

**2016 No. XXXX**

**WEIGHTS AND MEASURES**

**The Measuring Instruments Regulations 2016**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - \*\*\*

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to, and for purposes ancillary to, the regulation of specifications, construction, placing on the market and use of articles, instruments, containers or other equipment intended for weighing measuring or testing.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes the following Regulations under the powers conferred on him by section 2(2) of that Act and, in relation to Part 6 of the Regulations under powers conferred on him by sections 15(1) and 86(1) of the Weights and Measures Act 1985<sup>(c)</sup>.

**PART 1**

**INTRODUCTORY**

**Citation, commencement and extent**

- 1.**—(1) These Regulations may be cited as the Measuring Instruments Regulations 2016.  
(2) These Regulations come into force on 20th April 2016.  
(3) These Regulations extend to Northern Ireland except Part 6.

**Interpretation**

- 2.**—(1) In these Regulations—  
“accreditation” has the meaning set out in point 10 of Article 2 of RAMS;

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<sup>(a)</sup> S.I. 1975/427  
<sup>(b)</sup> 1972 c.68  
<sup>(c)</sup> 1985 c.72.

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service or a national accreditation body in another member State, attesting that a conformity assessment body meets the notified body requirements;

“active electrical energy meter” means a device which measures the active electrical energy consumed in a circuit which is intended for residential, commercial or light industrial use;

“authorised representative” means any person established within the European Union who has received a written mandate from a manufacturer to act on the manufacturer’s behalf in relation to specified tasks;

“automatic weighing instrument” means an instrument that—

- (a) determines the mass of a product without the intervention of an operator; and
- (b) follows a predetermined programme of automatic processes characteristic of the instrument intended to determine the mass of a body by using the action of gravity on that body;

“automatic gravimetric filling instrument” means an automatic weighing instrument that fills containers with a predetermined and virtually constant mass of product from bulk;

“automatic catchweigher” means an automatic weighing instrument that determines the mass of pre-assembled discrete loads (for example pre-packages) or single loads of loose material;

“automatic checkweigher” means an automatic catchweigher which sub-divides articles of different mass into two or more sub-groups according to the value of the difference between their mass and the nominal set point;

“automatic discontinuous totaliser” means an automatic weighing instrument that—

- (a) determines the mass of a bulk product by dividing the product into discrete loads;
- (b) determines in sequence and sums the mass of each discrete load; and
- (c) delivers each discrete load to bulk;

“automatic rail-weighbridge” means an automatic weighing instrument having a load receptor inclusive of rails for conveying railway vehicles;

“automatic weight grading instrument” means an instrument that determines the mass of a product without the intervention of an operator and follows a predetermined programme of automatic processes characteristic of the instrument intended to determine the mass of a body by using the action of gravity on that body;

“beltweigher” means an automatic weighing instrument that continuously determines the mass of a bulk product on a conveyor belt without systematic subdivision of the product without interrupting the movement of the conveyor belt;

“capacity serving measure” means a capacity serving measure (such as a drinking glass, jug or thimble measure) designed to determine a specified volume of a liquid (other than a pharmaceutical product) which is sold for immediate consumption;

“CE marking” means a marking which takes the form set out in Annex II of RAMS;

“competent authority” means the market surveillance authority or an enforcement authority;

“conformity assessment” means the process for demonstrating whether the essential requirements relating to a measuring instrument have been fulfilled;

“conformity assessment body” means a person that performs conformity assessment activities, including calibration, testing, certification and inspection;

“dimensional measuring instrument” means—

- (a) a length measuring instrument that serves for the determination of the length of rope type materials (for example textiles, bands, cables) during feed motion of the product to be measured;
- (b) an area measuring instrument which serves for the determination of the area of irregular shaped objects, for example for leather; or

(c) a multi-dimensional measuring instrument which serves for the determination of the edge length (length, height, width) of the smallest enclosing rectangular parallelepiped of a product;

“the Directive” means Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments<sup>(a)</sup> and references to the Directive (or a specific provision of it) are references to the Directive (or that provision) as from time to time amended;

“distributor” means any person in the supply chain, other than the manufacturer or the importer, who makes a measuring instrument available on the market;

“disqualification mark” means a mark or sticker the design of which is published by the Secretary of State and which is affixed to a regulated measuring instrument in accordance with regulation 74;

“economic operator” means a manufacturer, importer or distributor;

“enforcement authority” means any person enforcing these Regulations mentioned in regulation 70;

“enforcement officer” means—

(a) an inspector; or

(b) a person appointed by the Secretary of State to act on his behalf to enforce these Regulations;

“essential requirements” means, in relation to a measuring instrument (or a class of that measuring instrument), the requirements specified as being applicable in relation to that measuring instrument (or that class) in Schedule 1;

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with chapter 3 of Part 4;

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

“exhaust gas analyser” means a measuring instrument that serves in relation to a motor vehicle engine with spark ignition to determine at the moisture level of the sample analysed the volume fractions of the following exhaust gas components—

(a) carbon monoxide;

(b) carbon dioxide;

(c) oxygen; and

(d) hydrocarbons;

“gas meter” means an instrument designed to measure, memorise and display the quantity of fuel gas (volume or mass) that has passed it which is intended for residential, commercial or light industrial use;

“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation<sup>(b)</sup> (as amended from time to time);

“in writing” includes text that is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

“importer” means any person who—

(a) is established within the EU; and

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(a) OJ L 96, 29.3.2014, p. 149.

(b) OJ L 316, 14.11.2012, p. 12.

(b) places a measuring instrument from a third country on the EU market;

“national accreditation body” has the meaning set out in point 11 of Article 2 of RAMS;

“M marking” means the supplementary metrology referred to in regulation 54

“measuring instrument” has the meaning in regulation 3(1);

“make available on the market” means any supply for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions are to be construed accordingly;

“manufacturer” means a person who manufactures a measuring instrument, or has such an article designed or manufactured, and markets that measuring instrument under their name or trade mark and, where the context requires, the expression “manufacturer” also includes any person who is to be treated as a manufacturer by virtue of regulation 6(2);

“market surveillance authority” means the Secretary of State acting in the capacity of market surveillance authority pursuant to the designation made by regulation 66 (the market surveillance authority);

“material measure” means—

(a) a material measure of length; or

(b) a capacity serving measure;

“material measure of length” means an instrument comprising scale marks whose distances are given in legal units of length;

“non-prescribed measuring instrument” means a measuring instrument of a kind referred to in regulation 3(3);

“non-water liquid measuring system means a measuring system for use for trade for the continuous and dynamic measurement of quantities of liquids other than water where—

(a) the system comprises a meter and all devices required to ensure correct measurement or intended to facilitate the measuring operations; and

(b) the expression “meter” means an instrument designed to measure continuously, memorise and display the quantity at metering conditions of liquid flowing through the measurement transducer in a closed, fully charged conduit;

“normative document” means a document containing technical specifications adopted by the International Organisation of Legal Metrology;

“notified body” includes, where the context so requires, a notified body designated as such in another member State in accordance with the Directive;

“notified body requirements” means the requirements set out in Schedule 5 (notified body requirements);

“place on the market” means the first making available on the EU market, and related expressions are to be construed accordingly;

“putting into use” means the first use of a measuring instrument intended for the end-user for the purposes for which it was intended and related expressions are to be construed accordingly;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (as from time to time amended)(a)

“recall” means taking any measure aimed at achieving the return of a measuring instrument that has already been made available to the end-user and related expressions are to be construed accordingly;

“regulated measuring instrument” means an instrument of the kind referred to in regulation 3(2);

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(a) OJ L 218, 13.8.2008, p. 30.

“relevant conformity assessment procedure” means, in relation to a particular measuring instrument, a conformity assessment procedure specified in Schedule 1 as being applicable to that instrument;

“relevant economic operator” means, in relation to a measuring instrument, an economic operator with obligations in respect of that measuring instrument under Part 2;

“re-qualification mark” means a mark or sticker, the design of which is published by the Secretary of State and which is affixed to a regulated measuring instrument in accordance with regulation 75 (requalification);

“sub-assembly” means a hardware device mentioned as such in the instrument-specific annexes to the Directive that functions independently and makes up a measuring instrument together with other sub-assemblies with which it is compatible, or with a measuring instrument with which it is compatible;

“taximeter” means a device that works together with a signal generator to make a measuring instrument with the device measuring duration, calculating distance on the basis of a signal delivered by the distance signal generator and calculating and displaying the fare to be paid for a trip on the basis of the calculated distance or the measured duration of the trip, or both;

“technical documentation” means documentation prepared in accordance with Chapter 2 of Part 3;

“technical specification” means a document that prescribes technical requirements to be fulfilled by a measuring instrument;

“thermal energy meter” means an instrument designed to measure the thermal energy which, in a thermal energy exchange circuit, is given up by a liquid called the thermal energy-conveying liquid which is intended for residential, commercial or light industrial use and includes the following sub-assemblies, flow sensors, temperature sensor pairs and calculators where these are manufactured separately;

“volume conversion device” means a device fitted to a gas meter that automatically converts the quantity measured at metering conditions into a quantity at the specified conditions to which the measured quantity of fluid is converted;

“water meter” means an instrument designed to measure, memorise and display, the volume at metering conditions of water passing through the measurement transducer for the measurement of volumes of clean, cold or heated water intended for residential, commercial or light industrial use

“weights and measures authority” means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985(a); and

“withdraw”, when used in relation to a measuring instrument, means taking any measure aimed at preventing a measuring instrument in the supply chain from being made available on the market and related expressions are to be construed accordingly.

(2) Other expressions used in these Regulations have in relation to their application to

- (a) Great Britain the same meanings as in the Weights and Measures Act 1985;
- (b) Northern Ireland, the same meaning as it the Weights and Measures (Northern Ireland) Order 1981(b).

### **Meaning of “measuring instrument” and related expressions and the scope and application of the Regulations**

**3.—**(1) In these Regulations the expression “measuring instruments” comprises the following—

- (a) water meters;

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(a) 1985 c.72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c.43), Schedule 1, the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 144 and the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 75.

(b) S.I. 1981/231 (N.I.10).

