1. ------IND- 2020 0081 D-- EN- ------ 20200319 --- --- PROJET

Draft bill

of the Federal Ministry of Economic Affairs and Energy

Ordinance Amending Laws on Prepackaged Products

A. Problem and objective

An amendment to the Regulation on Prepackaged Products is necessary in order to adapt the laws on prepackaged products to developments on a European level and to changes on a national level with regard to the Measurement and Calibration Act (Mess- und Eichgesetzes). For example, the EU Regulation on the provision of food information to consumers [Regulation (EU) No 1169/2011 of 25 October 2011; (OJ L 304, 22.11.2011, p. 18)] regulates the labelling of prepacked food intended directly for end consumers. National regulations in this area are therefore no longer applicable and should be repealed. With regard to cosmetic products [Regulation (EC) No 1223/2009] and EC fertilisers [Regulation (EC) No 2003/2003], provisions for implementation have also been supplemented, unless already included in other national provisions.

There is also a need to adapt the terminology and the complicated structure of the current Regulation on Prepackaged Products. The existing regulations are being restructured in order to ease the burden placed on consumers, manufacturers and law enforcement authorities. This should result in greater transparency and improved legal certainty.

With the restructuring of the Measurement and Calibration Act, the Regulation on fees for measuring and calibration (Mess- und Eichgebührenverordnung) of 24 March 2015 was created (Federal Law Gazette I p. 330), which replaced the Regulation on costs for calibration (Eichkostenverordnung) that had previously applied. The fee rates for the provision of individually attributable public services must be regularly adjusted to current developments in order to cover costs. The first ordinance to amend the Regulation on fees for measuring and calibration, to the exclusion of adjustments to the fee rates for the market surveillance of prepackaged products, other sales units and measuring containers (key figures group 16) entered into force on 30 April 2019 (Federal Law Gazette I p. 579). The fee rates regulated in 2015 were based on fee calculations based on personnel and material costs data from 2012 to 2017 determined by tariff increases and inflation rates. The fee rates for 2020 to 2023 now require an adjustment.

B. Solution

A comprehensive reorganisation of the laws on prepackaged products by legal ordinance.

C. Alternatives

None.

D. Budget expenditure exclusive of implementing costs

No direct budget expenditure exclusive of implementing costs will arise on the part of the Federal Government, Federal States and municipalities.

E. Compliance costs

E.1 Compliance costs for citizens

Citizens shall not incur any additional compliance costs.

E.2 Compliance costs for businesses

This regulation does not change the compliance costs incurred by businesses in connection with the placement and provision of prepackaged products on the market in comparison with the current legal position. The provisions relating to prepackaged products have largely been adopted from the previous Regulation on Prepackaged Products or the Regulation amending the national legislation to Regulation (EU) No 1169/2011.

An easing of the financial burden placed on businesses is provided by the proposed streamlining of the requirements for measurement and inspection provisions when filling prepackaged products in accordance with Directive (EEC) No 76/211.

No compliance costs for businesses arise in the context of the amendment to the Regulation on fees for measuring and calibration.

There are no regulations on information requirements for businesses.

E.3 Administrative compliance costs

There are no additional compliance costs, as the provisions relating to prepackaged products in particular have largely been adopted from the previous Regulation on Prepackaged Products or the Regulation amending the national legislation to Regulation (EU) No 1169/2011.

F. Additional costs

No additional costs are associated with the Regulation on Prepackaged Products. No effects on price levels, particularly consumer price levels, are anticipated.

In the Regulation on fees for measuring and calibration, the fees for those who manufacture, import or use prepackaged products are partially reduced with the adjustment of the fees in key figures group 16. Additional costs arise to some extent. However, the cost changes are mostly marginal in relation to the sales generated by prepackaged products. The burden resulting from the fee rate increases per each affected person is low. For the year 2020, there will be no increase in revenue for the verification authorities, and from 2021 a maximum total of EUR 240 000 per year is expected.

Draft Act of the Federal Ministry of Economic Affairs and Energy

Ordinance Amending Laws on Prepackaged Products[[1]](#footnote-1))) [[2]](#footnote-2)))

dated …

The following is decreed by the Federal [German] Government on the basis of

* § 4(1)(1)(1), also in conjunction with sentence 3(2) and (4), § 41(1), (2), (4), (5) and (6) and § 44 of the Measurement and Calibration Act of 25 July 2013 (Federal Law Gazette I pp. 2722, 2723), from which §§ 41 and 44 were most recently amended by Article 1(4) and (5) of the Act of 11 April 2016 (Federal Law Gazette I p. 718), the Federal [German] Government
* § 59(3) of the Measurement and Calibration Act of 25 July 2013 (Federal Law Gazette I pp. 2722, 2723), as amended by Article 293 of the Ordinance of 31 August 2015 (Federal Law Gazette I p. 1474), the Federal Ministry of Economic Affairs and Energy
* § 60(4) of the Measurement and Calibration Act of 25 July 2013 (Federal Law Gazette I pp. 2722, 2723), as last added by Article 1(10) of the Act of 11 April 2016 (Federal Law Gazette I p. 718), the Federal Ministry of Economic Affairs and Energy and
* § 35(1)(1) of the German Food and Feedstuffs Act in the version published on 3 June 2013 (Federal Law Gazette I p. 1426), most recently amended by Article 67(6) of the Ordinance of 31 August 2015 (Federal Law Gazette I p. 1474), the Federal Ministry of Food and Agriculture, in consultation with the Federal Ministry of Economic Affairs and Energy:

Article 1

Ordinance on prepackaged products and other sales units (Regulation on Prepackaged Products - FPackV)

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Section 1

* + - 1. General provisions
  1. **Scope of application**
     1. This regulation applies to prepackaged products of equal and unequal nominal fill quantities, measuring containers and other sales units. In particular, it regulates labels by weight, volume, length, area or unit quantity.
     2. § 43(1) of the Measurement and Calibration Act and this regulation do not apply to
        1. prepackaged products, of which the nominal fill quantity is labelled according to area or unit and which is provided to end consumers who use these prepackaged products for their independent professional or commercial activities,
        2. free samples,
        3. prepackaged products that are intended to be shipped outside of the scope of application of the Measurement and Calibration Act or that are intended to equip maritime vessels, with the exception of prepackaged products labelled with the ℮ mark pursuant to § 11.
        4. conformity-assessed or calibrated material measures or
        5. prepackaged products with products according to Annex 1 that are sold in duty-free shops for consumption outside of the European Union.
  2. **Definitions**

Under this Regulation the following definitions shall apply:

* + - 1. prepackaged products of equal nominal fill quantity with products that have a pre-determined standard value for the nominal fill quantity.
      2. prepackaged products of unequal nominal fill quantities with products that have a value for the nominal fill quantity determined for each individual package, without this being specified in advance.
      3. prepackaged products with food are prepackaged products that contain food and that do not fall under points 8 or 9.
      4. Free samples are prepackaged products that are provided to business operators or end consumers free of charge as samples and that are labelled as such.
      5. Lot size is the total quantity of prepackaged products or other sales units of equal nominal fill quantity or equal nominal weight, with the same packaging and the same production process and which have been filled in the same location.
      6. The negative error of a prepackaged product is the amount by which the fill quantity of the prepackaged product falls below the nominal fill quantity.
      7. Packages that are not intended for individual sale are packages that are placed in prepackaging and on which inclusion of the mandatory information for prepackaged products is not required.
      8. Prepacked food are sales units within the meaning of Article 2(2)(e) of Regulation (EC) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers and amending Regulation (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directive 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18) as amended.
      9. Food that is not prepacked are sales units within the meaning of Article 44(1) of the first clause of Regulation (EC) No 1169/2011.
      10. Time of production is the point in time at which the product is joined with the outer packaging, the packaging is closed, and the necessary labelling features are applied, unless otherwise specified in the following provisions or in Annex 2.

For other sales units, notwithstanding sentence 1 point 10, the time of production is the time at which the necessary labelling features are applied, unless otherwise specified in the following provisions.

* 1. **Labelling of the nominal fill quantity**
     1. Anyone who produces prepackaged products or other sales units, brings them within the scope of application of the Measurement and Calibration Act, places them on the market, or otherwise makes them available on the market, must ensure that the nominal fill quantity is specified by weight or volume. Sentence 1 does not apply if, in accordance with other provisions, a label including the unit quantity, length or area is provided, or if there is no applicable provision for labelling.
     2. Insofar as other provisions do not specify a requirement for labelling with at least one size according to weight, volume, unit quantity, length or area, or that contain no provision for size labelling, the size indication must correspond to the prevailing market practices.
     3. Undefined nominal fill quantities, specifying nominal fill quantity ranges, or additional specifications for gross weight are not permitted. Sentence 1 does not apply unless otherwise specified under other provisions.

Section 2

* + - 1. Prepackaged products of equal nominal fill quantities with labelling by weight or volume
  1. **General regulations when labelling by weight or volume**
     1. The regulations contained in this section apply to prepackaged products of equal nominal fill quantities, labelled by weight or volume, with products that are no smaller than 5 grams or 5 millilitres, and no larger than 10 kilograms or 10 litres. Sentence 1 does not apply to prepacked food or non-prepacked food.
     2. Anyone who produces prepackaged products, brings them into the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, must ensure that
        1. the prepackaged product has a label with the nominal fill quantity by weight or volume, taking into account paragraph 3 and §§ 3 and 6,
        2. the prepackaged product is labelled with the required information according to § 5(1) and § 8(1),
        3. the prepackaged product is labelled with the mark and symbols according to paragraph 4 and
        4. the nominal fill quantity satisfies the requirements under §§ 9 and 10.
     3. Prepackaged products with liquid products are to be labelled by volume; prepackaged products with other products are to be labelled by weight in accordance with paragraph 4, unless otherwise regulated by other provisions or if different labelling is not required according to prevailing market practices. In case of doubt, information must be provided according to prevailing market practices
     4. The nominal fill quantity is
        1. to be stated in figures by weight in grams or kilograms
        2. and in figures by volume in millilitres, centilitres or litres

for distribution. The unit name or unit symbol must be included.

* 1. **Drained weight**
     1. If a solid food is immersed in a liquid medium, the drained weight of this food must be indicated on the prepackaged products in addition to the nominal fill quantity.
     2. The following products are considered liquid mediums, provided that they only play a minor role in relation to the essential food components concerned and are therefore not a decisive factor in the purchase of the product:
        1. water,
        2. aqueous salt solutions,
        3. brines,
        4. food acid in aqueous solutions,
        5. vinegar,
        6. aqueous sugar solutions,
        7. aqueous solutions with other sweeteners or sweetening agents such as
        8. fruit or vegetable juices used with fruit and vegetables.

This also applies if the liquid medium

* + - 1. is a component in a mixture, either
      2. frozen or
      3. deep-frozen.
  1. **Special provisions when labelling by weight or volume**
     1. Prepackaged products with products in aerosol form are to be labelled by volume, even if the product requires additional labelling by weight according to other provisions. The volume of the liquid phase is to be indicated. The total capacity of the packaging is also required. The information according to sentence 3 is to be designed in such a way as to differ significantly from the information regarding the nominal volume of the contents.
     2. Prepackaged products with detergents and cleaning agents as well as cleansers and care products
        1. In liquid or paste form are to be labelled by volume and
        2. solids or powders are to be labelled by weight

. Soft soaps must be labelled by weight.

* + 1. Prepackaged products with adhesives must be labelled by weight.
    2. Prepackaged products with varnishes, lacquers and paints are to be labelled by volume. Prepackaged products with varnishes, lacquers and paints manufactured using a colour mixing system for wholesale or retail purposes may also be labelled by weight. Sentence 2 also applies to varnishes, lacquers and paints in prepackaged products that are predominantly mixed by hand.
    3. Prepackaged products with products for pets or wild birds must be labelled by weight or volume.
    4. Prepackaged products with photochemical products, and chemical and technical standard materials and reagent materials, may include the volume of the ready-to-use preparation or the number of applications or tests instead of the nominal fill quantity.
  1. **Prepackaged products with food**

For prepackaged products with food, §§ 20. 21. 22 and 23 apply accordingly.

* 1. **Manufacturer details**
     1. Prepackaged products are to include the name or the company name and the registered location of the manufacturer of the prepackaged product, and in the case of imported prepackaged products, the importer. The information may be abbreviated or replaced by a symbol, provided that the company can be easily identified by the competent authority with the abbreviation or symbol.
     2. Paragraph 1 does not apply to
        1. prepackaged products that are labelled according to § 38(7),
        2. prepackaged products with seeds that are labelled with a company number determined in accordance with seed market regulations,
        3. aerosol packaging that is labelled according to the provisions of the Aerosol Dispensers Ordinance of 27 September 2002 (Federal Law Gazette I pp. 3777, 3805), as last amended by Article 23 of the Act of 8 November 2011 (Federal Law Gazette I p. 2178), and
        4. prepackaged products with tobacco products, in which the tax symbol is devalued according to § 35(1) of the Tobacco Tax Ordinance of 5 October 2009 (Federal Law Gazette I p. 3262), last amended by Article 7 of the Ordinance of 2 January 2018 (Federal Law Gazette I p. 84).
  2. **General nominal fill quantity requirements**
     1. Prepackaged products labelled by weight or volume may only be manufactured in such a way that, at the time of production,
        1. the average fill quantities determined according to Annex 3 point 6 do not fall below the nominal fill quantity or
        2. the fill quantity does not exceed the specified values in paragraph 3 for the negative error as compared to the nominal fill quantity.
     2. Prepackaged products labelled by weight or volume may only be brought into the scope of application of the Measurement and Calibration Act if, at the time of production,
        1. the average of the fill quantities determined according to Annex 3 point 6 does not fall below the nominal fill quantity and
        2. the fill quantity does not exceed the specified values in paragraph 3 for the negative error as compared to the nominal fill quantity.

For prepackaged products manufactured outside of the European Union, the time of placement on the market applies.

* + 1. The permissible negative errors are:

|  |  |  |
| --- | --- | --- |
| Nominal fill quantity QN  in g or ml | Permissible negative error | |
| In % of QN | in g or ml |
| 5 to 50 | 9 | - |
| 50 to 100 | - | 4.5 |
| 100 to 200 | 4.5 | - |
| 200 to 300 | - | 9 |
| 300 to 500 | 3 | - |
| 500 to 1 000 | - | 15 |
| 1 000 to 10 000 | 1.5 | - |

When using this table, the values of the permissible negative error, expressed in units of weight and volume and given in per cent, are to be rounded up to 0.1 gram or 0.1 millilitre. Negative errors may be exceeded by a maximum of two prepackaged products per hundred.

* + 1. Prepackaged products labelled by weight or volume may only be placed on the market or otherwise made available on the market if, at the time of production, the negative error as compared to the nominal fill quantity does not exceed the marketability values specified in the table below:

|  |  |  |
| --- | --- | --- |
| Nominal fill quantity QN in g or ml | Marketability values | |
| In % of QN | in g or ml |
| 5 to 50 | 18 | - |
| 50 to 100 | - | 9 |
| 100 to 200 | 9 | - |
| 200 to 300 | - | 18 |
| 300 to 500 | 6 | - |
| 500 to 1 000 | - | 30 |
| 1 000 to 10 000 | 3 | - |

When using this table, the marketability, expressed in units of weight and volume, and given in per cent, should be rounded up to 0.1 gram or 0.1 millilitre.

* 1. **Special nominal fill quantity requirements**
     1. Prepackaged products labelled with drained weights may only be manufactured in such a way that the drained weight does not fall below the average value indicated in Annex 3 point 6.
     2. Prepackaged products labelled with drained weights may only be brought into the scope of application of the Measurement and Calibration Act if the drained weight does not fall below the average value indicated in Annex 3 point 6.
     3. Prepackaged products labelled with drained weights may only be placed on the market or otherwise made available on the market if the requirements of § 9(4) are met. Notwithstanding sentence 1, the requirements for prepackaged products that are predominantly made by hand or that contain naturally grown food are determined by three times the requirements specified in the second and third columns of the table from § 9(3) for fixed marketability values.
     4. In the case of prepackaged products with glazed food, the coating agent must not be contained in the specified nominal fill quantity for the food.
     5. For prepackaged products with frozen or deep-frozen poultry meat in accordance with Article 9 of Commission Regulation (EC) No 543/2008 of 16 July 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat (OJ EC L 157 of 17.02.2008, p. 46), last amended by Commission Regulation (EU) No 519/2013 of 21 February 2013 (OJ EU L 158 of 10.06.2013, p. 74), the fill quantity requirements specified in Article 9(4) apply.
  2. **℮-mark**
     1. The ‘℮’ mark as displayed in Annex II, point 3 of Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009 relating to common provisions for both measuring instruments and methods of metrological control (new version) (OJ L 106, 28.04.2009, p. 7) may only be applied if the requirements of §§ 4, 6, 8. 9, 10(5) and §§ 38, 41 and 42 are met. If the drained weight is to be specified in addition to the nominal fill quantity, the symbol only refers to the nominal fill quantity.
     2. The symbol must be at least 3 millimetres in height and displayed in the same field of vision as the nominal fill quantity.

Section 3

* + - 1. EC fertilisers as defined by Regulation (EC) No 2003/2003
  1. **Requirements for EC fertilisers**
     1. The requirements for prepackaged products with EC fertilisers are based on Article 9(1)(a) indent 9 to 11(b) second subparagraph and Articles 10 and 11 of Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers (OJ EC L No 304 of 21.11.2003, p. 1), provided that no supplements are hereinafter specified in the context of the implementation of Regulation (EC) No 2003/2003.
     2. In addition to the requirements of Article 9(1)(a), indents 9 to 11, Article 10(1) and (2) and Article 11 of Regulation (EC) No 2003/2003, EC fertilisers may only be brought into the scope of application of the Measurement and Calibration Act, placed on the market or otherwise made available on the market by the manufacturer in accordance with Article 2(x) of Regulation (EC) No 2003/2003, if
        1. the nominal fill quantity meets the requirements of § 9 and
        2. the inspection and documentation obligations of § 41 are observed.
     3. For EC fertilisers labelled by weight or volume, §§ 11, 34(4) and § 42 apply accordingly.

Section 4

* + - 1. Cosmetic products within the meaning of Regulation (EC) No 1223/2009
  1. **Requirements for prepackaged cosmetic products**
     1. The requirements for prepackaged products with cosmetic products are based on Article 19(1)(a) and (b) first clause of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342 of 22.12.2009, p. 59), last amended by Regulation (EU) 2017/2228 of 4 December 2017 (OJ No L 319 of 05.12.2017, p. 2, corrected OJ 2017 No L 326 of 09.12.2017, p. 55), insofar as no supplements are specified below in the context of the implementation of Regulation (EC) No 1223/2009.
     2. Prepacked cosmetic products may only be made available on the market beyond the requirements of Article 19(1)(a) and (b) of Regulation (EC) No 1223/2009 by the responsible person according to paragraph 4if
        1. the nominal fill quantity for the requirements of § 9(1), (2) first sentence and (3) to (5) are met and
        2. the inspection and documentation obligations of § 41 are observed.
     3. For prepacked cosmetic products labelled by weight or volume, § 4(4), § 6(1) and §§ 11 and 42 apply accordingly.
     4. The responsible person is the designated person according to Article 4(3) to (6) of Regulation (EC) No 1223/2009.
  2. **Requirements for cosmetic products within the meaning of Article 19(4) of Regulation (EC) No 1223/2009**
     1. For prepackaged products with cosmetic products that are packed at the point of sale at the request of the buyer or are prepacked with the intention of providing them for direct sale, § 5 of the Ordinance on Cosmetic Products of 16 July 2014 (Federal Law Gazette I p. 1054), last amended by Article 2 of the Ordinance of 26 January 2016 (Federal Law Gazette I p. 108) applies.
     2. For open packaging with cosmetic products that are not packed as well as for cosmetic products that are packed at the request of the buyer or are prepacked with the intention of providing them for direct sale, § 5 of the Ordinance on Cosmetic Products applies.
     3. Cosmetic products according to paragraphs 1 and 2 may only be placed on the market by the responsible person according to paragraph 5 if
        1. the nominal fill quantity for the requirements of § 9 are met and
        2. the obligation according to § 41(1)(1)(a) is complied with accordingly.
     4. For cosmetic products according to paragraphs 1 and 2, § 4(4) and § 42 apply accordingly.
     5. The responsible person is the designated person according to Article 4(3) to (6) of Regulation (EC) No 1223/2009.

Section 5

* + - 1. Prepacked and non-prepacked food
  1. **General provisions**
     1. The requirements for prepackaged products with prepacked and non-prepacked food and for other sales units with prepacked and non-prepacked food
        1. that are intended for end consumers, including food supplied by industrial caterers, or
        2. intended for delivery to industrial caterers,

comply with Regulation (EU) No 1169/2011, unless otherwise specified below.

