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STATUTORY INSTRUMENTS

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**1995 No. 1907**

**WEIGHTS AND MEASURES**

**The Non-automatic Weighing Instruments  
(EEC Requirements) Regulations 1995**

<i>Made</i>	- - - -	<i>17th July 1995</i>
<i>Laid before Parliament</i>		<i>19th July 1995</i>
<i>Coming into force</i>	- -	<i>1st September 1995</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the regulation of specifications, construction, placing on the market and use of equipment intended for weighing, measuring or testing or for purposes ancillary thereto, in exercise of the powers conferred on him by that section, and (as respects Part III), of the powers conferred on him by sections 15(1), 86(1) and 94(1) of the Weights and Measures Act 1985<sup>(3)</sup> and all other powers enabling him in that behalf, hereby makes the following Regulations:—

**PART I**

**PRELIMINARY**

**Citation, commencement, revocation and transitional provisions**

1.—(1) These Regulations may be cited as the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995 and shall come into force on 1st September 1995.

(2) The Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992<sup>(4)</sup> (“the 1992 Regulations”) are hereby revoked.

(3) Notwithstanding the revocation of the 1992 Regulations, before 1st January 1997—

- (a) in a case where the EC mark of conformity is affixed to an instrument in accordance with the provisions of the 1992 Regulations relating to the procedures for the affixing of that mark, the provisions of these Regulations relating to the procedures for the affixing of the CE marking shall not have effect; and

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(1) S.I. 1975/427.

(2) 1972 c. 68.

(3) 1985 c. 72: section 94(1) contains a definition of “prescribed”.

(4) S.I. 1992/1579 as amended by S.I. 1995/428 and extended by section 2(1) of the European Economic Area Act 1993 (c. 51).

- (b) nothing in these Regulations shall prohibit the placing on the market and bringing into service of instruments in respect of which the provisions of the 1992 Regulations relating to the procedures for affixing the EC mark of conformity are complied with.

## Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the following meanings—

“the 1981 Order” means the Weights and Measures (Northern Ireland) Order 1981<sup>(5)</sup>;

“the 1985 Act” means the Weights and Measures Act 1985;

“approved body” means—

- (i) a body which is designated by the Secretary of State under regulation 9(1) for the purpose of carrying out one or more of the tasks referred to in Article 8 of the Directive; or
- (ii) a body which is designated for that purpose by another member State, and whose name is notified to the Commission and the member States under Article 9 of the Directive;

“approved quality system” means a quality system approved under regulation 13 or under a corresponding provision of the law of another member State;

“approved type” means a type in respect of which an EC type-approval certificate is in force;

“authorised person” means an inspector, or some other person employed by a local weights and measures authority, who is authorised by the chief inspector of weights and measures of that authority to exercise functions under these Regulations in its area;

“authorised representative”, in relation to a manufacturer, means his authorised representative established in the Community;

“CE marking” has the meaning assigned to it in regulation 18(5) and, where the context so permits, references, in these Regulations to the CE marking include references to the EC mark of conformity affixed under the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992 and to the CE marking affixed under provisions of the law of another member State corresponding to these Regulations;

“the Commission” means the Commission of the European Communities;

“the Community” means the European Community and the EEA States;

“design documentation” means the documentation referred to in Annex III of the Directive which is set out in Schedule 1;

“the Directive” means Council Directive [90/384/EEC](#) of 20th June 1990 on the harmonisation of the laws of the member States relating to non-automatic weighing instruments<sup>(6)</sup> as amended by Council Directive [93/68/EEC](#)<sup>(7)</sup>;

“disqualification sticker” means—

- (i) a sticker of which the design is published in the United Kingdom by the Secretary of State; or
- (ii) a sticker, symbol or other device of which the design is approved in another member State by the competent authority,

and which indicates that an instrument to which it is affixed does not satisfy the requirements of regulation 5 or of corresponding provisions under the law of another member State;

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<sup>(5)</sup> [S.I. 1981/231 \(N.I. 10\)](#) and see [S.I. 1982/846 \(N.I. 11\)](#).

<sup>(6)</sup> OJ No. L189, 20.7.90, p.1 as corrected by the corrigendum published in OJ No. L258, 22.9.90, p.35.

<sup>(7)</sup> OJ No. L220, 30.8.93, p.1.

“EC declaration of type conformity” means the declaration of type conformity referred to in regulation 13(7)

“EC surveillance” means the procedure whereby an approved body ensures that a manufacturer who makes an EC declaration of type conformity in respect of instruments manufactured by him properly fulfils the obligations arising out of the approved quality system specified in paragraph 2 of Annex II of the Directive;

“EC type-approval certificate” means a certificate issued by the Secretary of State under regulation 10 or by an approved body designated by another member State, as the case may be;

“EC type-examination” means the procedure whereby the Secretary of State verifies and certifies that a type conforms with the provisions of the Directive which apply to it;

“EC unit verification” means the procedure whereby the manufacturer or his authorised representative ensures and declares that an instrument generally intended for a specific application, in respect of which a certificate referred to in paragraph 4.2 of Annex II of the Directive has been issued (that is to say, in the case of an instrument subject to these Regulations, in accordance with regulation 12(4) under which the Secretary of State carries out examinations and tests) conforms with the requirements of the Directive which apply to it;

“EC verification” means the procedure whereby the manufacturer or his authorised representative ensures and declares in accordance with paragraph 3 of Annex II of the Directive that an instrument—

- (i) has been checked in accordance with paragraph 3.3 (that is to say, in the case of an instrument subject to these Regulations, in accordance with regulation 11(4) under which the approved body carries out examinations and tests)
- (ii) is, where appropriate, in conformity with the type described in the EC type-approval certificate; and
- (iii) satisfies the requirements of the Directive which apply to it;

“EEA State” means a Contracting Party to the EEA Agreement and in this definition “the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“essential requirements” means the requirements in Annex I of the Directive which is set out in Schedule 2;

“harmonised standard” means a technical specification adopted by one or both of the European Committee for Standardisation and European Committee for Electrotechnical Standardisation upon a remit from the Commission in accordance with Council Directive [83/189/EEC](#) of 28th March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(8)</sup>;

“identification number” means the number assigned by the Commission to the Secretary of State or to the approved body in question, as the case may be; and, where the context so permits, references in these Regulations to the identification number include references to an identification symbol so assigned before these Regulations come into force;

“inscription” means, as the case may require, an inscription referred to in regulation 18(3)(c) or (d) “instrument” means a non-automatic weighing instrument (including ancillary equipment) which—

- (i) requires the intervention of an operator during weighing, and
- (ii) serves to determine the mass or weight of any thing by using the action of gravity on that thing (whether or not it may also determine related matters such as price, quantity or magnitude on the basis of mass or weight);

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(8) OJ No. L109, 26.4.83, p.8.

“load receptor” means a part of an instrument on which loads are placed for the purpose of their being weighed;

“member State” means a member State of the European Community or an EEA State;

“quality system” means all the elements, requirements and provisions adopted by the manufacturer to ensure conformity of instruments with the approved type and the requirements of the Directive which apply to them and includes, in particular—

- (i) the quality objectives and the organisational structure, responsibilities and powers of the managerial staff with regard to product quality,
- (ii) the manufacturing process, the quality control and assurance techniques and the systematic measures that will be used during manufacture,
- (iii) the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out, and
- (iv) the means to monitor the achievement of the required product quality and the effective operation of the quality system;

“relevant national standard” means a standard which is applicable to the instrument in question and of which the reference number is published—

- (i) in the United Kingdom, by the Secretary of State in such manner as he considers appropriate, or
- (ii) in another member State, by the competent authority,

and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities;

“re-qualification sticker” means a sticker of which the design is published by the Secretary of State and which indicates that an instrument to which it is affixed (being an instrument to which a disqualification sticker has previously been affixed) satisfies the requirements of regulation 5;

“Schedule 3 application”, in relation to an instrument, means an application described in Schedule 3;

“sticker”, except in the definitions of “disqualification sticker” and “re-qualification sticker”, means a green sticker measuring at least 12.5mm by 12.5 mm square bearing a capital letter “M” printed in black and referred to in paragraph 1 of Annex IV of the Directive; and

“type” has the meaning given by regulation 10(1)

and other expressions used in these Regulations have the same meanings as in the 1985 Act or, in Northern Ireland, the 1981 Order.

(2) In these Regulations—

- (a) “supply” means supply, whether as principal or agent for another, and includes supply by way of sale, supply under a hire-purchase agreement, conditional sale agreement or credit-sale agreement or supply under an agreement for the hiring of goods;
- (b) in references to the supply of an instrument, where a person (“the ostensible supplier”) supplies the instrument to another person (“the customer”) under any such agreement and the ostensible supplier—
  - (i) carries on the business of financing the provision of goods for others by means of such agreements; and
  - (ii) in the course of that business acquires his interest in the goods supplied to the customer as a means of financing the provision of them for the customer by a further person (“the effective supplier”),

the effective supplier and not the ostensible supplier shall be treated as supplying the instrument to the customer;

and in the this paragraph “conditional sale agreement”, “credit-sale agreement” and “hire-purchase agreement” have the same meanings as in the Consumer Credit Act 1974<sup>(9)</sup>.

(3) In these Regulations, references to instruments of the a numbered Class shall be construed in accordance with paragraph 2 of Annex I of the Directive which is set out in Schedule 2.

(4) For the purposes of these Regulations, the expressions “maximum capacity”, “minimum capacity” and “weighing range” shall be construed in accordance with the terminology of the International Organisation for Legal Metrology<sup>(10)</sup>.

(5) The abbreviations of, and symbols for, units of measurement used in these Regulations refer to the relevant units as follows—

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degrees Celsius	°C
gram	g
kilogram	kg
milligram	mg
millimetre	mm
pound	lb.

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(6) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule so numbered in these Regulations.

### Application of Regulations

3.—(1) Subject to paragraph (2) below, these Regulations apply to any instrument.

(2) These Regulations do not apply to—

(a) an instrument—

(i) in respect of a pattern of which EEC pattern approval was granted or extended before 1st January 1993 under the Measuring Instruments (EEC Requirements) Regulations 1988<sup>(11)</sup> or by any member State other than the United Kingdom and which is in force; and

(ii) which bears a mark of EEC initial verification or of EEC partial verification which is first affixed before 1st January 2003 under the Regulations mentioned in head (i) above or by any member State other than the United Kingdom; or

(b) an instrument which—

(i) does not require EEC pattern approval, and

(ii) bears a mark of EEC initial verification or of EEC partial verification which is first affixed before 1st January 2003 under the Regulations mentioned in subparagraph (a)(i) above or by any member State other than the United Kingdom; or

(c) an instrument—

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<sup>(9)</sup> 1974 c. 39.