- (b) gas meters and sub-assemblies for inclusion in, or attachment to, gas meters in the form of volume conversion devices;
- (c) active electrical energy meters;
- (d) thermal energy meters and any of the following sub-assemblies—
  - (i) flow sensors;
  - (ii) temperature sensor pairs; and
  - (iii) calculators
- (e) non-water liquid measuring systems;
- (f) automatic weighing instruments of the following kinds—
  - (i) automatic catchweighers;
  - (ii) automatic gravimetric filling instruments;
  - (iii) discontinuous totalisers;
  - (iv) beltweighers; and
  - (v) automatic rail weighbridges;
- (g) taximeters;
- (h) material measures;
- (i) dimensional measuring instruments; and
- (j) exhaust gas analysers.

(2) Subject to paragraph (4) and Schedule 2, these Regulations (other than Part 3) apply to measuring instruments of the following descriptions (referred to in these Regulations as “regulated measuring instruments”)—

- (a) water meters used for trade for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) gas meters for use for trade except a gas meter which is used under an agreement providing for the supply of a quantity of gas at a rate of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic meters an hour (or the equivalent quantity in kilograms)
- (c) Active electrical energy meters for use for trade other than an instrument which is used under an agreement providing for the supply of active electrical energy where—
  - (i) the maximum quantity supplied exceeds 100 kilowatts per hour; and
  - (ii) the instrument provides measurement on a half-hourly basis;
- (d) non-water liquid measuring systems of the following descriptions—
  - (i) a measuring system which is used for the continuous and dynamic measurement of a liquid fuel, lubricant or a mixture of fuel and lubricant in a quantity not exceeding 100 litres or 100 kilograms other than—
    - (aa) liquefied petroleum gas; or
    - (bb) liquefied natural gas;
  - (ii) a meter measuring system (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which is used for the continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms delivered from a road tanker other than—
    - (aa) liquefied gases;
    - (bb) lubricating oils;
    - (cc) liquid fuels of a temperature below -153°C; or
    - (dd) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (e) automatic weighing instruments of the following kinds which are for use for trade—

- (i) automatic gravimetric filling instruments;
- (ii) automatic catchweighers (other than automatic checkweighers and automatic weight grading instruments);
- (iii) automatic rail-weighbridges;
- (iv) beltweighers; and
- (v) discontinuous totalisers;
- (f) taximeters intended for use for the protection of consumers;
- (g) material measures which are for use for trade of the following kinds—
  - (i) material measures of length (excluding dipping and strapping tapes);
  - (ii) capacity serving measures for the measurement of draft beer or cider of the following capacities:  $\frac{1}{3}$  pint,  $\frac{1}{2}$  pint,  $\frac{2}{3}$  pint, 1 pint, 2 pints, 4 pints, 8 pints and 16 pints;
  - (iii) capacity serving measures for the measurement of liquids other than draft beer or cider (a) of the following capacities in millilitres (ml) and litres (l): 5 ml, 10 ml, 20 ml, 25 ml, 35 ml, 50 ml, 70 ml, 100 ml, 125 ml, 150 ml, 175 ml, 200 ml, 250 ml, 500 ml, 1 l, 2 l, 2.5 l, 5 l, 10 l and 20 l;
  - (h) Exhaust gas analysers intended for use for the protection of the environment and public health except where the exhaust gas analyser includes or is connected to a device which is not used for the protection of the environment and public health;
- (3) These Regulations (other than Part 2) apply to measuring instruments which are not regulated measuring instruments (such instruments being referred to in these Regulations as “non-prescribed measuring instruments”).
- (4) These Regulations do not apply to the instruments listed in Schedule 2.

#### **Revocations and transitional and consequential provisions**

- 4. Schedule 3 (revocations, and transitional and consequential provisions) has effect.

#### **Exception for trade fairs, exhibitions and demonstration**

- 5. Nothing in these Regulations prevents the showing and use of a regulated measuring instrument which is not in conformity with Part 2, at a trade fair, exhibition or demonstration for the marketing of regulated measuring instruments, provided that a visible sign clearly indicates—
  - (a) the name and date of the trade fair or exhibition;
  - (b) that the instrument is not in conformity with Part 2; and
  - (c) that the instrument is not available for sale until brought into conformity.

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(a) The Weights and Measures (Intoxicating Liquor) Order 1988 (add refs) makes provision as to the units of measurement and capacities that may be used in relation to certain intoxicating liquors.

## PART 2

### REGULATED MEASURING INSTRUMENTS – OBLIGATIONS OF ECONOMIC OPERATORS

#### CHAPTER 1

##### OBLIGATIONS OF MANUFACTURERS AND PERSONS TO BE TREATED AS MANUFACTURERS

#### **Introductory**

**6.**—(1) This Chapter applies in relation to the placing on the market or the putting into use of a regulated measuring instrument by a manufacturer.

(2) The obligations in this Chapter also apply to an importer or distributor who—

- (a) places a measuring instrument on the market under his name or trade mark; or
- (b) modifies a measuring instrument on the market under his name in such a way that compliance with the requirements of these Regulations may be affected;

and the expression “manufacturer” is to be construed accordingly.

#### **Manufacturers’ responsibilities – design, conformity assessment and marking of instruments**

**7.** A manufacturer must not place on the market or put into use a measuring instrument unless the manufacturer has—

- (a) designed and manufactured the instrument in accordance with the essential requirements;
- (b) drawn up technical documentation in relation to the instrument;
- (c) carried out (or procured the carrying out of) the relevant conformity assessment procedure which has demonstrated compliance of the instrument with the applicable requirements;
- (d) drawn up an EU declaration of conformity; and
- (e) affixed to the instrument—
  - (i) the CE marking;
  - (ii) the M marking; and
  - (iii) the number of the notified body which carried out the conformity assessment procedure in respect of the instrument (except where the procedure is carried out pursuant to regulation 43 (capacity serving measures - accredited in house bodies)).

#### **Manufacturers – obligations in respect of records**

**8.** A manufacturer must keep the technical documentation and the EU declaration of conformity for a period of 10 years beginning with the day after the day on which the instrument to which it relates has been placed on the market

#### **Manufacturers’ obligations to ensure continuing conformity with essential requirements**

**9.**—(1) Manufacturers must have procedures in place for series production of regulated measuring instruments by them to ensure that instruments so manufactured continue to meet the essential requirements.

(2) The procedures mentioned in paragraph (1) must be sufficiently adequate to take account of changes in—

- (a) measuring instrument design or characteristics; and



- (b) changes in the harmonised standards, normative documents or in other technical specifications by reference to which the conformity of the regulated measuring instrument is declared.
- (3) When deemed appropriate with regard to the performance of a measuring instrument, manufacturers must—
  - (a) carry out sample testing of measuring instruments manufactured by them made available on the market;
  - (b) investigate complaints about measuring instruments manufactured by them;
  - (c) if necessary, keep a register of:
    - (i) complaints;
    - (ii) non-conforming measuring instruments; and
    - (iii) measuring instrument recalls; and
  - (d) keep distributors informed of any monitoring undertaken by them.

**Manufacturers' obligations in relation to the marking of instruments with serial numbers etc.**

**10.—**(1) A manufacturer must ensure that a regulated measuring instrument which that manufacturer has placed on the market bears a type, batch or serial number or other element allowing identification of that instrument.

(2) Paragraph (1) does not apply where the dimensions of the instrument are too small or it is of too sensitive a composition to allow it to bear the information required by that paragraph and in such a case the information must be marked on the instrument's packaging (if any) and the accompanying documents required by these Regulations.

**Manufacturers to mark contact details on instruments where possible**

**11.—**(1) A manufacturer must indicate on every regulated measuring instruments manufactured by that manufacturer, the manufacturers name, registered trade name or registered trade mark and the postal address at which the manufacturer can be contacted.

(2) Paragraph (1) does not apply where the dimensions of the instrument are too small or it is of too sensitive a composition to allow it to bear the information required by that paragraph and in such a case the information must be marked on the instrument's packaging (if any) and the accompanying documents required by these Regulations.

(3) The address required by this regulation must indicate a single point at which the manufacturer can be contacted.

(4) The contact details required by this regulation must be in a language easily understood by end-users and market surveillance authorities.

**Documentation to accompany regulated measuring instruments**

**12.—**(1) A manufacturer must ensure that regulated measuring instruments that that manufacturer has placed on the market are accompanied by—

- (a) a copy of the EU declaration of conformity relating to the instruments;
- (b) information on the operation of the instrument including, where relevant, the following—
  - (i) rated operating conditions;
  - (ii) mechanical and electromagnetic environment classes;
  - (iii) the upper and lower temperature limit, whether condensation is possible or not, open or closed location;
  - (iv) instructions for installation, maintenance, repairs, permissible adjustments;
  - (v) instructions for correct operation and any special conditions of use;

- (vi) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

(2) Paragraph (1)(b) does not apply where the simplicity of the measuring instrument makes the supply of the information referred to in that paragraph unnecessary.

(3) Information supplied in accordance with this regulation must be in a language that can easily be understood by end-users.

(4) Instructions and labelling for regulated measuring instruments must be clear, understandable and intelligible.

### **Action to be taken where measuring instrument placed on the market is not in conformity with essential requirements**

**13.**—(1) This regulation applies where a manufacturer considers or has reason to believe that a measuring instrument placed on the market by that manufacturer is not in conformity with the requirements of these Regulations.

(2) The manufacturer must immediately take the corrective measures necessary to bring the instrument into conformity or withdraw or recall it, if appropriate.

(3) Where the instrument presents a risk, the manufacturer must immediately inform the competent national authorities of the Member States in which the measuring instrument has been made available on the market to that effect giving details, in particular, of the non-compliance and of the corrective measures taken.

### **Provision of information to the competent authority**

**14.**—(1) A manufacturer must, further to a reasoned request from a competent authority, provide the competent authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the measuring instrument with the requirements of these Regulations or the Directive.

(2) Information supplied pursuant to this regulation must be supplied in English.

(3) A manufacturer must co-operate with a competent authority, at the request of that authority, on any action to eliminate the risks posed by instruments that the manufacturer has placed on the market.

### **Use of authorised representatives by manufacturers**

**15.**—(1) A manufacturer may, by a written mandate, appoint an authorised representative to discharge its responsibilities under these Regulations in relation to the placing on the market of a measuring instrument.