* + 1. § 1(2)(2) and §§ 20, 21, 22 and 39(2) and (3) have priority in accordance with Article 42 of Regulation (EU) No 1169/2011.
  1. **General regulations for prepacked food**
     1. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that prepacked food is only placed on the market if the fill quantity meets the requirements according to §§ 9. 1026 32 or 34(2) accordingly.
     2. For prepacked food, §§ 6(1). 11. 34(4) as well as §§ 38. 40, 41 and 42 apply accordingly.
  2. **Fruit and vegetables without prepackaging within the meaning of Article 44(1) of Regulation (EU) No 1169/2011**
     1. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that open packages of fruit or vegetables that have not been packed in the presence of the end consumer and the contents of which can be changed, are labelled according to Article 9(1)(e) of Regulation (EU) No 1169/2011.
     2. The nominal weight is to be indicated by a sign on or near the packaging, with labels according to § 4(4) sentence 1 point 1 and sentence 2.
     3. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that fruit and vegetables according to paragraph 1 are only placed on the market if the fill quantity meets the requirements of §§ 9.(29)(3) or 34(2) accordingly.
     4. For fruit and vegetables according to paragraph 1, § 26. § 32(1), § 34(4), § 38(1), § 38(2), § 38(6), § 38(8) and §§ 40. 41 and 42 apply accordingly.
     5. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure, notwithstanding the requirements of Regulation (EU) No 1169/2011, that fruit and vegetables according to paragraph 1 are labelled according to § 21(1) and § 22(1).
  3. **Bakery products without prepackaging within the meaning of Article 44(1) of Regulation (EU) No 1169/2011**
     1. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that bakery products of equal nominal weight without prepackaging that are offered for sale by weight, are labelled according to Article 9(1)(e) of Regulation (EU) No 1169/2011. Sentence 1 does not apply to bread weighing over 250 grams without prepackaging.
     2. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that bread without prepackaging of equal nominal weight over 250 grams is labelled in accordance with Article 9(1)(e) of Regulation (EU) No 1169/2011.
     3. The nominal weight is to be indicated by a sign on or near the bakery products and marked with labels according to § 4(4) sentence 1 point 1 and sentence 2 accordingly.
     4. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that bakery products without prepackaging are only placed on the market if the fill quantity meets the requirements of § 9 accordingly.
     5. For bakery products without prepackaging, §§ 38, 40 and 41 apply accordingly.
     6. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure, notwithstanding the requirements of Regulation (EU) No 1169/2011, that bakery products without prepackaging are labelled in accordance with paragraphs 1 and 2 in accordance with § 21(1) and (2)(1), of § 22(1), (2) sentence 1 points 3, 4 and 6 and sentence 2.
  4. **For the direct sale of prepacked food within the meaning of Article 44(1) of Regulation (EU) No 1169/2011**
     1. For prepackaged products with food that is prepacked with the intention of providing it for direct sale, the information according to Article 9(1)(e) of Regulation (EU) No 1169/2011 is mandatory.
     2. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure that food prepacked for direct sale is only placed on the market if the fill quantity meets the requirements of §§ 9. 10, 26 and § 32(1) or § 34(2) and (4) accordingly.
     3. For the direct sale of prepacked food, §§ 38. 39. 40, 41 and § 42 apply accordingly.
     4. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 must ensure, notwithstanding the requirements of Regulation (EU) No 1169/2011, that prepacked food intended for direct sale is labelled in accordance with paragraph 1 pursuant to §§ 20, 21 and 22 .
  5. **Additional provisions on quantity labelling**
     1. Prepackaged products with liquid food are to be labelled by volume; prepackaged products with other food by weight.
     2. Notwithstanding paragraph 1, the following must be labelled
        1. by weight for prepackaged products with
           1. honey, pectin, malt extract and syrup for use as a spread,
           2. milk products with the exception of mixed milk beverages,
           3. vinegar essence,
           4. spices,
        2. by volume for prepackaged products with
           1. gourmet sauces and mustard,
           2. ice cream,
        3. prepackaged products with concentrated soups, broths, gravies, condiments and salad dressings with the volume of the ready-to-eat product in litres or millilitres,
        4. prepackaged products with baking powder and baker’s yeast with the weight of the flour used for processing, of which the fill quantity is sufficient even after the foreseeable shelf life on the market,
        5. prepackaged products with pudding powders and related products, as well as dry products for purees, dumplings and similar side dishes, with the amount of liquid required to prepare the fill quantity.
     3. Notwithstanding paragraph 2(1)(b),
        1. unsweetened condensed milk products that are filled in containers other than metal tins or tubes are to be labelled by weight and volume,
        2. buttermilk products are to be labelled by weight or volume

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* + 1. For prepackaged products that are intended exclusively for end consumers who use the product for their independent professional or commercial activities, the responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 may deviate from the requirements of paragraphs 1 to 3 when labelling.
  1. **Labelling the unit quantity**
     1. Notwithstanding § 20(1) and (2), the person responsible within the meaning of Article 8(1) of Regulation (EU) No 1169/2011 may indicate the unit quantity for prepackaged products with fruit and vegetables, baking wafers and spices, if the products are only traded according to the fill unit quantity in accordance with prevailing market practices.
     2. The responsible person within the meaning of Article 8(1) of Regulation (EU) No 1169/2011, may also indicate the unit quantity for the following food, provided that they are delivered in prepackaging with more than one unit and the fill quantity is less than 100 grams
        1. for shaped confectionery products, shaped chocolate confectionery products with the exception of pralines, and preserved bakery products with an individual weight of more than 5 grams,
        2. for chewing gum, chewy sweets and aerated sweets.
     3. For prepackaged products with sweetener tablets, only the unit quantity must be indicated.
  2. **Exemption from or simplification of fill quantity labelling**
     1. For prepackaged products with products that are traded according to unit quantity in accordance with prevailing market practices or for which, according to § 21, it is not necessary to indicate the unit quantity if all units are visible and easily countable or if the product is only marketed as a single unit or pair of units, as is customary in the trade.
     2. Specification of the nominal fill quantity is also not necessary for prepackaged products with
        1. aromas with a fill quantity of less than 10 grams or millilitres,
        2. vinegar and horseradish or mustard preparations with a fill quantity of less than 25 grams or millilitres,
        3. Confectionery products, products made from almonds, nuts and other oilseeds, preserved bakery products and snack food with a capacity of less than 50 grams or with sugar with a capacity of less than 20 grams,
        4. Fine pastries with the exception of preserved bakery products, crispbread and sliced bread, each with a capacity of 100 grams or less,
        5. Ice cream with a capacity of 200 millilitres or less,
        6. Bread in the form of small baked goods weighing 250 g or less per individual unit.

If several individual prepackaged products that are exempt from nominal fill quantity labelling according to sentence 1 points 3 and 4, are packaged together in additional packaging and the total nominal fill quantity is more than 100 grams, then the fill quantity and the nominal fill quantity of the individual prepackaged products must be stated on this packaging.

* 1. **Mandatory values for the nominal fill quantities of wine and spirits**

Prepacked food and food prepacked for direct sale with wines and spirits as specified in Annex 1(2) in prepackaging that fall within the fill quantity ranges specified in Annex 1(1) may only be placed on the market if the nominal fill quantity corresponds to one of the values listed in Annex 1(1).

Section 6

* + - 1. National regulations for prepackaged products of equal nominal fill quantities with labelling according to unit quantity, length or area
  1. **General regulations for labelling by quantity**

Anyone who manufactures prepackaged products that is labelled by unit quantity, and who places them in the scope of application of the Measurement and Calibration Act, places them on the market, or otherwise makes them available on the market must ensure that

* + - 1. the prepackaged products are labelled with the required information according to § 8 and
      2. the nominal fill quantity meets the requirements according to § 26.
  1. **Special regulations for labelling by quantity**
     1. Labelling by unit quantity may deviate from § 4(2)(1)
        1. Individual units of perfumed cleaners or rinsing agents with a weight of less than 50 grams per unit,
        2. Cleaning detergents and other agents used for car care in single dose packages,
        3. Feed for pets and wild birds, if the feed is only traded by quantity according to prevailing market practices,
        4. glue sticks,
        5. touch-up pens with a nominal fill quantity of less than 50 millilitres.
     2. It is not necessary to state the unit quantity if all units are visible and easy to count, or if the product is only marketed as a single unit or pair of units as is customary in the market.
  2. **Requirements for the nominal fill quantity with labelling by unit quantity**
     1. Prepackaged products labelled by unit quantity with a nominal fill quantity of 30 units or less may only be manufactured, brought into the scope of application of the Measurement and Calibration Act, placed on the market, or otherwise made available on the market if they contain the specified amount at a minimum.
     2. Prepackaged products labelled by unit quantity with a nominal fill quantity of more than 30 units may only be manufactured, brought into the scope of application of the Measurement and Calibration Act, placed on the market, or otherwise made available on the market if
        1. the determined average of the fill quantities according to Annex 4(6) do not fall below the specified nominal fill quantity and
        2. the negative error of the nominal fill quantity does not exceed one unit for every hundred or part thereof.
  3. **General regulations for labelling by length or area**
     1. Anyone who manufactures prepackaged products that is to be labelled by length or area, places them in the scope of application of the Measurement and Calibration Act, places them on the market, or otherwise makes them available on the market must ensure that
        1. the prepackaged products are labelled with the required information according to § 8,
        2. the prepackaged products are labelled with the mark and symbols according to paragraph 2 and
        3. the nominal fill quantity meets the requirements of § 28.
     2. Anyone who brings prepackaged products on the market is required to indicate the nominal fill quantity in figures by length in centimetres or metres and by area in square centimetres or square metres. The unit name or unit symbol must be included.
  4. **Requirements for the nominal fill quantity with labelling by length or area**
     1. Prepackaged products labelled by length or area may only be manufactured in such a way that the determined average of the fill quantities according to Annex 4(6) do not fall below the specified nominal fill quantity at the time of production.
     2. Prepackaged products labelled by length or area may only be brought into the scope of application of the Measurement and Calibration Act if the determined average of the fill quantities according to Annex 4(6) do not fall below the specified nominal fill quantity at the time of production.
     3. Prepackaged products labelled by length or area may only be placed on the market or otherwise made available on the market if the negative error of the value for a label does not exceed
        1. two per one hundred by length,
        2. three per one hundred by area,

By way of derogation, the negative error for yarn with a nominal length of 100 metres or less must not exceed four per one hundred.

* + 1. The labelled length and width of the product also applies as the area.
    2. Only the requirements of paragraphs 1 and 2 apply to wound dressing materials, adhesive plasters and emergency bandages. These requirements apply to products for which length requirements are specified in the pharmacopoeia according to § 55 of the Medicinal Products Act. The recognised rules of technology apply to zippers.

Section 7

* + - 1. Other sales units and prepackaged products for unequal nominal fill quantities
  1. **Open packages**
     1. The provisions of this Ordinance on prepackaged products apply accordingly to open packages that have not been manufactured in the presence of the buyer.
     2. Anyone who manufactures open packages, places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market must ensure that
        1. the open package is labelled with the nominal fill quantity, taking into consideration § 3(1) sentence 1 and (3) sentence 1,
        2. the open package is labelled with the required information according to § 8(1) sentence 1,
        3. the open package is labelled with the marks according to § 4(4) or § 27(2) and
        4. the nominal fill quantity meets the requirements of §§ 9, 26 or 28 (1), (2), (3) or (5) sentence 1 or § 34 (2).
     3. By way of derogation from paragraph 2(4), open packages of equal nominal fill quantity may only be placed in the scope of application of the Measurement and Calibration Act or otherwise made available on the market, even in a subsequent marketing stage, if the fill quantity at that point in time does not exceed the marketability limit of the nominal fill quantity set for prepackaged products.
  2. **Sales units without wrapping**
     1. Anyone who manufactures sales units without wrapping of equal nominal weight, equal nominal length or equal nominal area, and places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market must ensure that
        1. The sales units are labelled with the nominal fill quantity by weight, length or area taking into consideration § 3(1) sentence 1 and (3) sentence 1,
        2. The sales units are labelled with the required information according to § 8(1) sentence 1 as well as the mark and symbols according to § 4(4) sentence 1(1) and sentence 2 or § 27(2) and
        3. the nominal fill quantity meets the requirements of paragraphs 3 and 4.
     2. Sales units without wrapping include
        1. ribbons, cords and yarns of any kind,
        2. wire,
        3. cables,
        4. hoses,
        5. wallpaper,
        6. flat textile products with an area of more than 0.4 square metres,
        7. netting and fabrics of any kind or
        8. comparable sales units without wrapping.
     3. The determined mean value of the fill quantities according to Annex 3(6) or Annex 4(6) may not fall below the specified nominal fill quantity for sales units without wrapping at the time of production.
     4. Sales units without wrapping may only be placed on the market or otherwise made available on the market if their weight does not exceed the specified negative errors in § 9 or if their length or area does not exceed the specified negative errors in § 28(1) to (3) and (5) sentence 1.
     5. § 1(2)(2) and (3) and §§ 33, 38. 39 and 41 are applicable.
     6. Paragraphs 1 to 5 do not apply to sales units that are intended exclusively for end consumers who use the product for their independent professional or commercial activities.
  3. **Requirements for prepackaged products of unequal nominal fill quantities**

Anyone who manufactures prepackaged products of unequal nominal fill quantities, places them within the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, must ensure that

* + - 1. they are labelled with the nominal fill quantity taking into consideration § 3,
      2. they are labelled with the information according to § 8(1) sentence 1,
      3. they are labelled with the mark and symbols according to § 4(4) or in the case of § 27(2) with the information provided therein and
      4. the nominal fill quantity meets the requirements according to § 32.
  1. **Negative errors for prepackaged products of unequal nominal fill quantities**
     1. Prepackaged products with unequal nominal fill quantities labelled by weight may only be placed on the market or otherwise made available on the market if, at the time of production, the negative error of the nominal fill quantity does not exceed the values specified in the table below:

|  |  |
| --- | --- |
| Nominal fill quantity QN in g | Marketability values in g |
| less than 100 | 1.0 |
| 100 to less than 500 | 2.0 |
| 500 to less than 2 000 | 5.0 |
| 2 000 to 10 000 | 10.0 |

* + 1. Prepackaged products of unequal nominal fill quantities marked according to length or area may only be placed on the market or otherwise made available on the market if, at the time of production, the negative error of the nominal fill quantity corresponds to the values specified in § 28(3).

Section 8

* + - 1. Prepackaged products with contents of less than 5 grams or millilitres, or more than 10 kilograms or litres
  1. **Prepackaged products with quantities of less than 5 grams or5 millilitres**

Prepackaged products with a quantity of less than 5 grams or five millilitres may be manufactured without nominal fill quantities, placed in the scope of application of the Measurement and Calibration Act, placed on the market or otherwise made available on the market, unless a quantity label is to be applied according to other regulations.

* 1. **Prepackaged products with contents of more than 10 kilograms or more than 10 litres**
     1. The provisions of this Ordinance do not apply to prepackaged products with a quantity of more than 10 kilograms or litres, unless the following paragraphs stipulate otherwise.
     2. Anyone who buys coal, coke or briquettes in prepackaging with a quantity of more than 10 kilograms, or varnishes, paints and fertilisers that are not designated as EC fertilisers, or soil additives, culture media and plant growth additives in prepackaging with a quantity of more than 10 litres and places them within the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available, must ensure that
        1. the prepackaged products are labelled with the nominal fill quantity by weight or volume taking into consideration paragraph 4 and § 6(4),
        2. the prepackaged products are labelled with the required information according to § 8(1) sentence 1,
        3. the prepackaged products are labelled with the mark and symbols according to § 4(4) and
        4. the nominal fill quantity observes the requirements of paragraph 3.

For paints and coatings, sentence 1 applies to prepackaged products up to and including 20 litres. Sentence 1 applies accordingly to varnishes, lacquers and paints that are labelled by weight pursuant to §6(4). § 11 does not apply to varnishes, lacquers and paints.

* + 1. For prepackaged products according to paragraph 2, the determined negative error of the specified nominal fill quantity according to Annex 3 may not exceed the values specified in the table:

|  |  |  |
| --- | --- | --- |
| Nominal fill quantity Qn in kilograms or litres | Permissible negative error | |
| In % of Qn | in grams or millilitres |
| 10 to 15 | - | 150 |
| 15 to 50 | 1.0 | - |
| 50 to 100 | - | 500 |
| More than 100 | 0.5 | - |

In the case of prepackaged products with fertilisers that are not designated as EC fertilisers, as well as soil additives, culture media and plant growth additives, the determined negative error of the specified nominal fill quantity must not exceed three per cent.

* + 1. Prepackaged products with coal, coke or briquettes may only be placed on the market or otherwise made available on the market within the scope of application of the Measurement and Calibration Act with a nominal fill quantity of 25, 50 or 75 kilograms. This nominal fill quantity may be specified in the accompanying documents. The determined negative error of these prepackaged products according to Annex 3 must not exceed the marketability limit of the table in all marketing stages:

|  |  |  |
| --- | --- | --- |
| Nominal fill quantity Qn in kilograms | Marketability values | |
| In % of Qn | in grams |
| 10 to 15 | - | 300 |
| 15 to 50 | 2.0 | - |
| 50 to 100 | - | 1000 |
| More than 100 | 1.0 | - |

* + 1. Filling equipment used in the manufacture of prepackaged products of equal nominal fill quantities are exempt from the obligation to calibrate if a suitable scale according to Annex 7 is located downstream in such a way that prepackaged products are rejected if the negative error from the specified quantity exceeds the values specified in the table below. By way of derogation from sentence 1, an inspection may be carried out according to § 41 taking into consideration recognised statistical methods. In the case of prepackaged products that include an indication of the quantity by volume, the density should be determined using a suitable density measuring instrument.

|  |  |  |
| --- | --- | --- |
| Nominal fill quantity Qn in kilograms or litres | Marketability values | |
| In % of Qn | in grams or millilitres |
| 10 to 15 | - | 150 |
| 15 to 50 | 1.0 | - |
| 50 to 100 | - | 500 |
| More than 100 | 0.5 | - |

Section 9

* + - 1. Measuring containers
  1. **Information for bottles used as measuring containers**
     1. Bottles used as measuring containers are containers made of glass or other materials with dimensional stability that can guarantee the same measurement quality as glass, and
        1. that are closed or can be closed for the purpose of storing, transporting or delivering liquids,
        2. the nominal volume of which is not less than 0.05 litres and not more than five litres, and
        3. the measurement properties of which with regard to their shape and the uniformity of their manufacture are such that they may be used as measuring containers.
     2. Anyone who manufactures bottles used as measuring containers, places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, must ensure that the bottles used as measuring containers
        1. are labelled with the mark and symbols according to paragraphs 3 and 4 and
        2. the accuracy requirements correspond to § 36,
     3. bottles used as measuring containers must ensure that the following information labelled in such a way that is indelible, clearly legible and clearly visible at the base of the bottle, on its bottom seam or on its sleeve
        1. the nominal volume in millilitres, centilitres or litres as well as the volume unit or its unit symbol,
        2. the manufacturer’s mark in accordance with § 37 and
        3. the following symbol (inverted epsilon)



The image of the sign according to sentence 1(3) must be at least 3 mm high. For bottles used as measuring containers, the nominal volume is the volume indicated on the bottle.

* + 1. Bottles used as measuring containers must contain the following information in such a way that it is indelible, clearly legible and clearly visible on the base of the bottle or at the bottom seam
       1. the rim volume measurement in centilitres without the unit sign cl or
       2. the distance between the height corresponding to the nominal volume and the upper rim level in millimetres including this unit symbol.

The rim volume is the volume of liquid that the bottle can contain if it is filled to the upper rim level.

* + 1. Bottles that only meet the requirements of paragraph 1(1) and (3) , are considered to be bottles used as measuring containers if they
       1. are labelled on the base of the bottle, are labelled with the letter M on the bottom seam or on the sleeve of the bottle,
       2. have a nominal volume listed in the table below,

|  |  |
| --- | --- |
| Nominal volumes in millilitres | Rim volumes in millilitres |
| 20 | 21.5 |
| 25 | 27 |
| 30 | 32.5 |
| 40 | 42.5 |

* + - 1. their rim volume corresponds to the size values specified in the table and
      2. they correspond to the accuracy requirements of § 36(1) to (3).
    1. Anyone who manufactures bottles that are not used as measuring containers, and brings them into the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, may not apply the labels referred to in paragraph 3(3) or paragraph 5(1)or have then applied.
  1. **Accuracy requirements**
     1. With bottles used as measuring containers, accuracy requirements refers to
        1. the difference between the nominal volume and the rim volume or
        2. the distance between the filling height corresponding to the nominal volume and the upper rim level.

These values must have a sufficient level of consistency for all bottles of equal make.

* + 1. If the rim volume is given according to § 35(4)(1), the rim volume may deviate from the specified rim volume by the following values:

|  |  |  |
| --- | --- | --- |
| Nominal volumes in millilitres | % of nominal volumes | Millilitres |
| up to 50 | 6 | - |
| 50 to 100 | - | 3 |
| 100 to 200 | 3 | - |
| 200 to 300 | - | 6 |
| 300 to 500 | 2 | - |
| 500 to 1 000 | - | 10 |
| 1 000 to 5 000 | 1 | - |

* + 1. If the distance is given according to § 35(4)(2), the volume of the nominal volume limited by the specified distance may not deviate from the specified values in paragraph 2.
    2. Making systematic use of permissible tolerances is not allowed.
    3. The rim volumes of bottles used as measuring containers should correspond to the size values according to the generally recognised rules of technology.
  1. **Manufacturer’s mark**
     1. Manufacturers of bottles used as measuring containers with a nominal volume of no less than 0.05 litres and no more than five litres must apply for a manufacturer’s mark from the Physical Technical Federal Institution (Physikalisch-Technischen Bundesanstalt, PTB) electronically or in writing.
     2. The Physical Technical Federal Institution may request that the applicant
        1. change the manufacturer’s mark applied for or
        2. add additional figures and letters to the manufacturer’s mark,

if there is a risk of confusion with the manufacturer’s mark already issued.