<sup>(10)</sup> See “Nonautomatic weighing instruments Part 1: Metrological and technical requirements-Tests” OIML R 76 1, Edition 1992 (E) published by the International Organisation for Legal Metrology.

<sup>(11)</sup> S.I. 1988/186 amended by S.I. 1988/1128

- (i) in respect of a pattern of which pattern approval is granted or extended under section 12 of the 1985 Act and which is in force, and
- (ii) which is first passed as fit for use for trade and stamped before 1st January 2003 under the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988(12); or
- (d) an instrument which—
  - (i) does not require pattern approval, and
  - (ii) is first passed as fit for use for trade and stamped before 4th April 1989 under the Regulations mentioned in sub-paragraph (c)(ii) above; or
- (e) an instrument—
  - (i) to which none of the foregoing provisions of this paragraph applies, and
  - (ii) which does not comply with regulation 5 or with regulation 6, as the case may require, and
  - (iii) which is first taken into service before 1st January 2003.

(3) For the avoidance of doubt it is hereby declared that the 1985 Act (save for the purposes of Part III) and the Measuring Instruments (EEC Requirements) Regulations 1988 continue to apply to instruments to which these Regulations do not apply by virtue of paragraph (2) above.

#### **Use and supply of instruments**

4.—(1) No person shall—

- (a) use any instrument for any Schedule 3 application; or
- (b) have any instrument in his possession for such use,

unless the requirements of regulation 5, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, are satisfied.

(2) No person shall supply any instrument for use otherwise than for Schedule 3 applications unless the requirements of regulation 6, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, are satisfied.

(3) Any person who fails to comply with—

- (a) the provisions of paragraph (1) above shall be guilty of an offence and any instrument to which the offence relates shall be liable to be forfeited;
- (b) the provisions of paragraph (2) above shall be guilty of an offence.

(4) Without prejudice to the liability of any instrument to be forfeited, it shall be a defence for any person charged with an offence under paragraph (3)(a) above to show—

- (a) that he used the instrument only in the course of his employment by some other person; and
- (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, that the requirements referred to in paragraph (1) or paragraph (2) above, as the case may be, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, were not satisfied in relation to the instrument.

(5) If any fraud is committed in the using of an instrument for a Schedule 3 application, the person committing the fraud and any other person party to it shall be guilty of an offence and the instrument shall be liable to be forfeited.

### **Instruments used for Schedule 3 applications to satisfy the essential requirements**

5.—(1) Instruments to which these Regulations apply which are used for any Schedule 3 application shall satisfy the essential requirements:

Provided that this obligation shall not apply to device—

- (i) which are included in, or connected to, an instrument and which are not used for any Schedule 3 applications; or
  - (ii) to which the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive has been affixed in accordance with regulation I 8(7).
- (2) An instrument shall not be taken to satisfy the essential requirement—
- (a) unless—
    - (i) save in the case of an instrument which does not use electronic devices and of which the load measuring device does not use one or more springs to balance the load, an EC type-approval certificate has been issued in respect of the relevant type and is in force; and
    - (ii) one of the conditions set out in paragraph (3) below is satisfied in relation to it; or
  - (b) unless EC unit verification has been carried out and the instrument bears the CE marking, inscriptions, sticker and identification number which have been affixed under regulations 12 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom.
- (3) The conditions referred to in paragraph (2)(a)(ii) above are—
- (a) a condition that an EC declaration of type conformity has been made, and an EC conformity marking, inscriptions, sticker and identification number have been affixed to the instrument by the manufacturer under regulations 13 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom;
  - (b) a condition that an EC verification has been carried out and the instrument bears the CE marking, inscriptions, sticker and identification number which have been affixed under regulations 11 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom.
- (4) Neither of the conditions mentioned in sub-paragraph (a)(ii), nor the requirements of sub-paragraph (b), of paragraph (2) shall be satisfied in relation to an instrument at any time when—
- (a) any conformity marking, inscription, sticker, re-qualification sticker or identification number affixed to the instrument has been defaced, destroyed or removed otherwise than by fair wear and tear; or
  - (b) a disqualification sticker has been affixed to the instrument, the effect of which has not been cancelled by a re-qualification sticker affixed to it.
- (5) The documents relating to procedures, and any connected correspondence, relating to EC type-examination, EC declaration of type conformity, EC verification and EC unit verification shall be drafted in an official language of the member State where those procedures are to be carried out or in a language accepted by the Secretary of State or approved body, as the case may require.

### **Information to be borne by instruments not subject to EC verification, EC unit verification or EC declaration of type conformity**

6.—(1) An instrument to which these Regulations apply which has not been subject to EC verification, EC unit verification or EC declaration of type conformity shall bear the following inscriptions affixed in a clearly visible, easily legible and indelible form—

- (a) the manufacturer's mark or name; and

(b) the maximum capacity of the instrument in the form “Max . . .”.

(2) The instruments referred to in paragraph (1) above may not bear the stickers provided for in paragraph 1(1)(b) of Annex IV of the Directive.

### **Instruments conforming with relevant national standards**

7. An instrument to which these Regulations apply and which bears the CE marking and complies with the relevant national standards applicable to the instrument shall be taken to satisfy the requirement in regulation 5(1), unless there are reasonable grounds for suspecting that the instrument does not satisfy that requirement.

### **Appropriate equipment for tests**

8.—(1) Subject to paragraph (2) below, for the purposes of regulations 11(4), 12(3), 13(7) and 38(1) an instrument shall be tested by the use of weights as set out in the following Table.

**TABLE**

Accuracy Classification of Instruments	Weights to be used
Class I	Weights conforming to the requirements of the 1974 directive (other than class F1, F2 and M1 weights therein referred to)
Class II	<p>Local standard weights, working standard weights which fall within the prescribed limits of error relating to the equivalent local standard weights, test weights not greater than 56 lb or 20 kg which fall within the prescribed limits of error relating to the equivalent local standard weights or test weights greater than 56 lb or 20 kg which fall within 0.15 of the prescribed limits of error for the test weights in question</p> <p>Northern Ireland local standard weights, Northern Ireland working standard weights which fall within the limits of error relating to the equivalent local standard weights, Northern Ireland test weights not greater than 56 lb or 20 kg which fall within the limits of error relating to the equivalent local standard weights or test weights greater than 56 lb or 20 kg which fall within 0.15 of the limits of error for the test weights in question</p> <p>Weights conforming to the requirements of the 1974 directive (other than class M1 weights therein referred to)</p>
Class III and having more than 5,000 scale intervals	Local standard weights, working standard weights, test weights not greater than 56 lb or 20 kg or test weights greater than 56 lb or 20 kg which fall within half the prescribed limits of error for the test weights in question



Accuracy Classification of Instruments	Weights to be used
Class III and having no more than 5,000 scale intervals and Class IIII	Northern Ireland local standard weights, Northern Ireland working standard weights, Northern Ireland test weights not greater than 56 lb or 20 kg or test weights greater than 56 lb or 20 kg which fall within half the limits of error for the test weights in question
	Weights conforming to the requirements of the 1974 directive
	Local standard weights, working standard weights or test weights
	Northern Ireland local standard weights, Northern Ireland working standard weights or Northern Ireland test weights
	Weights conforming to the requirements of the 1974 directive

(2) For the purposes of paragraph (1) above—

- (a) the error in the weights to be used in any particular case shall not exceed the amount specified in the relevant national standard; and
- (b) the quantities of weights to be used in any particular case shall be ascertained in accordance with the relevant national standard.

(3) In this regulation—

- (a) “local standard weights”, “working standard weights” and “test weights” shall be construed in accordance with the Weights and Measures (Local and Working Standard Weights and Testing Equipment) Regulations 1986(13);
- (b) “Northern Ireland local standard weights”, “Northern Ireland working standard weights” and “Northern Ireland test weights” shall be construed in accordance with the 1981 Order; and
- (c) “the 1974 directive” means Council Directive 741148/EEC(14) on the approximation of laws of the member States relating to weights of from 1 mg to 50 kg of above-medium accuracy.

(4) On and after 1st January 2000, in the Table set out in paragraph (1) above, the words “56 lb or” shall be omitted in each place where they occur.

### **Designation of bodies to exercise functions under the Regulations**

9.—(1) On application made by the body, the Secretary of State may, for the purposes of Article 8 of the Directive, designate one or more bodies of persons (“approved bodies”) which appear to him to satisfy the criteria set out in Annex V of the Directive to carry out in respect of instruments all or any of the functions to be carried out by approved bodies—

- (a) under regulations 11 and 14 relating to EC verification; and
- (b) under regulations 13, 15 and 17 relating to quality systems and EC surveillance.

(2) Any such approval—

(13) S.I. 1986/1685 as amended by S.I. 1991/1775 and 1994/1851.

(14) OJ No. L84, 28.3.1974, p.3.

- (a) may be given for an unlimited period, or for a specified period, or for specified purposes; and
  - (b) may be given subject to conditions (including conditions which are to apply upon or following withdrawal of the approval).
- (3) The Secretary of State may withdraw an approval if—
- (a) the body so requests; or
  - (b) the body ceases to satisfy the criteria specified in the said Annex V of the Directive; or
  - (c) the body ceases to comply with any such condition.
- (4) The Secretary of State may vary or amend an approval if—
- (a) the body so requests; or
  - (b) having regard to these Regulations and to the Directive, it appears to him necessary or expedient.
- (5) The Secretary of State may from time to time carry out inspections of the functions of an approved body with a view to verifying that it complies with any conditions subject to which the approval is granted and with the provisions of these Regulations and the Directive but, unless it appears to him that there are circumstances which make it necessary or expedient to do so, he shall not carry out such an inspection within two years from the date of approval of the body or, if later, of his last inspection under this paragraph.
- (6) In a case where the Secretary of State—
- (a) refuses an application for designation under paragraph (1) above or imposes any condition more onerous than those proposed by the body;
  - (b) withdraws an approval under paragraph (3)(b) or (c) above; or
  - (c) varies or amends an approval pursuant to paragraph (4)(b) above;
- he shall inform the body of the grounds for the decision.
- (7) If for any reason an approved body ceases to be an approved body under this regulation, the Secretary of State may designate another approved body to take over its functions in respect of such cases as he may specify.
- (8) All local weights and measures authorities are hereby designated to do all such things as may be required or permitted to be done under these Regulations by an authorised person.

