a), and the references in subsection (2) (a) of the said section 13 to the penalties provided for in subsection (3) shall be construed and have effect accordingly.

(4) Sections 77, 78 and 80 of the Act of 2007 shall apply to an offence under these Regulations as they apply to an offence under that Act and, accordingly, references in those sections to an offence under that Act shall be construed as including references to an offence under these Regulations.

(5) On conviction of a person of an offence under this Act the court may, in addition to any other penalty, order any product to which the offence relates to be forfeited.

(6) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Agency.

11. Section 87 of the Act of 2007 shall apply for the purposes of these Regulations and, accordingly, references in that section to relevant statutory provisions shall be construed as including references to these Regulations.

12. The following Regulations are revoked:

(a) European Communities (Aerosol Dispensers and Prepacked Goods) (Amendment) Regulations 1983 (S.I. No. 166 of 1983); and

(b) European Communities (Aerosol Dispensers and Prepacked Goods) (Amendment) Regulations 1987 (S.I. No. 241 of 1987).



GIVEN under my Official Seal,  
17 December 2008

MARY COUGHLAN.  
Minister for Enterprise, Trade and Employment.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

This Statutory Instrument transposes Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC and amending Council Directive 76/211/EEC. The effect of the regulations is to deregulate from 11th April 2009 almost all of the rules on nominal quantities for prepacked products. These rules are sometimes called range of sizes legislation and their purpose is to restrict the sizes in which certain products can be placed on the market. From 11th April 2009 the only mandated sizes for products will be for those wines and spirits specified in the Annex to the Directive. As a consequence of this Directive Orders made under the Merchandise Marks Act, 1970 which specify that certain products can only be placed on the market in certain nominal quantities will be revoked. The regulations come into operation on 11th April 2009.

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