* + 1. The Physical Technical Federal Institution informs the responsible authorities of the Federal States, the other Member States of the European Union or the European Commission within one month after the issue of a manufacturer’s mark. The Physical Technical Federal Institution publishes a list of the manufacturer’s marks that it has issued on its website.
    2. A manufacturer’s mark issued by the Physical Technical Federal Institution is equivalent to a manufacturer’s mark that was issued by another Member State of the European Union or another signatory state to the Agreement on the European Economic Area.

Section 10

* + - 1. Formal provisions, inspections and documentation obligations as well as market surveillance
  1. **Readability and font size**
     1. Anyone who manufactures prepackaged products, places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, must ensure that the prepackaged products are indelible, clearly legible and clearly recognisable in accordance with paragraphs 2 to 6 .
     2. The figures for the nominal fill quantity must, unless otherwise stipulated in this regulation, have at least the following font sizes:

|  |  |
| --- | --- |
| Nominal fill quantity in g or ml | Font size in mm |
| 5 to 50 | 2 |
| more than 50 up to 200 | 3 |
| more than 200 up to 1 000 | 4 |
| more than 1 000 | 6 |

* + 1. The numbers and letters according to § 35(3) points 1 and 2 and (4) and (5) must have at least the following font sizes:

|  |  |
| --- | --- |
| Nominal fill quantity in ml | Font size in mm |
| 5 to 200 | 3 |
| more than 200 up to 1 000 | 4 |
| more than 1 000 | 6 |

* + 1. The figures on multi-packs according to § 39(3) and (4) must have a font size of at least 4 millimetres.
    2. The drained weight in accordance with § 5 must be specified within close proximity of the nominal fill quantity and have at least the same font size.
    3. By way of derogation from paragraph 2, the font size on prepackaged products of equal quantity for the manufacture of which scales with a weight imprint are used, must be at least 2 millimetres.
    4. Anyone who mainly produces and offers prepackaged products made by hand with the intention of providing them for direct sale, the nominal fill quantity may be indicated by a label on or next to the prepackaged products.
    5. For prepackaged products with food with a weight of more than 10 kilograms or a volume of more than 10 litres, in the cases of Article 8(7) of Regulation (EU) No 1169/2011, the nominal fill quantity must be marked on the prepackaged products or on a label connected to it, or otherwise on the commercial documents relating to the food, provided that it can be guaranteed that these documents are either enclosed with the food to which they belong or that they are sent before or at the same time as the delivery.
  1. **Multiple packages, multi-packs**
     1. Anyone who manufactures prepackaged products for several packages of the same product that are not intended for individual sale, places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market must label them with the total nominal fill quantity and the number of individual packages. The number of packages may be omitted if all packages are visible and easy to count.
     2. If there a prepackaged product is composed of several individual packages of different types of products that are not intended for individual sale, or if different types of products are packed separately in one prepackaged product, then the fill quantities of the individual products must be indicated.
     3. For packages composed of several prepackaged products (multi-packs), in addition to specifying the nominal fill quantity on the individual prepackaged products, the quantity and nominal fill quantity of the individual prepackaged products must be labelled on the packaging of the multi-pack. This additional information is not required if the individual prepackaged products are visible and easy to count and, with prepackaged products of equal nominal fill quantity, the specification of the fill quantity on all prepackaged products is visible on at least one prepacking unit.
     4. For multi-packs composed of several prepackaged products with wines or spirits according to § 23, the nominal fill quantities for each individual prepackaged product listed in Annex 1 point 1 apply. In the case of prepackaged products composed of several packages not intended for individual sale, the nominal fill quantities for the prepackaged products listed in Annex 1 point 1.
  2. **Market surveillance**
     1. Market surveillance authorities use random samples to check compliance in an appropriate manner and to the extent necessary for:
        1. the requirements for prepackaged products and other sales units according to this Ordinance,
        2. For Article 9 of Commission Regulation (EC) No 543/2008 of 16 July 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat (OJ EC L 157 of 17.02.2008, p. 46), last amended by Commission Regulation (EU) No 519/2013 of 21 February 2013 (OJ EU L 158 of 10.06.2013, p. 74),
        3. for Articles 9(1)(a), indents 9 to 11, Articles 10 and 11 of Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers (OJ EC L No 304 of 21.11.2003, p. 1) with regard to EC fertilisers,
        4. for Article 19(1)(b) of Regulation (EC) No 1223/2009 with regard to cosmetic products and
        5. for Article 9(1)(e) in conjunction with Article 23(1) and (3), and in conjunction with Annex IX point 3 sentence 1, points 4 and 5 sentence 1 of Regulation (EU) No 1169/2011 and Article 9(1)(h) of Regulation (EU) No 1169/2011.
     2. The sampling according to paragraph 1 may take place during manufacture or delivery within the scope of application of the Measurement and Calibration Act and in any trading stage. The procedure for testing the fill quantities of prepackaged products in Annex 3 or Annex 4 apply. Exceptions to the testing period are determined according to Annex 5.
     3. Compliance with §§ 35 and 36 may be checked by the competent authority using spot checks in companies that manufacture bottles used as measuring containers, place them in the scope of application of the Measurement and Calibration Act or place them on the market. For testing, the procedure for testing bottles used as measuring containers in Annex 6 applies.
  3. **Inspection and documentation requirements**
     1. Anyone who manufactures prepackaged products of equal nominal fill quantity labelled by weight or volume, places them in the scope of application of the Measurement and Calibration Act, places them on the market or otherwise makes them available on the market, must ensure that, when the prepackaged products is filled using a suitable measuring instrument for its intended purpose, the requirements of the Measurement and Calibration Act are sufficiently met,
        1. that compliance with the nominal fill quantities pursuant to the requirements of this Ordinance and the requirements of paragraph 3
           1. are measured or
           2. inspected

and

* + - 1. the results of the measurements or inspections are recorded and kept in accordance with paragraph 4.
    1. Anyone who manufactures prepackaged products of equal nominal fill quantity labelled by quantity, length or area, places them in the scope of application of the Measurement and Calibration Act, places them on the market, or otherwise makes them available on the market, must, in reference to the nominal fill quantity
       1. measure or conduct inspections according to paragraph 3 and
       2. record and retain the results of the measurements or inspections according to paragraph 4.
    2. In the context of measuring or inspecting quantities, generally accepted measuring methods or recognised statistical principles are to be applied. The measuring instruments used for inspecting or measuring must meet the requirements of Annex 7.
    3. The results are to be recorded according to paragraph 3. The records are to be retained until the following inspection according to § 40 .
    4. If prepackaged products that are not labelled with the ℮ mark according to § 11 are predominantly made by hand, the competent authority may allow exceptions from paragraphs 1 to 4 by request if this does not jeopardise compliance with the nominal fill quantity requirements.
    5. In order to inspect the fill quantities of bottles used as measuring containers and the weights of yarns, other suitable control devices or inspection means may be used instead of measuring instruments. The same applies to the testing of quantities according to length, area or number of labelled prepackaged products, as well as to non-EC fertilisers, soil additives, culture media and plant growth additives.
  1. **Reference temperature**

The nominal fill quantity requirements are based on a temperature of 20 °C in terms of volume. Sentence 1 does not apply to frozen and deep-frozen products whose nominal fill quantity is marked in volume.

Section 11

* + - 1. Regulatory offences, transitional provisions
  1. **Regulatory offences**
     1. Anyone who deliberately or negligently commits the following acts shall be deemed to have committed an administrative offence in the sense of § 60(1)(26) of the Measurement and Calibration Act:
        1. contrary to § 17(1), fails to ensure that the fruit and vegetables mentioned therein are labelled,
        2. contrary to § 17(3), fails to ensure that the fruit or vegetables mentioned therein are placed on the market,
        3. contrary to § 18(1) sentence 1 or paragraph 2, fails to ensure that the bakery or bread products mentioned therein are labelled,
        4. contrary to § 18(4), fails to ensure that the bakery products mentioned therein are placed on the market,
        5. contrary to § 29(2)(1), (2) or (3) fails to ensure that open packages are labelled,
        6. contrary to § 29(2)(4) or § 30(1)(3) fails to ensure that the nominal fill quantity meets a requirement specified therein or
        7. contrary to § 30(1)(1) or (2) fails to ensure that sales units without wrapping are labelled.
  2. **Transitional provision**

(1) Multi-packs that are manufactured before [insert: date of the first day of the twelfth month following promulgation] may, notwithstanding § 38(4), be brought into the scope of application of the Measurement and Calibration Act, placed on the market or made available on the market.

(2) Measuring instruments that have been used for inspection purposes before 31 December 2021 according to § 27 or § 31 of the Regulation on Prepackaged Products in the version published on 8 March 1994 (Federal Law Gazette I pp. 451, 1307), last amended by Article 27 of the Ordinance of 5 July 2017 (Federal Law Gazette I p. 2272), are not yet required to meet the requirements of Annex 7 until the end of 31 December 2031.

Annex 1

(Re § 1(2)(3)(c). § 23. § 39(4))

Mandatory values for the nominal fill quantities of prepackaged products with wine and spirits

1. Products sold by volume (quantity in millilitres)

|  |  |
| --- | --- |
| Wine | For the fill quantity range between 100 ml and 1 500 ml, only the following eight nominal fill quantities are permitted: ml: 100 – 187 – 250 – 375 – 500 – 750 – 1 000 – 1 500 |
| Yellow wine | For the fill quantity range between 100 ml and 1 500 ml, only the following nominal fill quantity is permitted: ml: 620 |
| Sparkling wine | For the fill quantity range between 125 ml and 1 500 ml, only the following five nominal fill quantities are permitted: ml: 125 – 200 – 375 – 750 – 1 500 |
| Fortified wine | For the fill quantity range between 100 ml and 1 500 ml, only the following seven nominal fill quantities are permitted: ml: 100 – 200 – 375 – 500 – 750 – 1 000 – 1 500 |
| Flavoured wine | For the fill quantity range between 100 ml and 1 500 ml, only the following seven nominal fill quantities are permitted: ml: 100 – 200 – 375 – 500 – 750 – 1 000 – 1 500 |
| Spirits | For the fill quantity range between 100 ml and 2 000 ml, only the following nine nominal fill quantities are permitted: ml: 100 – 200 – 350 – 500 – 700 – 1 000 – 1 500 – 1 750 – 2 000 |
| Shochu | For the fill quantity range between 100 ml and 2 000 ml, the following nominal fill quantities are also permitted:  ml: 720-1 800 |

1. Product definitions

|  |  |
| --- | --- |
| Wine | Wine within the meaning of Article 1(2)(l) in conjunction with Annex I, Part XII(b) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EC L 347 p. 671, last amended by Regulation (EU) No 2393/2017 (OJ EU L 350 p. 15); CN code ex 2204). |
| Yellow wine | French wine within the meaning of Article 68 in conjunction with Annex XVII clause 3(b) with the designation of origin as ‘Côtes du Jura’, ‘Arbois, ‘L’Etoile’ and ‘Château-Chalon’ in bottles within the meaning of Annex VII clause 3(a) of Regulation (EU) 2019/33 of 17 October 2018 as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ EU L 9, p. 2). |
| Sparkling wine | Wine products within the meaning of Annex VII, Part II(4), (7), (8) and (9) of Regulation (EU) No 1308/2013; CN code 2204 10. |
| Fortified wine | Wine within the meaning of Annex VII, Part VII point 3 of Regulation (EU) No 1308/2013; CN code 2204 21 - 2204 29. |
| Flavoured wine | Flavoured wine within the meaning of Article 3(2) of Regulation (EU) No 251/2014 (OJ EU 84, p. 14); CN code 2205. |
| Spirits | Spirits within the meaning of Article 2(1) to (3) of Regulation (EC) No 110/2008 of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) 1576/89 (OJ EC L 39 p. 16; CN code 2208), last amended by Regulation (EU) No 2019/787 (OJ L 130, p. 1); CN code 2208. |
| Shochu | Spirits within the meaning of Article 24a of Regulation (EC) No 110/2008. |

Annex 2

(Re § 2(10))

Definition of different times of production for prepackaged products and other sales units

1. Prepackaged products and other sales units labelled by weight or volume

|  |  |  |
| --- | --- | --- |
|  | **Manufactured product** | **Time of production** |
|  | Smoked products, sausages, which are processed after the meat has been inserted into the sausage casing (smoking, air drying, boiling, roasting), | After closing the secondary packaging with ready-to-sell elements such as foil packaging, labelling, applied seals, etc. |
|  | firm raw sausage | As soon as the ratio of liquid within the meat to meat protein (Feder number) is 2.5 and 2.8 with a calibre diameter of over 70 millimetres. |
|  | deep-frozen products, deep-frozen slaughter poultry | after shock freezing |
|  | Ice cream | after the hardening process, at least 2 weeks of storage in a freezing facility |
|  | soap pieces | 1 hour after moulding |

1. Prepackaged products with drained weight labelling

|  |  |  |
| --- | --- | --- |
|  | **Manufactured product** | **Time of production** |
|  | Tinned fruit and vegetables and other plant-based tinned food | 30 days after sterilisation |
|  | Fried fish marinades | 48 hours after pouring |
|  | Sausage, meat and other meat products | 5 days after sterilisation |
|  | Mozzarella and cheese placed on the market in or from a liquid | 5 days after filling |

Annex 3

(Re § 9(1)(1) , (2)(1), § 10(1), (2), § 30(3), § 34(2), (3) and § 40(2))

Procedure for inspecting the fill quantity of prepackaged products and other sales units labelled by weight or volume by the responsible authorities

0. Preliminary remarks:

The responsible authorities of the Federal States use a suitable statistical sampling procedure in accordance with the recognised rules of technology, the effectiveness of the sampling procedure being comparable to the reference method described in Annex I point 5 of the European Directive 76/211/EEC.

The above-mentioned requirements are covered in particular by the following testing plan.

1. Scope of testing

The test consists of

* + 1. determining the lot size,
    2. taking the relevant random sample,
    3. the additional findings contained in point 5,
    4. determining the mean value,
    5. determining compliance with the permissible negative errors,
    6. determining compliance with the marketability limit.

1. Determining the lot size

If the prepackaged products are tested immediately after completion of the manufacturing process, the size of the lot corresponds to the maximum hourly output of the filling station, without any limitation placed on the lot size. In the remaining cases, the number of lots is limited to 10 000 prepackaged products.

If the inclusion of a delivery in a lot cannot be determined during a test at a warehouse, then the lot size is limited by the number of prepackaged products of the same inventory.

1. Size of the samples

The testing sample for prepackaged products must be a random sample. The sample size is measured according to Table A, B or F, for non-destructive testing and according to Table C, D or E if all prepackaged products if the samples have to be destroyed. If the lot size is less than 10 prepackaged products, a destructive or non-destructive test for compliance with the marketability values can be carried out for individual units or for all prepackaged products.

The scope of other tests are to comply with point 5.

* + 1. Non-destructive testing: normal single-sample testing

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **N** | | | | **n** | **C** | **d** | **k** |
| 100 | to | | 500 | 50 | 3 | 4 | 0.379 |
| 501 | to | | 3 200 | 80 | 5 | 6 | 0.295 |
| 3 201 | to | | 10 000 | 125 | 7 | 8 | 0.234 |
| 10 001 | | and over | | 160 | 8 | 9 | 0.207 |

* + 1. Non-destructive testing: Full test

|  |  |  |
| --- | --- | --- |
| **N** | | |
| 10 | to | 99 |

With a lot size of less than 100 prepackaged products, the non-destructive test extends to all prepackaged products (full test).

* + 1. Destructive testing: Single-sample test with reduced sample size

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **N** | | | | **n** | **C** | **d** | **k** |
| 10 | to | | 99 | 5 | 0 | 1 | 2.058 |
| 100 | to | | 500 | 8 | 0 | 1 | 1.237 |
| 501 | to | | 3 200 | 13 | 1 | 2 | 0.847 |
| 3 201 | to | | 10 000 | 20 | 1 | 2 | 0.640 |
| 10 001 | | and over | | 30 | 2 | 3 | 0.503 |

* + 1. Destructive testing for drained weight labelling: Single-sample test with reduced sample size

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **N** | | | | **n** | **C** | **d** | **k** |
| 10 | to | | 99 | 5 | - | - | 2.058 |
| 100 | to | | 500 | 8 | - | - | 1.237 |
| 501 | to | | 3 200 | 13 | - | - | 0.847 |
| 3 201 | to | | 10 000 | 20 | - | - | 0.640 |
| 10 001 | | and over | | 30 | - | - | 0.503 |

* + 1. Destructive testing

Single-sample testing with reduced sample size for prepackaged products that are labelled with the an ‘e’ according to § 11

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **N** | **n** | **C** | **d** | **k** |
| Regardless of the lot size  (N ≥100) | 20 | 1 | 2 | 0.640 |

* + 1. Non-destructive testing for prepackaged products with EC fertilisers, fertilisers that are not designated as EC fertilisers, as well as soil additives, culture media and plant growth additives over 10 litres

|  |  |
| --- | --- |
| **N** | **n** |
| Regardless of the lot size (N≥20) | 20 |

The meaning in the tables:

|  |  |
| --- | --- |
| **N** | Lot size |
| **n** | Sample size |
| **C** | Assumed number |
| **d** | Rejection number |
| **k** | Factor for calculating the confidence interval;  k = with t as a random variable of the student’s t-distribution |

1. Determining the fill quantities

The following usually have to be determined:

* + 1. Weights by weighing,
    2. Weights of textile products within the meaning of Article 19(3) of Regulation (EU) No 1007/2011 of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC (OJ L 272, 18. 10. 2011, p. 1) according to the generally recognised rules of technology; the weight is defined as the dry weight without wrapping, inserts and similar elements and without additional weighting if this additional weighting is not due to the nature of the product and its production, plus a moisture allowance for the fibres listed in Annex IX to Regulation (EU) No 1007/2011.
    3. Volume by weighing in connection with determining the average density,
    4. Volume for prepackaged products with EC fertilisers, fertilisers that are not designated as EC fertilisers as well as soil additives, culture media and plant growth additives over 10 litres by weighing in connection with determining the bulk density according to the recognised rules of technology.

1. Additional findings
   * 1. Measurement uncertainty

The measurement uncertainty of the testing procedure shall be taken into account.

* + 1. Determining the average tare

The tare distribution can be ignored if the average tare weight is no more than 10% of the nominal fill quantity. The average tare weight is 10 for testing at the location of filling, and 5 tare samples for testing in warehouses or on the premises of the responsible authority.

The tare distribution can be ignored if the standard deviation of tare weight of 10 tare samples during the testing at the filling station and of 5 tare samples during the testing in warehouses or on the premises of the responsible authority is no greater than 0.25 times the permissible negative error.

The average tare weight is 10 for testing at the location of filling, and 5 tare samples for testing in warehouses or on the premises of the responsible authority.

In all other cases, the weight of each individual empty pack must be determined.

* + 1. Determining drying loss in textile products

The average drying loss of the product is to be determined from at least 3 prepackaged products taken from the sample according to point 3(a) and (b). The total weight of this drying sample must be at least 35 grams.

1. Determining the mean value
   * 1. The regulations on the average fill quantity are met if the determined mean value x̄

of the fill quantities xi

* + - * 1. from the sample according to point 3(a), (c), (d) and (e) increased by the amount k \* s or
        2. in a full test according to point 3(b)

is greater than or equal to the nominal fill quantity.

The k-value is taken from the tables under point 3; s is the standard deviation of the fill quantities xi of the sample.



* + 1. Prepackaged products with textile products marked by weight

The average drying loss is subtracted from the determined mean value x̄ of the sample and the determined individual weights xi of the sample; the moisture allowance calculated from Annex IX to Regulation (EU) No 1007/2011 is added. Otherwise, point 6(a) applies.

1. Determining compliance with the permissible negative errors
   * 1. Normal single-sample test according to point 3(a)

If the number of prepackaged products that exceed the permissible negative errors is equal to or greater than the rejection number d, then the regulations have not been met.

* + 1. Full testing according to point 3(b)

If the number of prepackaged products that exceed the permissible negative errors is greater than 2% of the number of prepackaged products tested in the full test, then the regulations have not been met.

* + 1. Single-sample test according to point 3(c) and (e)

If the number of prepackaged products that exceed the permissible negative errors is equal to or greater than rejection number d, then the regulations have not been met.

* + 1. Testing drained weight

Drained weights are to be determined according to the generally recognised rules of technology. Points 1 to 6 apply accordingly.

1. Unequal nominal fill quantities

The provisions of points 4 and 5(a) and (b) also apply to prepackaged products with unequal nominal fill quantities.

1. Testing other sales units

Points 1 to 7 of this Annex are to be applied to the testing of other sales units accordingly.

Annex 4

(Re § 26(2)(1), § 28(1) and (2), § 30(3) as well as § 40(2))

Procedure for testing the fill quantity according to length, area or quantity of labelled prepackaged products and other sales units of equal nominal length or equal nominal area without wrapping by the responsible authorities

0. Preliminary remarks:

The responsible authorities of the Federal States use a suitable statistical sampling procedure in accordance with the recognised rules of technology, the effectiveness of the sampling procedure being comparable to the reference method described in Annex I, point 5, to Directive 76/211/EEC.

