



Ron Gainsford  
Assistant Director  
LACOTS  
10 Albert Embankment  
LONDON  
SE1 7SP

Department of  
Trade and Industry  
Rm 466  
1 Victoria Street  
London SW1H 0ET

Enquiries 0171-215 5000  
URL <http://www.dti.gov.uk/>  
Tele: 3813148 DIHQ G  
Minicom 0171 215 6740

Direct line 0171-215 6413  
Local Fax 0171-215 6414  
Our ref  
Your ref  
Date 24 January 2000

*Ron Gainsford*

## WEIGHTS AND MEASURES: UNITS OF MEASUREMENT LAWFUL FOR USE IN TRADE

Thank you for sending the Department a copy of the legal advice to the United Kingdom Independence Party questioning the validity of the Weights and Measures (Units of Measurement) Regulations 1994 and the Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994.

The basis of the advice is that the use of secondary powers under the European Communities Act 1972 to amend the provisions of subsequent primary legislation - as was done in 1994 to amend the Weights and Measures Act 1985 - is ultra vires. This argument is based on the proposition that constitutionally Parliament cannot bind its successors. It is undoubtedly true that Parliament could repeal the European Communities Act, but the vast majority of lawyers believe that so long as the Act is on the statute book it has the effect that Community law, and any legislation that implements Community law, prevails even over subsequent primary legislation. The Department therefore considers that the 1994 legislation is valid. I would be grateful if you would communicate the Department's view to the local authorities.

As regards what is actually happening on the change to metric weights, the United Kingdom Weighing Federation are due to provide the Department with the latest figures at the end of January. According to the Federation, orders from small traders trailed off during the autumn, with a late surge in orders in December and into January. The Federation estimate that the backlog of conversions is unlikely to be cleared until April. We shall get in touch when we have the Federation's latest figures.

*Yours sincerely*  
*Howard Ewing*

H A LEWING  
Director, Consumer Advice and Information  
Internet: [howard.ewing@cacp.dti.gov.uk](mailto:howard.ewing@cacp.dti.gov.uk)  
X.400: S=Ewing G=Howard O=DTI OU1=CACP P=HMG DTI A=Gold 400 C=GB

**dti**

Department of Trade and Industry