(2) A representative appointed under paragraph (1) may not discharge the manufacturer's obligations under regulation 7(a) and 7(b).

(3) An authorised representative shall be treated as being authorised to—

- (a) keep the EU declaration of conformity and the technical documentation at the disposal of the competent surveillance authority for 10 years after the measuring instrument has been placed on the market;
- (b) further to a reasoned request from a competent authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a measuring instrument; and
- (c) cooperate with a competent authority, at their request on any action taken to eliminate the risks posed by measuring instruments covered by their mandate.

### **Offences by manufacturers**

**16.** A manufacturer is guilty of an offence if the manufacturer contravenes any requirement of—

- (a) Regulation 7 (manufacturers' responsibilities – design, conformity assessment and marking of instruments);
- (b) regulation 8 (manufacturers' obligations in respect of records);
- (c) regulation 9 (manufacturers' obligations to ensure continuing conformity with essential requirements);
- (d) regulation 10 (manufacturers' obligations in relation to marking of instruments with serial numbers);
- (e) regulation 11 (manufacturers to mark contact details on instruments where possible);
- (f) regulation 12 (documentation to accompany regulated measuring instruments);
- (g) Regulation 13 (Action to be taken where measuring instrument placed on the market is not in conformity with essential requirements); or
- (h) Regulation 14 (provision of information to the competent authority).

## CHAPTER 2

### OBLIGATIONS OF IMPORTERS

#### **Introductory**

**17.** This chapter applies to the placing on the market or the putting into use of a regulated instrument from a country outside the European Union that is imported into the United Kingdom.

#### **Ensuring compliance of regulated instruments**

- 18.**—(1) An importer must only place compliant measuring instruments on the market.
- (2) An importer must ensure that—
- (a) the appropriate conformity assessment procedure has been carried out by the manufacturer of the instrument (or by the importer where the importer is to be regarded as the manufacturer by virtue of Chapter 1);
  - (b) the manufacturer has drawn up the technical documentation (or that the importer has done so where the importer is treated as the manufacturer);
  - (c) the measuring instrument bears the CE marking and the M marking;
  - (d) the measuring instrument is accompanied by a copy of the EU declaration of conformity and the documents referred to in regulation 12 (documentation to accompany regulated instruments); and
  - (e) the manufacturer (or the importer where he is treated as the manufacturer) has complied with the requirements of regulations 10 (manufacturers' obligations in relation to the marking of instruments with serial numbers) and 11 (manufacturers to mark contact details on instruments where possible).

#### **Importers duty to notify manufacturer and market surveillance authorities of non-compliant instruments that present a risk**

**19.** Where an importer considers or has reason to believe that the measuring instrument is not in conformity with the essential requirements and presents a risk, the importer shall inform the manufacturer and the market surveillance authorities.

#### **Requirements to mark importers' details on instruments**

**20.**—(1) An importer must indicate on measuring instruments imported by that importer, their name, registered trade name or trademark and the postal address at which they can be contacted.

(2) Where an instrument is too small or of too sensitive a composition to allow it to bear the information required by paragraph (1), such information must be marked on any packaging in which the instrument is supplied and on any accompanying documents.

(3) Any contact details must be written in a language that is easily understood by end-users of the measuring instrument and market surveillance authorities.

#### **Importers' duty to ensure that regulated measuring instruments are accompanied by relevant documentation**

**21.** An importer must ensure that measuring instruments imported by that importer are, where relevant, accompanied by the following instructions and information in a language that is easily understood by end-users of the measuring instrument—

- (a) rated operating conditions;
- (b) mechanical and electromagnetic environment classes;
- (c) the upper and lower temperature limit, whether condensation is possible or not, open or closed location;
- (d) instructions for installation maintenance, repairs, permissible adjustments;
- (e) instructions for correct operation and any special conditions of use; and
- (f) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

#### **Duty of importers to ensure proper conditions of storage and transport**

**22.** An importers must, in respect of measuring instruments under the importers's responsibility ensure that the conditions of their storage or transport are not such as to jeopardise their continuing compliance with the essential requirements.

#### **Duties of importers with regard to monitoring etc.**

**23.—**(1) When deemed appropriate with regard to the performance of a regulated measuring instrument imported by an importer, the importer must—

- (a) carry out a sample testing of measuring instruments made available on the market by the importer;
- (b) investigate complaints about manufacturing instruments imported by them; and
- (c) if necessary, keep a register of—
  - (i) complaints;
  - (ii) conforming measuring instruments; and
  - (iii) measuring instrument recalls; and
- (d) where the importer is not also the distributor of the instrument, keep distributors to whom the importer has supplied an instrument informed of any monitoring undertaken by them.

#### **Action to be taken by importers where measuring instruments placed on the market by them are not in conformity with essential requirements**

**24.—**(1) This regulation applies where an importer considers or has reason to believe that the measuring instrument is not in conformity with the requirements of these Regulations.

(2) Where this regulation applies, the importer shall immediately take the corrective measures necessary to bring it into conformity or withdraw or recall it, if appropriate.

(3) Where the measuring instrument presents a risk, the importer shall immediately inform the competent authority to that effect, giving details, in particular, of the non-compliance and of the corrective measures taken by that importer.

### **Requirement for importer to keep copy of EU declaration of conformity**

**25.** An importer must, for a period of 10 years beginning with the day after the day on which the measuring instrument is placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.

### **Provision of information to the competent authority**

**26.—**(1) The importer must, further to a reasoned opinion from a competent authority, provide the competent authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the measuring instrument with the requirements of these Regulations or the Directive.

(2) Information and documentation supplied to a competent authority pursuant to this regulation must be supplied English.

(3) Importers must co-operate with a competent authority, at its request on any action to eliminate the risks posed by measuring instruments that they have placed on the market.

### **Offences by importers**

**27.** An importer is guilty of an offence if the importer contravenes any requirement of—

- (a) regulation 18 (ensuring compliance of regulated instruments);
- (b) regulation 19 (importers' duty to notify manufacturer and market surveillance authorities of non-compliant instruments that present a risk);
- (c) regulation 20 (importers – requirements to mark their details on instruments);
- (d) regulation 21 (importers' duty to ensure that regulated measuring instruments are accompanied by relevant documentation);
- (e) regulation 22 (duty of importers to ensure proper conditions of storage and transport);
- (f) regulation 23 (duties of importers with regard to monitoring etc.);
- (g) regulation 24 (action to be taken by importers where measuring instruments placed on the market by them are not in conformity with essential requirements);
- (h) regulation 25 (requirement for importer to keep copy of EU declaration of conformity);  
or
- (i) regulation 26 (provision of information to the competent authority).

## **CHAPTER 3**

### **OBLIGATIONS OF DISTRIBUTORS**

#### **Introductory**

**28.** This chapter applies in relation to the making available on the market or putting into use of a regulated measuring instrument by a distributor.

#### **Distributors – duty to act with due care**

**29.** Before making the regulated measuring instrument available on the market or putting it into use, the distributor must act with due care in relation to the requirements of these Regulations.

#### **Distributors – verification obligations**

**30.—**(1) The distributor must verify that the regulated measuring instrument bears the CE marking and the M marking.

(2) The distributor must verify that the regulated measuring instrument is accompanied by—

- (a) a copy of the EU declaration of conformity relating to it; and
- (b) information on the operation of the instrument including where relevant the following—
  - (i) rated operating conditions;
  - (ii) mechanical and electromagnetic environment classes;
  - (iii) the upper and lower temperature limit, whether condensation is possible or not, open and closed location
  - (iv) instructions for installation, maintenance, repairs, permissible adjustments;
  - (v) instructions for correct operation and any special conditions of use; and
  - (vi) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

(3) Paragraph (2)(b) does not apply where the simplicity of the measuring instrument makes the supply of the information referred to in that paragraph unnecessary.

(4) Information supplied in accordance with this regulation must be in a language that can be easily understood by end-users.

(5) The distributor must verify that the manufacturer and the importer have complied with the requirements set out in regulation 10 (manufacturers' obligations in relation to the marking of instruments with serial numbers etc.), 11(manufacturers to mark contact details on instruments) and 20 (requirements to mark importers' details on instruments).

**Distributors not to make non-conforming regulated measuring instruments available on the market etc.**

**31.**—(1) This regulation applies where a distributor considers, or has reason to believe, that regulated measuring instrument is not in conformity with the essential requirements.

(2) Where this regulation applies, the distributor must not make the measuring instrument available on the market or put it into use until it has been brought into conformity.

(3) Where the instrument presents a risk, the distributor must immediately inform—

- (a) the manufacturer;
- (b) importer (where the distributor is not also the manufacturer or importer); and
- (c) the market surveillance authorities,

to that effect, giving details, in particular, of the non-compliance of the instrument and of the corrective measures taken by that distributor.

**Duty of distributors to ensure proper conditions of storage and transport**

**32.** A distributor must, in respect of instruments under his responsibility, ensure that the conditions of their storage or transport are not such as to jeopardise their continuing compliance with the essential requirements.

**Action to be taken by distributors where regulated instruments placed on the market by them are not in conformity with essential requirements**

**33.**—(1) This regulation applies where a distributor considers, or has reason to believe, that a regulated measuring instrument placed on the market or put into use by that distributor is not in conformity with the requirements of these Regulations.

(2) Where this regulation applies, the distributor must immediately take the corrective measures necessary to bring the instrument into conformity or withdraw or recall it, if appropriate.

(3) Where the instrument presents a risk, the distributor must immediately inform the competent authority to that effect, giving details, in particular, of the non-compliance of the instrument and of the corrective measures taken by that importer.

### **Provision of information to the competent authority**

**34.**—(1) The distributor must, further to a reasoned opinion from a competent authority, provide that authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the instrument with the requirements of these Regulations.

(2) Information and documentation supplied to a competent authority in the United Kingdom pursuant to this regulation must be supplied English.

(3) An importer must co-operate with a competent authority, at the request of that authority, as regards any action to eliminate the risks posed by any instrument that the importer has placed on the market.