1. Scope of testing

The test consists of

* + 1. determining the lot size,
    2. taking the relevant random sample,
    3. the additional findings of point 5, if necessary,
    4. determining the mean value,
    5. determining compliance with the marketability limit.

1. Determining the lot size

If prepackaged products or other sales units are checked immediately after the completion of the manufacturing process, the size of the lot corresponds to the maximum hourly output of the bottling facilities, without any limitation to the lot size. In the remaining cases, the number of lots is limited to 10 000 prepackaged products.

If the inclusion of a delivery in a lot cannot be determined during a test at a warehouse, then the lot size is limited by the number of prepackaged products of the same inventory.

1. Size of the samples

Sampling of prepackaged products or other sales units must be a random sample. If the lot size is less than 26 prepackaged products, a destructive or non-destructive test for compliance with the marketability values can be carried out for individual units or for all prepackaged products.

The following table applies to the sample size:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **N** | | | | **n** | **a** |
| 26 | to | | 50 | 3 | 1.0 |
| 51 | to | | 150 | 5 | 0.35 |
| 151 | to | | 500 | 8 | 0.2 |
| 501 | to | | 3 200 | 13 | 0.15 |
| 3 201 | to | | 10 000 | 20 | 0.1 |
| 10 001 | | and over | | 30 | 0.085 |

In the table mean:

|  |  |
| --- | --- |
| **N** | Lot size |
| **n** | Sample size |
| **a** | Factor for calculating the safety margin |

1. Determining the fill quantities
   * 1. The following usually have to be determined:
        + 1. Lengths by length measurement,
          2. Lengths of yarn by weighing in conjunction with a determination of the fineness,
          3. Areas by length measurement,
          4. Number of units by count.
     2. By way of derogation from point 4(a)(aa), (cc) and (dd), the following can be determined:
        + 1. Lengths by weighing in conjunction with the determination of the average length-related mass according to point 5(b) if the following conditions are also met at the same time:

The weight values of the individual lengths determined in accordance with point 5(b) must not deviate from the mean value by more than ± 1%.

When testing the prepackaged products, the weighing value, which corresponds to the 2nd percentage of the labelled length, must be at least 10 times the interval of the scale value used.

* + - * 1. Quantity by weighing in conjunction with the determination of the average quantity related mass according to point 5(c), if the following conditions are also met at the same time:

The weight values of the 10 mean values x̄i which are determined according to point 5(c), may not deviate from the total mean x value by more than ± 1%.

When testing the prepackaged product, the weighing value that corresponds to the permissible negative error must be at least 10 times the interval of the scale value used.

For the determinations according to point 4(b), net weighing must be carried out as a rule.

1. Additional findings
   * 1. Measurement uncertainty

The measurement uncertainty of the testing procedure shall be taken into account.

* + 1. Determining the mean length-related mass

The average length-related mass of the product is to be determined from the weight of at least 5 individual lengths, each measuring at least 1 m in length. If the mean length-related mass is greater than , the individual lengths do not need to be larger than 0.2 m.

* + 1. Determining the average mass per unit number

The average unit-related mass is to be determined from 10 groups of at least 10 individual units. The total number of individual units must be at least 10% of the nominal quantity of prepackaged products.

* + 1. Determining the length of textile products

The length of textile products is to be determined according to the generally recognised rules of technology. The average moisture-related change in the length of textile products and the average fineness of yarns are to be determined using three samples from the random sample according to point 3.

1. Determining the mean value

The regulations on the average fill quantity of this Ordinance are met if the determined mean x̄ of the fill quantities xi, from the random sample, increased by the amount ‘a \* R’ is greater than or equal to the nominal fill quantity.

The factor a comes from the table under point 3; R is the range of fill quantities xi of the random sample.

1. Testing sales units of equal nominal weight, nominal length or nominal surface area, excluding wrapping.

Points 1 to 6 of this annex are to be applied to the testing of sales units of equal nominal length or nominal area excluding wrapping.

Annex 5

(Re § 40(2))

Different testing periods for prepackaged products and other sales units

1. Prepackaged products and other sales units with weight labelling

|  |  |  |
| --- | --- | --- |
|  | **Manufactured product** | **Test period** |
|  | Bakery products without prepackaging | Up to 11 hours after removal from the oven |
|  | Fresh fruit or vegetables, potatoes | Up to one month after the time of production |
|  | Solvent-based adhesives | Up to one week after the time of production |

1. Prepackaged products with drained weight labelling

|  |  |  |
| --- | --- | --- |
|  | **Manufactured product** | **Test period** |
|  | Tinned fruits, vegetables and other plant-based food | Up to 2 years after the time of production |
|  | Fish, products made from salted fish, anchovies, marinades, cooked fish products, tinned fish, mussels, crabs, poikilotherms, crustaceans and shellfish, molluscs or products made from these animals, with the exception of glazed products | Up to 14 days after the time of production |
|  | Fried fish marinades | Up to 14 days after the time of production |
|  | Mozzarella and cheese placed on the market in or from a liquid | Up to 14 days after the time of production |

Annex 6

(Re § 40(3))

Procedure for testing bottles used as measuring containers by the responsible authorities

0. Preliminary remarks

The responsible authorities of the Federal States use a suitable statistical sampling method in accordance with the recognised rules of technology, the effectiveness of the sampling method being comparable to the reference method described in Annex II to Directive 75/107/EEC.

1. Taking the random sample

A sample of 35 measuring containers is randomly taken from a lot corresponding to an hourly production of bottles of the same sample from the same production and, for imported bottles, determined by the number of bottles of the same type in a delivery or, if inclusion with a certain delivery cannot be determined, by inventory.

1. Measuring the volume of the bottles in the sample

The bottles are weighed empty. They are then filled to the rim with water of a known density at a temperature of 20 °C or up to the specified distance from the upper rim. They are then weighed filled.

The measurement uncertainty in determining the volume may not exceed one fifth of the permissible deviations for the nominal volume of the bottles according to § 36(2).

1. Assessing the results
   * 1. The calculations that must be made are the mean value x̄ of the measured volume xi of the bottles from the random sample, the standard deviation s of the measured volume xi of the bottles from the random sample.
     2. The following limit values are calculated:

upper tolerance limit To as the sum of the rim volume or the volume limited by the specified distance and the associated deviation according to § 36(2) or (3),

lower tolerance limit Tu as the difference between the rim volume or the volume limited by the specified distance and the associated deviation according to § 36(2) or (3).

* + 1. Acceptance criteria

The lot meets the requirements of § 35(2) or (3) if the values x̄ and a meet the following three inequations at the same time:



with k = 1.57 and F = 0.266

* + 1. Calculation of the values x̄ and s

The mean value of the sample is:



The standard deviation of the sample is:



If the inspection results meet with objections, a second test may be conducted. The sample must then be taken from a lot that corresponds to a longer production period, or the entries on suitable inspection cards or in suitable inspection records of the manufacturer must be taken into account if its operation has been tested by the responsible authorities.

Annex 7

(Re § 41(3) sentence 2)

Requirements for measuring instruments

1. General remarks

a) Unless otherwise specified below, measuring instruments within the meaning of § 41(3) sentence 2 are suitable if they have been assessed for conformity or calibrated.

b) If measuring instruments are used to determine the mass or volume, the negative error limit of the measuring instruments used when measuring or inspecting the fill quantity of a prepackaged product, the fill quantity of a sales unit excluding packaging or the weight of a bakery product excluding prepackaging may not exceed one fifth of the values in the table in § 9(3), or the values in § 30(4) or § 34(2).

aa) If non-automatic scales are used, they must correspond to accuracy class III or better. The calibration value must not be greater than:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Nominal fill quantity QN of prepackaged product in [g] or [ml] | | | | largest permissible calibration value in [g] |
| from | 5 | to less than | 10 | 0.1 |
| from | 10 | to less than | 25 | 0.2 |
| from | 25 | to less than | 150 | 0.5 |
| from | 150 | to less than | 350 | 1.0 |
| from | 350 | to less than | 1 750 | 2.0 |
| from | 1 750 | to less than | 3 500 | 5.0 |
| from | 3 500 | to less than | 7 000 | 10.0 |
| from | 7 000 | to less than | 25 000 | 20.0 |
| from | 25 000 | to less than | 50 000 | 50.0 |
| from | 50 000 | to less than | 100 000 | 100.0 |
| from | 100 000 | to less than | 600 000 | 200.0 |
| from | 600 000 | to | 1 500 000 | 500.0 |

bb) If automatic checkweighers are used, they must correspond to accuracy class XIII (1) or better. The calibration value must not be greater than:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Nominal fill quantity QN of prepackaged product in [g] or [ml] | | | | largest permissible calibration value in [g] |
| from | 5 | to less than | 20 | 0.1 |
| from | 20 | to less than | 50 | 0.2 |
| from | 50 | to less than | 175 | 0.5 |
| from | 175 | to less than | 500 | 1.0 |
| from | 500 | to less than | 5 000 | 2.0 |
| from | 5 000 | to less than | 10 000 | 5.0 |
| from | 10 000 | to less than | 15 000 | 10.0 |
| from | 15 000 | to less than | 50 000 | 20.0 |
| from | 50 000 | to | 100 000 | 50.0 |

2. Exemptions

If bakery products without prepackaging or prepacked food for direct sale are predominantly made by hand, calibrated commercial scales are suitable for measuring or inspecting.

3. Additional devices on measuring instruments according to points (a) and (b), which are used in the manufacture of prepackaged products for measurement and inspection purposes and are used for the registration and assessment of measured values, are excluded from the application of the Measurement and Calibration Act.

Article 2

Amendment to the Regulation on fees for measuring and calibration

Key figures group 16 of the Annex to the Regulation on fees for measuring and calibration of 24 March 2015 (Federal Law Gazette I p. 330), last amended by Article 2 of the Ordinance of 30 April 2019 (Federal Law Gazette I, p. 579), is worded as follows:

|  |  |  |
| --- | --- | --- |
|  | **Key figures group 16: Market surveillance for prepackaged products, other sales units and measuring containers** |  |
| H 16-1 | **Note:**  If the last completed market surveillance process for fruit and vegetables or bakery products without prepackaging is carried out in accordance with §§ 17 and 18 of the Regulation on Prepackaged Products, then additional complaint-free market surveillance for this food without prepackaging from the same place of manufacture and with the same person responsible in the same calendar year is free of charge. |  |
|  | **1. Sample testing and full testing of other sales units in accordance with § 50(1) of the Measurement and Calibration Act, in this case for bakery products without prepackaging in accordance with § 40(1) and (2) and § 18 each in conjunction with Annex 3 of the Regulation on Prepackaged Products;** |  |
|  | The fee for key figure group 16.0 ... is determined for random sample testing and full testing regardless of the number of lots or full testing only according to the total number of bakery products tested |  |
| 16.0.1.1 | from 10 up to 25 bakery products without prepackaging | 99.60 |
| 16.0.1.2 | from 26 up to 50 bakery products without prepackaging | 115.60 |
| 16.0.1.3 | from 51 up to 100 bakery products without prepackaging | 148.10 |
| 16.0.1.4 | from 101 up to 150 bakery products without prepackaging | 178.20 |
| 16.0.1.5 | from 151 up to 250 bakery products without prepackaging | 208.40 |
| 16.0.1.6 | over 250 bakery products without prepackaging | 250.50 |
|  | **2. Sample testing for prepackaged products and other sales units in accordance with § 50(1) of the Measurement and Calibration Act** |  |
|  | **a) Testing for prepackaged products of equal nominal fill quantity (excluding special cases) according to § 40(1) and (2) and in particular § 9 each in conjunction with Annex 3 of the Regulation on Prepackaged Products or in accordance with § 40(1) and (2) and in particular § 10 each in conjunction with Annex 3 of the Regulation on Prepackaged Products**  **Testing for open packages of equal nominal fill quantity (excluding special cases) according to § 40(1) and (2), as well as § 29 each in conjunction with Annexes 3 and 5 of the Regulation on Prepackaged Products;**  **Testing for sales units without wrapping of equal nominal weight in accordance with § 40(1) and (2) and § 30 in conjunction with Annex 3 of the Regulation on Prepackaged Products** |  |
|  | Non-destructive testing for a normal single-sample test in accordance with Annex 3 point 3a and for a sample size (fee per lot) |  |
| 16.1.1.1 | up to 50 prepackaged products or other sales units | 208.80 |
| 16.1.1.2 | from 51 up to 80 prepackaged products or other sales units | 241.60 |
| 16.1.1.3 | from 81 up to 125 prepackaged products or other sales units | 268.00 |
| 16.1.1.4 | Over 125 prepackaged products and other sales units | 287.80 |
|  | Destructive testing for single-sample testing with a reduced sample size taking into account each individual tare value in accordance with Annex 3 point 3c or 3e (fee per lot) of |  |
| 16.1.2.1 | up to eight prepackaged products or other sales units | 235.30 |
| 16.1.2.2 | from nine up to 13 prepackaged products or other sales units | 266.50 |
| 16.1.2.3 | from 14 up to 20 prepackaged products or other sales units | 398.80 |
| 16.1.2.4 | Over 20 prepackaged products and other sales units | 445.80 |
|  | Non-destructive testing in a normal single-sample test taking into account each individual tare value in accordance with Annex 3 point 3a and with a sample size (fee per lot) |  |
| 16.1.3.1 | up to 50 prepackaged products or other sales units | 307.60 |
| 16.1.3.2 | from 51 up to 80 prepackaged products or other sales units | 349.30 |
| 16.1.3.3 | from 80 up to 125 prepackaged products or other sales units | 427.20 |
| 16.1.3.4 | Over 125 prepackaged products and other sales units | 487.60 |
|  | Destructive testing for drained weight labelling according to Annex 3 point 3d in conjunction with Annex 3 point 7d for a sample size (fee per lot) |  |
| 16.1.4.1 | up to eight prepackaged products | 305.30 |
| 16.1.4.2 | from nine up to 13 prepackaged products | 359.80 |
| 16.1.4.3 | from 14 up to 20 prepackaged products | 391.30 |
| 16.1.4.4 | over 20 prepackaged products | 436.00 |
|  | Destructive testing according to Annex 3(3c) by means of de-glazing, with a sample size (fee per lot) |  |
| 16.1.5.1 | up to eight prepackaged products | 351.30 |
| 16.1.5.2 | from nine up to 13 prepackaged products | 460.20 |
| 16.1.5.3 | from 14 up to 20 prepackaged products | 678.30 |
| 16.1.5.4 | over 20 prepackaged products | 896.10 |
|  | **b) Testing for prepackaged products with unequal nominal fill quantities (excluding special cases) according to § 40(1) and (2), §§ 9, 10, 31 and 32 as well as Annex 3 of the Regulation on Prepackaged Products**  **Testing open packages of unequal nominal fill quantities (excluding special cases) according to § 14(2) and (3), §§ 17 and 29 as well as Annex 3 points 3b and 5 as well as §§ 9 and 10 of the Regulation on Prepackaged Products** |  |
| 16.2.1.1 | Testing with unequal nominal fill quantities | according to work involved  according to the key figures 19.1.1… or 19.1.2… |
|  | **c) Full testing for prepackaged products of equal nominal fill quantity in accordance with § 40 in conjunction with Annex 3 point 3b and §§ 9 and 10 of the Regulation on Prepackaged Products;**  **Full testing for open packages of equal nominal fill quantity in accordance with §§ 40 and 29 in conjunction with Annex 3 point 3b and §§ 9 and 10 of the Regulation on Prepackaged Products;**  **Full testing of sales units excluding wrapping of equal nominal weight, in accordance with § 40(1) and (2) and § 30 in conjunction with Annex 3 point 3b of the Regulation on Prepackaged Products** |  |
|  | Full testing (up to a maximum of 99 prepackaged products or other sales units, fee for each full testing process) |  |
| 16.3.1.1 | from 10 up to 25 prepackaged products or other sales units | 103.40 |
| 16.3.1.2 | from 26 up to 50 prepackaged products or other sales units | 112.60 |
| 16.3.1.3 | Over 50 prepackaged products and other sales units | 148.10 |
|  | **d) Testing of sales units excluding wrapping of equal nominal length or equal nominal area according to § 40(1) and (2) and § 30(1) to (4) in conjunction with Annex 4 of the Regulation on Prepackaged Products** |  |
| 16.4.1.1 | as long as the length is up to 1 m or the area can be measured by simply multiplying lengths (per lot) | 136.60 |
|  | as long as the length is over 1 m or the area has to be measured (per lot) |  |
| 16.4.2.1 | up to eight other sales units | 170.60 |
| 16.4.2.2 | from nine up to 13 other sales units | 230.80 |
| 16.4.2.3 | from 14 up to 20 other sales units | 304.00 |
| 16.4.2.4 | over 20 other sales units | 408.40 |
|  | **3. Special cases** |  |
|  | **a) Assessment of measuring containers according to § 40(3), §§ 35 and 37 and in particular § 36 in conjunction with Annex 6 of the Regulation on Prepackaged Products** |  |
| 16.5.2.1 | in manufacturing and import companies, per lot | 466.40 |
|  | **b) Sample testing of prepackaged products, the content of which is labelled by unit quantity, by count in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) as well as § 24 and § 26 in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of open packages, the content of which is labelled by unit quantity, by count in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) as well as § 26 and § 29 in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of prepackaged products, the content of which is labelled by length or area, by length or area measurement in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2), as well as § 28 of the Regulation on Prepackaged Products or § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and § 28 and § 32(2) in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of open packages (equal or unequal nominal fill quantities), the content of which is marked by length or area, by length or area measurement in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) and § 28 in conjunction with Annex 4 and § 29 of the Regulation on Prepackaged Products or § 50(1) of the Measurement and Calibration Act in conjunction with §§ 28, 29 and 31 of the Regulation on Prepackaged Products** |  |
| 16.6.1.1 | as long as the unit quantity is up to 20, or the length is up to 1 m, or the area can be measured by simply multiplying lengths (per lot) | 136.60 |
|  | as long as the unit quantity is over 20, or the length is over 1 m, or the area has to be measured (per lot) |  |
| 16.6.2.1 | up to eight prepackaged products or other sales units | 170.60 |
| 16.6.2.2 | from nine up to 13 prepackaged products or other sales units | 230.80 |
| 16.6.2.3 | from 14 up to 20 prepackaged products or other sales units | 304.00 |
| 16.6.2.4 | Over 20 prepackaged products and other sales units | 408.40 |
|  | **c) Testing of prepackaged products with fertilisers, EC fertilisers, soil additives or other substances in accordance with Annex 3 point 3(f) of the Regulation on Prepackaged Products** |  |
| 16.6.3.1 | Testing of 20 units | according to work involved from the key figures 19.1.1 ... and 19.1.2 ... |
|  | **4. Testing for marketability with lot sizes of under 10 prepackaged products or other sales units in accordance with § 9(4) and § 38 of the Regulation on Prepackaged Products** |  |
| 16.6.4.1 | Testing for marketability for lot sizes of < 10 prepackaged products or other sales units | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **5. Additional tests** |  |
|  | **a) Testing the density of the filling material in sample tests for prepackaged products of equal nominal fill quantity according to § 40(1) and (2) in conjunction with Annex 3 point 4(c) of the Regulation on Prepackaged Products** |  |
| 16.7.1.1 | at the manufacturer | 110.30 |
| 16.7.1.2 | on the premises of the responsible authority | according to work involved from the key figures 19.1.1 ... |
|  | **b) Testing the drying loss in the case of textile products during random sample tests of prepackaged products of equal nominal fill quantity in accordance with § 40(1) and (2) in conjunction with Annex 3 point 5(c) of the Regulation on Prepackaged Products or of sales units excluding wrapping according to § 30 in conjunction with Annex 3 of the Regulation on Prepackaged Products** |  |
| 16.7.2.1 | Testing average drying loss | 143.80 |
|  | **c) Testing the average unit, length, grammage and fineness of yarn as well as the average moisture-related change in yarn length during sample testing of prepackaged products of equal nominal fill quantity in accordance with § 40(1) and (2) in conjunction with Annex 4 point 5(b), (c) and (d) and point 6 of the Regulation on Prepackaged Products or of other sales units in accordance with § 30 in conjunction with Annex 4 point 7 of the Regulation on Prepackaged Products** |  |
|  | Determination (per sample) |  |
| 16.7.3.1 | of the average unit weight | 60.70 |
| 16.7.3.2 | of the average length weight | 72.00 |
| 16.7.3.3 | of the average grammage | 54.00 |
| 16.7.3.4 | The average yarn fineness | 143.80 |
| 16.7.3.5 | the average moisture-related change in yarn length | 143.80 |
|  | **d) Inspecting operational records for prepackaged products with labelling by weight or volume according to § 41(4) and for prepackaged products of equal nominal fill quantity with labelling by quantity, length or area according to § 41(2) of the Regulation on Prepackaged Products**  **Inspecting operational records for open packages according to §§ 14(2), (17), (29) and 41(4) of the Regulation on Prepackaged Products**  **Inspecting operational records for fruit and vegetables without prepackaging according to § 17(4), as well as for bakery products without prepackaging according to § 18(5) in conjunction with § 41(4) of the Regulation on Prepackaged Products**  **Inspecting operational records for sales units without wrapping in accordance with § 30(5) and § 41(4) of the Regulation on Prepackaged Products** |  |
| 16.7.4.1 | Inspection duration > 15 minutes | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **6. Measures pursuant to § 50(2) of the Measurement and Calibration Act.** |  |
| 16.8.1.1 | Measure taken pursuant to § 50(2) of the Measurement and Calibration Act based on testing in accordance with § 50(1) of the Measurement and Calibration Act | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **7. After complaints according to § 4(2) points 1 to 3, § 11(2), § 17(1), (2) and (5), § 18(1) to (3) and (6), § 29(2) points 1 to 3, § 30(1) point 1 and 2, § 31(1) points 1 to 3, § 34 points 1 to 3, § 35 and § 38(1) in conjunction with § 40 of the Regulation on Prepackaged Products** |  |
| 16.8.2.1 | Testing the requirements for prepackaged products, other sales units and measuring containers after complaints without re-testing fill quantity | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |

