

## Diploma in Consumer Affairs and Trading Standards

### Legal Metrology Law

NOVEMBER 2017

**Candidates answering the questions from the Scottish or Welsh law viewpoint: Please ensure you write "Scottish" or "Welsh" on the front of your examination booklet.**

**The examiners may expect candidates to show knowledge of legislation which is in place but not in force (i.e. has been enacted) and regulations which have been made but are not yet in force, if they are directly relevant to the subject-matter of the examination.**

There are three sections to the examination paper:

- |                  |                                                                                                                                                                          |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Section A</i> | Consists of five questions.<br>Candidates should attempt to answer all questions.<br>Total allocation of marks is 25 marks.<br>Suggested time allocation is 45 minutes.  |
| <i>Section B</i> | Consists of two questions.<br>Candidates should attempt to answer one question.<br>Total allocation of marks is 25 marks.<br>Suggested time allocation is 45 minutes.    |
| <i>Section C</i> | Consists of three questions.<br>Candidates should attempt to answer two questions.<br>Total allocation of marks is 50 marks.<br>Suggested time allocation is 90 minutes. |

Total time allowed – three hours (plus ten minutes reading time).

**The Legal Metrology Law paper is a closed book; no materials are permitted to be taken into the examination room.**

*The examination paper has **seven** pages, including this front sheet.*

## Section A

Candidates should attempt to answer **all** questions -  
total of 25 marks.

1. The work of the European Co-operation in Legal Metrology (WELMEC) is carried out by Working Groups. These groups produce WELMEC guides.

Identify five examples of such guides (you can only identify a maximum of one guide per Working Group).

(5 marks)

2. Answer **both** parts

(a) Briefly define the term “conformity assessment” in relation to a fuel dispenser, as defined in Annex VII of Directive 2014/32/EU on measuring instruments.

(1 mark)

(b) What are the permitted conformity assessment procedures for such instruments?

(4 marks)

(total 5 marks)

3. List five practical examples that would give a competent authority grounds to issue a compliance notice under Regulation 63 of The Non-Automatic Weighing Instruments Regulations 2016.

(5 marks)

4. Section 3(1) of the Weights and Measures Act 1985 places a duty on the Secretary of State to maintain secondary and tertiary standards.

Using a suitable practical example, briefly explain the operation of this section.

(5 marks)

5. Regulation 5(1)(a) of The Weights and Measures (Packaged Goods) Regulations 2006 requires that the nominal quantity is marked on packages in accordance with Regulation 8.

Using suitable practical examples, briefly explain the requirements of Regulation 8.

(5 marks)

**Section A total of 25 marks.**

**End of Section A.**

## Section B

Candidates should attempt to answer **one from two** questions - total of 25 marks.

6. Using decided case law and practical examples to illustrate your answer, analyse and explain the key differences between the scope of application of Part II of the Weights and Measures Act 1985 and Directive 2014/31/EU on non-automatic weighing instruments.

(25 marks)

7. Critically evaluate whether the arrangements in Part VI of the Weights and Measures Act 1985, for the local implementation of national legislative provisions, are fit for purpose in the current trading environment.

(25 marks)

**Section B total of 25 marks.**

**End of Section B.**

### Section C

Candidates should attempt to answer **two from three** questions - total of 50 marks.

8. **Please see, on the next page, extracts of Regulations 4 and 14 from The Weights and Measures (Packaged Goods) Regulations 2006 – for use with question 8.**

You are an Inspector of Weights and Measures appointed by a local weights and measures authority. You receive a complaint from Mrs Smith, the owner of a local coffee shop. Mrs Smith says that one of her customers who had bought a jar of hot chocolate powder from her had returned it, complaining of a quantity deficiency: alleging that the jar was only two-thirds full when opened.

Mrs Smith advises that she refunded her customer in return for the complaint item. Mrs Smith claims to have checked the remaining six jars of hot chocolate that she had in stock. She says that, when she shakes them, it sounds as if they have not been fully filled, apparently corroborating her customer's complaint.

You visit the coffee shop and note that the hot chocolate powder was produced by Chocolate Products Limited, a local producer of premium quality chocolate products. You weigh the complaint item and six available jars of hot chocolate powder. You obtain the following results:

Product	Quantity marking	Gross weight	Tare weight
1	250g	688.0g	450.2g
2	250g	685.5g	450.3g
3	250g	671.3g	450.3g
4	250g	675.2g	450.2g
5	250g	679.5g	450.2g
6	250g	678.3g	450.3g
Complaint item	250g	675.4g	450.2g

As a result of the above, you decide to visit Chocolate Products Limited and carry out a formal investigation.

- (a) Before doing so, identify three key items of evidence that you would obtain. (3 marks)
- (b) Identify five key resources (human or otherwise) that you would take with you to carry out a formal investigation at the premises of Chocolate Products Limited. (5 marks)
- (c) Describe fully the actions you would take, including the method and manner in which you would carry out any tests and investigations into the systems and procedures operated by Chocolate Products Limited. (12 marks)

Your actions substantiate that Chocolate Products Limited has failed to comply with Regulation 4(1)(c) of The Weights and Measures (Packaged Goods) Regulations 2006.

- (d) Prepare an information [Scottish students: draft a charge] using the information provided. (5 marks)
- (total 25 marks)

**Section C is continued over the page.**

## **Extracts of Regulations 4 and 14 from The Weights and Measures (Packaged Goods) Regulations 2006 – for use with question 8**

### **Duty to comply with the three packers' rules**

4.—(1) It shall be the duty of the packer or importer of packages to ensure that they are made up in such a way as to satisfy the following rules—

- (a) the contents of the packages shall be not less on average than the nominal quantity;
- (b) the proportion of packages having a negative error greater than the tolerable negative error shall be sufficiently small for batches of packages to satisfy the requirements specified in Schedule 2;
- (c) no package shall have a negative error greater than twice the tolerable negative error.