### **Offences by distributors**

**35.** A distributor is guilty of an offence if he contravenes the provisions of—

- (a) regulation 29 (distributors – duty to act with care);
- (b) regulation 30 (distributors – verification obligations);
- (c) regulation 31 (distributors not to make non-conforming regulated measuring instruments available on the market etc.)
- (d) regulation 32 (duty of distributors to ensure proper conditions of storage and transport);
- (e) regulation 33 (action to be taken by distributors where measuring instruments placed on the market by them are not in conformity with essential requirements); or
- (f) regulation 34 (provision of information to the competent authority).

## **CHAPTER 4**

### **IDENTIFICATION OF ECONOMIC OPERATORS**

**36.**—(1) Economic operators must, on request, identify to the market surveillance authorities—

- (a) any economic operator who has supplied them with a regulated measuring instrument; and
- (b) any economic operator to whom they have supplied a regulated measuring instrument.

(2) Economic operators must be able to present the information referred to in paragraph (1) for 10 years after they have been supplied with the measuring instrument and for 10 years after they have supplied the measuring instrument.

(3) An economic operator who contravenes this regulation is guilty of an offence.

## **PART 3**

### **NON-PRESCRIBED MEASURING INSTRUMENTS**

#### **Introductory**

**37.** This Part applies where a manufacturer wishes to place on the market or put into use a non-prescribed measuring instrument in another member State where that measuring instrument must comply with the essential requirements under the law relating to legal metrological control of that member State.

#### **Establishing compliance with the essential requirements – non-prescribed measuring instruments**

**38.** A manufacturer may demonstrate compliance with the essential requirements in respect of a non-prescribed measuring instrument in the same manner as a regulated measuring instrument and the requirements of Part 4 accordingly apply.

**PART 4**  
**CONFORMITY OF MEASURING INSTRUMENTS**  
**CHAPTER 1**  
**ESTABLISHING COMPLIANCE WITH THE ESSENTIAL REQUIREMENTS**

**Introductory**

**39.** This chapter applies for the purposes of establishing whether a measuring instrument (whether it is a regulated measuring instrument or a non-prescribed measuring instrument) complies with the essential requirements.

**Methods of establishing conformity with the essential requirements**

**40.** Conformity with the essential requirements may be established in relation to a measuring instrument—

- (a) through conformity with harmonised standards or parts of those standards covering the essential requirements where the harmonised standards have been published in the Official Journal of the European Union;
- (b) through conformity with parts of normative documents which cover the essential requirements where the parts of the normative documents have been included in a list published in the Official Journal of the European Union; or
- (c) the use by the manufacturer of any other technical solution that complies with the essential requirements.

**Presumptions of conformity of measuring instruments**

**41.—**(1) Measuring instruments which are in conformity with harmonised standards (or parts of those standards) of a kind mentioned in regulation 40(a) , are to be presumed to be in conformity with the essential requirements covered by those standards (or parts of those standards).

(2) Measuring instruments which are in conformity with parts of normative documents of a kind mentioned in regulation 40(b), are to be presumed to be in conformity with the essential requirements covered by those parts of normative documents.

(3) To benefit from a presumption of conformity under paragraphs (1) or (2), the manufacturer must correctly apply solutions mentioned in the relevant harmonised standards or in the normative documents.

(4) Compliance with the appropriate tests mentioned in regulation 48(1)(i) is to be presumed if the corresponding test programme has been performed in accordance with the documents mentioned in paragraphs (1) and (2) and if the test results ensure compliance with the essential requirements.

**Conformity assessment procedures and records and correspondence relating to procedures**

**42.—**(1) Conformity assessment of a measuring instrument with the essential requirements must be established by the application at the choice of the manufacturer, of one of the conformity assessment procedures listed as applicable in relation to the measuring instrument in Schedule 3.

(2) A notified body must carry out conformity assessment procedure selected by the manufacturer in accordance with the requirements of Schedule 3.

(3) The documents and correspondence relating to the conformity assessment procedures referred to in this regulation and which are carried out in the United Kingdom must be drawn up in English.



### **Capacity serving measures - accredited in house bodies**

**43.**—(1) This regulation applies to capacity serving measures.

(2) An accredited in-house body may be used to carry out conformity assessment activities for the undertaking of which it forms part for the purposes of implementing the procedures set out in point 22 (Module A2) of Annex II to the Directive as from time to time amended.

(3) The body must constitute a separate and distinct part of the undertaking and must not participate in the design, production, supply, installation, use or maintenance of the measuring instrument it assesses.

(4) An accredited in-house body must meet the following requirements—

- (a) it must be accredited in accordance with Regulation (EC) No 765/2008;
- (b) the body and its personnel must be organisationally identifiable and have reporting methods within the undertaking of which they form a part which ensure their impartiality and demonstrate it to the relevant national accreditation body;
- (c) neither the body, nor its personnel shall be responsible for the design, manufacture, supply, installation, operation or maintenance of the measuring instruments they assess nor shall they engage in any activity that might conflict with their independence of judgment or integrity in relation to their assessment activities; and
- (d) it must supply its services exclusively to the undertaking of which it forms a part.

(5) An accredited in-house body need not be notified to the notifying authority or the Commission, but information concerning its accreditation must be given by the undertaking of which it forms part to the notifying authority at the request of that authority.

### **Subsidiaries and contractors**

**44.**—(1) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the activities are only to be treated as having been carried out by a notified body for the purposes of regulation 42 (conformity assessment procedures and records and correspondence relating to procedures) where the conditions in paragraphs (2) and (3) are met.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.

(4) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the notified body must for a period of at least 10 years beginning on the day on which the activities are carried out, keep at the disposal of the Secretary of State the documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activities carried out by the subcontractor or subsidiary.

(5) When monitoring a notified body in accordance with regulation 61, the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.

### **Fees**

**45.**—(1) A United Kingdom notified body may charge fees in connection with, or incidental to, the carrying out of conformity assessment procedures or specific tasks as it may determine.

(2) The fees referred to in paragraph (1) shall not exceed the following—

- (a) the costs incurred or to be incurred by the United Kingdom notified body in performing the relevant function; and

(b) an amount on account of profit which is reasonable in the circumstances having regard to—

- (i) the character and extent of the work done or to be done by that notified body on behalf of the applicant; and
- (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) The power in paragraph (1) includes the power to require payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

(4) Where any fees payable to a United Kingdom notified body pursuant to this regulation remain unpaid 28 days after either the work has been requested or payment of the fees has been requested in writing, whichever is the later, the notified body may by 14 days' notice in writing provide that, unless the fees are paid before the expiry of the notice, the certificate or notification appropriate to the relevant conformity assessment procedure may be suspended until payment of the fees has been received.

(5) This regulation does not apply in relation to functions of the Secretary of State under these regulations.

## CHAPTER 2

### REQUIREMENTS AS TO THE TECHNICAL DOCUMENTATION REQUIRED FOR THE PURPOSES OF CONFORMITY ASSESSMENT

#### **Application of this chapter**

**46.** The technical documentation required for the purposes of conformity assessment under these Regulations must satisfy the requirements of this Chapter.

#### **General requirements to be met by technical documentation**

**47.—**(1) The technical documentation must:

- (a) render the design, manufacture and operation of the measuring instrument intelligible; and
- (b) permit an assessment of its conformity with the applicable requirements of the Directive (as from time to time amended).

(2) The technical documentation must be sufficiently detailed to ensure compliance with the following requirements—

- (a) the definition of the metrological characteristics;
- (b) the reproducibility of the metrological performances of produced measuring instruments when properly adjusted using appropriate intended means; and
- (c) the integrity of the measuring instrument.

#### **Specific information to be included in technical documentation**

**48.—**(1) The technical documentation must, insofar as relevant for assessment and identification of either the measuring instrument or its type (or both), must include the following information:

- (a) a general description of the measuring instrument;
- (b) the conceptual design and manufacturing drawings and plans of components, sub-assemblies, circuits etc.;
- (c) manufacturing procedures to ensure consistent production;
- (d) if applicable, a description of the electronic devices with drawings, diagrams, flow diagrams of the logic and general software information explaining their characteristics and operation;

- (e) descriptions and explanations necessary for the understanding of the information referred to in paragraphs (b) to (d);
  - (f) a list of any harmonised standards and normative documents which have been applied in full or in part, the references of which have been published in the Official Journal of the European Union;
  - (g) descriptions of the solutions adopted to meet the essential requirements where harmonised standards or normative documents have not been applied, including a list of other relevant technical specifications applied;
  - (h) results of design calculations, examinations etc.
  - (i) the appropriate test results, where necessary to demonstrate that the type and/or measuring instruments comply with the following:
    - (i) the requirements of this Directive under declared rated operating conditions and under specified environmental disturbances; and
    - (ii) the durability specifications for gas-, water-, thermal, energy meters as well as for liquids other than water; and
  - (j) the EU-type examination certificates or EU design examinations certificates in respect of measuring instruments containing parts identical to those in the design.
- (2) The manufacturer must specify where seals and markings have been applied.
- (3) The manufacturer must indicate the conditions for compatibility with interfaces and sub-assemblies where relevant.

## CHAPTER 3

### REQUIREMENTS RELATING TO EU DECLARATIONS OF CONFORMITY

#### **Application of chapter**

**49.** This chapter applies in relation to EU declarations of conformity made in relation to a measuring instrument for the purposes of these Regulations.

#### **Form and contents of EU declaration of conformity etc.**

**50.**—(1) The EU declaration of conformity for a measuring instrument must—

- (a) state that the fulfilment of the essential requirements has been demonstrated in relation to the measuring instrument;
- (b) contain the elements specified in the relevant conformity assessment modules set out in Annex II to the Directive (as from time to time amended) and be updated when appropriate;
- (c) have the model structure set out in Annex XIII to the Directive (as from time to time amended)

(2) Where a regulated measuring instrument is placed or made available on the market, the declaration of conformity in relation to the instrument must be in English.

#### **Measuring instruments that require more than one declaration of conformity**

**51.**—(1) This regulation applies where a measuring instrument is subject to a requirement of European Union Legislation for an EU declaration of conformity otherwise than by virtue of these Regulations.

(2) Where this regulation applies, a single EU declaration of conformity must be drawn up covering all applicable requirements which identifies the Union acts concerned including their publication references.

