

RESPONSES

Consultation on: Draft Weights and
Measures (Revocations) Regulations
2015

FEBRUARY 2015

Consultation on the draft Weights and Measures (Revocation) Regulations 2015

The closing date for this consultation is 30/01/2015.

Name: **Ian Turner**

Organisation (if applicable): **UKWF**

Address:

Please return completed forms to:

Robert Harper

National Measurement Office

Stanton Avenue

Teddington

TW11 0JZ

Telephone: 020 8943 7255

Email: robert.harper@nmo.gov.uk

<input checked="" type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1: Do you consider that there are any provisions which do not work or are unclear?

Yes

No

If yes, please explain your reasons.

The UKWF are of the view that the proposed removal of Regulation 8 of the SI3236 will confuse the legal framework to which all stakeholders presently operate. The present requirement has operated well since at least 2000 and is well understood by businesses and enforcers that operate in the market. It provides a clear and consistent benchmark to which all businesses know they must comply. Any dilution of this clarity will lead to ambiguity and confusion, increasing the number of subjective local judgements made by businesses, notified bodies and local enforcement bodies on whether or not weights are appropriate. This in turn will be detrimental to legitimate economic operators and create an unfair cost advantage to illegitimate ones.

What businesses need is a clear statement of their obligations, which is provided by the present regulation 8. We strongly urge you to consider amending this section to ensure it meets the legislative requirements but would object strongly to its removal.

I would also like to make the following specific comments on concerns that the UKWF would have with this proposal

1) The proposal relies in an implicit requirement in Regulation 14(8) of SI3236 (See 7.2 above)

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

14(8) clearly make no reference to any of the procedures under Regulation 13 and this means de facto such an obligation would not apply to any manufacturers or authorised representatives operating under this regulation. It is the view of the UKWF that the removal of the explicit statutory requirement will lead to increased ambiguity and inconsistency as to those weights that will be acceptable and increase the problem of local interpretation. It is believed the removal of the present level of certainty will be detrimental to the industry.

2) There is no obligation to use the relevant national standard. This is the choice of the economic operator placing the instrument on the market. When seen in the context of the comment above, it is felt that this will lead to a diminution of the present clarity and understanding in the market place. It is felt that the potential to reduce the cost of calibration by increasing tolerances or the periodicity of calibration will be taken by some businesses and inevitably other will be forced to follow.

3) The relevant national standard requires an error for the standard weights or masses used of no greater than $1/3^{\text{rd}}$ of the tolerance of the maximum permissible error for the applied load (for the instrument being verified) (3.7.1). If a manufacturer or authorised representative chooses to use the relevant national standard (This cannot be assumed) the permissible / acceptable error for the will be dependent upon the division size of the instrument being tested, a decision that can only be made on piecemeal basis by the engineer or verifier at the time. This is an extra process that will need to be controlled and a consequent cost for that control

If the economic operator does decide to comply with 3.7.1 the acceptable tolerances on weights are much wider and consequent costs of calibration are much lower e.g. 5kg weight used to verify a 15kg / 5g (Class III) weighing instrument. To meet the 3.7.1 at 5kg the 5kg weight must have a tolerance of 1.6 error at 5kg =1e (5g), $1/3$ of 5g=1.6 g).

The present requirement would suggest M1 standard weights for which the tolerance is +/- 250mg. The lower tolerance would inevitably be cheaper.

Question 2: Do you have any comments on the draft regulations?

Yes No

If yes, please provide details.

See above.

Question 3: Do you have any comment on the proposed revocation of the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988 (as amended)?

Yes No

If yes please provide objective evidence of detriment as this is a measure which has been considered under the Governments 'Red tape challenge' as suitable for reducing the stock of legislation.

No comment on this as the response is on behalf of the UKWF.

Question 4: Do you have any comments on the proposed revocation of the national regulations implementing all of the “old approach” directives on metrology including the seven under this proposal and where such instruments are regulated on the UK market that all in-service control will be removed after November 2025?

Yes No

If yes, please provide details below.

Question 5: Have you any evidence that measuring instruments controlled by the regulations transposing the seven “old approach” EEC Directives are still commercially active?

Yes No

If yes, please provide details below.