Article 3

Further amendments to the Regulation on fees for measuring and calibration

Key figures group 16 of the Annex to the Regulation on fees for measuring and calibration of 24 March 2015 (Federal Law Gazette I p. 330), last amended by Article 2 of this Ordinance, is amended as follows:

|  |  |  |
| --- | --- | --- |
|  | **Key figures group 16: Market surveillance for prepackaged products, other sales units and measuring containers** |  |
| H 16-1 | **Note:**  If the last completed market surveillance process for fruit and vegetables or bakery products without prepackaging is carried out in accordance with §§ 17 and 18 of the Regulation on Prepackaged Products, then additional complaint-free market surveillance for this food without prepackaging from the same place of manufacture and with the same person responsible in the same calendar year is free of charge. |  |
|  | **1. Sample testing and full testing of other sales units pursuant to § 50(1) of the Measurement and Calibration Act, in this case for bakery products without prepackaging pursuant to § 40(1) and (2) and § 18 each in conjunction with Annex 3 of the Regulation on Prepackaged Products;** |  |
|  | The fee for key figure group 16.0 ... is determined for random sample testing and full testing regardless of the number of lots or full testing only according to the total number of bakery products tested |  |
| 16.0.1.1 | from 10 up to 25 bakery products without prepackaging | 106.40 |
| 16.0.1.2 | from 26 up to 50 bakery products without prepackaging | 123.50 |
| 16.0.1.3 | from 51 up to 100 bakery products without prepackaging | 158.20 |
| 16.0.1.4 | from 101 up to 150 bakery products without prepackaging | 190.30 |
| 16.0.1.5 | from 151 up to 250 bakery products without prepackaging | 222.60 |
| 16.0.1.6 | over 250 bakery products without prepackaging | 267.50 |
|  | **2. Sample testing for prepackaged products and other sales units in accordance with § 50(1) of the Measurement and Calibration Act** |  |
|  | **a) Testing for prepackaged products of equal nominal fill quantity (excluding special cases) according to § 40(1) and (2) and in particular § 9 each in conjunction with Annex 3 of the Regulation on Prepackaged Products or in accordance with § 40(1) and (2) and in particular § 10 each in conjunction with Annex 3 of the Regulation on Prepackaged Products**  **Testing for open packages of equal nominal fill quantity (excluding special cases) according to § 40(1) and (2), as well as § 29 each in conjunction with Annexes 3 and 5 of the Regulation on Prepackaged Products;**  **Testing for sales units without wrapping of equal nominal weight in accordance with § 40(1) and (2) and § 30 in conjunction with Annex 3 of the Regulation on Prepackaged Products** |  |
|  | Non-destructive testing for a normal single-sample test in accordance with Annex 3 point 3a and for a sample size (fee per lot) |  |
| 16.1.1.1 | up to 50 prepackaged products or other sales units | 223.00 |
| 16.1.1.2 | from 51 up to 80 prepackaged products or other sales units | 258.00 |
| 16.1.1.3 | from 81 up to 125 prepackaged products or other sales units | 286.20 |
| 16.1.1.4 | Over 125 prepackaged products and other sales units | 307.40 |
|  | Destructive testing for single-sample testing with a reduced sample size taking into account each individual tare value in accordance with Annex 3 point 3c or 3e (fee per lot) of |  |
| 16.1.2.1 | up to eight prepackaged products or other sales units | 251.30 |
| 16.1.2.2 | from nine up to 13 prepackaged products or other sales units | 284.60 |
| 16.1.2.3 | from 14 up to 20 prepackaged products or other sales units | 426.00 |
| 16.1.2.4 | Over 20 prepackaged products and other sales units | 476.10 |
|  | Non-destructive test in a normal single-sample test taking into account each individual tare value in accordance with Annex 3 point 3a and with a sample size (fee per lot) |  |
| 16.1.3.1 | up to 50 prepackaged products or other sales units | 328.50 |
| 16.1.3.2 | from 51 up to 80 prepackaged products or other sales units | 373.10 |
| 16.1.3.3 | from 80 up to 125 prepackaged products or other sales units | 456.20 |
| 16.1.3.4 | Over 125 prepackaged products and other sales units | 520.80 |
|  | Destructive testing for drained weight labelling according to Annex 3 point 3d in conjunction with Annex 3 point 7d for a sample size (fee per lot) |  |
| 16.1.4.1 | up to eight prepackaged products | 326.10 |
| 16.1.4.2 | from nine up to 13 prepackaged products | 384.30 |
| 16.1.4.3 | from 14 up to 20 prepackaged products | 417.90 |
| 16.1.4.4 | over 20 prepackaged products | 465.60 |
|  | Destructive testing according to Annex 3 point 3c by means of de-glazing, with a sample size (fee per lot) |  |
| 16.1.5.1 | up to eight prepackaged products | 375.20 |
| 16.1.5.2 | from nine up to 13 prepackaged products | 491.50 |
| 16.1.5.3 | from 14 up to 20 prepackaged products | 724.40 |
| 16.1.5.4 | over 20 prepackaged products | 957.00 |
|  | **b) Testing for prepackaged products with unequal nominal fill quantities (excluding special cases) according to § 40(1) and (2), §§ 9, 10, 31 and 32 as well as Annex 3 of the Regulation on Prepackaged Products**  **Testing open packages of unequal nominal fill quantities (excluding special cases) according to § 14(2) and (3), §§ 17 and 29 as well as Annex 3 points 3b and 5 as well as §§ 9 and 10 of the Regulation on Prepackaged Products** |  |
| 16.2.1.1 | Testing with unequal nominal fill quantities | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **c) Full testing for prepackaged products of equal nominal fill quantity in accordance with § 40 in conjunction with Annex 3 point 3b and §§ 9 and 10 of the Regulation on Prepackaged Products;**  **Full testing for open packages of equal nominal fill quantity in accordance with §§ 40 and 29 in conjunction with Annex 3 point 3b and §§ 9 and 10 of the Regulation on Prepackaged Products;**  **Full testing of sales units excluding wrapping of equal nominal weight, in accordance with § 40(1) and (2) and § 30 in conjunction with Annex 3 point 3b of the Regulation on Prepackaged Products** |  |
|  | Full testing (up to a maximum of 99 prepackaged products or other sales units, fee for each full testing process) |  |
| 16.3.1.1 | from 10 up to 25 prepackaged products or other sales units | 110.40 |
| 16.3.1.2 | from 26 up to 50 prepackaged products or other sales units | 120.30 |
| 16.3.1.3 | Over 50 prepackaged products and other sales units | 158.20 |
|  | **d) Testing sales units without wrapping** **of equal nominal length or nominal area according to § 40(1) and (2) and § 30(1) to (4) in conjunction with Annex 4 of the Regulation on Prepackaged Products** |  |
| 16.4.1.1 | as long as the length is up to 1 m or the area can be measured by simply multiplying lengths (per lot) | 145.90 |
|  | as long as the length is over 1 m or the area has to be measured (per lot) |  |
| 16.4.2.1 | up to eight other sales units | 182.20 |
| 16.4.2.2 | from nine up to 13 other sales units | 246.50 |
| 16.4.2.3 | from 14 up to 20 other sales units | 324.70 |
| 16.4.2.4 | over 20 other sales units | 436.20 |
|  | **3. Special cases** |  |
|  | **a) Assessment of measuring containers according to § 40(3), §§ 35 and 37 and in particular § 36 in conjunction with Annex 6 of the Regulation on Prepackaged Products** |  |
| 16.5.2.1 | in manufacturing and import companies, per lot | 498.10 |
|  | **b) Sample testing of prepackaged products, the content of which is labelled according to the unit quantity, by count in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) and §§ 24 and 26 in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of open packages, the content of which is labelled by unit quantity, by count in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) as well as § 26 and § 29 in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of prepackaged products, the content of which is labelled by length or area, by length or area measurement in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2), as well as § 28 of the Regulation on Prepackaged Products or § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and § 28 and § 32(2) in conjunction with Annex 4 of the Regulation on Prepackaged Products**  **Sample testing of open packages (equal or unequal nominal fill quantities), the content of which is marked by length or area, by length or area measurement in accordance with § 50(1) of the Measurement and Calibration Act in conjunction with § 40(1) and (2) and § 28 in conjunction with Annex 4 and § 29 of the Regulation on Prepackaged Products or § 50(1) of the Measurement and Calibration Act in conjunction with §§ 28, 29 and 31 of the Regulation on Prepackaged Products** |  |
| 16.6.1.1 | as long as the unit quantity is up to 20, or the length is up to 1 m, or the area can be measured by simply multiplying lengths (per lot) | 145.90 |
|  | as long as the unit quantity is over 20, or the length is over 1 m, or the area has to be measured (per lot) |  |
| 16.6.2.1 | up to eight prepackaged products or other sales units | 182.20 |
| 16.6.2.2 | from nine up to 13 prepackaged products or other sales units | 246.50 |
| 16.6.2.3 | from 14 up to 20 prepackaged products or other sales units | 324.70 |
| 16.6.2.4 | Over 20 prepackaged products and other sales units | 436.20 |
|  | **c) Testing of prepackaged products with fertilisers, EC fertilisers, soil additives or other substances in accordance with Annex 3 point 3(f) of the Regulation on Prepackaged Products** |  |
| 16.6.3.1 | Testing of 20 units | according to work involved from the key figures 19.1.1 ... and 19.1.2 ... |
|  | **4. Testing for marketability with lot sizes of under 10 prepackaged products or other sales units in accordance with § 9(4) and § 38 of the Regulation on Prepackaged Products** |  |
| 16.6.4.1 | Testing for marketability for lot sizes of < 10 prepackaged products or other sales units | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **5. Additional tests** |  |
|  | **a) Testing the density of the filling material in sample tests for prepackaged products of equal nominal fill quantity according to § 40(1) and (2) in conjunction with Annex 3 point 4(c) of the Regulation on Prepackaged Products** |  |
| 16.7.1.1 | at the manufacturer | 117.80 |
| 16.7.1.2 | on the premises of the responsible authority | according to work involved from the key figures 19.1.1 ... |
|  | **b) Testing the drying loss in the case of textile products during random sample tests of prepackaged products of equal nominal fill quantity in accordance with § 40(1) and (2) in conjunction with Annex 3 point 5(c) of the Regulation on Prepackaged Products or of sales units excluding wrapping according to § 30 in conjunction with Annex 3 of the Regulation on Prepackaged Products** |  |
| 16.7.2.1 | Testing average drying loss | 153.60 |
|  | **c) Testing the average unit, length, grammage and fineness of yarn as well as the average moisture-related change in yarn length during sample testing of prepackaged products of equal nominal fill quantity in accordance with § 40(1) and (2) in conjunction with Annex 4 point 5(b), (c) and (d) and point 6 of the Regulation on Prepackaged Products or of other sales units in accordance with § 30 in conjunction with Annex 4 point 7 of the Regulation on Prepackaged Products** |  |
|  | Determination (per sample) |  |
| 16.7.3.1 | of the average unit weight | 64.80 |
| 16.7.3.2 | of the average length weight | 76.90 |
| 16.7.3.3 | of the average grammage | 57.70 |
| 16.7.3.4 | The average yarn fineness | 153.60 |
| 16.7.3.5 | the average moisture-related change in yarn length | 153.60 |
|  | **d) Inspecting operational records for prepackaged products with labelling by weight or volume according to § 41(4) and for prepackaged products of equal nominal fill quantity with labelling by quantity, length or area according to § 41(2) of the Regulation on Prepackaged Products**  **Inspecting operational records for open packages according to §§ 14 (2),** **(17) (29) and 41(4) of the Regulation on Prepackaged Products**  **Inspecting operational records for fruit and vegetables without prepackaging according to § 17(4), as well as for bakery products without prepackaging according to § 18(5) in conjunction with § 41(4) of the Regulation on Prepackaged Products**  **Inspecting operational records for sales units without wrapping pursuant to § 30(5) and § 41(4) of the Regulation on Prepackaged Products** |  |
| 16.7.4.1 | Inspection duration > 15 minutes | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **6. Measures pursuant to § 50(2) of the Measurement and Calibration Act.** |  |
| 16.8.1.1 | Measure taken pursuant to § 50(2) of the Measurement and Calibration Act based on testing in accordance with § 50(1) of the Measurement and Calibration Act | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |
|  | **7. After complaints according to § 4(2) points 1 to 3, § 11(2), § 17(1), (2) and (5), § 18(1) to (3) and (6), § 29(2) points 1 to 3, § 30(1) point 1 and 2, § 31(1) points 1 to 3, § 34 points 1 to 3, § 35 and § 38(1) in conjunction with § 40 of the Regulation on Prepackaged Products** |  |
| 16.8.2.1 | Testing the requirements for prepackaged products, other sales units and measuring containers after complaints without re-testing fill quantity | according to work involved from the key figures 19.1.1 ... or 19.1.2 ... |

Article 4

Amendment of the Food Information Implementation Ordinance (Lebensmittelinformations-Durchführungsverordnung)

The Food Information Implementation Ordinance of 5 July 2017 (Federal Law Gazette I p. 2272) is amended as follows:

* + - 1. § 4(5) is rescinded.
      2. § 5(1)(5) is rescinded.
      3. In § 6(4) point 2, the words ‘point 5 of the sentence before the second clause,’ are deleted.

Article 5

Entry into force, abrogation

* + 1. This Ordinance shall enter into force on the day following promulgation, except for paragraph 2. At the same time, the Regulation on Prepackaged Products, as published on 8 March 1994 (Federal Law Gazette I, p. 451, 1307), last amended pursuant to Article 27 of the Ordinance of 5 July 2017 (Federal Law Gazette I, p. 2272), shall be repealed.
    2. Article 3 shall enter into force on 1 January 2021.

Approved by the Federal Council of Germany.

Berlin, [date]

Explanatory statement

A. General part

1. Objective of and need for the regulations

An amendment to the Regulation on Prepackaged Products is required to make prepackaged products law clearer and to adapt it to European developments and national changes in the Measurement and Calibration Act.

Objectives in detail:

This Ordinance regulates the requirements for prepackaged products and other sales units with regard to the labelling of the net fill quantity and the necessary labels, and compliance with net fill quantity requirements and market surveillance.

This Ordinance also serves to implement EU legislation, in particular

Article 9(1)(e) of Regulation (EU) No 1169/2011 in conjunction with Article 23(1) and (3) in conjunction with Annex IX and Article 44 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers and amending Regulation (EC) No 1924/2006 and (EC) No 1925/2006 and repealing Directive 87/250/EEC, Directive 90/496/EEC, Directive 1999/10/EG, Directive 2000/13/EC, Directive 2002/67/EC and 2008/5/EC and the Regulation (EC) No 608/2004,

Article 19(1)(a) and (b) of Regulation (EC) 1223/2009 of 30 November 2009 on cosmetic products and

Article 9 of Regulation (EC) No 543/2008 of 16 July 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat (OJ EC No L 157 of 17.02.2008, p. 46), last amended by Regulation (EU) No 519/2013 of 21 February 2013 (OJ EU No L 158 of 10.06.2013, p. 74).

This Ordinance also implements EU legislation, in particular:

Directive 75/107/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to bottles used as measuring containers (OJ No L 042 of 15.02.1975, p. 14),

Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products (OJ L 46, 21.02.1976, p. 1) and

Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepackaged products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC (OJ L 247 of 21.09.2007, p. 17).

With the restructuring of the Measurement and Calibration Act, the Regulation on fees for measuring and calibration of 24 March 2015 was created (Federal Law Gazette I p. 330), which replaced the Regulation on costs for calibration (Eichkostenverordnung) that had previously applied. The fee rates for performing individually attributable public services must be periodically adjusted to align with current cost developments in order to cover costs. The first ordinance to amend the Regulation on fees for measuring and calibration, to the exclusion of adjustments to the fee rates for market surveillance of prepackaged products, other sales units and measuring containers (key figure group 16), came into force on 30 April 2019 (Federal Law Gazette no. p. 579). The fee rates regulated in 2015 were based on fee calculations based on personnel and material costs data from 2012 to 2017 determined by tariff increases and inflation rates. The fee rates for 2020 to 2023 now require an adjustment.

1. Main content of the draft

An amendment to the Regulation on Prepackaged Products is necessary in order to make prepackaged products law clearer and more transparent. There is a need for modernisation with regard to the structure of the current Regulation on Prepackaged Products and outdated terminology. A large portion of the existing regulations will be preserved and simply classified into a clearer structure, and terminology will be updated to the furthest extent possible.

In addition, European developments and national changes in the Measurement and Calibration Act must be enforced. Duplicate regulations in the current European legislation will no longer be included in the future.

For example, the Food Information Regulation [Regulation (EU) No 1169/2011 of 25 October 2011; OJ. L 304 of 22.11.2011, p. 18 et seq.] regulates the labelling of prepackaged food in the European Union intended directly for end consumers. National regulations pertaining to this area must therefore be withdrawn.

The federal government has made use of the option under Article 42 of Regulation (EU) No 1169/2011 to obtain national regulations within the scope of the European regulation. The corresponding notification to the European Commission was published in the electronic Federal Gazette by the Federal Ministry of Economic Affairs and Energy. For reasons of clarity, the national regulations obtained in this way have been shown in Article 1(5) of this Ordinance.

The implementing regulations for the Food Information Regulation in the area of prepackaged products law are also included in the Regulation on Prepackaged Products for reasons of improved readability and accordingly withdrawn from the Regulation amending the national legislation to Regulation (EU) No 1169/2011 of 5 July 2017 (Federal Law Gazette I 45 of 12 July 2017, p. 2272 et seq.).

Regulation (EC) No 1223/2009 of 30 November 2009 applies to ‘cosmetic products’; (OJ L 342, 22.12.2009, p. 59 et seq.). In this respect, inadmissible duplicate regulations will also be withdrawn and missing implementing regulations in prepackaged products law inserted.

Furthermore, technical innovations were taken into account in the draft:

Technical improvements in the manufacturing process for prepackaged products with liquid mediums allow for more precise production. For this reason, the tolerance limits for deviations in favour of the consumer may be reduced.

A new regulation has been added in order to solve the technical issues arising in the labelling of paints and inks filled by colour mixing systems.

The draft contains a number of regulations that are intended to relieve the burden placed on small and medium-sized companies in particular.

As far as possible, the different legislative acts that have to be observed in prepackaged products law have been compiled in this regulation rather than being dispersed over a large number of legislative acts in respective special laws (e.g. national exceptions in the food sector, cosmetic products, fertilisers).

In the draft regulation, it is provided that, in contrast to the current legal situation, the only measurements that are required are conducted either during the manufacturing process (with calibrated scales) or after production (with calibrated scales). Accordingly, the inspection process and any associated documentation and retention requirements are eliminated.

In the case of goods manufactured predominantly by hand, it is considered sufficient to use commercial scales calibrated for this purpose.

In addition, in the context of the last amendment to the Measurement and Calibration Ordinance, the period during which all scales in this process must be calibrated has been raised from one to two years.

Relief has also been provided with regard to ‘fees’:

A discretionary provision was added in the context of the first amendment ordinance to the Regulation on fees for measuring and calibration, according to which fee reductions may be granted in favour of micro and small companies.

The draft regulation also contains changes to the Regulation on fees for measuring and calibration in the area of market surveillance in prepackaged products law (key figures group 16 of the fee schedule). The fee rates will be adjusted based on specific cost data for personnel and material for 2019 to 2023, based on tariff increases and inflation rates. In this regard, fee adjustments should originally have been made as part of the first ordinance amending the Regulation on fees for measuring and calibration of 30 April 2019 (Federal Law Gazette I p. 579). In order to join the Federal States in assessing to what extent relief may be provided in favour of small and medium-sized companies, this section has been separated and will now be enacted together with the new Regulation on Prepackaged Products. The following relief was provided in the new key figure group 16:

* A separate fee was created for bakery products.

The special type of prepackaged products inspection for bakery products without prepackaging, which differs from the usual full and sample tests (less time is required for several tests without sampling from stock), justified the introduction of a separate fee item in this case, which nevertheless complies with the cost recovery principle. This new regulation caps the fee at EUR 250, but it will generally be less than EUR 150 for small bakeries.