### **Responsibility of manufacturer that draws up declaration of conformity**

**52.** A manufacturer, who draws up an EU declaration of conformity in relation to a measuring instrument, is responsible for compliance of the measuring instrument with the requirements of the Directive (as from time to time amended) and these Regulations.

## **CHAPTER 4**

### **CONFORMITY MARKING**

#### **Conformity with Directive requirements to be indicated by the CE marking**

**53.** The conformity with the requirements of the Directive and these Regulations must be indicated by the presence on it of the CE marking and the supplementary metrology marking.

#### **General principles relating to the M marking**

**54.—**(1) The supplementary metrology marking affixed to a measuring instrument under these Regulations (referred to in these Regulations as the “M marking”) must consist of the capital letter ‘M’ and the last two digits of the year of its affixing surrounded by a rectangle, the height of which is equal to that of the CE mark applied to that instrument.

(2) The general principles set out in article 30 of RAMS apply to the M Marking with such modifications as are necessary in the circumstances.

#### **Rules and conditions for affixing the CE marking and the supplementary metrology marking etc.**

**55.—**(1) The CE marking and the M marking (“the markings”) must be affixed to a measuring instrument in accordance with the provisions of this regulation.

(2) The markings must be affixed visibly, legibly to the instrument or its data plate.

(3) Paragraph (2) does not apply where it is not possible or not warranted on account of the nature of the measuring instrument, in which case the markings must be affixed to the documents which accompany the measuring instrument and any packaging.

(4) When a measuring instrument consists of a series of devices, not being sub-assemblies, operating together, the markings must be affixed on the instrument’s main device.

(5) The markings must be affixed before the instrument is placed on the market.

(6) The markings may be affixed to the instrument during the fabrication process, if justified.

(7) The M marking must immediately follow the CE marking.

(8) The markings must immediately be followed by the identification number of the notified body where that body is involved in the production control phase as set out in Annex II to the Directive (as from time to time amended)

(9) The identification number of the notified body referred to in paragraph (8) must:

- (a) be affixed by the body itself, or under its instructions by the manufacturer or his authorised representative
- (b) be indelible or self-destructive upon removal.

(10) The markings and (where applicable) the identification number of the notified body may be followed by any other mark indicating a special risk or use.

## PART 5

### NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

#### **Introductory**

**56.**—(1) This Part applies to the notification to the European Commission and other member States of the bodies authorised to carry out conformity assessment procedures in the United Kingdom in relation to measuring instruments.

(2) For the purposes of this Part, a notified body is a conformity assessment body—

- (a) which has been notified to the European Commission and to other member States under regulation 58 (notification); and
- (b) in respect of which no objections are raised by the European Commission or other member States—
  - (i) within 2 weeks of a notification, where an accreditation certificate is used; or
  - (ii) within 2 months of a notification, where accreditation is not used.

(3) Paragraph (2) has effect subject to regulation 63 (changes to notifications).

#### **The notifying authority**

**57.**—(1) The notifying authority for the purposes of these Regulations is the Secretary of State.

(2) The functions of the notifying authority are—

- (a) to assess whether applicants for recognition as conformity assessment bodies meet the requirements for recognition as such;
- (b) where an assessment that a body is qualified to act as a conformity assessment body is made, to notify the Commission of the European Union of that fact; and
- (c) to carry out such monitoring of bodies notified to the Commission to ensure continuing compliance with the requirements of these Regulations..

(3) The notifying authority may delegate the performance of its functions to a body that meets the requirements of Articles 24(3) and 25 of the Directive but in the event of such a delegation the notifying authority remains fully responsible for the performance of those functions.

#### **Notification**

**58.**—(1) The Secretary of State may notify to the European Commission and the other member States only those conformity assessment bodies that qualify for notification.

(2) A conformity assessment body qualifies for notification if the first and the second conditions below are met.

(3) The first condition is that the conformity assessment body makes an application to the Secretary of State for notification and that application is accompanied by—

- (a) a description of—
  - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
  - (ii) the conformity assessment module for which the conformity assessment body claims to be competent; and
  - (iii) the measuring instrument for which the conformity assessment body claims to be competent; and either
- (b) an accreditation certificate; or
- (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the requirements of Schedule 5 (“the notified body requirements”).

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.

(6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other member States, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) The Secretary of State must inform the European Commission of the United Kingdom’s procedures for the assessment and notification of conformity assessment bodies, and any changes to those procedures.

### **Presumption of conformity of notified bodies**

**59.**—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal of the European Union, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

### **Contents of notification**

**60.** A notification under regulation 58 must include—

- (a) details of—
  - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
  - (ii) the conformity assessment module in respect of which the conformity assessment body has made its application for notification;
  - (iii) the measuring instrument in respect of which the conformity assessment body has made its application for notification; and either
- (b) an accreditation certificate; or
- (c) documentary evidence which attests to—
  - (i) the conformity assessment body’s competence; and
  - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to meet the notified body requirements.

### **Monitoring**

**61.**—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) meets any conditions set in accordance with regulation 58(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the European Commission of the United Kingdom’s procedures for the monitoring of notified bodies, and any changes to those procedures.

## **Delegation to the United Kingdom Accreditation Service**

**62.** The Secretary of State may authorise the United Kingdom Accreditation Service to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies.

## **Changes to notifications**

**63.—**(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirement, or that it is failing to fulfil any of its obligations under these Regulations other than conditions set in accordance with regulation 58(6)(b), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 58.

(2) With the consent of a notified body, or where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 58(6)(b), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 58.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the failure.

(4) Before taking action under paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing that the Secretary of State intends to take such action and the reasons for taking such action; and
- (b) give the notified body an opportunity to make representations within a reasonable period from the date of that notice and consider any such representations.

(5) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the European Commission and the other member States.

(6) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the body must—

- (a) on the request of the Secretary of State, transfer its files to another notified body or to the Secretary of State; or
- (b) ensure that its files are kept available for the Secretary of State and each enforcing authority for such period as the Secretary of State may specify.

(7) A United Kingdom notified body that fails to comply with any requirement imposed by or under paragraph (6) is guilty of an offence.

## **PART 6**

### **USE FOR TRADE OF CERTAIN REGULATED MEASURING INSTRUMENTS**

**64.** The use for trade of the following equipment must comply with the requirements of Schedule 6—

- (a) water meters for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) a measuring system which is used for the continuous and dynamic measurement of a liquid fuel, lubricant or a mixture of fuel and lubricant in a quantity not exceeding 100 litres or 100 kilograms other than—
  - (i) liquefied petroleum gas; or
  - (ii) liquefied natural gas;
- (c) a meter measuring system (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which is used for the continuous and dynamic measurement

of liquid fuel in a quantity exceeding 100 litres or 100 kilograms delivered from a road tanker other than—

- (i) liquefied gases;
- (ii) lubricating oils;
- (iii) liquid fuels of a temperature below -153°C; or
- (iv) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (d) automatic catchweighers;
- (e) automatic gravimetric filling instruments;;
- (f) automatic discontinuous totalisers;
- (g) automatic rail weighbridges;
- (h) beltweighers;
- (i) material measures of length; and
- (j) capacity serving measures.

## PART 7

### UNAUTHORISED APPLICATION OF MARKS

#### Unauthorised application of authorised marks

**65.**—(1) Subject to paragraph (2), a person is guilty of an offence, if that person—

- (a) affixes an authorised mark to a measuring instrument otherwise than in accordance with these Regulations;
- (b) alters or defaces an authorised mark affixed to the instrument;
- (c) removes an authorised mark affixed to the instrument; or
- (d) affixes any other form of marking to the instrument which is likely to deceive any person as to the meaning or form, or both, of an authorised mark.

(2) Where the alteration or defacement of an authorised mark is occasioned solely—

- (a) in the course of the adjustment or repair of a measuring instrument by a person engaged in the business of repair of such instruments or by his duly authorised agent; or
- (b) by an enforcement officer or approved verifier in the carrying out of any functions under these Regulations

that person, enforcement officer or approved verifier shall not be guilty of an offence under paragraph (1)(b).

(3) A person is guilty of an offence if that person places on the market or puts into use or uses for trade a measuring instrument—

- (a) which to his knowledge bears—
  - (i) an authorised mark affixed otherwise than in accordance with these Regulations;
  - (ii) an authorised mark that has been altered or defaced otherwise than in the circumstances referred to in paragraph (2);
  - (iii) any mark which is likely to deceive any person as to the meaning or form, or both, of an authorised mark; or
- (b) from which, to his knowledge, an authorised mark has been removed.

(4) A measuring instrument in respect of which an offence under this regulation has been committed and any implement used in the commissioning 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 other member States.

(6) In this regulation “authorised mark” means

- (a) the CE marking;
- (b) the M marking;
- (c) the identification number of the notified body which carried out the conformity assessment procedure in respect of the relevant instrument;
- (d) disqualification marks; and
- (e) requalification marks.

## PART 8

### MARKET SURVEILLANCE AND ENFORCEMENT

#### CHAPTER 1

##### MARKET SURVEILLANCE

###### **The market surveillance authority**

**66.** The Secretary of State is the market surveillance authority for the purposes of these Regulations.

###### **Instruments presenting a risk**

**67.—**(1) This regulation applies where the market surveillance authority has sufficient reason to believe that a regulated measuring instrument presents a risk on grounds of public interest, public health, public safety, public order, protection of the environment, protection of consumers, the levying of taxes and duties or fair trading.

(2) Where this regulation applies the market surveillance authority must carry out an evaluation of the regulated measuring instrument covering all relevant requirements of these Regulations which apply to that measuring instrument.

(3) The relevant market operators in relation to the instrument must co-operate as necessary with the market surveillance authority for that purpose.

(4) Where in the course of the evaluation referred to in paragraph (2), the market surveillance authority finds that the regulated measuring instrument does not comply with the essential requirements applicable to it, it must without delay issue a direction which requires the relevant economic operator—

- (a) to take all appropriate corrective actions;
- (b) to withdraw the measuring instrument from the market; or
- (c) to recall it within a reasonable period commensurate with the nature of the risk.

(5) Where the market surveillance authority acts under paragraph (4) it must without delay inform the notified body that carried out the conformity assessment procedure in respect of the regulated measuring instrument of—

- (a) the respect in which the regulated measuring instrument is not in conformity with the requirements of these Regulations; and
- (b) the actions that the authority is requiring the relevant economic operator to take.