Question 6: Do you agree with the proposal to remove specific references to Directive 74/148/EEC for above medium accuracy weights in the Non-automatic Weighing Instruments Regulations 2000 and the Non-automatic Weighing Machines Regulations 2000 from December 2015?

Yes No

If no, please provide details below.

The references to 74/148/ EEC must be removed, but it is not supported to remove all of the Regulation 8 of SI3236. It is felt that replacing the reference to 74/148/EEC with a reference to OIML R111 would be most appropriate.

Question 7: Do you prefer that for above medium accuracy weights referred to in Q6 are only replaced after the 30 November 2025 when the transition period ceases?

Yes No

If yes, please provide details below.

No comment.

Consultation on the draft **Weights and Measures (Revocation) Regulations 2015**

The closing date for this consultation is 30/01/2015.

Name: **Lead Officers for Metrology – email lometrology@tsi.org.uk**
Organisation (if applicable): **Trading Standards Institute**
Address: **1 Sylvan Court, Sylvan Way, Southfields Business Park, Basildon, Essex SS15 6TH**

Please return completed forms to:
Robert Harper
National Measurement Office
Stanton Avenue
Teddington
TW11 0JZ

Telephone: 020 8943 7255
Email: robert.harper@nmo.gov.uk

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	Small business (10 to 49 staff)
	Trade union or staff association
<input checked="" type="checkbox"/>	Other (please describe) Professional membership association formed in 1881. It represents trading standards professionals working in the UK and overseas - in local authorities, the business and consumer sectors, and central government.

About The Trading Standards Institute

For the benefit of those reading this response on the TSI website...

Legal weights and measures are fundamental to a sustainable trading economy and the concepts of sale, purchase and fair trading conditions cannot exist without them.

The Trading Standards Institute (TSI) was originally founded as the British Association of Inspectors of Weights and Measures in 1881 by weights and measures inspectors seeking to influence legislation and to achieve common action upon how the law on weights and measures should be administered.

The range of duties of weights and measures inspectors increased considerably as society became more sophisticated and the broader term "trading standards officer" appeared in the 1960s.

Today TSI represents trading standards professionals working in the UK and overseas - in local authorities, the business and consumer sectors, and central government.

The Institute aims to promote and protect the success of a modern vibrant economy and to safeguard the health, safety and wellbeing of citizens by empowering consumers, encouraging honest business and targeting rogue traders. We provide information, evidence and policy advice to support national and local stakeholders.

We are taking on greater responsibilities as the result of the government's announcement in October 2010 that trading standards is one of the two central pillars of the new consumer landscape (the other being Citizens Advice).

We have taken over responsibility for business advice and education, developing the Business Companion website (www.businesscompanion.info) which provides information for businesses and individuals needing to know about trading standards and consumer protection legislation.

The TSI Consumer Codes Approval Scheme, established at the request of the government to take over from the OFT scheme, was launched in 2013.

TSI is a member of the Consumer Protection Partnership which was set up by the government to bring about better coordination, intelligence sharing and identification of future consumer issues within the consumer protection arena.

We run events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

A key concern for TSI is that of resources. UK local authority trading standards services enforce over 250 pieces of legislation in a wide variety of areas. They have suffered an average reduction of 40% in their budgets since 2010 and staff numbers have fallen by 50%.

In compiling this response, TSI has canvassed the views of its Members and Advisers. The response has been composed by the team of TSI Lead Officers for Metrology. If you require clarification on any of the points raised in the response, please do not hesitate to contact the team at email lometrology@tsi.org.uk.

TSI does not regard this response to be confidential and is happy for it to be published.

Please Note:-

Re Questions 1,2,6:-

The TSI Lead Officers for Metrology have seen the responses to these questions submitted by the UK Weighing Federation and would support the opinions thus raised.

The examples given within the UKWF text are, in our opinion, well thought out and argued accurately.

For the sake of brevity we do not intend to repeat them or give alternative examples.

Question 1: Do you consider that there are any provisions which do not work or are unclear?

Yes

No

If yes, please explain your reasons.

7.1 EEC initial verification of weights under Directives 71/317/EEC and 74/148/EEC would continue until 30 November 2025.

Re 71/317/EEC:- TSI agrees with the proposal, assuming that the regulations would be similarly subject to a 10-year derogation in respect of any weights still in use. The consultation paper makes the assumption that because there is no evidence of verification under the regulations, there aren't any in use – which may not be the case.