* If there are no complaints, the new Note 16-1 also prevents prepackaged product inspections that are eligible for a fee from being conducted for food without prepackaging (fruit, vegetables, bakery products) that comes from one place of manufacture and is placed in several different branches.
* In the ‘non-destructive test during a normal single-sample test’ (key figure group 16.1.1\*), the fees were reduced by an average of 25%. This key figure group generated over 50% of sales in the area of prepacking unit inspections.

In principle, smaller companies benefit from this type of fee calculation and the market surveillance concepts of these Federal States.

* In smaller companies, fewer and smaller samples are usually taken with lower fees accordingly.
* They benefit from calculations based on average time required for a test. Thus, the actual fixed expenditure, for example for travel times and test set-ups, is not fully covered for smaller companies.
* Under market surveillance concepts, smaller companies are inspected less frequently, typically every three years (between two and five years depending on the Federal State) if there are no complaints.

1. Alternatives

None.

1. Regulatory powers

The legislative competence of the Federal Ministry of Economic Affairs and Energy results from the statutory authorisations of the Measurement and Calibration Act specified in the preamble, which are based on Article 73(1) No 4 of the Basic Law and the German Food and Feedstuffs Act, which is based on Article 74(1) point 20 of the Basic Law.

The authorisation to issue the Regulation on fees for measuring and calibration also results from § 59(3) of the Measurement and Calibration Act. A derogation option for Federal States according to Article 84(1) sentence 2 of the Basic Law is not excluded.

1. Compatibility with European Union law and international treaties

The compatibility with European Union law is compatible with European primary and secondary legislation and does not justify discrimination against Union citizens. The regulations are covered by the national regulatory powers. The regulation contains, inter alia, provisions for the implementation of Directive (EEC) No 75/107, Directive (EEC) No 76/221 and Directive (EC) No 45/2007. It contains implementing provisions for European regulations, in particular for Regulation (EU) No 1169/2011 and Regulation (EU) No 1223/2009.

1. Legal consequences

The draft of the Regulation on Prepackaged Products creates a more transparent structure, abolishes inadmissible duplicate regulations, updates terminology and takes technical innovations into account.

By amending the Regulation on fees for measuring and calibration, the Federal State calibration authorities and state-recognised inspection bodies will provide individually attributable public services to cover costs.

* 1. Legal and administrative simplification

The draft streamlines the requirements for measurement and inspection requirements when filling prepackaged products in accordance with Directive (EEC) No 76/211.

* 1. Sustainability aspects

The provisions of the ordinances are in line with the guiding principles of the federal government and support sustainable economic growth through a clear legal framework. On the one hand, the ordinances create transparency with regard to the requirements for manufacturers, and on the other hand protect the interests of end consumers, for example by providing meaningful labelling for prepackaged products.

The ordinances contain regulations that are balanced from an economic point of view and reduce any burdens on businesses to an absolutely necessary minimum. The regulations contained in the draft have no ecological impact. The regulations taken in the draft ordinance also do not involve any social aspects.

* 1. Budget expenditure without implementing costs

The ordinance does not involve budget expenditure without implementing costs.

* 1. Implementing costs

Citizens shall not incur any additional compliance costs.

The additional compliance costs incurred by businesses in connection with the placement and provision of measuring instruments and prepackaged products on the market are not increased in comparison with the current legal situation. The provisions relating to prepackaged products have been largely taken from the previous Regulation on Prepackaged Products, meaning that no change in compliance costs shall arise in this respect.

Note: Public-sector fees do not fall under the term compliance costs for businesses. These are shown under F. Other costs.

No new informational requirements have been created.

* 1. Additional costs

Financial relief for businesses is provided by the proposed streamlining of the requirements for measurement and inspection requirements when filling prepackaged products in accordance with Directive (EEC) point 76/211.

In the Regulation on fees for measuring and calibration, the fees for those who manufacture, import or use prepackaged products are partially reduced when the fees in key figures group 16 have been adjusted. Additional costs arise to some extent. However, the cost changes are largely marginal in relation to the sales generated with prepackaged products. The burden of the fee rate increases per affected person is low. For the year 2020, no increase in revenue for the calibration authorities of the Federal States is expected, and from 2021 a maximum of EUR 240 000 per year is expected.

* 1. Other legal consequences

The proposal has no impact on demographics.

The Ordinance has no impact on the equal treatment between men and women.

1. Time limit; assessment

The Ordinance has an indefinite duration.

B. Specific part

Re Article 1 (Ordinance on prepackaged products and other sales units)

Re Section 1 (General provisions)

Re § 1 (Scope of application)

This provision determines the basic scope of the Ordinance.

Re paragraph 1

Prepackaged product law regulates the trade of prepackaged products at all levels of trade

Re paragraph 2

The items to which the regulation does not refer are named. In addition, the regulation specifies the areas in which the scope of application is restricted, for example, by the primacy of directly applicable EU law.

Re point 1

In terms of content, the regulation adopts the previous regulation of § 33(a) point 2 of the German Ordinance on Prepackaged Products (FertigPackV, old), but the area of application is formulated more clearly in that the content is formulated positively rather than negatively.

It should be noted that, by way of derogation from § 1(2)(1) of this Ordinance, the requirements of the directly applicable Article 19(1)(a) and (b), first sentence, of Regulation (EC) No 1223/2009 also apply to prepackaged products with cosmetic products whose nominal fill quantity is marked according to area or unit and is provided to end consumers who use these prepackaged products for their independent professional or commercial activities.

This also applies to the directly applicable provisions for prepackaged food according to Article 9(1)(e) of Regulation (EU) No 1169/2011.

Re point 2

The contents of the previous regulation of § 33a point 3 German Ordinance on Prepackaged Products (old) is adopted.

The European Food Information Regulation [Regulation (EU) No 1169/2011] does not contain a corresponding exception for free samples. The exception for free samples, however, continues to apply to prepacked food within the meaning of Regulation (EU) No 1169/2011, as it is covered by the Federal Government’s notification to the European Commission pursuant to Article 42 of the Food Information Regulation, which was published in the Federal Gazette (Federal Gazette Official Part from 3 December 2014, B1).

Re point 3

The provision has precedence over the previous regulation of § 33a point 1 of the German Ordinance on Prepackaged Products (old).

Re point 4

The provision has precedence over the previous regulation of § 33a point 4 of the German Ordinance on Prepackaged Products (old). Following the change in the Measurement and Calibration Act, the regulation was supplemented by conformity-assessed containers.

Re point 5

Article 1(2) Directive (EC) No 45/2007 is implemented with this regulation and is a continuation of the previous regulation of § 1(3) of the German Ordinance on Prepackaged Products (old).

Re § 2 (Definitions)

The definitions supplement the Measurement and Calibration Act in prepackaged products law.

Re point 1

The definition is based on Article 2(2), third clause of Directive (EEC) No 76/211.

Re point 2

In contrast to prepackaged products of equal nominal fill quantity according to point 1, a definition of prepackaged products of unequal nominal fill quantities was included.

Re point 3

Here, terminology has been created to differentiate it from directly applicable EU law.

Re point 4

The provision defines the terminology in § 1(2) point 2, including the wording of § 33a point 3 of the German Ordinance on Prepackaged Products (old) and updates it in accordance with the new Measurement and Calibration Act. § 33a point 3 of the German Ordinance on Prepackaged Products (old) was notified to the European Commission in the context of the notification under Article 42 of Regulation (EU) No 1169/2011.

Re point 5

The regulation updates the term ‘lot size’, previously regulated in point 3 sentence 1 of Annex 4a and Annex 4b of the German Ordinance on Prepackaged Products (old). This term is used as the basis for determining the samples according to Annex 3 and 4 within the framework of market surveillance.

Re point 6

The definition of Directive (EEC) No 76/211 from Annex I point 2, point 2.3. is included with regard to content.

Re point 7

The definition is an important prerequisite for being able to differentiate between the case groups in § 39 of this Ordinance.

Re point 8

The definition of ‘prepacked food’ in this Ordinance is intended to facilitate the distinction between prepacked food and prepackaged products with food.

Re point 9

In contrast to prepacked food in point 8, the term non-prepacked food is taken from Article 44(1) of the Food Information Regulation. Article 44(1)(b) of Regulation (EU) No 1169/2011 authorises the Member States to apply the Food Information Regulation to **non-prepacked** food for some information. The German legislature for the protection of end consumers makes use of this in Section 5 of this Ordinance. In addition, according to Article 44(2) of Regulation (EU) No 1169/2011, Member States may create national requirements for the manner and form in which the mandatory information is to be provided. Corresponding regulations are contained in Section 5 of this Ordinance.

Re point 10

A need to specify the time of production has been recognised. Case groups that deviate from the general definition are newly regulated in Annex 2.

Re § 3 (Identification of the nominal fill quantity)

Re paragraph 1

This paragraph clarifies that labelling by weight or volume is the general case. Exceptions in labelling are possible in the cases regulated in this Ordinance, in particular § 21 and § 25(1). According to § 27(1), the length or area must be labelled if this corresponds to prevailing market practices, for example with wallpaper. An exemption from labelling follows from § 21(1).

Re paragraph 2

In terms of content, this paragraph refers to § 6(1) sentence 2 of the German Ordinance on Prepackaged Products (old). As a rule, the market practices approach is only to be used if there are no other regulations regarding size specifications. In exceptional cases, the size may also arise from prevailing market practices.

Re paragraph 3

Paragraph 3 upholds in sentence 1 § 6(2) of the German Ordinance on Prepackaged Products (old).

Re Section 2 (Prepackaged products of equal nominal fill quantity with labelling by weight or volume)

This section implements Directive (EEC) No 76/211 and Directive (EC) Number 2007/45.

Re § 4 (General regulations for labelling by weight or volume)

Re paragraph 1

This paragraph clarifies that the content of this section is limited to nominal fill quantities of 5 grams / 5 millilitres to 10 kilograms / 10 litres, which are to be labelled by weight or volume and are marked with an ‘e’.

For reasons of clarification, it is pointed out that the provisions of the European Food Information Regulation, Regulation (EU) No 1169/2011, apply directly to prepacked food and can therefore no longer be regulated by national prepackaged products law. Regulations for non-prepacked food are contained in Section 5. For these, the national legislature may only order the application of Article 9(1)(e) of Regulation (EU) No 1169/2011 within the framework of Article 44(1)(b) of Regulation (EU) No 1169/20113 and enact national regulations regarding the type and manner, form and presentation according to Article 44(2) of Regulation (EU) No 1169/2011.

This section also applies to prepackaged products with food. This is neither prepacked food nor is it non-prepacked food within the meaning of Regulation (EU) No 1169/2011. This refers to, for example, food products within the realm of intermediary trade. According to Article 11 Regulation (EU) No 1169/2011, more specific Union provisions on weights and measures remain unaffected. This means that the prepackaged products directives (75/107/EEC, 76/211/EEC and 2007/45/EC) are considered leges speciales. The protection of the directives helps all economic operators; for example, retailers must also be able to trust that their trade partners are providing the correct weight and quantity information.

The perspective of Regulation (EU) No 1169/2011, on the other hand, is limited to the protection of the end consumer directly or users of industrial catering. Article 8 of Regulation (EU) No 1169/2011 regulates the disclosure of information that is required for labelling at the last level of trade. It is not expected that this regulation will remove the protection of economic operators at the other levels of trade.

Re paragraph 2

Re point 1

The decision as to whether labelling is to be indicated by weight or volume or, in exceptional cases, according to another category (unit quantity, length, area) or not at all, must be made on the basis of § 4(2) point 1 in conjunction with § 3 and the special regulations of this Ordinance regarding, inter alia, unit quantity, length and area. If the decision is made that labelling is to be done by weight or volume, the choice between the two options is determined pursuant to § 4(3) or § 6 of this Ordinance.

Re point 2

At this point, the labelling requirement is standardised with regard to the drained weight and the manufacturer.

Re point 3

The provision standardises the specifications for indicating the unit and unit symbol.

Re point 4

Point 4 standardises the obligation to comply with the general and special nominal fill quantity requirements.

Re paragraph 3

This paragraph adopts the regulation of § 7(2) sentence 1 of the German Ordinance on Prepackaged Products (old). In addition, it is pointed out that contrary provisions in this regulation or higher-ranking legal acts must be observed. Despite clear assignment, there may still be some doubt as to correct labelling in individual cases, which must be decided according to prevailing market practices. For example, in the case of cat litter, in spite of a clear assignment to the ‘solid’ category, there is an established volume label, as litter boxes are only provided with volume information.

Sentence 2 of the regulation serves as a catch-all provision in cases for which an assignment to the ‘liquid’ or ‘solid’ categories is not unambiguous.

Re paragraph 4

The regulation is based on § 18(4) and (5) of the German Ordinance on Prepackaged Products (old). The term ‘fill quantity’ has been corrected to ‘nominal fill quantity’ within the meaning of Article 42(3) point 2 of the Measurement and Calibration Act.

Re § 5 (Drained weight)

To avoid different requirements in national and European law, the new national terminology is based on the European term in Annex IX point 5 of Regulation (EC) No 1169/2011.

Re § 6 (Special provisions for labelling by weight or volume)

Re paragraph 1

§ 7(1) of the German Ordinance on Prepackaged Products (old) was adopted unchanged in terms of content.

Re paragraph 2

Contrary to the previous regulation, the cosmetic products in § 7(3) sentence 1, first alternative of the German Ordinance on Prepackaged Products (old) are no longer included, as the basic definition results from Article 19(1)(b) of Regulation (EC) No 1223/2009. Regulations beyond that definition can be found in Section 4. Regarding the other products, the content of the previous regulation of § 7(3) of the German Ordinance on Prepackaged Products (old) remains.

Re paragraph 3

§ 7(4) of the German Ordinance on Prepackaged Products (old) was adopted unchanged in terms of content.

Re paragraph 4

The provision in sentence 1 adopts the previous regulation of § 7(5) of the German Ordinance on Prepackaged Products (old). The new regulation in sentence 2 is a response to technical issues when determining the nominal fill quantity of varnishes, lacquers and paints produced by colour mixing systems in hardware stores, service points and painting companies.

The determination of density required for volume labelling is not always possible due to technical reasons, as the mixture can produce different density values depending on the raw materials and the percentage of air pockets. In these cases, weighting can also be used in the future.

Re paragraph 5

§ 7(6) of the German Ordinance on Prepackaged Products (old) was adopted unchanged in terms of content.

Re paragraph 6

The provision adopts the previous regulation of § 7(7) of the German Ordinance on Prepackaged Products (old).

Re § 7 (Prepackaged products with food)

This regulation makes it clear that the regulations mentioned in Section 5 also remain applicable for prepackaged products with food.

These are regulations that apply equally to prepacked food within the meaning of Regulation (EU) No 1169/2011 and prepackaged products with food. Prepackaged products with food are, for example, food products intended for intermediate trade. Compare the explanatory statement to § 4(1).

Re § 8 (Manufacturer information)

Re paragraph 1

This paragraph adopts the previous regulation of § 29(1) of the German Ordinance on Prepackaged Products (old) and adds the term ‘importer’ for clarification. For cosmetic products, Regulation (EC) No 1223/2009 directly regulates the ‘responsible person’. Also compare the explanatory statement to § 13(4).

Re paragraph 2

This paragraph adopts the previous regulation of § 29(2) of the German Ordinance on Prepackaged Products (old) and updates the citations of the corresponding legal provisions.

Re § 9 (General nominal fill quantity requirements)

Re paragraph 1

The regulation is a continuation of § 22(1) of the German Ordinance on Prepackaged Products (old). The adjective ‘commercial’ could be omitted, as the Measurement and Calibration Act focuses fundamentally on business activities.

This paragraph only concerns prepackaged products that are produced in Germany.

Re paragraph 2

This paragraph covers prepackaged products that are not manufactured in Germany. In the case of prepackaged products from EU Member States, the regulation must be interpreted in accordance with European law, so that due to the free movement of goods, the fill quantity must be based on the time of production. Underfilling at the manufacturer in other Member States can only be produced locally by the authorities of the Member State concerned. Example: If a prepackaged product is properly manufactured in another Member State and is only underfilled when imported into Germany, it cannot be based on the time of import, as this would otherwise create trade barriers that are contrary to European law.

The time of production is legally defined in § 2 point 10.

For prepackaged products that are manufactured outside of the European Union, the time of placement on the market is used, as an inspection at the time of production is often not possible.

Re paragraph 3

Here, the principle of mean value is shown, which was determined by the previous regulation of § 22(3) of the German Ordinance on Prepackaged Products (old). This was adopted unchanged.

Re paragraph 4

The regulation of § 22(4) of the German Ordinance on Prepackaged Products (old) was adopted and presented in a table to illustrate the contents. The term ‘marketability’ has been included for clarification.

Re § 10 (Special nominal fill quantity requirements)

The provision essentially adopts the regulation of § 22a of the German Ordinance on Prepackaged Products (old). However, the provision of § 22a(4) of the German Ordinance on Prepackaged Products (old) has not been inserted here. Rather, there is a comparable regulation in the regulations for market surveillance in § 40(2) sentence 2 of this Ordinance for systematic reasons.

Re paragraph 1

The regulation adopts § 22a of the German Ordinance on Prepackaged Products (old). The time of production is defined in § 1(2) point 10. Relevant special regulations for labelling drained weight can be found in Annex 2 point 2.

Re paragraph 2

This paragraph adopts the previous regulation of § 22a(2) of the German Ordinance on Prepackaged Products (old).

Re paragraph 3

The previous regulations for prepackaged products that are labelled with a drained weight were § 22a(3) of the German Ordinance on Prepackaged Products (old).

The technical possibilities in the manufacturing process for prepackaged products with liquid mediums allow for more precise production for manufacturers. It is therefore advisable to adjust the error limits from a triple negative error to a double negative error. This will result in an improvement for the consumer.

This excludes prepackaged products that are predominantly handmade as well as prepackaged products with naturally grown food such as pickles, corn on the cob, mushrooms, etc., as there is no relevant technical progress in filling accuracy.

Re paragraph 4

For prepacked food, Annex IX point 5 of Regulation (EC) No 1169/2011 applies. This regulation is applied here for all prepackaged products with glazed food so that there are uniform legal requirements at all levels of trade.

For systematic reasons, this passage has been embedded in the regulations for the special nominal fill quantity requirements.

Re paragraph 5

This provision is a continuation of the provision of § 22(5) of the German Ordinance on Prepackaged Products (old) and updates the references to European legal standards.

Re § 11 (℮ mark)

Re paragraphs 1 and 2

§ 21 of the German Ordinance on Prepackaged Products (old) is continued at this point. The background to this is the implementation of Article 3(1) of Directive (EEC) No 76/2011, as amended by Directive (EC) No 45/2007. Only prepackaged products that meet the requirements of Section 2 - with the exception of § 5 and § 10 (drained weight) - must have an ‘e’ mark.

This means that prepackaged products labelled according to length, area and unit, as well as the drained weight and prepackaged products as defined by the regulations in Sections 6, 7 and 8 are not included.

Re Section 3 (EC fertilisers within the meaning of Regulation (EC) No 2003/2003)

Re § 12 Requirements for EC fertilisers

Re paragraph 1

Paragraph 1 is purely declaratory and clarifies that Regulation (EC) No 2003/2003 on fertilisers applies directly. Furthermore, the national regulations of the Fertilising Act and the Order on the placing on the market of fertilisers, soil additives, culture media and plant growth additives (Fertiliser Ordinance - DüMV) must be observed.

For EC fertilisers, Regulation (EC) No 2003/2003, in the consolidated version of Regulation (EU) No 1257/2014, contains, inter alia, provisions on the weight and volume information, manufacturer information, tolerances or deviations, type of labelling and to inspections.

Re paragraphs 2 and 3

In order to implement EC law, requirements for the nominal fill quantity, inspection and documentation requirements, ‘e’ labelling up to a fill quantity of 10 kg/10L, requirements for filling devices for packages over 10 kg or 10 litres and the reference temperature are met for EC fertilisers.

Note: Regulations have been provided for fertilisers that are not designated as EC fertilisers and for soil additives, culture media and plant growth additives (e.g. peat) in the national provisions of the Fertilising Act [DünG of 9 January 2009 (Federal Law Gazette I p. 54, No 136), last amended by Article 1 of the Act of 5 May 2017 (Federal Law Gazette I p. 1068)] and in the implementing regulation [DüMV of 5 December 2012 (Federal Law Gazette I p. 2482), last amended by Article 3 of the Ordinance of 26 May 2017 (Federal Law Gazette I p. 1305)] in particular regarding labelling by weight and volume (§ 6 DüMV in conjunction with Annex 1, clause 10.1.10). The tolerances regulated in § 8 DüMV are the minimum or maximum levels of certain components. The national Fertiliser Ordinance provides for mandatory information on mass or volume in the context of the labelling, but it does not contain any regulations for tolerances on fill quantities. To this extent, general prepackaged products law (§ 9 and § 34 of this Ordinance) applies.

Re Section 4 (Cosmetic products within the meaning of Regulation (EC) No 1223/2009)

Re 13 (Requirements for prepacked cosmetic products)

The basic definition of the labelling obligation for cosmetic products can be found in Article 19(1)(b) Regulation (EC) No 1223/2009 and applies directly.

The text of the ordinance assumes that Article 19(1)(b) of Regulation (EC) No 1223/2009 only contains regulations on labelling requirements with the specification of certain details such as labelling by weight or volume. No final regulation has been provided due to the fact that, for example, procedural regulations are missing.