(6) Where the market surveillance authority considers that non-compliance is not restricted to the United Kingdom, it must inform the European Commission and the other Member States of

the results of the evaluation and of the actions which they have required the economic operator to take.

(7) The economic operator shall ensure that all appropriate corrective action is taken in respect of all the measuring instruments concerned that it has made available on the Market throughout the European Union.

(8) Where the relevant economic operator does not take adequate corrective action within a reasonable period, the market surveillance authority must take all provisional measures to prohibit or restrict the regulated measuring instrument being made available on their national market, to withdraw the measuring instrument from that market or to recall it.

### **Compliant regulated measuring instruments which present a risk**

**68.**—(1) This regulation applies where, having carried out an evaluation under regulation 67, the market surveillance authority finds that although a regulated measuring instrument is in compliance with the requirements of these Regulations, it presents a risk on grounds of public interest, public health, public safety, public order, protection of the environment, protection of consumers, the levying of taxes and duties or fair trading.

(2) Where this regulation applies, the market surveillance authority must issue a direction requiring the economic operator—

- (a) to take all appropriate measures to ensure that the measuring instrument concerned, when placed on the market, no longer presents that risk;
- (b) to withdraw the measuring instrument from the market; or
- (c) to recall it within a reasonable period, commensurate with the nature of the risk as it may prescribe.

(3) Where this regulation applies, the market surveillance authority must immediately inform the Commission and the other member States of all available details including—

- (a) the data necessary for the identification of the measuring instrument concerned;
- (b) the origin and supply chain of the measuring instrument,
- (c) the nature of the risk involved; and
- (d) the nature and duration of the national measures taken.

### **Provisions as to directions under regulations 67 and 68**

**69.**—(1) This regulation applies in relation to directions given under regulations 67 and 68.

(2) A direction must—

- (a) be in writing;
- (b) describe the instrument to which it relates in a manner sufficient to identify that instrument;
- (c) specify the risk identified by the market surveillance authority;
- (d) specify the steps that the economic operator must take (including the time period within which they must be taken)

(3) An economic operator which fails to comply with a direction given under regulation 67 or 68 is guilty of an offence.

## **CHAPTER 2**

### **ENFORCEMENT OTHER THAN MARKET SURVEILLANCE**

#### **Enforcement authorities and enforcement proceedings**

**70.**—(1) The Secretary of State may otherwise than in the capacity of market surveillance authority, enforce these Regulations in Great Britain insofar as they relate to regulated measuring instruments and for that purpose may appoint a person to act on his behalf.

(2) In Great Britain it shall be the duty of every local weights and measures authority to enforce these Regulations within its area in relation to regulated measuring instruments other than—

- (a) gas meters;
- (b) active electrical energy meters;
- (c) taximeters; and
- (d) exhaust gas analysers.

(3) In Northern Ireland—

(a) the Department of the Environment for Northern Ireland shall enforce these Regulations in relation to regulated measuring instruments of the following kinds—

- (i) taximeters; and
- (ii) exhaust gas analysers.

(b) the Utility Regulator (or the Secretary of State pursuant to arrangements made under paragraph (7)) shall enforce the Regulations) in relation to regulated measuring instruments of the following kinds:

- (i) gas meters; and
- (ii) active electrical energy meters.

(c) The Department of Enterprise, Trade and Investment shall enforce these Regulations insofar as they relate to regulated measuring instruments of the following kinds—

- (i) cold water meters;
- (ii) automatic weighing instruments;
- (iii) material measures; and
- (iv) non-water liquid measuring systems.

(4) No proceedings for an offence under these Regulations may be instituted in England and Wales except by or on behalf of an enforcement authority.

(5) Nothing in these Regulations shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

(6) No proceedings shall be instituted in Northern Ireland for an offence under these Regulations in respect of a regulated measuring instrument except—

- (a) by or on behalf of an enforcement authority which has responsibility for enforcing these Regulations in respect of that regulated measuring instrument; or
- (b) the Director of Public Prosecutions for Northern Ireland.

(7) The Secretary of State and the Utility Regulator may, in relation to the enforcement of these Regulations in Northern Ireland, enter into arrangements for the Secretary of State to act on behalf of the Utility Regulator for, or in connection with, the carrying out of some or all of the functions conferred on the Utility Regulator by these Regulations.

### **Compliance notice procedures**

**71.**—(1) This regulation applies where an enforcement authority is of the view that the CE marking, the M marking or both have been affixed to a measuring instruments otherwise than in accordance with these Regulations.

(2) The enforcement authority may serve a notice in writing (a “compliance notice”) on the manufacturer of the instruments or his authorised representative which specifies steps that the manufacturer must take—

- (a) in relation to instruments already manufactured to which the marks have been unduly affixed; and
- (b) to prevent any further marks being unduly affixed to instruments manufactured by that manufacturer.

(3) A compliance notice must—

- (a) contain a sufficient description of the instrument to which it relates;
- (b) state that the enforcement authority is of the opinion that the CE marking, the M marking or both, has been affixed unduly to instruments manufactured by the manufacturer, specifying which provisions of these Regulations have, in the opinion of the enforcement authority, been contravened;
- (c) require the person on whom the notice is served to end the infringement under conditions specified in the notice;
- (d) specify the time limit within which the infringement must be ended; and
- (e) warn that person that, where the non-conformity continues, the enforcement authority will take all appropriate measures to restrict or prohibit the placing on the market of the instrument in question or to ensure that it is withdrawn from the market.

(4) Where a compliance notice is served by an enforcement authority other than the Secretary of State, it shall at the same time as it serves that notice, send a copy to the Secretary of State

### **Immediate enforcement action**

**72.**—(1) This regulation applies where an enforcement authority has reasonable grounds for considering that any of the following applies to a regulated measuring instrument—

- (a) the manufacturer or his authorised representative has failed to comply with a compliance notice;
- (b) the CE marking or the M marking has been affixed in violation of Article 30 of RAMS or of the requirements of these Regulations;
- (c) the CE marking or the M marking has not been affixed;
- (d) the identification number of the notified body, where the body is involved in the production control phase has—
  - (i) been affixed otherwise than in accordance with the requirements of these Regulations; or
  - (ii) not been affixed;
- (e) the EU declaration of conformity does not accompany the measuring instrument;
- (f) the EU declaration of conformity has not been drawn up correctly;
- (g) the technical documentation is either not available or is not complete;
- (h) the information referred to in regulation 11 or 20 is absent false or incomplete
- (i) there is any other breach of the requirements of Chapters 1 and 2 of Part 2.

(2) The enforcement authority may serve a notice (“an enforcement notice”) on the manufacturer or the manufacturer’s authorised representative which must—

- (a) be in writing;
- (b) describe the measuring instrument to which it relates in a manner sufficient to identify that instrument;
- (c) specify, with reasons, the respects in which, in the opinion of the enforcement authority the requirements of these Regulations have not been complied with; and
- (d) specify the date, being not less than 21 days from the date of the notice, by which the person on which the person to whom the notice is required to comply with it.

(3) A notice under paragraph (2) may—

- (a) require the instrument to be withdrawn from the market; or
- (b) prohibit or restrict the placing on the market or putting into use of the measuring instrument; and
- (c) specify that unless steps are taken which ensure—
  - (i) that the measuring instrument is compliant with the requirements of these Regulations; or

- (ii) that the manufacturer or his authorised representative acts as required under subparagraph (a) or (b),  
any certificate or notification, issued by a notified body in accordance with the relevant conformity assessment procedure applicable to the measuring instrument that the instrument satisfies the essential requirements, may be withdrawn by that notified body.
- (4) Where an enforcement notice is served by an enforcement authority other than the Secretary of State, it shall at the same time as it serves that notice send a copy of the notice to the Secretary of State.
- (5) In the case of a certificate or notification referred to in paragraph (3)—
  - (a) which is granted by a United Kingdom notified body, if the Secretary of State is of the opinion that consideration ought to be given to whether the certificate or notification should be withdrawn, the Secretary of State shall inform that notified body of that fact; and
  - (b) which is granted under the law of another member State if the Secretary of State is of the opinion that consideration ought to be given to whether the certificate or notification should be withdrawn, the Secretary of State shall inform the relevant competent authority of that fact.

### **Review of decisions of enforcement authority**

**73.**—(1) Where a decision under regulation 70 or 72 is given by an enforcement authority other than the Secretary of State, a person who is aggrieved by that decision may, in accordance with paragraphs (2) and (3) 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 with the decision; and
- (b) appoint an assessor for the purposes of assisting him with his review or any such inquiry.

(2) An application under paragraph (1) shall be made by notice in writing to the Secretary of State, and shall be sent to him not later than 21 days after the date of the 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 shall, within a reasonable time, inform the aggrieved person and the authority referred to in paragraph (1) in writing of his decision whether to uphold the decision of that authority and—

- (a) in a case where he upholds that decision, shall also state the grounds for his decision; and
- (b) in a case where he does not uphold that decision, may—
  - (i) where the review relates to regulation 72 give instructions for the withdrawal of the notice given under paragraph (2) of that regulation; or
  - (ii) where the review relates to regulation 73, give instructions for the withdrawal of the notice given under paragraph (1) of that regulation.

### **Disqualification**

**74.**—(1) This regulation and regulation 75 apply only in relation to a regulated measuring instruments of the following kinds—

- (a) cold water meters;
- (b) automatic weighing instruments;
- (c) material measures; and
- (d) non-water liquid measuring systems.

(2) Subject to paragraph (4), if it appears to an inspector that an instrument which—

- (a) bears the CE marking;

- (b) the M marking; and
- (c) the identification number of the notified body which carries out the conformity assessment procedure in respect of the instrument is used for trade in circumstances where—
  - (i) the instrument no longer conforms to the essential requirements (other than the requirements relating to maximum permissible errors);
  - (ii) by reason of any adjustment, alteration, addition, repair or replacement it is likely that the instrument has ceased to conform with the essential requirements (other than the requirements relating to maximum permissible errors); or
  - (iii) any requirements applicable to the instrument by virtue of regulation 63 and Schedule 6 are not met,

the inspector may affix a disqualification mark to the instrument or to any sealing device on that instrument.