## PART II

### APPROVAL AND CERTIFICATION OF NON-AUTOMATIC WEIGHING INSTRUMENTS

#### *Examination and Supervision*

#### **EC type-examination**

- 10.**—(1) An application for EC type-examination shall be made in writing to the Secretary of State by the manufacturer or by his authorised representative and shall include—
- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address;
  - (b) a declaration that no other application for EC type-examination in respect of the instrument has been made to the Secretary of State or to any approved body; and

(c) the design documentation,

and the person making the application shall, when requested by the Secretary of State, provide an instrument which is representative of the production envisaged (in this regulation referred to as “the type”).

(2) On an application made to him under paragraph (1) above the Secretary of State shall—

- (a) examine the design documentation and check that the type has been manufactured in conformity with that documentation;
- (b) agree with the applicant the places where the examinations and tests shall be carried out;
- (c) carry out, or have carried out, examinations and tests to check—
  - (i) where the manufacturer has chosen to apply the relevant national standards, whether the instrument has been manufactured wholly in conformity with those standards in such a manner that it satisfies the essential requirements; or
  - (ii) if it has not been so manufactured, whether the instrument nevertheless satisfies the essential requirements.

(3) Where the Secretary of State, after carrying out his functions under paragraph (2) above, is satisfied that the type complies with the provisions of the Directive which apply to it, he shall grant to the applicant an EC type-approval certificate in respect of that type.

(4) Subject to any restrictions imposed under paragraph(S) below, an EC type-approval certificate issued under paragraph (3) above shall be valid for a period of ten years and its validity may be extended for successive periods of ten years:

Provided that its validity shall not be extended after the date of the entry into force of any amendment to the Directive if it could not have been granted on the basis of the Directive as so amended.

(5) Where new techniques are employed or other fundamental changes are made to the design of an approved type, a further application may be made under paragraph (1) above and a further EC type-approval certificate may be issued in respect of the type for a specified period; and—

- (a) the initial period for which a certificate is issued under this paragraph shall be restricted to a period of two years; and
- (b) only one extension of that period, for a period of three years, may be issued:

Provided that its validity shall not be extended after the date of the entry into force of any amendment to the Directive if it could not have been granted on the basis of the Directive as so amended.

(6) Any EC type-approval certificate shall—

- (a) state the conclusions of the EC type-examination carried out by the Secretary of State;
- (b) indicate any conditions subject to which the certificate is granted; and
- (c) be accompanied by the data and descriptions necessary for identification of the approved type,

and there shall be annexed to the certificate all relevant drawings and layouts.

(7) Where the Secretary of State, after carrying out his functions under paragraph (2) above, refuses to issue an EC type-approval certificate or to extend its period of validity, he shall in writing inform the applicant of his decision and the grounds for his decision.

(8) Where—

- (a) an EC type-approval certificate granted under this regulation is in force in respect of an approved type; and
- (b) it is proposed that any modifications or additions should be made to the approved type,

the manufacturer or his authorised representative (instead of making an application under paragraph (1) above for an EC type-approval certificate) shall in writing notify the Secretary of State of all such proposed modifications or additions to the approved type.

(9) On receipt of a notification under paragraph (8) above, the Secretary of State shall consider whether the proposed modifications or additions might influence the conformity of the approved type with the essential requirements or with any conditions for use indicated in the EC type-approval certificate, and if it appears to him that those modifications or additions might have that effect, he shall conduct an examination of the approved type with those modifications or additions; and, in a case where—

- (a) he is satisfied that the approved type with those modifications or additions complies with the provisions of the Directive that apply to it, the Secretary of State shall—
  - (i) subject to the provisions of this regulation, approve the modifications or additions; and
  - (ii) issue an addition to the original EC type-approval certificate in respect thereof; or
- (b) he is not so satisfied, the Secretary of State shall notify the person who gave the notification of his decision and of the grounds for it.

(10) No person shall make an application under this regulation if—

- (a) he has previously made an application; or
- (b) he has reasonable cause to believe that an application has previously been made by any other person,

in respect of the same type under this regulation or under corresponding provisions of the law of a member State other than the United Kingdom.

(11) The Secretary of State shall not consider an application which appears to him to contravene paragraph (10) above.

(12) The Secretary of State shall periodically send to the other member States a list of—

- (a) applications received by him for EC type-examination;
- (b) EC type-approval certificates issued by him;
- (c) refusals by him to issue EC type-approval certificates; and
- (d) additions and amendments relating to documents already issued,

and, on request, shall send to other member States a copy of any EC type-approval certificates that he has issued.

### **EC verification**

**11.**—(1) All necessary measures shall be taken to secure that the manufacturing process for instruments intended for EC verification shall ensure conformity with the approved type, where appropriate, and with the requirements of the Directive which apply to them.

(2) The manufacturer or his authorised representative shall—

- (a) affix the CE marking and the sticker to each instrument (by way of confirmation that the instruments may be used for a Schedule 3 application) in accordance with regulation 18; and
- (b) draw up a written declaration of conformity that the instrument conforms with the requirements of the Directive which apply to it.

(3) Subject to paragraphs (6) and (7) below, an application for the carrying out of the appropriate examinations and tests with a view to EC verification shall be made to an approved body by the

manufacturer or his authorised representative; and each application shall, if the approved body so requests, be accompanied—

- (a) in the case of instruments manufactured in conformity with an approved type, by a copy of the EC type-approval certificate in respect of that approved type; or
- (b) in the case of an instrument which does not use electronic devices and of which the load measuring device does not use one or more springs to balance the load, by the design documentation relating to those instruments.

(4) Where the approved body is satisfied, on application made to it under paragraph (3) above and after carrying out, or having had carried out, the appropriate examinations and tests, that the instruments (if properly installed and used for the purposes for which they are intended)—

- (a) where appropriate, have been manufactured in conformity with the approved type; and
- (b) satisfy the provisions of the Directive which apply to them,

the approved body shall affix or cause to be affixed to each instrument the identification number of the approved body in accordance with regulation 18, and shall provide to the manufacturer or his authorised representative a written certificate of conformity relating to the tests carried out; and the manufacturer or his authorised representative shall ensure that he is able to provide the certificate to any person entitled to see it.

(5) Where the approved body is not satisfied, it shall decline to affix its identification number to the instrument and to provide to the manufacturer or his authorised representative a written certificate of conformity under paragraph (4) above; and it shall in writing inform the applicant of its decision and of the grounds for its decision.

(6) In the case of an instrument—

- (a) to which the CE marking, identification number and sticker have been affixed; and
- (b) to which a disqualification sticker has been affixed under regulation 24, 25 or 27 or under any corresponding provision in the law of a member State other than the United Kingdom,

the foregoing provisions of this regulation shall have effect as modified under paragraph (7) below.

(7) In a case to which paragraph (6) above applies an application under paragraph (3) above may be made by any person established in the Community and—

- (a) in paragraph (3) above, the words after the first semi-colon shall not have effect; and
- (b) in paragraph (4) above, for the words “approved body shall affix” to the end there shall be substituted the words “the approved body shall affix or cause to be affixed to each instrument the identification number of the approved body and the re-qualification sticker in accordance with regulation 18.”.

## **EC unit verification**

**12.**—(1) All necessary measures shall be taken to secure that the manufacturing process for instruments intended for EC unit verification shall ensure conformity with the requirements of the Directive which apply to them.

(2) after the procedures set out in paragraphs (4) and (5) below have been completed the manufacturer or his authorised representative shall—

- (a) affix the CE marking and the sticker to the instrument (by way of confirmation that it may be used for a Schedule 3 application) in accordance with regulation 18; and
- (b) draw up a written declaration of conformity that the instrument conforms with the requirements of the Directive which apply to it.

(3) Subject to paragraphs (6) and (7) below, an application for the carrying out of the appropriate examinations and tests with a view to EC unit verification shall be made in writing to the

Secretary of State by the manufacturer or his authorised representative; and each application shall be accompanied by the design documentation relating to the instrument.

(4) Where the Secretary of State is satisfied, on application made to him under paragraph (3) above and after carrying out, or after having carried out, the appropriate examinations and tests, that the instrument (if properly installed and used for the purposes for which it is intended) satisfies the provisions of the Directive that apply to it—

- (a) the Secretary of State shall in accordance with regulation 18—
  - (i) affix, or cause to be affixed, his identification number to the instrument, and
  - (ii) provide to the manufacturer or his authorised representative a written certificate of conformity relating to the tests carried out; and
- (b) the manufacturer or his authorised representative shall ensure that he is able to provide the certificate to any person entitled to see it.

(5) Where the Secretary of State is not satisfied, he shall decline to affix his identification number to the instrument and to provide to the manufacturer or his authorised representative a written certificate of conformity under paragraph (4) above; and he shall in writing inform the applicant of his decision and of the grounds for his decision.

(6) In the case of an instrument—

- (a) to which the identification number, CE marking and sticker have been affixed; and
- (b) to which a disqualification sticker has been affixed under regulation 24, 25 or 27 or under any corresponding provision in the law of a member State other than the United Kingdom,

the foregoing provisions of this regulation shall have effect as modified under paragraph (7) below.

(7) In a case to which paragraph (6) above applies an application under paragraph (3) above may be made by any person established in the Community and—

- (a) in paragraph (3) above, the words after the semi-colon shall not have effect; and
- (b) in paragraph (4) above, for sub-paragraphs (a) and (b) there shall be substituted the words “the Secretary of State shall in accordance with regulation 18 affix, or cause to be affixed, to the instrument his identification number and the re-qualification sticker.”.

### **Quality system approval and EC declaration of type conformity**

**13.**—(1) An application for approval of a quality system as provided in paragraph 2.3 of Annex II of the Directive shall be made in writing to an approved body; and each application shall be accompanied by an undertaking by the manufacturer—

- (a) to carry out the obligations arising from the approved quality system; and
- (b) to maintain the approved quality system to ensure its continuing suitability and effectiveness.

(2) The manufacturer shall make available to the approved body all relevant information including in particular—

- (a) the documentation of the quality system presented in a systematic and orderly manner in the form of written rules, procedures and instructions with a view to ensuring a proper understanding of the quality programmes, plans, manuals and records; and
- (b) the design documentation of the instruments.

(3) On application made to it under paragraph (1) above, the approved body shall evaluate the quality system to determine whether it satisfies the requirements referred to in paragraph 2.3.2 of Annex II of the Directive and, if it conforms with the relevant national standard, it shall be taken to conform to those requirements.

(4) Where the approved body is satisfied, on application made to it under paragraph (1) above and after examining and evaluating the quality system, that the system satisfies the requirements referred to in paragraph 2.3.2 of Snnex II of the Directive it shall grant to the manufacturer an approval of the quality system; and accordingly the manufacturer shall have authority to make EC declarations of type conformity in accordance with paragraph (7) below.