(2) Compliance with the rules in paragraphs (1)(a) and (b) shall be determined by the reference test.

### **Offences relating to the sale of packages**

14.—(1) If a person has in his possession for sale, agrees to sell or sells a package in circumstances in which he knows or has reasonable grounds for believing that the package has a negative error greater than twice the tolerable negative error, he shall be guilty of an offence.

(2) If a person has in his possession for sale, agrees to sell or sells a package in circumstances where he knows, or has reasonable grounds for believing, that the package comes from a batch of packages which has failed the reference test, then he shall be guilty of an offence unless he can show that:

- (a) he had reasonable grounds for believing that corrective action had been taken after the batch had failed the reference test to ensure that the batch subsequently complied with the requirements of regulation 4, or
- (b) the actual quantity of the package exceeded the nominal quantity.

9. You are an Inspector of Weights and Measures appointed by a local weights and measures authority. Your authority has been delegated authority by the Secretary of State to conduct a market surveillance investigation on importers of medical weighing instruments, under the provisions of the Non-Automatic Weighing Instruments Regulations 2016.

You begin your investigation by compiling a list of all importers of medical weighing instruments in your region and performing a desktop risk assessment to support further enquiries. As part of this process, you identify that Asia Scale Importers is a high-risk importer. You base your determination on the following:

- Your authority was previously unaware of the existence of Asia Scale Importers.
- Your intelligence database lists a recent increase in the use of foreign non-compliant, non-automatic weighing instruments (importer source unidentified).
- Asia Scale Importers website makes several claims in relation to being specialists in the medical weighing instrument sector, but lacks relevant supporting information to provide confidence in the claims.

The decision is taken to conduct a visit to Asia Scale Importers' premises to establish compliance with the provisions of the aforementioned Regulations. You interview Mr Smith, the proprietor and sole trader of Asia Scale Importers. He advises that he has no prior knowledge of the weighing industry or laws regarding placing instruments on the market and making them available. He explains that he largely became involved in the supply of medical weighing instruments because there were large margins in the supply of such instruments.

Your enquiries confirm that Mr Smith is unaware of the concept of, and need for, conformity assessment and that none of the instruments supplied by him have been subject to conformity assessment. He refuses to produce technical documentation, claiming that he operates paperless systems. He further refuses to provide electronic information confirming from whom he procures instruments, and to whom he similarly supplies.

An inspection of the stockroom of the premises reveals a large number of different types of electronic and mechanical non-automatic weighing instruments. The stock corresponds with the product descriptions listed on the business's website as being suitable for medical weighing purposes. All the boxes have markings in Chinese characters. You open several of these and find user and operating instructions written in Chinese and markings on the instrument in Chinese.

Apply the provisions of The Non-Automatic Weighing Instruments Regulations 2016 and The Business Protection from Misleading Marketing Regulations 2008 to the above scenario.

In so doing, explain what action you would take.

(25 marks)

**Section C is continued over the page.**

10. You are an Inspector of Weights and Measures appointed by a local weights and measures authority. You receive a complaint from Mr White, a local publican, that Mr Black, the owner of The Drop Inn, another local public house, is using unstamped equipment to sell spirits.

Mr White tells you that his complaint is based on information he received from Dom, a travelling salesman employed by 'Magic Measures', a national manufacturer and supplier of measuring equipment to the licensed trade. Mr White alleges that Dom had offered him "a good deal on some second-hand optics – no questions asked" and further confided that Mr Black had just bought some from him. Owing to Dom's conspiratorial manner, Mr White assumed that the measures must be non-compliant in some regard.

You decide to visit The Drop Inn to investigate Mr White's complaint. On entering the premises, you observe a number of inverted bottles of spirits fixed to the gantry with 'optic' style spirit measuring instruments attached and a statutory weights and measures notice stating that controlled spirits are sold in 35ml quantities.

You ask the barman for a 35ml measure of malt whisky and a pint of draught beer. You observe them delivering a measure of the whisky via an 'optic' measure attached to one of the inverted bottles on the gantry. He then delivers free-flow draught beer into a glass, serves both drinks and you pay for them.

You measure the malt whisky and find that it is 25.1ml. You measure the beer and find that it is 505ml.

On examining the 'optic' used to measure the malt whisky, you find that it is sealed with copper sealing wire and a lead seal, and is crown stamped. It is inscribed "1/6<sup>th</sup> gill". There are several other similar 'optics' attached to other bottles of malt whisky on the gantry.

The glass used to serve the draught beer has no markings on it other than a line near the brim. Again, there is a large stock of these glasses behind the bar, apparently ready for use.

The barperson tells you that his boss, Mr Black, had just bought the 1/6<sup>th</sup> gill 'optic' measures and the unmarked beer glasses, with the lines, from Dom. He further advises that Mr Black told him to replace the 35ml 'optics' on the bottles of malt whisky with the 1/6<sup>th</sup> gill 'optics' and to fill the beer glasses to the line. You test a sample from the stock of beer glasses and find that none contain more than 510ml when filled to the line.

Apply the provisions of Part II of The Weights and Measures Act 1985 and the Measuring Instruments Regulations 2016 to the above circumstances, as appropriate. In doing so, take account of relevant delegated legislation and apply decided case law. In considering the positions of all parties, identify potential offences and defences.

(25 marks)

**Section C total of 50 marks.**

**END OF EXAMINATION PAPER.**