Re 74/148/EEC:- TSI supports the UKWF approach that references be removed and replaced by reference to OMIL R111, to provide clarity to Industry and to Inspectorate expectation. We note that Regulation 35 NAWI is also affected – which specifies weights suitable for test of Class I and Class II instruments.

7.2 is subject to comment below.

7.3 and 7.4:- TSI has no comment.

7.5:- We assume that the proposal would mean that detail in any Type Approval Certificate would remain; existing equipment could not undergo any alteration other than replacement of existing components and that S17 would apply to equipment continuing in use.

In general we can see the logic surrounding the 10-year derogation where applied. In this respect, in the case of NAWM equipment the amount remaining is going to be small and the tolerances in the NAWI regs are in most cases identical.

We do, however, object in principle to removing regulations which contain in-service requirements on prescribed equipment, where that equipment can be subject to alteration or repair – excluding of course cases such as glass beer measures, which cannot change and break readily.

Question 2: Do you have any comments on the draft regulations?

Yes No

If yes, please provide details.

As the regulation is with one exception, a list of the revocations, the only comment is to agree the change to the regulations mentioned in Schedule, Part 1 Para 2.

Question 3: Do you have any comment on the proposed revocation of the Capacity Serving Measures (Intoxicating Liquor) Regulations 1988 (as amended)?

Yes No

If yes please provide objective evidence of detriment as this is a measure which has been considered under the Governments 'Red tape challenge' as suitable for reducing the stock of legislation.

TSI can see the logic in the argument in paragraph 7.6 of the document above and as the trade equipment concerned is unadjustable we would only see a continuing need to have limits of error in relation to the obliteration of stamps on existing equipment.

Question 4: Do you have any comments on the proposed revocation of the national regulations implementing all of the “old approach” directives on metrology including the seven under this proposal and where such instruments are regulated on the UK market that all in-service control will be removed after November 2025?

Yes No

If yes, please provide details below.

As with Q3 above, the concern is for the preservation of suitable limits of error in relation to existing in-service equipment.

Question 5: Have you any evidence that measuring instruments controlled by the regulations transposing the seven “old approach” EEC Directives are still commercially active?

Yes No

If yes, please provide details below.

Question 6: Do you agree with the proposal to remove specific references to Directive 74/148/EEC for above medium accuracy weights in the Non-automatic Weighing Instruments Regulations 2000 and the Non-automatic Weighing Machines Regulations 2000 from December 2015?

Yes No

If no, please provide details below.

Acknowledging the fact that the Directives are being deleted, we would support the UK Weighing Federation suggestion that this be replaced by OIML R111 as a normative document.

Referencing 7.2 above:- The rationale given in the consultation document above states:

“By removing regulation 8 in the NAWI 2000 Regulations on ‘appropriate equipment for tests’, the Regulations will be consistent with the statutory instruments for Measuring Instruments; whereby the requirements for appropriate equipment will be implicit rather than explicit.”

We are of the opinion that requirements which are explicit are right for industry and enforcement alike and give confidence in the system to the public.

'Implicit' gives rise to uncertainty and differences in interpretation. We would point to evidence gathered in recent years of instances where differences in the regimes for verification equipment [for instance petrol measures] which are significantly regulated by the use of SWMs to the equipment used by inspectorate but in industry is subject to the discretion of the Notified body, which has led to a situation which is deleterious to consumers and the public and unfair to local authority enforcers.

We believe that the trade likes certainty. To have uncertainty can lead to burdens on business.

For weights to be suitable, determining one third of tolerance of instrument load, it is far easier to accept M1 certificates, F2 Certificates for F2 etc. Reg 8 gives certainty. To verify a Class II, F2 or better weights are needed. To be sure of accuracy verifiers could have doubt over [geographically closer] hired in weights and means that verifiers may have to use their own test weights, which may lead to greater costs that will be passed to the customer.

Question 7: Do you prefer that for above medium accuracy weights referred to in Q6 are only replaced after the 30 November 2025 when the transition period ceases?

Yes

No

If yes, please provide details below.

We would again prefer that in-service controls remain where applicable as long as equipment continues in use.