(5) The approved body shall—

- (a) include in the approval the conclusions of the examination and evaluation carried out by it; and
- (b) shall inform the Secretary of State of the granting of the approval with a view to his notifying the other member States.

(6) Where the approved body, after carrying out its duties under paragraph (3) above, refuses to grant an approval of the quality system it shall in writing inform the manufacturer and the Secretary of State of its decision and the grounds for its decision.

(7) Where the manufacturer makes an EC declaration of type conformity, that is to say—

- (a) he has adequately implemented an approved quality system;
- (b) he has carried out the appropriate examinations and tests; and
- (c) he is satisfied that the instruments concerned, where appropriate, have been manufactured in conformity with the approved type and satisfy the provisions of the Directive that apply to them,

the manufacturer or his authorised representative shall, in accordance with regulation 18, affix to each such instrument—

- (i) the CE marking;
- (ii) the inscriptions;
- (iii) the sticker by way of confirmation that the instrument may be used for a Schedule 3 application; and
- (iv) the identification number of the approved body which approved the manufacturer's quality system,

and shall draw up a written declaration of conformity.

(8) In the case of an instrument—

- (a) to which the CE marking, identification number and sticker have been affixed; and
- (b) to which a disqualification sticker has been affixed under regulation 24, 25 or 27 or any corresponding provision in the law of a member State other than the United Kingdom,

the foregoing provisions of this regulation shall have effect as modified under paragraph (9) below.

(9) In a case to which paragraph (8) above applies, in paragraph (7) above for the words “the manufacturer or his authorised representative shall affix” to the end there shall be substituted the words

“the manufacturer or his authorised representative shall affix to each such instrument—

- (a) the re-qualification sticker;
- (b) the identification number of the approved body which approved the manufacturer's quality system if that number is different from the number already affixed to the instrument.”.

### **Provisions supplemental to regulations 11, 12 and 13**

**14.**—(1) Subject to paragraphs (2) and (3) below, the procedures referred to in regulations 11(4), 12(4) and 13(7) (“the procedures”) shall be carried out at the place of use of the instrument unless—

- (a) the instrument does not have to be dismantled for transport or any such dismantling is not likely to affect its performance; or
- (b) before the instrument is taken into service, no work is required which is likely to affect its performance,

in which case they may be carried out at any place.

(2) In the case of an instrument whose performance is sensitive to differences in gravity, either—

- (a) any difference between the gravity at the place where the procedures mentioned in paragraph (1) above are carried out and that at the place where the instrument is to be used shall be taken into account in carrying out the procedures; or
- (b) the procedures shall be carried out in two stages in accordance with paragraph (4) below.

(3) In the case of an instrument whose performance is not sensitive to differences in gravity and if the manufacturer so desires, the procedures shall be carried out in two stages in accordance with paragraph (4) below.

(4) The two stages referred to in paragraphs (2) and (3) above are—

- (a) a first stage (“the first stage”) which shall comprise all examinations and tests not within the second stage and which may be carried out at any place; and
- (b) a second stage (“the second stage”)—
  - (i) which, in the case of an instrument whose performance is sensitive to differences in gravity, shall comprise all examinations and tests of which the outcome is gravity dependent and which shall be carried out at the place of use of the instrument or, if gravity zones<sup>(15)</sup> have been established, elsewhere within the gravity zone in which that place is situated; and
  - (ii) which, in the case of any other instrument, may be carried out at any place.

(5) Where the manufacturer has made an EC declaration of type conformity under regulation 13 in relation to an instrument and the procedures in the first stage are carried out under that regulation, those carried out in the second stage shall be those specified in regulation 11 or in regulation 13.

(6) Where an approved body carries out the procedures in the first stage under regulation 11, that body or another approved body may carry out the procedures in the second stage.

(7) Where in pursuance of paragraph (5) or (6) above, the procedures in the first stage are carried out by the manufacturer or an approved body (“the first party”) and the procedures in the second stage are carried out by a different manufacturer (being a manufacturer having the authority to make the relevant EC declaration of type conformity) or by an approved body (“the second party”)—

- (a) the first party shall issue a certificate to the second party identifying the instrument in question and specifying the procedures it has carried out and shall affix, or cause to be affixed, its identification number, and
- (b) the second party—
  - (i) shall carry out the examinations and tests not carried out by the first party; and
  - (ii) shall be responsible for completion of whichever of the procedures is appropriate.

(8) For the purposes of regulations 11(4), 12(4) and 13(7), the appropriate examinations and tests shall include those specified in the relevant national standard or equivalent tests.

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<sup>(15)</sup> The United Kingdom has not established gravity zones within its territory.



## **EC surveillance**

**15.**—(1) Where a manufacturer has made an EC declaration of type conformity under regulation 13, the approved body to which the manufacturer made an application for approval of the quality system shall carry out EC surveillance and in particular—

- (a) shall periodically carry out audits in order to ensure that the manufacturer is maintaining and applying the quality system and provide the manufacturer with an audit report; and
- (b) shall, from time to time, carry out visits at the places of manufacture, inspection, testing and storage and—
  - (i) check whether the manufacturer is maintaining and applying the quality system, and
  - (ii) at its direction, carry out full or partial audits,

and shall provide the manufacturer with a report on each such visit and on any such audit.

(2) For the purpose of assisting the approved body to carry out the audits and checks specified in paragraph (1) above the manufacturer shall, in respect of each instrument, keep available for inspection by the approved body all necessary information, including—

- (a) the documentation of the quality system;
- (b) the design documentation of the instrument; and
- (c) all related quality records,

and shall inform the approved body of any changes in its quality system.

## **Suspension of EC declaration of type conformity**

**16.**—(1) If it appears to an authorised person that there are, on any premises of a manufacturer, instruments to which CE markings or stickers have been, or are being, affixed otherwise than in conformity with these Regulations, he may give to the manufacturer a notice suspending the manufacturer's authority to make the EC declaration of type conformity in question for a period not exceeding twenty-eight days.

(2) Where an authorised person gives a notice under paragraph (1) above, he shall forthwith—

- (a) inform the approved body which approved the quality system of the effect of the notice;
- (b) send a copy of the notice to the Secretary of State; and
- (c) inform the manufacturer of his right to apply for a review of the decision under regulation 21.

(3) If the manufacturer contravenes a notice under paragraph (1) above—

- (a) he shall be guilty of an offence; and
- (b) all instruments to which the offence relates shall be liable to be forfeited.

## **Withdrawal of approval of quality system**

**17.**—(1) If it appears to an approved body, in relation to any quality system approved by it, that—

- (a) an undertaking given pursuant to regulation 13(1) has not been complied with; or
- (b) by reason of the refusal or neglect of the manufacturer, it is not able to carry out its functions under regulation 15(1); or
- (c) regulation 15(2) has not been complied with; or
- (d) the Secretary of State has informed the approved body under regulation 20(6)(a) that he is of the opinion that consideration should be given to withdrawal of any relevant quality system approval,

it may, after giving the manufacturer the opportunity of making representations as to why it should not be withdrawn, by notice given to the manufacturer withdraw approval of the quality system.

(2) A notice under paragraph (1) above shall be in writing and shall—

- (a) specify the date on which it is to take effect; and
- (b) specify the grounds for the decision.

(3) The approved body shall send to the Secretary of State a copy of any notice given by it under paragraph (2) above with a view to his notifying the other member States.

(4) A manufacturer who fails to comply with a notice given to him under paragraph (2) above shall be guilty of an offence.

### **Affixing of CE marking etc**

**18.**—(1) The CE marking and each sticker, inscription or identification number mentioned in paragraph (3) below shall be affixed on—

- (a) each instrument to which it relates; or
- (b) on a data plate attached to the instrument in such a way that the plate—
  - (i) cannot be removed without being destroyed, or
  - (ii) is capable of being sealed with a control mark,
 and shall satisfy the requirements of paragraph (2) below and, as the case may require, of paragraph (3) below.

(2) The requirement of this paragraph is that each CE marking, identification number, sticker or inscription shall be clearly visible, easily legible and indelible.

(3) The requirements of this paragraph, in the case of—

- (a) the CE marking, are those specified in heads (a), (c) and (d) of paragraph (4) below;
- (b) the identification number, are those specified in head (a) of paragraph (4) below;
- (c) all inscriptions referred to in paragraph 1.1(c) of Annex IV of the Directive, are those specified in heads (c) and (d) of paragraph (4) below; and
- (d) the inscriptions “Max”, “Min”, “e” and “d” referred to in paragraph 1.4 of Annex IV of the Directive, are those specified in heads (b), (c) and (d) of paragraph (4) below.

(4) The requirements referred to in paragraph (3) above in relation to the CE marking, identification number or inscription in question are—

- (a) a requirement that it be grouped together with all other such information;
- (b) a requirement that it be placed near the display of the result of the operation of the instrument;
- (c) a requirement that it be impossible to remove without damaging the marking or inscription;
- (d) a requirement that it be clearly visible when the instrument is in its regular operating position.

(5) The CE marking consists of the symbol “CE” of which a form is shown for purposes of illustration in Schedule 4.

(6) Each load measuring device which is connected, or can be connected, to one or more load receptors shall also bear the inscriptions which apply to each such load receptor.

(7) Where the manufacturer or his authorised representative affixes a CE marking and sticker under paragraph (1) above to an instrument which—

- (a) is used for a Schedule 3 application; and

(b) includes or is connected to any device exempted from the essential requirements by virtue of the Preliminary observations in Annex I of the Directive which is set out in Schedule 2, each such device shall bear the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive.

(8) Any person who—

(a) gives information in connection with an instrument, by means of a misleading mark or inscription or otherwise, which is likely to be confused with the CE marking; or

(b) affixes any other mark to the instrument which obscures the visibility or legibility of the EC marking,

shall be guilty of an offence.

### **Conformity with other directives**

**19.**—(1) Subject to paragraph (2) below, where a CE marking is affixed to an instrument, the affixing of that marking shall indicate that the instrument conforms also with any other directive other than the Directive which provides for the affixing of the CE marking.

(2) Where, during a relevant transitional period specified in any such directive a manufacturer chooses not to apply provisions adopted pursuant to the directive in question, paragraph (1) above shall not apply if that fact and particulars of that directive as published in the Official Journal of the European Communities are stated in the documents, notices or instructions required to accompany the instrument.

### **Wrongful use of CE marking**

**20.**—(1) If an authorised person is satisfied that a CE marking has been placed on an instrument save as required by, and in conformity with, the requirements of these Regulations, he shall give notice to the manufacturer or his authorised representative specifying the respects in which those requirements have not been satisfied.