Regulation (EC) No 1223/2009, however, contains final regulations on:

Formal requirements [Article 19(1) Regulation (EC) No 1223/2009],

Information on names or company [Article 19(1)(a) Regulation (EC) No 1223/2009] and

Free samples, large packages and unit quantities [Article 19(1)(b) Regulation (EC) No 1223/2009].

The previous regulation from § 18(1) sentence 2 of the German Ordinance on Prepackaged Products (old): ‘In the case of prepackaged products with cosmetic products, the packaging of which consists of an inner packaging and an outer packaging, the nominal fill quantity must be stated on both packaging.’ is replaced by the formal requirements in Article 19(1) Regulation (EC) No 1223/2009.

The provision does not implement Article 19(1)(a) sentence 1 of Regulation (EC) No 1223/2009, since this has already been done in § 9(2) No 12(a) of the Ordinance on Cosmetic Products of 16 July 2014 (Federal Law Gazette I p. 1054), last amended by Article 2 of the Ordinance of 26 January 2016 (Federal Law Gazette I p. 108).

Re paragraph 1

This paragraph indicates the direct application of the European regulation.

Re paragraph 2

Paragraph 2 regulates the special requirements. These regulations are not laid down in Regulation (EC) No 1223/2009.

Re paragraph 3

The ℮ mark may also be used on prepackaged products with cosmetic products. The regulations on reference temperature also apply.

Re paragraph 4

Paragraph 4 refers to the definition of the ‘responsible person’ in Regulation (EC) No 1223/2009.

Re § 14 (Requirements for cosmetic products within the meaning of Article 19(4) Regulation (EC) No 1223/2009)

Regulation (EC) No 1223/2009 does not contain any labelling requirements for non-prepacked cosmetic products or cosmetic products that are packaged at the point of sale at the buyer’s request or that are prepacked with the intention of providing them for direct sale. However, Article 19(4) of Regulation (EC) No 1223/2009 opens up the possibility of ordering national labelling requirements within the meaning of Article 19(1) of Regulation (EC) No 1223/2009. The German legislature made use of this option in the regulation on cosmetic products (Ordinance on Cosmetic Products).

Re paragraph 1

This paragraph contains a declaratory reference to Article 5 of the Ordinance on Cosmetic Products.

Re paragraph 2

This paragraph contains a declaratory reference to Article 5 of the Ordinance on Cosmetic Products.

Re paragraph 3

Re point 1 and point 2

This paragraph specifies requirements for the nominal fill quantity and for measuring the nominal fill quantity, since neither the EU regulation nor the Ordinance on Cosmetic Products make provisions for this.

Re paragraph 4

In the absence of a delimitation in the EU regulation, reference is made to the regulations in the Regulation on Prepackaged Products (new).

Re paragraph 5

This paragraph contains a declaratory reference to Articles 4(3) to (6) of the EU regulation.

Section 5 (Prepackaged food within the meaning of Article 2(2)(e) and non-prepacked food within the meaning of Article 44(1) of Regulation (EU) No 1169/2011)

Re § 15 General Provisions

Re paragraph 1

Regulation (EU) No 1169/2011 was created by the European Union to provide a directly applicable law for **prepacked** food that is intended for the end consumer, including food that is supplied by industrial caterers and for food that is intended for delivery to industrial caterers (Article 1(3) sentence 2 Regulation (EU) No 1169/2011). Furthermore, Article 44(1)(b) of Regulation (EU) No 1169/2011 authorises Member States to also apply some or all of the information in Regulation (EU) No 1169/2011 to **non-prepacked** food. This is pointed out here for reasons of clarity.

Re paragraph 2

The federal government has made use of the option under Article 42 of Regulation (EU) No 1169/2011 to obtain national regulations within the scope of the European regulation.

These national exceptions were communicated to the European Commission in due time and published in the Federal Gazette Official Part from 3 December 2014, B1. They are reproduced in Section 5 of this Ordinance for improved readability. No substantive change is intended.

Re § 16 General regulations for prepacked food

Re paragraph 1

This is a declaratory provision.

Re paragraph 2

In the absence of any corresponding regulations in Regulation (EU) No 1169/2011, this paragraph deals with fill quantity requirements.

Re paragraph 3

In the absence of any corresponding regulations in Regulation (EU) No 1169/2011, reference is made to a number of regulations from the Regulation on Prepackaged Products.

Re paragraph 4

The federal government has made use of the option under Article 42 of Regulation (EU) No 1169/2011 to obtain national regulations within the scope of the European regulation.

These national exceptions were communicated to the European Commission in due time and published in the Federal Gazette Official Part from 3 December 2014, B1. They are reproduced in Section 5 of this Ordinance for improved readability.

Re § 17 (Fruit and vegetables without prepackaging within the meaning of Article 44(1) Regulation (EU) No 1169/2011)

Article 2(2)(e) of Regulation (EU) No 1169/2011 stipulates that food that is offered for sale without prepackaging is non-prepacked food (case groups of Article 44(1) of Regulation (EU) No 1169/2011).

Re paragraph 1

The application of Article 9(1)(e) of Regulation (EU) No 1169/2011 is prescribed on the basis of Article 44(1)(b) of Regulation (EU) No 1169/2011.

Re paragraph 2 to paragraph 4

In accordance with Article 44(2) of Regulation (EU) No 1169/2011, the manner and form of the information is determined nationally. In the previous regulation, these case groups were included in the regulations for open packages (§ 31a of the German Ordinance on Prepackaged Products (old)).

The reference to § 10 regulates, for example, fruit salads in open containers.

Re paragraph 5

These national exceptions were communicated to the European Commission in due time and published in the Federal Gazette Official Part from 3 December 2014, B1. They are reproduced in this regulation for improved readability.

Re 18 (Bakery products without prepackaging within the meaning of Article 44(1) Regulation (EU) No 1169/2011)

Article 2(2)(e) of Regulation (EU) No 1169/2011 stipulates that food that is offered for sale without prepackaging is non-prepacked food (case groups of Article 44(1) of Regulation (EU) No 1169/2011). The application of Article 9(1)(e) of Regulation (EU) No 1169/2011 for the case groups in (1) and (2) is prescribed on the basis of Article 44(1)(b) of Regulation (EU) No 1169/2011.

Re paragraph 1

Bakery products of equal nominal weight without prepackaging are only subject to labelling if they are sold by weight, except in the case of paragraph 2. The regulation does not mention that unpackaged bakery products include bread, biscuits and fine bakery products. No substantive change is intended.

Re paragraph 2

Bread without prepackaging and equal nominal weight as the subcategory of bakery products must always be labelled if it weighs over 250 grams.

Re paragraph 3

In accordance with Article 44(2) of Regulation (EU) No 1169/2011, the manner and form of the information are determined nationally and § 32(6) sentence 1, last alternative of the German Ordinance on Prepackaged Products (old) is continued.

Re paragraph 4

This paragraph regulates the requirements for the nominal fill quantity.

Re paragraph 5

Paragraph 5 refers to inspection and documentation obligations.

Re paragraph 6

These national exceptions were communicated to the European Commission in due time and published in the Federal Gazette Official Part from 3 December 2014, B1. They are reproduced in Section 5 of this Ordinance for improved readability.

Re 19 (Prepacked food intended for direct sale within the meaning of Article 44(1) Regulation (EU) No 1169/2011)

Re paragraph 1

Article 2(2)(e) of Regulation (EU) No 1169/2011 stipulates that food that is prepacked for direct sale is non-prepacked food (case groups of Article 44(1) of Regulation (EU) No 1169/2011).

The application of Article 9(1)(e) of Regulation (EU) No 1169/2011 is prescribed on the basis of Article 44(1)(b) of Regulation (EU) No 1169/2011. The following paragraphs, in accordance with Article 44(2) of Regulation (EU) No 1169/2011, create national regulations on, inter alia, the manner of labelling. In the previous regulation, these case groups were included in the regulations for open packages (§ 31a of the German Ordinance on Prepackaged Products (old)).

Re paragraph 2

This contains regulations regarding the requirements for the net fill quantity.

Re paragraph 3

This paragraph clarifies which other provisions apply to food that is prepacked for direct sale.

Re paragraph 4

These national exceptions were communicated to the European Commission in due time and published in the Federal Gazette Official Part from 3 December 2014, B1. They are reproduced in this regulation for improved readability.

Re 20 (Further provisions on the labelling of fill quantities)

This is § 7(2) of the German Ordinance on Prepackaged Products (old), which with the notification of 29 October 2014 according to Article 42 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers in the Federal Gazette (Federal Gazette Official Part from 3 December 2014, B1) was reported on time.

Re 21 (Labelling the unit quantity)

This provision adopts the same content of § 8 of the German Ordinance on Prepackaged Products (old). This regulation also applies to prepacked food, since with the notification of 29 October 2014 according to Article 42 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers in the Federal Gazette (Federal Gazette Official Part from 3 December 2014, B1) was reported on time.

Re 22 (Exemption or relief from fill quantity labelling)

This provision has the same contents as § 10(1) and (2) sentence 1 points 1 to 6 and sentence 2 of the German Ordinance on Prepackaged Products (old). This regulation continues to apply to prepacked food, since with the notification of 29 October 2014 according to Article 42 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers in the Federal Gazette (Federal Gazette Official Part dated 3 December 2014, B1) was reported on time.

Re 23 (Mandatory values for the nominal fill quantities of wine and spirits)

This paragraph adopts the previous regulation in § 1(1) of the German Ordinance on Prepackaged Products (old) with Annex 1. The three European prepackaged products directives - Directive (EEC) No 75/107, Directive (EEC) 76/211 and Directive (EC) No 2007/45 - were not repealed by Regulation (EU) No 1169/2011.

Re Section 6 (National regulations for prepackaged products of equal nominal fill quantity with labelling by quantity, length or area)

To date, Directive (EEC) No 76/211 and Directive (EC) No 2007/45 do not contain any requirements for labelling by length, area or quantity.

Re § 24 (General regulations for labelling by quantity)

Re point 1 and point 2

This paragraph applies to prepackaged products of equal nominal fill quantity and contains provisions for cases in which, by way of derogation from the basic definition of § 4(2) in conjunction with §3, may be labelled by unit quantity.

The four alternative definitions of § 43(1) Measurement and Calibration Act are adopted.

The wording ‘labelled by unit quantity’ takes into account the fact that this type of labelling represents the granting of a privilege. If a label is selected by the unit quantity, the requirements for the necessary information must be met and the prepackaged product must be provided with the specified mark and symbols, see points 1 and 2.

Re § 25 (Special provisions for labelling by quantity)

Re paragraph 1

The regulation essentially adopts the previous regulation in § 9 point 2 to 6 of the German Ordinance on Prepackaged Products (old).

The regulation of § 9 point 1 of the German Ordinance on Prepackaged Products (old) has to be annulled as it is no longer applicable due to the primacy of Article 19(1)(b) of Regulation (EC) No 1223/2009.

Re paragraph 2

This regulation adopts the previous regulation of § 10(1), second clause of the German Ordinance on Prepackaged Products (old).

The same content regulation for prepacked food can be found in paragraph 5, in § 22(1) of this Ordinance. This concerns the regulation of other prepackaged products.

Re 26 (Requirements for labelling by quantity)

The regulation is a continuation of the previous provision of § 24 of the German Ordinance on Prepackaged Products (old).

Re § 27 (General provisions for labelling by length or area)

Re paragraph 1

This concerns the case group in which length and area are to be labelled. Unlike unit quantity, this does not involve the granting of a privilege.

Re paragraph 2

The regulation is a continuation of the provision of § 18(5) of the German Ordinance on Prepackaged Products (old).

Re § 28 (Requirements for labelling by length or area)

Re paragraph 1

The regulation is a continuation of § 23(1) of the German Ordinance on Prepackaged Products (old). The adjective ‘commercial’ could be omitted, as the Measurement and Calibration Act only focuses on business activities.

This paragraph only concerns prepackaged products that are produced in Germany.

The time of production is legally defined in § 2 point 10.

Re paragraph 2

The regulation is a continuation of § 23(2) of the German Ordinance on Prepackaged Products (old).

This paragraph covers prepackaged products made in third countries. In the case of prepackaged products from EU Member States, the regulation must be interpreted in accordance with European law, so that due to the free movement of goods, the fill quantity must be based on the time of production. Underfilling at the manufacturer in other Member States can only be produced locally by the authorities of the Member State concerned. Example: If a prepackaged product is properly manufactured in another Member State, but is underfilled when imported into Germany, it cannot be based on the time of import, as this would otherwise create trade barriers that are contrary to European law.

The time of production is legally defined in § 2 point 10.

Re paragraph 3

The regulation is a continuation of § 23(3) of the German Ordinance on Prepackaged Products (old).

Re paragraph 4

The regulation is a continuation of § 23(4) of the German Ordinance on Prepackaged Products (old).

Re paragraph 5

The regulation is a continuation of § 23(5) of the German Ordinance on Prepackaged Products (old).

Section 7 (Other sales units and prepackaged products of unequal nominal fill quantities)

To date, Directive (EEC) No 76/211 and Directive (EC) No 2007/45 contain neither specifications for other sales units nor for prepackaged products of unequal nominal fill quantities.

Re § 29 (Open packages)

Paragraphs 1 and 2 of this paragraph are a continuation of the previous regulation § 31a of the German Ordinance on Prepackaged Products (old). However, regulations on food are not included. These are listed in Section 4 of this Ordinance.

Re paragraph 1

In contrast to loose goods, this concerns open packages, which are treated as prepackaged products.

Re paragraph 2

Re point 1

In the case of open packages, labelling by weight is generally feasible, but in individual cases it may also be possible by unit or without labelling. With the reference to § 3 the basic hierarchy applies.

Re point 2

At this point, the labelling obligation regarding the manufacturer is standardised.

Re point 3

With regard to the information on the weight, the requirements according to § 4(4), sentence 1 first clause, and with regard to the unit § 4(4) sentence 2 must be observed.

Re point 4

The regulation standardises the obligation to comply with the nominal fill quantity requirements.

Re paragraph 3

Paragraph 3 is a continuation of the regulation of § 31a sentence 2 of the German Ordinance on Prepackaged Products (old).

Re § 30 (Sales units without wrapping)

Re paragraph 1

Paragraph 1 creates a basic definition.

Re paragraph 2

Re points 1 to 7

The previous regulation of § 33(1) of the German Ordinance on Prepackaged Products (old) is adopted.

Re point 8

Point 8 makes it clear that the list is exemplary and not exhaustive.

Re paragraph 3

This paragraph refers to the procedure for testing in accordance with Annex 4.

Re paragraph 4

This paragraph standardises requirements for the nominal fill quantity.

Re paragraph 5

This regulation adopts the previous regulation from § 33(6) of the German Ordinance on Prepackaged Products (old).

§ 6(2) point 2 of the Calibration Act was not adopted as it contained the definition of nominal fill quantity. This is now legally defined in § 42(3) point 2 of the Measurement and Calibration Act.

§ 6(2) point 3 of the Calibration Act was not adopted, as the concept of placement on the market was conclusively defined by § 2(7) of the Measurement and Calibration Act.

§ 6(2) of the German Ordinance on Prepackaged Products (old) regulated indefinite quantities and has now been continued in § 3(3) sentence 1 of this Ordinance.

§ 6(5) of the German Ordinance on Prepackaged Products (old) regulated the provisions for multi-packs and has been continued in the following regulation of § 39 of this Ordinance.

§ 6(6) of the German Ordinance on Prepackaged Products (old) stipulated that other legal provisions should apply to the labelling of the fill quantity of the German Ordinance on Prepackaged Products (old). This is implemented in § 3(1) of this Ordinance.

§ 18(2) of the German Ordinance on Prepackaged Products (old) regulates the fill quantity for immediate sales and is continued in § 38(7) and is recorded in§ 38 with a general reference.

§ 18(4) and (5) of the German Ordinance on Prepackaged Products (old) has now been continued in § 4(4).

§ 29 of the German Ordinance on Prepackaged Products (old) regulated the manufacturer information and can be found in § 8 of this Ordinance.

§ 30 of the German Ordinance on Prepackaged Products (old) included regulations for fill quantities of less than 5 grams or millilitres. Regulations in this regard can be found in § 33 of this Ordinance.

§ 31(1) of the German Ordinance on Prepackaged Products (old) clarified that the scope of the prepackaged products law only covers prepackaged products of up to 10 kilograms or litres. This regulation can now be found in § 4(1) of this Ordinance.

§ 33a point 1 of the German Ordinance on Prepackaged Products (old) concerned an exception for seagoing vessel equipment and point 3 concerned free samples. These are regulated in § 1(2) point 3 or in § 1(2) point 2, but only with regard to prepackaged products. The reference means that these are also applicable to sales units without wrapping.

Re paragraph 6

This continues the previous regulation in § 33(7) of the German Ordinance on Prepackaged Products (old).

Re § 31 (Requirements pertaining to prepackaged products of unequal nominal fill quantities)

This paragraph creates a basic definition for prepackaged products with unequal nominal fill quantities. These are not regulated by European regulations and therefore for systematic reasons are recorded in Section 7.

Re § 32 (Negative errors for prepackaged products of unequal nominal fill quantities)

This regulation is a continuation of § 25 of the German Ordinance on Prepackaged Products (old).

Re Section 7 (Prepackaged products with quantities of less than 5 grams or millilitres or more than 10 kilograms or more than 10 litres)

The scope of Directive (EEC) No 76/211 and Directive (EC) No 2007/45 begins at 5 grams and 5 millilitres and ends at 10 kilograms and 10 litres, respectively.

Re § 33 (Prepackaged products with quantities of less than 5 grams or millilitres)

This provision makes it clear that prepackaged products with a fill quantity of less than 5 grams or millilitres are generally not subject to labelling.

With this regulation, it should be noted that for ‘prepacked food’ under 5g/5ml, Annex IX point 1(b) of Regulation (EU) No 1169/2011 applies. Cosmetics with a fill quantity below 5 g/5 ml are exempt from labelling in accordance with Article 19(1)(b) sentence 1, second clause of Regulation (EC) No 1223/2009.

Re § 34 (Prepackaged products with fill quantities of more than 10 kilograms or more than 10 litres)

This paragraph restructures the previous regulation of § 31 of the German Ordinance on Prepackaged Products (old). The provisions for EC fertilisers can now be found in the separate Section 3.

Tolerances are regulated at this point for fertilisers that are not designated as EC fertilisers, as well as for soil additives, culture media and plant growth additives (e.g. peat). Regulations have already been provided for this in the national provisions of the Fertilising Act [DüngG of 9 January 2009 (Federal Law Gazette I p. 54, No 136), last amended by Article 1 of the Act of 5 May 2017 (Federal Law Gazette I p. 1068)] and in the implementing regulation [DüMV of 5 December 2012 (Federal Law Gazette I p. 2482), last amended by Article 3 of the Ordinance of 26 May 2017 (Federal Law Gazette I p. 1305)], in particular regarding labelling by weight and volume (§ 6 DüMV in conjunction with Annex 1, Section 10.1.10). The tolerances regulated in § 8 DüMV are the minimum or maximum levels of certain components. The national Fertiliser Ordinance provides for mandatory information on mass or volume in the context of the labelling, but it does not contain any regulations for tolerances on fill quantities. In this respect, the general prepackaged products law (§§ 9 and 34 of this Ordinance) is applicable.

The basic definition of the labelling requirements for prepacked food over 10 kilograms or 10 litres results from the Regulation (EU) No 1169/2011which, in contrast to the prepackaged products guidelines, does not contain a limit of 10 kilograms or 10 litres. In this regard, Article 9(1)(e) directly applies in conjunction with Article 23(1)(b) Regulation (EU) No 1169/2011 .

Re paragraph 1

Paragraph 1 clarifies that the Regulation on Prepackaged Products is fundamentally not applicable to prepackaged products over 10 kg/10 l.

Re paragraph 2

Paragraph 2 creates a basic definition for certain prepackaged products with coal, coke, briquettes, lacquers or paints as well as fertilisers.

Re paragraph 3

Paragraph 3 contains the fill quantity requirements. The second subparagraph contains the special and more liberal fill quantity requirements (tolerances in the case of negative errors) for non-EC fertilisers as well as soil additives, culture media and plant growth additives according to the previous provision in § 31(2) point 4 sentence 3 of the German Ordinance on Prepackaged Products.

Re paragraph 4

This paragraph only regulates prepackaged products with coal, coke or briquettes.

The passage in § 31(2) point 3 German Ordinance on Prepackaged Products (old): ‘... except prepackaged products that were manufactured in another Member State of the European Union or were in free circulation there,’ from the previous regulation, was omitted due to its purely declaratory function.

Re paragraph 5

This paragraph is based on § 31(2) point 1 of the German Ordinance on Prepackaged Products (old). The provision makes it easier for manufacturers of prepackaged products over 10 kg/10 L In the future, in accordance with the requirements of § 41 of the German Ordinance on Prepackaged Products, samples only will also be sufficient for prepackaged products over 10 kg/10 L. A 100% test is no longer necessary.

Re Section 9 (Measuring containers)

The term ‘measuring containers’ is used because bottles that are smaller than 50 millilitres do not correspond to the concept of measuring bottles in the meaning of Directive (EEC) No 75/107.