(3) Where one or more of the markings and identification requirements referred to in paragraph (2) is not affixed to a regulated measuring instrument, the inspector may affix a disqualification mark to the instrument.

(4) Where it appears to the inspector that the nature or degree of non-compliance of the instrument under paragraph (2) is not such that a disqualification mark should be immediately affixed to it or to any sealing device on it, he may give to any person in possession of the instrument a notice requiring the person ensure that the instrument is made to comply with the essential requirements before the expiry of 21 days from the date of the notice or such longer period as may be specified in the notice.

(5) If a notice given under paragraph (4) is not complied with, the inspector shall affix a disqualification mark to the instrument or to any sealing device on it.

(6) Any disqualification mark which is affixed to an instrument under this regulation must be affixed in such a position that it is clearly visible when the instrument is in its regular operating position or where it is affixed to any sealing device on the instrument, it must be affixed in such a position that it obliterates as far as possible any inscription on that sealing device.

(7) A person is guilty of an offence if he uses for trade an instrument to which there is affixed a disqualification mark, unless a re-qualification mark has been affixed to it in accordance with regulation 75.

## **Requalification**

**75.**—(1) This regulation applies where—

- (a) a disqualification mark has been affixed to a regulated measuring instrument in accordance with regulation 74; or
- (b) a notice has been served under regulation 74(3), or
- (c) a measuring instrument is intended to be used for trade in the circumstances referred to in regulation 73(2)(i) to (iii) or (3) but a disqualification mark has not been affixed to the instrument or to any sealing device on it,

(2) A person requiring a re-qualification mark to be affixed to an instrument to which this regulation applies shall submit the instrument, in such manner as may be directed, to an inspector or approved verifier and provide such assistance as the inspector or approved verifier may reasonably require

(3) An inspector or approved verifier may affix a re-qualification mark to that instrument or to any sealing device if satisfied that—

- (a) the instrument conforms to the essential requirements; and
- (b) any requirements applicable to that instrument by virtue of Schedule 6 other than the provisions relating to maximum permissible errors.

(4) For the purposes of being satisfied that a re-qualification mark may be affixed to an instrument or any sealing device on it under this regulation, an inspector or approved verifier may take such steps as he considers appropriate, including testing the instrument by means of such test equipment as he considers appropriate and suitable for the purpose.

(5) There may be charged in respect of any steps taken under paragraph (4) such fees as are reasonable in the circumstances.

(6) The inspector or approved verifier shall keep a record of any test carried out under paragraph (4).

(7) Where a re-qualification mark is affixed to an instrument pursuant to paragraph (3), it must be affixed in such a position that it obliterates as far as possible any disqualification mark.

### **Testing of instruments**

**76.**—(1) Where an inspector considers that a test of an instrument is necessary, otherwise than for the purposes of regulation 71, he may require the person who has control of the instrument, or whom he has reasonable cause to believe has control of the instrument (“the controller”), to provide to him such equipment, test liquid, materials, qualified personnel or other assistance as the inspector may reasonably require.

(2) Every measuring instrument submitted for testing shall be in a clean condition.

(3) The remaining provisions of this regulation only apply to non-water measuring systems.

(4) No instrument shall be tested until it is installed ready for use and complete with all its parts.

(5) An instrument shall be tested by an inspector under practical working conditions with a test liquid which shall be—

(a) the liquid fuel that the instrument is intended to deliver; or

(b) a liquid having properties which replicate in all respects relevant to testing those of the liquid fuel that the instrument is intended to deliver.

(6) An inspector may open a locked or sealed tank or container for the purpose of testing an instrument or returning any liquid withdrawn during testing.

(7) Any liquid withdrawn during testing shall be—

(a) returned to the tank or container from which it was withdrawn if the inspector is of the opinion that it is reasonable and practicable to do so and the controller agrees; or

(b) placed in another suitable receptacle reasonably convenient for the purpose that is provided by the controller.

(8) An inspector, if requested to do so by the controller, shall give to him a signed and dated statement of the quantity of liquid withdrawn during testing.

(9) An inspector shall—

(a) securely re-fasten any tank or container opened under paragraph (4) immediately after the conclusion of any test or after returning any liquid withdrawn during testing;

(b) replace any sealing device broken by him; and

(c) affix to that replaced sealing device a marking, the design of which shall be published by the Secretary of State.

## **PART 9**

### **GENERAL PROVISIONS ABOUT OFFENCES**

#### **Penalties for offences**

**77.** A person guilty of an offence under these Regulations is liable, on summary conviction,

(a) in England and Wales to a fine; and

- (b) in Scotland or Northern Ireland to a fine not exceeding level 5 on the standard scale.

### **Defence of due diligence**

**78.**—(1) Subject to the following provisions of this regulation, in proceedings against a person for an offence under these Regulations, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where, in proceedings against a person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence, unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to—

- (a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

### **Liability of persons other than the principal offender**

**79.**—(1) Where the commission by a person of an offence under these Regulations is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of an act or default which is shown 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 who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) 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.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland, and in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

## **PART 10**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **Service of documents etc.**

**80.**—(1) Any document required or authorised by these Regulations to be served on a person may be so served—



- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
- (b) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with that sub-paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978<sup>(a)</sup> (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate; and
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

## Review

**81.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.

(4) The first report under this regulation must be published no later than 5 years after the date of the coming into force of these Regulations.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

Date

*Name*  
Parliamentary Under Secretary of State  
Department

---

(a) 1978 c.30.

## SCHEDULE 1

Regulation 2(1)

### ESSENTIAL REQUIREMENTS AND APPLICABLE CONFORMITY ASSESSMENT PROCEDURES

#### **Introductory**

1. The essential requirements and conformity assessment procedure applicable to measuring instruments are as set out in this Schedule.

#### **Water Meters**

2.—(1) The essential requirements relating to water meters intended for the measurement of volumes of clean, cold or heated water in residential, commercial and light industrial use are:

- (a) the requirements set out in Annex 1 to the Directive; and
- (b) the specific requirements of Annex III to the directive subject to the modification specified in sub-paragraph (2)

(2) The modification referred to in sub-paragraph (1)(b) is that point 10 of the specific requirements in Annex III is to be read as follows

#### **“Putting into use**

10. The requirements under points 1, 2 and 3 are determined by the utility or the person legally designated for installing the meter, so that the meter is appropriate for the accurate measurement of consumption that is foreseen or foreseeable.”

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to water meters of the kind referred to in sub-paragraph (1) are

- (a) B and F
- (b) B and D, or
- (c) H1.

#### **Gas meters**

3.—(1) The essential requirements relating to gas meters intended for residential, commercial and light industrial use are

- (a) the requirements of Annex 1 to the Directive; and
- (b) the specific requirements set out in Part 1 of Annex IV subject to the modification in sub-paragraph (2)

(2) The modification referred to in sub-paragraph (1)(b) is that point 10 of the specific requirements in Annex III is to be read as follows

#### **“Putting into use**

10.—(1) The measurement of residential use must be performed by means of any Class 1.5 relevant instrument, or by Class 1.0 relevant instruments which have a  $Q_{max}/Q_{min}$  ratio equal to or greater than 150.

(2) Measurement of commercial or light industrial use must be performed by any Class 1.0 or Class 1.5 relevant instrument.

(3) The person responsible for installing a relevant instrument must have regard to the requirements under Points 1.2 and 1.3 of Part I of Annex IV and must ensure that the relevant instrument is appropriate for the accurate measurement of consumption that is foreseen or foreseeable.”

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to gas meters are:

- (a) B and F;
- (b) B and D; or
- (c) H1

### **Volume conversion devices**

**4.**—(1) In this paragraph “conversion device” means a device fitted to a gas meter that automatically converts the quantity measured at metering conditions into a quantity at the specified conditions to which the quantity of fluid is converted.

(2) The essential requirements relating to conversion devices intended for residential, commercial and light industrial use are—

- (a) the requirements of Annex I to the Directive;
- (b) the specific requirements set out in Part II of Annex IV

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to conversion devices are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

### **Active electrical energy meters**

**5.**—(1) The essential requirements in relation to active electrical meters intended for residential, commercial and light industrial use are—

- (a) the requirements of Annex 1 of the Directive; and
- (b) the specific requirements in Annex V other than point 7 subject to the modification in sub-paragraph (2).

(2) The modification referred to in sub-paragraph (1)(b) is that point 10 of the specific requirements in Annex III is to be read as follows:

#### **“Putting into use**

**10.**—(1) Subject to sub-paragraph (2), measurement may be performed by means of any relevant instrument provided that the temperature range to which a relevant instrument is exposed is not wider than the range specified by the manufacturer in relation to that relevant instrument in accordance with Point 1.3.1 and Table 1 in Annex 1 to the Directive.

(2) Class A relevant instruments may not be used when operating outside the temperature range of an upper temperature limit of 30°C to a lower temperature limit of 5 °C.

(3) The person responsible for installing the relevant instrument must determine the correct current range and assess the climatic environment.

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to active electrical meters are—

- (a) B and F;
- (b) B and D;
- (c) H1; or

- (d) G.

### **Thermal Energy Meters**

- 6.**—(1) The essential requirements in relation to thermal energy meters are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the requirements of Annex VI
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to thermal energy meters are—
- (a) B and F;
  - (b) B and D; or
  - (c) H1.