(2) The matters to be specified in a notice given under paragraph (1) above pursuant to this paragraph are that, unless steps are taken which ensure—

(a) that the instrument or any instrument of the same type does so conform or comply, or

(b) that the manufacturer or his authorised representative does so act, as the case may require

—

(i) any EC type-approval certificate granted under regulation 10(3), or

(ii) any approval of a quality system granted under regulation 13(4),

may be withdrawn.

(3) A notice under paragraph (1) above shall be in writing and shall—

(a) specify the date on which it is to take effect;

(b) specify the grounds for the decision; and

(c) inform the manufacturer of his right to apply for a review of the decision under regulation 21.

(4) Where an authorised person gives a notice under paragraph (1) above, he shall forthwith send a copy of the notice to the Secretary of State.

(5) If the Secretary of State—

(a) in the case of an EC type-approval certificate which he has granted, after giving the manufacturer the opportunity of making representations as to why it should not be

withdrawn, decides that the EC type-approval certificate should be withdrawn, he shall immediately—

- (i) give notice of the decision to the manufacturer, and
  - (ii) inform the other member States of the decision; and
- (b) in the case of an EC type-approval certificate granted under the law of another member State, is of the opinion that consideration ought to be given to whether the EC type-approval certificate should be withdrawn he shall immediately inform the relevant competent authority of that fact.
- (6) If the Secretary of State is of the opinion that consideration should be given to withdrawal of any relevant quality system approval—
- (a) in the case of an approval granted by an approved body under these Regulations, he shall inform the approved body of that fact; and
  - (b) in the case of an approval granted under the law of another member State, he shall immediately inform the relevant competent authority of that fact.
- (7) The Secretary of State shall publish, in such manner as he may consider appropriate, particulars of any notice under paragraph (5) above withdrawing an EC type-approval certificate.

#### *Review of decisions*

#### **Review of decisions of authorised persons under Part II**

**21.—**(1) A person who is aggrieved by a decision given by an authorised person under regulation 16

(1) or 20

(1) (“the aggrieved person”) may, in accordance with paragraphs

(2) and

(3) of this regulation, apply to the Secretary of State to review the decision; and on such application the Secretary of State may—

(a) hold an inquiry in connection therewith; and

(b) appoint an assessor for the purposes of assisting him with his review or any such inquiry.

(2) An application under paragraph (1)

above shall be made by notice to the Secretary of State, and shall be sent to him not later than twenty-one days after the date when notice of the decision in respect of which the application for review is sent to the aggrieved person.

(3) A notice of application for review under this regulation shall state the grounds on which the application is made.

(4) The Secretary of State, within a reasonable time, shall in writing inform the aggrieved person and the authorised person of his decision whether to uphold the decision of the authorised person and—

(a) in a case where he upholds the decision of the authorised person, shall also state the grounds for his decision; and

(b) in a case where he does not uphold the decision of the authorised person, may—

(i) where the review relates to regulation 16, instruct the authorised person to withdraw the notice given by him under paragraph (1) of that regulation; or

- (ii) where the review relates to regulation 20, instruct the authorised person to withdraw the notice given by him under paragraph (1) of that regulation, as the case may require.

## **Judicial review of decisions under Part II**

**22.**—(1) A person aggrieved by a decision—

- (a) of the Secretary of State under regulation 10(7) or (9)(b), 12(5) or 21(4) or
- (b) of an approved body under regulation 11(5) or 13(6),

shall, at the same time as he is notified of the decision, be given information about the judicial remedies available to him.

(2) That information shall include—

- (a) a brief statement of the procedure by which judicial review may be applied for in accordance with Rules of Court (or, in Northern Ireland, with rules of court made, or having effect as if made, under section 55 of the Judicature (Northern Ireland) Act 1978<sup>(16)</sup>); and
- (b) the information that in England and Wales or in Northern Ireland, an application for leave to apply to the Court for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the court considers that there is good reason for extending the period within which the application shall be made.

## *Enforcement*

### **Unauthorised application of CE marking etc**

**23.**—(1) Subject to paragraph (2) below, any person who, in the case of any instrument—

- (a) save under regulation 11, 12 or 13, affixes any CE marking, inscription, identification number or sticker referred to in the regulation in question to any instrument; or
- (b) affixes a CE marking in contravention of regulation 18; or
- (c) forges or counterfeits or in any manner alters or defaces any such mark, inscription, identification number, sticker, disqualification sticker or re-qualification sticker; or
- (d) removes any such mark, inscription, identification number or sticker affixed to an instrument under regulation 11, 12 or 13 or re-qualification sticker and affixes it to any other instrument; or
- (e) makes any alteration to the instrument after any such mark, inscription, identification number, sticker or re-qualification sticker has been affixed to it in accordance with these Regulations so that the instrument no longer complies with the requirements of the Directive which apply to it,

shall be guilty of an offence.

(2) A person shall not be guilty of an offence under paragraph (1) above by reason solely of the alteration, defacement or removal of any mark, inscription, identification number, sticker, disqualification sticker or re-qualification sticker in the course of the adjustment or repair of any instrument by, or by the duly authorised agent of, a person who is a manufacturer of instruments or is regularly engaged in the business of the repair of instruments.

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(16) 1978 c. 23.

(3) Any person who supplies, uses for any Schedule 3 application or exposes or offers for supply any instrument which to his knowledge—

- (a) bears any CE marking, inscription, identification number, sticker or re-qualification sticker which is a forgery or counterfeit, or which has been transferred from another instrument, or which has been altered or defaced otherwise than in accordance with these Regulations; or
- (b) does not comply with the essential requirements by reason of any alteration made to it after any CE marking, inscription, identification number, sticker, disqualification sticker or re-qualification sticker was affixed to it in accordance with these Regulations,

shall be guilty of an offence.

(4) Any instrument in respect of which an offence under this regulation has been committed, and any implement used in the commission of the offence, shall be liable to be forfeited.

(5) References in this regulation to other provisions of these Regulations include references to corresponding provisions under the laws of a member State other than the United Kingdom.

#### **Disqualification stickers (instruments not complying with these Regulations etc)**

**24.**—(1) Subject to paragraph (2) below, an authorised person may affix a disqualification sticker to an instrument if he is satisfied that the instrument—

- (a) falls outside the limits of error referred to in paragraph 4.2 of Annex I of the Directive which is set out in Schedule 2; or
- (b) otherwise does not fully comply with the requirements which apply to it,

and a disqualification sticker shall be so affixed as to be clearly visible when the instrument is in its regular operating position.

(2) Save in a case where regulation 25 has effect, where an instrument does not fully satisfy the requirements of regulation 5 which apply to it but it appears to the authorised person that the nature or degree of non-compliance is not such that a disqualification sticker should be immediately affixed to it, he may give to any person in possession of the instrument a notice requiring him to ensure that the instrument is brought within the limits of error mentioned in paragraph (1)(a) above, or made to comply with the requirements which apply to it, before the expiry of twenty-eight days or such shorter period as may be specified in the notice.

(3) If a notice given under paragraph (2) above is not complied with, the authorised person shall affix a disqualification sticker to the instrument in such a position that the sticker is clearly visible when the instrument is in its regular operating position.

#### **Disqualification stickers and re-qualification stickers (instruments which have been altered etc)**

**25.**—(1) If it appears to an authorised person that, since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) to an instrument, the instrument has been subject to any alteration or addition by reason of which a re-qualification sticker could not be affixed to it in accordance with this Part, an authorised person shall affix a disqualification sticker to it.

(2) Subject to paragraph (3) below, if it appears to an authorised person—

- (a) in the case of any instrument, that since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) to an instrument, the instrument has been subject to any adjustment, alteration, addition, repair or replacement, which could affect its accuracy or functioning; or

(b) in the case of an instrument whose performance is sensitive to differences in gravity, that since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) the instrument has been moved to a different location, the authorised person shall affix a disqualification sticker to it.

(3) Where—

(a) an instrument has been subjected to any of the occurrences mentioned in paragraph (2) above, and

(b) the chief inspector of weights and measures for the area where the instrument is located has been furnished in writing with details of the occurrence,

an authorised person may affix a disqualification sticker to it.

(4) A disqualification sticker shall be so affixed as to be clearly visible when the instrument is in its regular operating position.

### **Withdrawal from use etc of unsatisfactory instruments**

**26.**—(1) If it appears to any authorised person that, when properly installed and used for the purpose for which they are intended, two or more instruments which bear the CE marking and the sticker do not meet the requirements of these regulations, he shall notify the Secretary of State.

(2) Following receipt of a notification under paragraph (1) above, the Secretary of State—

(a) shall consider the matter; and

(b) unless he considers it not practicable to do so or that urgent action is required in the public interest, after giving any person appearing to him to be interested in the instrument in question the opportunity of making representations, may give a notice under this regulation in accordance with paragraph (4) below.

(3) A notice under this regulation—

(a) shall sufficiently describe the instruments to which it applies;

(b) may—

(i) require instruments of the type in question to be withdrawn from supply;

(ii) prohibit or restrict the use of such instruments for any Schedule 3 application;

(iii) prohibit or restrict the supply of such instruments, and

(c) may be expressed to impose obligations on named or identified persons or persons generally; and

(d) may be varied or withdrawn by a further notice under this regulation.

(4) A notice under this regulation (including a notice varying or withdrawing a previous notice)—

(a) if any person is named in the notice as a person upon whom an obligation is imposed (or upon whom an obligation was imposed by such a previous notice)—

(i) shall be given to any such person, and

(ii) may be published in such manner as the Secretary of State may think fit; and

(b) in any other case, shall be published in such manner as the Secretary of State may think fit.

(5) Any person who fails to comply with an obligation imposed on him by a notice under this regulation shall be guilty of an offence.

(6) References in this regulation to other provisions of these Regulations include references to corresponding provisions under the laws of a member state other than the United Kingdom.

### **Unsuitable use of instrument used for trade**

27. If it appears to an authorised person that an instrument is used for trade—
- (a) for a purpose for which it is unsuitable; or
  - (b) in circumstances where it is subject to any extraordinary environmental or operating conditions which—
    - (i) may prevent it operating consistently or accurately, or
    - (ii) are likely prematurely to degrade its metrological characteristics,
- the authorised person may affix a disqualification sticker to the instrument; and any such sticker shall be affixed in such a position that it is clearly visible when the instrument is in its regular operating position.

## **PART III**

### **USE FOR TRADE OF NON-AUTOMATIC WEIGHING INSTRUMENTS**

#### **Restrictions on use of instruments for trade**

28.—(1) An instrument marked with a weighing range may be used for trade for determining the weight of any item by ascertaining the difference between two weights (both of which fall within the weighing range), that is to say, the weight of that item and another item or items and the weight of that other or those other items only.