Re § 35 (Information on bottles used as measuring containers)

Re paragraph 1

The definition of bottles used as measuring containers has been included directly in the section on measuring containers, as the term is only used in this section. The focus was on the contents of Directive (EEC) No 75/107.

Re points 1 to 3

For reasons of clarity, the regulation was divided into three points. There is no change in the contents of the definition in § 2 of the German Ordinance on Prepackaged Products (old).

Bottles used as measuring containers are limited by Directive (EEC) No 75/107 to the volumes mentioned in point 2. Bottles with a volume of less than 50 millilitres are to be regulated nationally and are not considered bottles used as measuring containers. These are referred to as measuring containers and, according to the Measurement and Calibration Act, are a material measure (§ 3 point 11 Measurement and Calibration Act).

Point 3 deals in particular with containers which, when filled up to a certain height or up to a certain percentage of their rim volume, allow their contents to be measured with sufficient accuracy.

Re paragraph 2

The individuals responsible for compliance with the requirements for bottles used as measuring containers are defined in accordance with the measurement and calibration regulations and a basic definition has been created.

Re paragraph 3

Re points 1 to 3

This is a continuation of the previous regulation of § 2(3) point 1, 3 and 4(b) of the German Ordinance on Prepackaged Products (old). The regulation on § 2(3) point 2 of the German Ordinance on Prepackaged Products (old) can be found in paragraph 4 of the new regulation. The previous Annex 8 of the German Ordinance on Prepackaged Products (old) no longer applies in the regulation in point 3 of this new version.

Re paragraph 4

In accordance with the requirements of Directive (EEC) point 75/107 in Annex I point 8.2. it is only permissible to specify the rim volume at the bottom or at the bottom seam. Labelling on the jacket is no longer possible. In this respect, there is a change to the previous regulation in § 3(3) point 2 of the German Ordinance on Prepackaged Products (old).

At the end of the numbering list, there is a definition of the rim volume, since this term is only relevant in the section on measuring containers.

Re point 1

The wording is taken from Section 8.2.1 of Annex I to Directive (EEC) number 75/107.

Re point 2

The regulation implements 8.2.2 from Annex I to Directive (EEC) number 75/107. Formulated in a clearer, more concrete manner, taking into account the volume information permitted under the Units and Time Act.

Re paragraph 5

This applies to glass bottles under 50 millilitres, which are typically used for spirits. These are not covered by Directive (EEC) No 75/107. There is a national regulation for these bottle sizes.

Re point 1

The case group of bottles with a nominal volume of up to 50 millilitres – previously recorded in § 2(3) point 4(a) of the German Ordinance on Prepackaged Products (old) is regulated here.

Re point 2

At this point, the table from § 2(1) of the German Ordinance on Prepackaged Products (old) is adopted with a view to the nominal volume.

Re point 3

The values from § 2(1) of the German Ordinance on Prepackaged Products (old) are also retained for the rim volume.

Re point 4

The regulation of § 2(1) sentence 1, last alternative in conjunction with § 3(1) to 3 German Ordinance on Prepackaged Products (old) is adopted.

Re paragraph 6

This applies to bottles that are not dimensionally stable, e.g. so-called plastic bottles (PET bottles). Furthermore, bottles that are dimensionally stable with a nominal volume of more than 5 litres are also included.

Re § 36 (Accuracy requirements)

This paragraph corresponds to the previous regulation in § 3 of the German Ordinance on Prepackaged Products (old).

Re paragraph 1

This regulation has the same contents as its predecessor in § 3(1) of the German Ordinance on Prepackaged Products (old). It involves the implementation of point 2 sentence 2 from Annex I to Directive (EEC) No 75/107.

Re paragraph 2

The regulation of § 3(2) of the German Ordinance on Prepackaged Products (old) is continued at this point.

Re paragraph 3

The regulation of § 3(3) of the German Ordinance on Prepackaged Products (old) is continued at this point.

Re paragraph 4

The regulation of § 3(4) of the German Ordinance on Prepackaged Products (old) is continued at this point.

Re paragraph 5

The regulation of § 3(5) of the German Ordinance on Prepackaged Products (old) is continued at this point.

Re § 37 (Manufacturer mark)

Re paragraphs 1 to 4

This provision develops § 4 of the German Ordinance on Prepackaged Products (old). For example, an electronic application is also possible.

The previous regulation on the publication in the Federal Gazette (§ 4(4) of the German Ordinance on Prepackaged Products (old)) has been omitted as this is not provided for in Directive (EEC) No 75/107.

On the other hand, information from the European Commission has been included in the text of the regulation.

Re Section 10 (Formal requirements, inspection and documentation obligations as well as market surveillance)

Re § 38 (Legibility and font size)

Re paragraph 1

This adopts the previous regulation of § 18(1) sentence 1 of the German Ordinance on Prepackaged Products (old).

Re paragraph 2

Paragraph 2 is a continuation of § 20(1) of the German Ordinance on Prepackaged Products (old).

The European prepackaged products guidelines were not repealed by Regulation (EU) No 1169/2011, so that their increased requirements with regard to the font size still have to be implemented in national law for ‘prepacked food’.

Re paragraph 3

For the lower area, the font size requirement is increased from 2 to 3 mm based on the specifications in Annex I point 8.1.1. of Directive (EEC) No 75/107.

Re paragraph 4

Paragraph 4 adopts § 20(2) of the German Ordinance on Prepackaged Products (old) and supplements the regulations for numerical data for multi-packs according to § 39(3) and (4) of this Ordinance.

Instead of staggered specifications for the font size, a standardised font size of 4 mm will apply in the future. Since the labelling requires a change in this regard, a transitional period and sell-off period has been established (see Article 1 § 44 of this Ordinance).

Re paragraph 5

Paragraph 5 is a continuation of § 11(2) of the German Ordinance on Prepackaged Products (old).

Re paragraph 6

Paragraph 6 builds on § 20(3) of the German Ordinance on Prepackaged Products (old) and takes legal and actual changes into account.

Re paragraph 7

Paragraph 7 is a continuation of § 18(2) of the German Ordinance on Prepackaged Products (old).

Re paragraph 8

According to Article 4(1) of Directive (EEC) No 76/211, the nominal fill quantity must be stated on the respective prepackaged product. However, the prepackaged products guidelines, which were not repealed by Regulation (EU) No 1169/2011, only apply up to 10 kilograms or litres. The scope of Regulation (EU) No 1169/2011 is not limited in this respect. From the nominal fill quantity of 10 kilograms or litres, Regulation (EU) No 1169/2011 is not superseded by the prepackaged products guidelines.

Regarding the formal requirements, Regulation (EU) No 1169/2011 in Article 8 simplifies the manner of communication in the intermediate trade stages regarding information that is necessary for the mandatory labelling for end consumers or providers of industrial catering.

In contrast to the directives and the Regulation on Prepackaged Products, which regulate all levels of trade, the aim of Regulation (EU) No 1169/2011 is the protection of the end consumer.

The regulation of § 18(3) of the German Ordinance on Prepackaged Products (old):

‘For large packages with fresh fruit and vegetables

1. placed on the market at a trade level prior to delivery to the end consumer, or

2. only sold to end consumers who use the product in their independent professional or commercial activities or in their governmental or official work,

the nominal fill quantity only needs to be stated in the accompanying documents. Large packages within the meaning of this Ordinance are prepackaged products which, according to their fill quantity, are usually not sold to end consumers other than those mentioned in sentence 1 point 2.’

was not adopted as the prepackaged products regulations do not apply. The regulations on accompanying documents arise from Article 8(7) of Regulation (EU) No 1169/2011.

Re § 39 (Multiple packages, multi-packs)

§ 19(1)(b) of Regulation (EC) No 1223/2009 applies directly to cosmetic products.

Re paragraph 1

Paragraph 1 is a continuation of § 6(3) of the German Ordinance on Prepackaged Products (old).

Re paragraph 2

This regulation adopts § 6(4) of the German Ordinance on Prepackaged Products (old).

The Food Information Regulation [Regulation (EU) No 1169/2011] sets out rules for prepacked food in Annex IX point 4. In this context, it is pointed out that § 6(4) of the German Ordinance on Prepackaged Products (old) was part of the notification of 29 October 2014 pursuant to Article 42 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers, was not objected to by the European Commission and was published in the Federal Gazette (Federal Gazette Official Part on 3 December 2014, B1).

Re paragraph 3

This is § 6(5) of the German Ordinance on Prepackaged Products (old).

With regard to prepacked food, it should be noted that § 6(5) of the German Ordinance on Prepackaged Products (old) is part of the notification of 29 October 2014 pursuant to Article 42 of Regulation (EU) No 1169/2011 of 25 October 2011 on the provision of food information to consumers, was not objected to by the European Commission and was published in the Federal Gazette (Federal Gazette Official Part on 3 December 2014, B1).

Re paragraph 4

This regulation on mandatory nominal fill quantities is adopted by the previous regulation from § 1(2) of the German Ordinance on Prepackaged Products (old) and implements Article 5(1) of Directive (EC) No 2007/45.

The second sentence implements Article 5(2) of Directive (EC) No 2007/45.

Re § 40 (Market surveillance)

Re paragraph 1

Re point 1

This point essentially refers to the basic definition of the ordinance.

Re point 2

The basic definition for ‘cosmetic products’ arises from the European Cosmetics Regulation cited.

Re point 3

The basic definition for ‘prepacked food’ arises from the European Food Information Regulation cited.

Re paragraph 2

Paragraph 2 specifies the time and procedure with regard to measures in the context of market surveillance.

Re paragraph 3

Paragraph 3 sets out a regulation for bottles used as measuring containers.

Re § 41 (Inspections and documentation obligation):

Re paragraph 1

This paragraph is the basic definition that was taken from Annex 1 point 4 of Directive (EEC) No 76/211.

In contrast to the previous regulation, it is now considered sufficient, in accordance with the above-mentioned directive, if testing is carried out either as part of the production process or as part of the inspection. This regulation thus contributes to a reduction in bureaucracy.

And with that, the previous § 28 of the German Ordinance on Prepackaged Products (old) is:

‘prepackaged products of equal nominal fill quantity may be manufactured and placed on the market or otherwise made available on the market without the use of measuring instruments, provided that §§ 22 to 24 and 27 are complied with. With the same prerequisite, measuring instruments that are only used for the manufacture of prepackaged products of equal nominal fill quantity are exempt from the calibration obligation.’

the contents are recorded, as testing during either manufacture or inspections is sufficient and a calibrated or conformity-rated measuring instrument or inspection measuring instrument is sufficient accordingly.

Re paragraph 2

Paragraph 2 creates the requirements for measurements or inspections for prepackaged products, which are labelled according to quantity, length or area, as well as the obligation to record and store test results.

Re paragraph 3

Paragraph 3 specifies the requirements for the methods of measurement or inspection and refers to Annex 7 with regard to the requirements for measuring instruments used for inspections or measurements.

Re paragraph 4

This paragraph regulates the obligation to record and retain test results.

Re paragraph 5

This regulation simplifies the process for artisanal businesses that facilitate financial and organisational relief.

Re paragraph 6

Paragraph 6 regulates special cases.

Re § 42 (Reference temperature)

This regulation is based on § 26 of the German Ordinance on Prepackaged Products (old).

Re Section 11 (Administrative offences, transitional provisions)

Re § 43 (Regulatory offences)

This regulation creates fines.

Re § 44 (Transitional provisions)

Re paragraph 1

Due to the change in the legal situation (future requirement of a uniform font size of 4 millimetres), the labelling for multi-packs must be changed. A transitional period and a sell-off period are granted in this regard.

Re paragraph 2

This paragraph provides a sell-off and transitional period for measuring instruments.

Re Annex 1 (Mandatory values for the nominal fill quantities of prepackaged products with wine and spirits)

[…]

Re Annex 2 (Definition of different times of production for prepackaged products and other sales units)

[…]

Re Annex 3 (Procedure for checking the fill quantity of prepackaged products labelled by weight or volume and other sales units by the responsible authorities)

[…]

Re Annex 4 (Procedure for testing the fill quantity labelled by length, area or number of prepackaged products and sales units of equal nominal length or equal nominal area without wrapping by the responsible authorities)

[…]

Re Annex 5 (Deviating testing spaces for prepackaged products and other sales units)

[…]

Re Annex 6 (Procedure for testing measuring containers by the responsible authorities)

[…]

Re Annex 7 (Key requirements for measuring instruments)

Re Article 2 (Amending the Regulation on fees for measuring and calibration)

Re point 1

The fees are adjusted to the structure of the new Regulation on Prepackaged Products.

**Re Key Figures Group 16 in Appendices I and II to the Regulation on fees for measuring and calibration**

**Incorporation of the changed paragraph structure of the Regulation on Prepackaged Products (new)**

The amended paragraphs of the Regulation on Prepackaged Products (new) have been incorporated.

The fees for key figures group 16 will be increased by an average of 9.8% in Annex I and by a further 6.8% from 2021 (Annex II). The other key figure groups were created in the same way with the Regulation on fees for measuring and calibration of 30 April 2019 (Federal Law Gazette I p. 579). Previously, some fees for key figures 16.1… were reduced, the fee increases for these key figures were calculated on this reduced basis.

Headings for key figures 16.1…

The headings for the key figures 16.1 ... have been adapted to the new wording in the Regulation on Prepackaged Products (new), in which the terms ‘destructive tests’ and ‘non-destructive tests’ are used.

Note H 16.1-1 is omitted, as it was only necessary in the calibration costs regulation (predecessor of the Regulation on fees for measuring and calibration) due to a different heading for key figures group 16.

New key figure group 16.0.1 ... for the prepackaged products inspection of bakery products without prepackaging:

When it comes to the prepackaged products inspection of bakery products without prepackaging, the full test and the sample test only differ slightly with regard to time. The time-consuming sampling from warehouses, which is otherwise necessary in the sampling procedure, is no longer necessary for bakery products without prepackaging. The bakery products can either be checked directly in the bakery or in the delivery area, which can also be done with a full test.

For this reason, a separate key figure group for bakery products without prepackaging is justified. The fee amount is based on the time required for a full test. This is largely determined by the number of bakery products tested and to a lesser degree by the number of lots. For this reason, the total number of bakery products inspected at a production site is used to determine the amount of the fees, and no longer the number of lots. This new calculation leads to a significant reduction in fees, particularly when checking several lots, which corresponds to the time required for prepackaged product inspections.

Note H 16-1 (new):

For food without prepackaging, complaint-free market surveillance should continue to be free of charge throughout the calendar year if the last fully completed market surveillance process was carried out without complaint from the same place of manufacture and the same responsible person. This means that fruit and vegetables or bakery products without prepackaging can be checked both at the place of manufacture and in the branch locations. However, only one complaint-free inspection for each production site by the same responsible person can be charged. If not all of the necessary tests are carried out in one day at a manufacturing location and must be continued in the near future, then the continuation of the market surveillance does not count as ‘further complaint-free market surveillance’ and is not free of charge. The responsible person will be determined by Article 8(1) of Regulation (EU) No 1169/2011 (LMIV).

**Discount for select prepackaged product inspection fees for key figures 16.1.1.1-16.1.1.3, 16.1.2.1-16.1.2.3, 16.1.3.1-16.1.3.3**

An increasing amount of notices from the calibration authorities due to customer complaints have made it necessary to collect data again in some areas of market surveillance for prepackaged products.

The key figures 16.1.1.1-16.1.1.3, 16.1.2.1-16.1.2.3, 16.1.3.1-16.1.3.3 were affected.

In order to build the broadest possible database during the inspections and any necessary recalculations, all calibration authorities of the Federal States were asked to report the data corresponding to the key figures concerned.

Based on the feedback received, a recalculation was necessary, which resulted in reductions of 32%, 34% and 33% for the key figures range 16.1.1.1-16.1.1.3 which were the largest in terms of the share of fees for ‘non-destructive tests for a normal single-sample random test...’.

On average, the recalculation of the nine affected fee rates for prepackaged products resulted in a fee reduction of 23%.

These percentages refer to the original fees in 2015, the linear increase is not included in this amount.

**Re Key Figures 16.1… to 16.6…**

In the size of the samples to be taken, a larger number of prepackaged products to be tested was specified in the Regulation on Prepackaged Products (new). This made it necessary to add another key figure for each type of sample.

**Key figures group 16.5.1 ..: Testing the fill quantity of measuring containers using a template test**

A preliminary test for prepackaged products using measuring templates is not provided for according to the Measurement and Calibration Ordinance or the Regulation on Prepackaged Products (new). A template test is a non-destructive test. The fee for this can be calculated according to 16.1.1 ... Due to the reduction in fees for 16.1.1 ... there is only a small difference in fees between 16.1.1 ... and the previous fee for the template test has increased by the rate of the general fee increase, meaning that no specific fee for the template test is justified.

**For key figure 16.6.3.1 (new fee)**

c) Testing of prepackaged products with fertilisers, EC fertilisers or soil additives or other substances in accordance with Annex 3 point 3(f) of the Regulation on Prepackaged Products

Testing of prepackaged products with fertilisers, EC fertilisers or soil additives or other substances in accordance with Annex 3 point 3(f) of the Regulation on Prepackaged Products that are over 10 litres differs significantly from other prepackaged products. Therefore, a separate key figure has been added according to work required.

**For key figure 16.6.4.1 (new fee)**

Marketability test for batch sizes < 10 packages, fee based on work required according to key figures 19.1.1 .. or 19.1.2 ..

According to §§ 9 and 36 of the Regulation on Prepackaged Products, as well as Annex I point 6 of the Directive (EEC) No 76/211, small batches of manufactured or imported prepackaged products are to be monitored for compliance with the legal requirements.

Such small batches can be monitored at all levels of trade, a practice already conducted by the calibration authorities. Both the national and the European legislature have underscored their intentions regarding the aforementioned regulations that the legal requirements must be met without exception by all prepackaged products provided. Monitoring the marketability of small batches is also absolutely necessary in order to achieve the consumer protection objective.

In addition, the fee also serves to ensure the fairness of fees. While bakeries with larger quantities of bread packed at the same time can be tested at a charge, for example, bakery shops remain free of charge due to the small amount of bread baked at the same time, even though they have a high overall volume of goods.

**Re key figure 16.8.2.1 (new heading)**

7. After complaints according to § 4(2) points 1 to 3, § 11(2), § 17(1), (2) and (5), § 18(1) to (3) and (6), § 29(2) points 1 to 3, § 30(1) points 1 and 2, § 31(1) points 1 to 3, § 34 points 1 to 3, § 35 and § 38(1) in conjunction with § 40 of the Regulation on Prepackaged Products

**Re key figure 16.8.2.1 (new)**

Testing the requirements for prepackaged products and measuring containers after complaints without re-checking the fill quantity

The testing of requirements for prepackaged products and measuring containers are conducted in accordance with §§ 16, 27 to 29, 32 and 33 (e.g. font size) as part of the sample test and full tests in accordance with the Regulation on Prepackaged Products. Testing the fill quantity requires the greatest amount of time. In the case of complaints that do not concern the fill quantity, a less time-consuming inspection is usually necessary, which is conducted according to the work required pursuant to key figures 19.1.1 ... or 19.1.2 ...

Re Article 2

Gradual increase in fees as of 1 January 2021.

Re Article 3 (Amendment of the regulation to adapt national regulations to Regulation (EU) No 1169/2011 on the provision of food information to consumers from 5 July 2017 (Federal Law Gazette I p. 2272))

For reasons of clarity, some of the regulations concerning prepackaged products law have been adopted from the amending regulation to adapt national regulations to Regulation (EU) No 1169/2011 on the provision of food information to consumers. These are to be omitted from the latter regulation.

Re paragraph 1

Re point 1

In accordance with Article 44 of Regulation (EU) No 1169/2011 the regulations from Article 1 § 4(5) of the amending regulation to adapt national regulations to Regulation (EU) No 1169/2011 have been adopted in §§ 15 and 16 of this Ordinance. A regulation in the amending regulation to adapt national regulations to Regulation (EU) No 1169/2011 in the Amendment of the Food Information Implementation Ordinance (LMIDV) is therefore no longer necessary.

Re point 2

Reinforcement of Article 9(1)(e) Regulation (EU) No 1169/2011, which applies directly, was ensured in § 41(2) point 2 of this Ordinance in conjunction with the blanket provision in § 60(1) point 27 of the Measurement and Calibration Act. The regulation in Article 1 § 5(1) point 5 of the amending regulation to amend national regulations to Regulation (EU) No 1169/2011 may therefore be omitted.

Re point 3

This involves a conforming change due to point 2.

Re paragraph 2

As part of the amendment, the requirements of Article 27 of the amending regulation to amend national regulations to Regulation (EU) No 1169/2011 have been incorporated into the text of the new Regulation on Prepackaged Products. Article 27 may therefore be omitted.

Re Article 5 (Entry into force, abrogation)

The provision deals with the coming into effect of this Ordinance and the abrogation of the former Regulation on Prepackaged Products.

1. ) This Ordinance serves to transpose

   - Council Directive 75/107/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to bottles used as measuring containers (OJ L 042 of 15.02.1975, p. 14),

   - Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products (OJ L 46 of 21.02.1976, p. 1),

   - Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal fill quantities for prepackaged products, amending Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC (OJ L 247 of 21.09.2007, p. 17). [↑](#footnote-ref-1)
2. ) Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.09.2015, p. 1). [↑](#footnote-ref-2)