

Kim Howells MP
Parliamentary Under Secretary of State
for Consumers and Corporate Affairs



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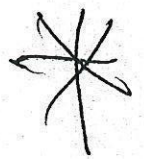
11 October 2000

Dear Alun

Thank you for your letter of 25 September enclosing a letter from Mr John Gardner on behalf of the British Weights and Measures Association, [REDACTED]

Mr Gardner is correct in his statement that the Weights and Measures Act 1985 authorises the ounce and the pound as units of weight. However, an EC directive on units of measurement (Directive 89/617/EEC) was adopted in 1989 which phased out the ounce and the pound as units of weight for most purposes after 31 December 1994, and for goods sold loose from bulk after 31 December 1999. The 1985 Act was therefore amended in 1994 by secondary legislation made by the powers under section 2(2) of the European Communities Act 1972.

Section 2(4) of the 1972 Act specifically provides that the same provision may be made by means of section 2(2) as may be made by primary legislation. This includes an amendment of primary legislation, including legislation made subsequently to the 1972 Act in order to implement any EC obligation into which the UK entered in 1972 and any obligation which the UK entered into subsequent to 1972.



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Kim

JOHN'S WELL DONE -
VERY IMPORTANT!

* THE ISSUE IN A
NUTSHELL!

V.

Kim Howells MP
Parliamentary Under Secretary of State
for Consumers and Corporate Affairs



Mr John Cryer MP
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20 October 2000

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Thank you for your letter of 5 October concerning the legal opinion by Mr Michael Shrimpton which argues that imperial units of measurement (particularly the ounce and the pound) remain legal in the UK for use in trade. The Department's legal opinion confirms the following position.

The ounce and the pound were formerly authorised as units of weight by the Weights and Measures Act 1985. However, Directive 89/617/EEC on units of measurement, which was adopted in 1989, ceased to authorise, among other units, the ounce and the pound for most uses after 31 December 1994 and for the sale of goods from bulk after 31 December 1999. These provisions were implemented in the UK in 1994, including amendments to the 1985 Act by secondary legislation made under section 2(2) of the European Communities Act 1972. The implementing legislation was considered by the Joint Committee on Statutory Instruments and was debated by the House of Commons First Standing Committee on Statutory Instruments and by the House of Lords.

Section 2(4) of the 1972 Act specifically provides that the same provisions may be made by means of section 2(2) powers as may be made by primary legislation. This includes an amendment of primary legislation, including any legislation made subsequently to the 1972 Act, in order to implement any EC obligation into which the UK entered under the Treaty of Accession in 1972 and any EC obligation into which the UK entered subsequent to 1972. The Treaty of Accession included the obligation to adopt the metric system, and to phase out the imperial system, by no later than the dates to be determined for specific units. It therefore follows that proper use was made in 1994 of section 2(2) powers to amend the Weights and Measures Act; and that, as a consequence, use of the ounce and the pound is not permitted (other than as supplementary indications alongside the metric units of weight) for the sale of loose goods after 31 December 1999.

The local authorities, who have an independent statutory responsibility for enforcing the Weights and Measures Act, quite rightly sought independent legal advice concerning Mr Shrimpton's opinion. The advice they have received confirms the Department's view that



the 1994 changes to the Weights and Measures Act are valid, and that traders are under an obligation to use metric weights for the sale of loose goods after 31 December 1999. A case is pending so the courts will be able to give a definitive ruling on the validity of the 1994 amendments. Therefore it would not be right for me to comment further at this juncture.

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