(2) Save in accordance with paragraph (1) above, a person shall not use for trade an instrument marked with a weighing range for determining a weight outside that range in relation—

- (a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) to precious stones or pearls; or
- (c) to drugs or other pharmaceutical products.

(3) A person shall not use for trade instrument other than an instrument of accuracy classification as Class I or Class II in any transaction—

- (a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) to previous stones or pearls.

(4) A person shall not use for trade an instrument carrying a marking in accordance with the EC type-approval certificate, or to which the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive applies, for a purpose which does not accord with the marking or the symbol.

(5) A person shall not use a Class III instrument for trade for any purpose other than for weighing any of the materials to which the expression “ballast” applies in Schedule 4 to the 1985 Act.

(6) A person shall not use for trade any instrument for the purpose of multiple weighing, that is to say, determining the mass of a load by totalling the results of more than one static weighing operation during each of which the load is only partially supported by the load receptor.

#### **Manner of erection of instruments**

29. Where an instrument is fitted with one or more level-indicating devices, a person shall not use the instrument for trade unless each such device indicates that it has been set to its reference position.



### **Instruments marked with temperature range**

**30.** Where an instrument is marked with a temperature range, a person shall not use the instrument for trade at temperatures outside that range.

### **Instruments marked with manner of use**

**31.** Where an instrument is marked with the manner of use, a person shall not use the instrument for trade in a manner which does not accord with the marking.

### **Instruments fitted with printing devices**

**32.** Where an instrument is fitted with a weight or any other printing device, a person shall not use the instrument for trade unless it is so erected and used that the printing device, when used, produces a legible and durable printout.

### **Load receptors**

**33.—(1)** A person shall not use any instrument for trade unless it is erected and used in such a manner that, during a weighing operation, the load being weighed is stationary relative to the load receptor and supported only by the load receptor.

(2) A person shall not use for trade an instrument for the purpose of sales by retail—

(a) unless—

(i) the load receptor is not less than 10 mm above any adjacent surface; or

(ii) where the load receptor is less than 10 mm above any adjacent surface, the boundary of the top surface of all adjacent surfaces is durably marked in a distinctive and contrasting manner with a band at least 15 mm in width; or

(b) if the load receptor is below the level of any adjacent surface.

### **Operation of instrument**

**34.** Except as specified in the EC type-approval certificate, a person shall not use an instrument for trade unless it is erected in such a manner that the operator can, notwithstanding the nature of the instrument or its surroundings, readily take up a single position from which he can—

(a) see directly or with the aid of mirrors, closed-circuit television or other permanently installed facilities, the whole of the unladen load receptor;

(b) operate the instrument's controls; and

(c) obtain a weight reading from the instrument.

### **Weights marked with EEC initial verification marks to be used**

**35.—(1)** Subject to paragraph (2) below, a person shall not use for trade a Class I or Class II instrument which is used in association with any weight or weights to determine the value of any load in terms of metric units of mass other than carat (metric) units, save in association with weights which bear the mark of EEC initial verification in accordance with—

(a) the provisions of—

(i) Council Directive No. [74/148/EEC](#) on above-medium accuracy weights(17) in the case of Class II instruments, or

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(17) OJ No. L84, 28.3.1974, p.3.

- (ii) the said Directive except for those provisions relating to weights of Class F2 or Class M1 in the case of Class I instruments; and
  - (b) the provisions of paragraph 5 of Schedule 1 to the Measuring Instruments (EEC Requirements Regulations 1988<sup>(18)</sup>).
- (2) The requirements of this regulation shall not apply to any instrument for use for trade in any transaction in drugs or other pharmaceutical products before 1st January 2003.

#### **Instruments using decimal parts of pound**

**36.**—(1) Before 1st January 2000 a person shall not use an instrument having weight scale intervals expressed solely in decimal parts of a pound for the purposes of a sale by retail unless a buyer is presented with a statement in writing of the weight of the goods.

(2) On and after 1st January 2000 a person shall not use for trade an instrument having weight scale intervals expressed in decimal parts of a pound save by way only of a supplementary indication of the weight of the goods.

#### **Instruments to be set to zero or to be balanced before use**

**37.**—(1) Subject to paragraph (2) below, a person shall not use an instrument for trade unless it is properly balanced or set to zero immediately prior to use.

(2) Paragraph (1) above shall not apply in the case of an instrument of an approved type if, in the EC type-approval certificate, it is described as not being so constructed as to balance when unloaded.

## PART IV

### GENERAL

#### **Powers of inspection and entry**

**38.**—(1) Subject to the production if so requested of his credentials, an authorised person may for the purposes of these Regulations, within the area of the local weights and measures authority by which he is appointed, at all reasonable times—

- (a) inspect and test any instrument in such manner as he considers appropriate;
- (b) inspect and take copies of any document relating to an instrument and of the documentation of any relevant quality system; and
- (c) enter any premises at which he has reasonable cause to believe there to be any instrument or such document, not being premises used only as a private dwelling house.

(2) production if so requested of his credentials, an authorised person may, at any time, within the area of the local weights and measures authority by which he is appointed, seize and detain—

- (a) any instrument which he has reasonable cause to believe is liable to be forfeited under regulation 4(3) or (5), 16(3) or 23(4) and
- (b) any document, implement or goods which the authorised person has reason to believe may be required as evidence in proceedings for an offence under Part I or Part II.

(3) If a justice of the peace, by information on oath—

- (a) is satisfied that there is reasonable ground to believe that any such instrument, goods or document as is mentioned in paragraph (1) or (2) above is on any premises, or that any

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<sup>(18)</sup> S.I. 1988/186.

offence under Part I or Part II has been, is being or is about to be committed on any premises; and

- (b) is also satisfied either—
- (i) that admission to the premises has been refused, or a refusal is apprehended, and that notice of intention to apply for a warrant has been given to the occupier, or
  - (ii) that an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant under his hand, which shall continue in force for the period of one month, authorise an authorised person to enter the premises, if need be by force.

(4) In the application of paragraph (3) above to Scotland, “justice of the peace” includes a sheriff.

(5) An authorised person entering any premises by virtue of this regulation may take with him such other person and such equipment as may appear to him to be necessary; and on leaving any premises which he has entered by virtue of a warrant under paragraph (3) above, being premises which are unoccupied or the occupier of which is temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(6) If any authorised person or other person who enters any work-place by virtue of this regulation discloses to any person any information obtained by him in the work-place with regard to any secret manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(7) Nothing in this regulation shall authorise any authorised person to stop any vehicle on a highway.

(8) In this regulation, “credentials” means authority in writing from a local weights and measures authority for the exercise by an authorised person of the powers conferred on him by this regulation.

### **Obstruction of authorised persons etc**

**39.**—(1) Any person who—

- (a) wilfully obstructs an authorised person in the execution of any of his duties or functions under any provision of these Regulations; or
- (b) without reasonable cause fails to give an authorised person acting as aforesaid any assistance or information which the authorised person may reasonably require of him for the purpose of the performance by the authorised person of his functions under these Regulations,

shall be guilty of an offence.

(2) If any person, in giving an authorised person any such information as is mentioned in paragraph (1)(b) above, gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in these Regulations shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

### **Offences and penalties**

**40.**—(1) Any person guilty of an offence—

- (a) under regulation 4(3)(a) and (5), 16(3)(a), 17(4), 18(8), 23(1) or (3) 26(5), 38(6) or 39(1) or
- (2) shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale;

(b) under regulation 4(3)(b) shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(2) Where the commission by any person of an offence under the provisions mentioned in paragraph (1) above is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

### **Offences by corporations**

**41.**—(1) Where an offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **Prosecutions**

**42.** Proceedings for any offence under these Regulations shall not, in England and Wales, be instituted save by or on behalf of a local weights and measures authority or the chief officer of police for a police area.

### **Adaptations for Northern Ireland**

**43.** In their application to Northern Ireland, these Regulations shall have effect subject to Schedule 5.

17th July 1995

*Jonathan Evans*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry

## SCHEDULE 1

Regulation 2(1)

### ANNEX III OF COUNCIL DIRECTIVE OF 20TH JUNE 1990 ON THE HARMONISATION OF THE LAWS OF MEMBER STATES RELATING TO NON-AUTOMATIC WEIGHING INSTRUMENTS

#### *DESIGN DOCUMENTATION*

The technical documentation must render the design, manufacture and operation of the product intelligible and enable an assessment to be made of its conformity with the requirements of the Directive.

The documentation shall include in so far as relevant for assessment:

- general description of the type,
- conceptual design and manufacturing drawings and plans of components, sub-assemblies, circuits etc,
- descriptions and explanations necessary for the understanding of the above, including the operation of the instrument,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements where the standards referred to in Article 5 have not been applied,
- results of design calculations made and of examinations, etc,
- test reports,
- the EC type-approval certificates and the results of relevant tests on instruments containing parts identical to those in the design.

## SCHEDULE 2

Regulations 2(1) and (3), 18(7)(b) and  
24(1)(a)

### ANNEX I OF COUNCIL DIRECTIVE OF 20TH JUNE 1990 ON THE HARMONISATION OF THE LAWS OF MEMBER STATES RELATING TO NON-AUTOMATIC WEIGHING INSTRUMENTS

The essential requirements that must be met by the instruments referred to in Article 1(2)(a) are set out below. The terminology used is that of the Organisation International de Metrologie Legale<sup>(19)</sup>.

#### **Preliminary observation**

Where an instrument includes or is connected to more than one indicating or printing device used for the applications listed in Article 1(2)(a), those devices which repeat the results of the weighing operation and which cannot influence the correct functioning of the instrument shall not be subject to the essential requirements if the weighing results are printed or recorded correctly and indelibly by a part of the instrument which meets the essential requirements and the results are accessible to both parties concerned by the measurement. However, in the case of instruments used for direct sales to the public, display and printing devices for the vendor and the customer must fulfil the essential requirements.

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(19) See “Nonautomatic weighing instruments Part I: Metrological and technical requirements-Tests” OIML R 76-1 Edition 1992 (E) published by the International Organisation for Legal Metrology.

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## METROLOGICAL REQUIREMENTS

### Units of mass

1. The units of mass used shall be legal units within the meaning of Directive 80/181/EEC(20) as last amended by Directive 85/1/EEC(21).

Subject to compliance with this condition, the following units are permitted:

- SI units: kilogram, microgram, milligram, gram, tonne,
- Imperial units: pound, ounce (avoirdupois), troy ounce,
- other non-SI units: metric carat, if weighing precious stones.

For instruments that make use of the Imperial units of mass referred to above, the relevant essential requirements specified below shall be converted to the said Imperial units, using simple interpolation.

### 2. Accuracy classes

(2.1) The following accuracy classes have been defined:

- (I) special
- (II) high
- (III) medium
- (III) ordinary

The specifications of these classes are given in Table 1.

**Table 1**

Accuracy classes

Class	Verification scale interval (e)	Minimum capacity (Min)	Number of verification scale intervals	
			$n_1 = \frac{M_{\max}}{e}$ minimum value	maximum value
I	0,001 g ≤ e	100 e	50 000	—
II	0,001 g ≤ e ≤ 0,05 g	20 e	100	100 000
	0,1 g ≤ e	500 e	5 000	100 000
III	0,1 g ≤ e ≤ 2 g	20 e	100	10 000
	5 g ≤ e	20 e	500	10 000
III	5 g ≤ e	10 e	100	1 000

The minimum capacity is reduced to 5e for instruments in classes II and III for determining a conveying tariff.

### (2.2) Scale intervals

(20) OJ No. L39, 15.2.1980, p.40.

(21) OJ No. L2, 3.1.1985, p.11. Since its amendment by Directive 85/1/EEC, Directive 80/181/EEC has been further amended by Directive 89/617/EEC.

(2.2.1) The actual scale interval (d) and the verification scale interval (e) shall be in the form:

$1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$  mass units,

k being any integer or zero.

(2.2.2) For all instruments other than those with auxiliary indicating devices:  $d = e$

(2.2.3) For instruments with auxiliary indicating devices the following conditions apply:

$e = 1 \times 10^k$  g

$d < e \leq 10 d$

except for instruments of class I with  $d < 10^{-4}$  g, for which  $e = 10^{-3}$  g.

### 3. Classification

#### (3.1) Instruments with one weighing range

Instruments equipped with an auxiliary indicating device shall belong to class I or class II. For these instruments the minimum capacity lower limits for these two classes are obtained from Table 1 by replacement in column 3 of the verification scale interval (e) by the actual scale interval (d).

If  $d < 10^{-4}$  g, the maximum capacity of class I may be less than 50 000 e.

#### (3.2) Instruments with multiple weighing ranges

Multiple weighing ranges are permitted, provided they are clearly indicated on the instrument. Each individual weighing range is classified according to 3.1. If the weighing ranges fall into different accuracy classes the instruments shall comply with the severest of the requirements that apply for the accuracy classes in which the weighing ranges fall.

#### (3.3) Multi-interval instruments

(3.3.1) Instruments with one weighing range may have several partial weighing ranges (multi-interval instruments).

Multi-interval instruments shall not be equipped with an auxiliary indicating device.

(3.3.2) Each partial weighing range i of multi-interval instruments is defined by:

— its verification scale interval $e_i$	with $e^*_{(i+1)} > e_i$
— its maximum capacity $Max_i$	with $Max_i = Max$
— its minimum capacity $Min_i$	with $Min_i = Max_{(i-1)}$ and $Min_1 = Min$

where:

$i = 1, 2, \dots, r$ ,

i = partial weighing range number,

r = the total number of partial weighing ranges.

All capacities are capacities of net load, irrespective of the value of any tare used.

(3.3.3) The partial weighing ranges are classified according to Table 2. All partial weighing ranges shall fall into the same accuracy class, this class being the instrument's accuracy class.

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**Table 2**

## Multi-interval instruments

Class	Verification scale interval (e)	Minimum capacity (Min)	Number of verification scale intervals	
		Minimum value	Minimum value <sup>(1)</sup> $n = \frac{M_{max}}{e_i \cdot r_i}$	Maximum value $r_i = \frac{M_{max}}{e_i}$
I	0,001 g ≤ e <sub>i</sub>	100 e <sub>i</sub>	50 000	—
II	0,001 g ≤ e <sub>i</sub> ≤ 0,05 g	20 e <sub>i</sub>	5 000	100 000
	0,1 g ≤ e <sub>i</sub>	50 e <sub>i</sub>	5 000	100 000
III	0,1 g ≤ e <sub>i</sub>	20 e <sub>i</sub>	500	10 000
III	5 g ≤ e <sub>i</sub>	10 e <sub>i</sub>	50	1 000

(1) For i = r the corresponding column of Table 1 applies, with e replaced by e<sub>r</sub>.

**Accuracy**

4.—(4.1) On implementation of the procedures laid down in Article 8, the error of indication shall not exceed the maximum permissible error of indication as shown in Table 3. In case of digital indication the error of indication shall be corrected for the rounding error.

The maximum permissible errors apply to the net and tare value for all possible loads, excluded preset tare values.

**Table 3**

## Maximum permissible errors

Load				Maximum permissible error
Class I	Class II	Class III	Class III	
0 ≤ m ≤ 50 000 e	0 ≤ m ≤ 20 000 e	0 ≤ m ≤ 500 e	0 ≤ m ≤ 50 e	± 0,5 e
50 000 e < m ≤ 200 000 e	5 000 e < m ≤ 20 000 e	500 e ≤ m ≤ 2 000 e	50 e < m ≤ 200 e	± 1,0 e
200 000 e < m	20 000 e < m ≤ 100 000 e	2 000 e < m ≤ 10 000 e	200 e < m ≤ 1 000 e	± 1,5 e

(4.2) The maximum permissible errors in service are twice the maximum permissible errors fixed in section 4.1.

5. Weighing results of an instrument shall be repeatable, and shall be reproducible by the other indicating devices used and with other methods of balancing used.



The weighing results shall be sufficiently insensitive to changes in the position of the load on the load receptor.

6. The instruments shall react to small variations in the load.

### **Influence quantities and time**

7.—(7.1) Instruments of classes II, III and IIII, liable to be used in a tilted position, shall be sufficiently insensitive to the degree of tilting that can exist in a normal installed condition.

(7.2) The instruments shall meet the metrological requirements within the temperature range specified by the manufacturer. The value of this range shall be at least equal to:

- 5 °C for an instrument in class I,
- 15 °C for an instrument in class II,
- 30 ° for an instrument in class III or IIII.

In the absence of a manufacturer's specification, the temperature range of -10 °C to +40 °C applies.

(7.3) Instruments operated from a mains power supply shall meet the metrological requirements under conditions of power supply within the limits of normal fluctuation.

Instruments operated from battery power shall indicate whenever the voltage drops below the minimum required value and shall under those circumstances either continue to function correctly or be automatically put out of service.

(7.4) Electronic instruments, except those in class I and in class II if  $e$  is less than 1 g, shall meet the metrological requirements under conditions of high relative humidity at the upper limit or their temperature range.

(7.5) Loading an instrument in class II, III or IIII for a prolonged period of times shall have a negligible influence on the indication at load or on the zero indication immediately after removal of the load.

(7.6) Under other conditions the instruments shall either continue to function correctly or be automatically put out of service.

## *DESIGN AND CONSTRUCTION*

### **General requirements**

8.—(8.1) Design and construction of the instruments shall be such that the instruments will preserve their metrological qualities when properly used and installed, and when used in an environment for which they are intended. The value of the mass must be indicated.

(8.2) When exposed to disturbances, electronic instruments shall not display the effects of significant faults, or shall automatically detect and indicate them.

Upon automatic detection of a significant fault, electronic instruments shall provide a visual or audible alarm that shall continue until the user takes corrective action or the fault disappears.

(8.3) The requirements of 8.1 and 8.2 shall be met on a lasting basis during a period of time that is normal in view of the intended use of such instruments.

Digital electronic devices shall always exercise adequate control of the correct operation of the measuring process, of the indicating facility, and of all data storage and data transfer.

Upon automatic detection of a significant durability error, electronic instruments shall provide a visual or audible alarm that shall continue until the user takes corrective action or the error disappears.

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(8.4) When external equipment is connected to an electronic instrument through an appropriate interface the metrological qualities of the instrument shall not be adversely influenced.

(8.5) The instruments shall have no characteristics likely to facilitate fraudulent use, whereas possibilities for unintentional misuse shall be minimal. Components that may be dismantled or adjusted by the user shall be secured against such actions.

(8.6) Instruments shall be designed to permit ready execution of the statutory controls laid down by this Directive.

### **Indication of weighing results and other weight values**

9. The indication of the weighing results and other weight values shall be accurate, unambiguous and non-misleading and the indicating device shall permit easy reading of the indication under normal conditions of use.

The names and symbols of the units referred to in paragraph 1 of this Annex shall comply with the provisions of Directive 80/181/EEC(22) with the addition of the symbol for the metric carat which shall be the symbol “ct”.

Indication shall be impossible above the maximum capacity (Max), increased by 9e.

An auxiliary indicating device is permitted only to the right of the decimal mark. An extended indicating device may be used only temporarily, and printing shall be inhibited during its functioning.

Secondary indication may be shown, provided that they cannot be mistaken for primary indications.

### **Printing of weighing results and other weight values**

10. Printed results shall be correct, suitably identified and unambiguous. The printing shall be clear, legible, non-erasable and durable.

### **Levelling**

11. When appropriate, instruments shall be fitted with a levelling device and a level indicator, sufficiently sensitive to allow proper installation.

### **Zeroing**

12. Instruments may be equipped with zeroing devices. The operation of these devices shall result in accurate zeroing and shall not cause incorrect measuring results.

### **Tare devices and preset tare devices**

13. The instruments may have one or more tare devices and a preset tare device. The operation of the tare devices shall result in accurate zeroing and shall ensure correct net weighing. The operation of the preset tare device shall ensure correct determination of the calculated net value.

### **Instruments for direct sales to the public with a maximum capacity not greater than 100 kg: additional requirements**

14. Instruments for direct sales to the public shall show essential information about the weighing operation and, in the case of price-indicating instruments, shall clearly show the customer the price calculation of the product to be purchased.

The price to pay, if indicated, shall be accurate.

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(22) OJ No. L39, 15.2. 1980,p.40.

Price-computing instruments shall display the essential indications long enough for the customer to read them properly. Price-computing instruments may perform functions other than per-article weighing and price computation only if all indications related to all transactions are printed clearly, unambiguously and conveniently arranged on a ticket or label for the customer.

Instruments shall bear no characteristics that can cause, directly or indirectly, indications whose interpretation is not easy or straightforward.

Instruments shall safeguard customers against incorrect sales transactions due to their malfunctioning.

Auxiliary indicating devices and extended indicating devices are not permitted.

Supplementary devices are permitted only if they cannot lead to fraudulent use.

Instruments similar to those normally used for direct sales to the public which do not satisfy the requirements of this section must carry near to the display the indelible marking “Not to be used for direct sale to the public”.

### **Price labelling instruments**

**15.** Price labelling instruments shall meet the requirements of price indicating instruments for direct sale to the public, as far as applicable to the instrument in question. The printing of a price label shall be impossible below a minimum capacity.

## SCHEDULE 3

Regulation 4(1)(a)

### APPLICATIONS REFERRED TO IN ARTICLE 1(2)(a) OF THE DIRECTIVE

1. Determination of mass of commercial transactions.
2. Determination of mass for the calculation of a toll, tariff, tax, bonus, penalty, remuneration, indemnity or similar type of payment.
3. Determination of mass for the application of laws or regulations including expert opinions given in court proceedings.
4. Determination of mass in the practice of medicine for weighing patients for the purpose of monitoring, diagnosis and medical treatment.
5. Determination of mass for making up medicines on prescription in a pharmacy and determination of mass in analyses carried out in medical and pharmaceutical laboratories.
6. Determination of price on the basis of mass for the purposes of direct sales to the public and the making up of pre-packages.

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## SCHEDULE 4

Regulation 18(5)

### SPECIMEN FORM OF CE MARKING



If the CE marking is reduced or enlarged, the proportions given in the above graduated drawing must be respected. The various components of the CE marking must have substantially the same vertical dimensions, which may be less than 5 mm.

## SCHEDULE 5

Regulation 43

### ADAPTIONS FOR NORTHERN IRELAND

1. For the purposes of these Regulations, references to a local weights and measures authority are references to the Department of Economic Development.

## PART I

2. In regulation 3(2),

(a) for head (c) there shall be substituted the following head—

“(c) an instrument—

(i) in respect of a pattern for which pattern approval is granted or extended, or deemed to be granted or extended, under article 10 of the 1981 Order and is in force; and

(ii) which is first passed as fit for use for trade and stamped before 1st January 2003 under the Weighing Equipment (Non-automatic Weighing Machines) (Northern) Regulations 1991(23); or”;

(b) in head (d)(ii), for the words “4th April 1989” there shall be substituted the words “1st August 1991”.

3. In regulation 3(3), for the reference to the 1985 Act, there shall be substituted a reference to the 1981 Order.

## PART II

4. Regulation 21 shall not have effect and accordingly regulations 16(2)(c) and 20(4)(c) shall also not have effect.

5. In regulation 25(3)(b), the reference to a chief inspector of weights and measures is a reference to a chief inspector of weights and measures appointed under article 40 of the 1981 Order.

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(23) S.R. 1991/266 amended by S.R. 1992/537 and S.R. 1995/228.

### PART III

6. Part III does not apply to Northern Ireland.

### PART IV

7. In regulation 38—
- (a) in each of paragraphs (1) and (2), for the words “within the areas of the local weights and measures authority by which he is appointed” there shall be substituted in both places where they occur the words “within Northern Ireland”; and
  - (b) for paragraph (8) there shall be substituted the following paragraph—

“(8) In this regulation, “credentials”, in relation to an authorised person, means some duly authenticated document showing that he is authorised to act to exercise the powers conferred on him by this regulation.”.
8. For regulation 42 there shall be substituted—
- “42. No proceedings for an offence under these Regulations may be instituted except by the Department of Economic Development or the Director of Public Prosecutions for Northern Ireland.”.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations (“the Regulations”) replace, with amendments, the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992 as amended (“the 1992 Regulations”). They implement Council Directive [90/384/EEC](#) (as amended by Council Directive [93/68/EEC](#)) on the harmonisation of the laws of the member States relating to non-automatic weighing instruments (“instruments”), defined in regulation 2(1)).

On and after 1st January 2003, they replace the Weights and Measures Act 1985 (except for the purposes of Part III of the Act (use for trade)) and the Measuring Instruments (EEC Requirements) Regulations 1988, in so far as they relate to such instruments, but instruments in use immediately before that date may continue to be used under existing provisions in accordance with regulation 3.

In accordance with the Directive, the Regulations distinguish between two categories of use—

(1) instruments used for an application set out in Article 1.2(a) of the Directive repeated in Schedule 3 (“Schedule 3 applications”) must satisfy the essential requirements set out in Annex I of the Directive (set out in Schedule 2) (regulation 5) and

(2) instruments which are used for any other application must bear only certain inscriptions (regulation 6).

### Provisions of the Regulations

The Regulations—

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(1) prohibit the use of instruments for Schedule 3 applications and the supply of instruments for other applications unless the relevant requirements have been met (regulation 4)

(2) provide for conformity to relevant national standards corresponding to harmonised standards adopted by one or both of the European Committee for Standardisation and the European Committee for Electrotechnical Standardisation to be taken as a means of satisfying the essential requirements (regulation 7)

(3) specify the weights to be used for testing instruments for the purposes of EC verification, EC unit verification, EC declaration of type conformity and testing in service (regulation 8)

(4) provide for designation by the Secretary of State of bodies to carry out the examination, evaluation and surveillance of quality systems operated by manufactures of instruments and EC verification (“approved bodies”) for the variation, amendment or withdrawal of approval; the inspection by the Secretary of State for the performance of its functions as an approved body; and for the designation of all weights and measures authorities to carry out inspection and testing of instruments (regulation 9)

(5) provide for the Secretary of State to consider application for type-examination, to issue EC type-approval certificates and additions to such certificates approving modifications or additions to approved types (regulation 10 and Schedule 1)

(6) provide for only one application for EC type-examination to be made in respect of any one instrument (regulation 10(10))

(7) provide for EC verification, the procedure whereby—

- (i) the manufacturer ensures and declares that the instruments have been manufactured in conformity with the approved type (where appropriate) and satisfy the relevant provisions of the Directive by affixing the CE conformity marking and the sticker, and
- (ii) an approved body examines and tests such instruments to verify the same by affixing its identification number (regulation 11, 18 and Schedule 4)

(8) provide for EC unit verification, the procedure whereby—

- (i) the manufacturer ensures and declares that a single instrument satisfies the relevant provisions of the Directive, including the essential requirements, by affixing the CE conformity marking and the sticker, and
- (ii) the Secretary of State examines and tests the instrument to verify the same by affixing his identification number (regulations 12, 18 and Schedule 4)

(9) provide for approved bodies to approve manufacturers' quality systems, thus authorising them to make EC declarations of type conformity in respect of instruments manufactured by them and to affix the CE marking and the sticker (regulations 13 and 18 and Schedule 4)

(10) specify the examinations and tests and regulate the places where the tests may be carried out, for the purposes of EC verification, EC unit verification and EC declaration of type conformity (regulation 14)

(11) provide for the periodic surveillance by an approved body of the manufacturer's maintenance and application of the approved quality system and for withdrawal of the approval of the quality system if its requirements are not met (regulations 15 and 17)

(12) provide for the suspension of EC declarations of type conformity in certain circumstances and for a review procedure (regulations 16 and 21)

(13) forbid the affixing of the CE marking to an instrument if this would indicate compliance with other binding Community provisions with which the instrument does not comply (regulation 19)

(14) provide for the issue of notices to a manufacturer in cases where the CE marking has been wrongly affixed, for a review procedure and for withdrawal of the EC type-approval certificate (regulations 20 and 21)

(15) give information about the validity of judicial review of decisions of the Secretary of State and of approved bodies (regulation 22)

(16) provide for penalties and forfeiture in connection with the unauthorised affixing of the CE marking, inscriptions and sticker (regulation 23)

(17) provide for the affixing of disqualification stickers on instruments and for powers of inspection, testing and entry (regulations 24, 25, 27 and 38)

(18) provide for the withdrawal from the market, and from use, of instruments which are not satisfactory (regulation 26)

(19) make provision in relation to instruments which are used for trade (regulations 28 to 37) regulation 28 prohibits use of instruments for weighing outside their weighing range solely in relation to gold and other precious metals, precious stones and pearls and drugs and other pharmaceutical products; and

(20) provide penalties for obstruction of, or failure to assist, authorised persons for prosecution of offences (regulations 39 and 40 to 42).

The Regulations (except regulations 28 to 37) apply with modifications to Northern Ireland (regulation 43 and Schedule 5).

### **Modifications of the 1992 Regulations**

The changes of substance from the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992 are as follows. The Regulations—

- (a) allow for the affixing of the EC mark of conformity in accordance with the 1992 Regulations until 1st January 1997 (regulation 1)
- (b) amend the definitions of EC verification and EC unit verification (regulation 2(1))
- (c) amend the procedures for EC verification and EC unit verification to permit both the manufacturer or his authorised representative to apply the CE marking (regulations 11 and 12)
- (d) require the manufacturer or his authorised representative in the case of EC verification and EC unit verification to draw up a written declaration of conformity to the approved type and the Directive (regulations 11, 12 and 13)
- (e) require the approved body in the case of EC verification to supply to the manufacturer or his authorised representative a written certificate of conformity relating to the tests carried out (regulation 11);
- (f) require the Secretary of State in the case of EC unit verification to supply to the manufacturer or his authorised representative a written certificate of conformity relating to the tests carried out (regulation 12)
- (g) amend the procedure for EC declaration of type conformity to permit the manufacturer's authorised representative (in addition to the manufacturer) to apply the CE marking (regulation 13)
- (h) provide that the CE marking is as illustrated in Schedule 4 without the addition of the last two digits of the year in which it was affixed (regulation 18(5))
- (i) amend the provisions relating to conformity with other directives, where those directives include transitional arrangements, so that the manufacturer is now required to make a positive declaration specifying other directives which he has applied (regulation 19) and
- (j) simplify the provisions relating to the wrongful affixing of the CE marking so that they apply only to an instrument which does not meet the requirements of the Regulations (regulation 20).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Relevant national standards**

In the United Kingdom, the relevant national standards referred to—

in regulations 7, 8(2), 10(2)(c) and 14(8) are currently British Standard Specification for Metrological aspects of non-automatic weighing instruments BS EN 45501: 1994+AC:1994; and

in regulation 13(3) are currently Quality system Model for quality assurance in production and installations BS EN ISO 9002:1994.

Copies of these British Standards can be obtained from any of the sales outlets operated by the British Standards Institution (BSI), by post from the BSI at Linford Wood, Milton Keynes, MK14 6LE and at any HMSO bookshop.

### **International Organisation for Legal Metrology**

Copies of Nonautomatic weighing instruments, Part I: Metrological and technical requirements-Tests (see regulation 2(4)) may be obtained from the International Organisation for Legal Metrology, 11 rue Turgot, Paris, 75009, France.

### **Compliance Cost Assessment**

A Compliance Cost Assessment of the impact that these Regulations will have on business will be available in the libraries of the Houses of Parliament once the Regulations, having been made, are laid before Parliament and from the National Weights and Measures Laboratory, Stanton Avenue, Teddington, Middlesex, TW11 0JZ.