### **Non-water measuring systems**

- 7.**—(1) The essential requirements in relation to measuring systems for the continuous and dynamic measurement of quantities of liquid other than water are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the requirements of Annex VII.
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to measuring systems for the continuous and dynamic measurement of quantities of liquid other than water are—
- (a) B and F;
  - (b) B and D;
  - (c) H1; or
  - (d) G

### **Automatic weighing instruments**

- 8.**—(1) The essential requirements in relation to automatic weighing instruments are—
- (a) in relation to automatic catchweighers—
    - (i) the requirements of Annex 1 of the Directive; and
    - (ii) the specific requirements in Chapter 1 and II of Annex VIII;
  - (b) in relation to automatic gravimetric filling instruments—
    - (i) the requirements of Annex 1 of the Directive; and
    - (ii) the specific requirements in Chapter 1 and Chapter III of Annex VIII
  - (c) in relation to discontinuous totalisers—
    - (i) the requirements of Annex 1 of the Directive; and
    - (ii) the specific requirements in Chapter 1 and Chapter IV of Annex VIII
  - (d) The essential requirements in relation to beltweighers are—
    - (i) the requirements of Annex 1 of the Directive; and
    - (ii) the specific requirements in Chapters 1 and V of Annex VIII; and
  - (e) The essential requirements in relation to automatic rail weighbridges are—
    - (i) the requirements of Annex 1 of the Directive; and
    - (ii) the specific requirements in Chapters 1 and VI in Annex VIII.
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to automatic weighing instruments are—

- (a) for mechanical systems—
  - (i) B and D;
  - (ii) B and E;
  - (iii) B and F;
  - (iv) D1;
  - (v) F1;
  - (vi) G; or
  - (vii) H1;
- (b) for electromechanical instruments—
  - (i) B and D;
  - (ii) B and E;
  - (iii) B and F;
  - (iv) G; or
  - (v) H1; and
- (c) for electronic systems or systems containing software—
  - (i) B and D
  - (ii) B and F
  - (iii) G; or
  - (iv) H1.

#### **Taximeters**

- 9.**—(1) The essential requirements in relation to taximeters are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the specific requirements in Annex IX
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to taximeters are—
- (a) B and F;
  - (b) B and D; or
  - (c) H1.

#### **Material measures of length**

- 10.**—(1) The essential requirements in relation to material measures of length are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the specific requirements in Chapter 1 of Annex 10.
- (2) (1) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to material measures of length are—
- (a) F1;
  - (b) D1;
  - (c) B and D;
  - (d) G; or
  - (e) H.

#### **Capacity serving measures**

- 11.**—(1) The essential requirements in relation to capacity serving measures are—

- (a) the requirements of Annex 1 of the Directive; and
  - (b) the specific requirements in Chapter 2 of Annex X
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to taximeters are—
- (a) A2;
  - (b) D1;
  - (c) E1;
  - (d) F1;
  - (e) B and D;
  - (f) B and E; or
  - (g) H.

### **Dimensional measuring instruments**

- 12.**—(1) The essential requirements in relation to dimensional measuring instruments are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the specific requirements in Annex XI
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to taximeters are—
- (a) For mechanical or electromechanical instruments—
    - (i) D1
    - (ii) E1
    - (iii) F1
    - (iv) H
    - (v) H1
    - (vi) G
    - (vii) B and D
    - (viii) B and E
    - (ix) B and F
  - (b) for electronic instruments or instruments containing software—
    - (i) B and D
    - (ii) B and F
    - (iii) G; or
    - (iv) H1.

### **Exhaust gas analysers**

- 13.**—(1) The essential requirements in relation to exhaust gas analysers are—
- (a) the requirements of Annex 1 of the Directive; and
  - (b) the specific requirements in Annex XII.
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to taximeters are—
- (a) B and D;
  - (b) B and F; or
  - (c) H1.

## SCHEDULE 2

Regulation 3(4)

### MEASURING INSTRUMENTS TO WHICH THESE REGULATIONS DO NOT APPLY

#### Cold water meters

1. A cold-water meter:
  - (a) in respect of which a certificate of approval is in force which was granted before 30th October 2006; and
  - (b) which was first passed as fit for trade and stamped under the Measuring Equipment (Cold-water Meter Regulations) 1988(a).
2. A cold-water meter:
  - (a) in respect of a pattern of which EEC pattern approval is in force which was granted before 30th October 2006 in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988 (or in accordance with the measures in force in another member State which implement Council Directive 75/33/EEC(b)); and
  - (b) which bears a mark of EEC initial verification or of EEC partial verification, in either case, in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988 (or in accordance with the measures in force in another member State which implement Council Directive 71/316/EEC(c) as amended by Council Directives 72/427/EEC(d), 83/575/EEC(e), 87/354/EEC(f) 87/355/EEC(g) and 88/665/EEC(h).

#### Gas meters

3. A gas meter which is:
  - (a) stamped under section 17 of the Gas Act 1986(i) and placed on the market before 30th October 2016; or
  - (b) stamped under article 22 of the Gas (Northern Ireland) Order 1996(j) and placed on the market before 30th October 2016;
4. A gas meter:
  - (a) in respect of a pattern of which EEC pattern approval was granted before 30th October 2006:
    - (i) under the Measuring Instruments (EEC Requirements) Regulations 1988(k), as applied to gas meters by the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988(l); or
    - (ii) by any other member State in accordance with the relevant provisions of measures in force which implement Council Directive 71/318(m),and which is in force; and

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(a) S.I. 1988/97 as amended by S.I.2001/1229 and S.I. 2003/214.  
(b) OJ No. L14, 20.1.75, p.1. Directive 75/33/EEC was repealed by Directive 2004/22/EC (OJ No. L135, 30.04.04, p1).  
(c) OJ No. L202, 6.9.71, p.1, OJ/SE 1971(II), p.707.  
(d) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p 71.  
(e) OJ No. L332, 28.11.83, p 43.  
(f) OJ No. L192, 11.7.87, p.43.  
(g) OJ No. L192, 11.7.87, p.46.  
(h) OJ No. L382, 31.12.88, p.42.  
(i) 1986 c.44.  
(j) S.I. 1996/275 (N.I. 2).  
(k) S.I. 1988/186  
(l) S.I. 1988/296, as amended by S.I. 1996/319.  
(m) Directive 71/318 on the approximation of the laws of member States relating to gas meters.

- (b) which bears a mark of EEC initial verification affixed under those Regulations (as so applied) or by any other member State in accordance with those provisions.

### **Active electrical energy meters**

5. An active electrical energy meter for use for trade which is:
  - (a) of a pattern or construction approved before 30th October 2006 by or under regulations made under paragraph 2 of Schedule 7 to the Electricity Act 1989(a), where such approval has not been revoked under regulations so made; and
  - (b) is, before 30<sup>th</sup> October 2016,:
    - (i) certified under paragraph 5 of that Schedule or excepted from the requirement for certification under paragraph 2(2) of that Schedule; and
    - (ii) placed on the market.
6. An active electrical energy meter for use for trade which is:
  - (a) of a pattern or construction approved before 30th October 2006 by or under regulations made under paragraph 3 of Schedule 7 to the Electricity (Northern Ireland) Order 1992(b), where such approval has not been revoked under regulations so made; and
  - (b) is, before 30th October 2016:
    - (i) certified under paragraph 6 of that Schedule or excepted from the requirement for certification under paragraph 3(2) of that Schedule; and
    - (ii) placed on the market.
7. An active electricity meter for use for trade:
  - (a) In respect of a pattern of which EEC pattern approval was granted before 30th October 2006:
    - (i) under the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995(c); or
    - (ii) any other member State in accordance with the relevant provisions of measures in force which implement Council Directive 76/891(d)
 and which is in force; and
  - (b) which bears a mark of EEC initial verification affixed under those Regulations or by any other member State in accordance with those provisions.

### **Automatic Weighing instruments**

8. Automatic gravimetric filing instruments:
  - (a) in respect of which a certificate of approval has been granted before 30th October 2006 and is in force; and
  - (b) which is first passed as fit for use for trade and stamped under
    - (i) the Weights and Measures Regulations 1963(e);
    - (ii) the Weighing Equipment (Filing and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986(f); or

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(a) 1989 c.29.  
 (b) S.I. 1992 No 231 (N.I. 1).  
 (c) S.I. 1995/2607.  
 (d) Directive 76/891 on the approximation of the laws of member States relating to electrical energy meters.  
 (e) S.I. 1963/1710, as amended by S.I. 1970/1370, S.I.1972/767, S.I.1974/1326, S.I.1977/1932, S.I. 1978/484, S.I. 1979/1612, S.I. 1980/1070, S.I. 1980/1079, S.I. 1983/914, S.I. 1984/1446, S.I. 1985/1532, S.I. 1986/1320, S.I. 1986/1682, S.I. 1988/120, S.I. 1988/876, S.I. 1994/1249, S.I. 1995/735, S.I. 2000/388, S.I. 2001/599, S.I. 2001/1208, S.I. 2003/2454 and S.I. 2003/2761.  
 (f) S.I. 1986/1320, as amended by S.I. 1994/1851, S.I. 1996/797, S.I. 2000/387, S.I. 2001/85 and S.I. 2003/2014.



- (iii) the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000(a)

### **Measuring systems for the measurement of fuel and lubricants**

**9.** A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel lubricants or a mixture of liquid fuels and lubricants in a quantity not exceeding 100 litres or 100 kilograms:

- (a) in respect of which a certificate of approval has been granted before 30th October 2006 and is in force; and
- (b) which was first passed as fit for use for trade and stamped under the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995(b).

**10.—(1)** A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel, lubricants or a mixture of liquid fuels and lubricants in a quantity not exceeding 100 litres or 100 kilograms:

- (a) in respect of a pattern of which EEC pattern approval was granted before 30<sup>th</sup> October 2006 and is in force; and
- (b) which bears a mark of EU initial verification or EU partial verification.

(2) For the purposes of paragraph (1):

- (a) a grant of EEC pattern approval or the affixing of a mark of EEC initial verification must have been in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988(c) or, in the case of any other member State, in accordance with the measures in force which implemented:
  - (i) Council Directive 71/319 EEC(d)
  - (ii) Council Directive 71/348/EEC(e) as amended by the Treaty of Accession 1994(f); and
  - (iii) Council Directive 77/313/EEC(g) as amended by Commission Directive 82/625/EEC(h); and
- (b) the affixing of a mark of EEC partial verification must have been in accordance with the 1988 Regulations, or in the case of any other member State in accordance with the measures in force which implemented Council Directive 71/316/EEC(i) as amended by Council Directives 72/427/EEC(j), 83/575/EEC(k), 87/354/EEC(l), 87/355/EEC(m) and 88/665/EEC(n).

### **Meter measuring systems used for deliveries from road tankers**

**11.** A meter measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms, delivered from a road tanker:

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- (a) S.I. 2000/388 as amended by S.I. 2003/214 and S.I. 2006/659.
  - (b) S.I. 1995/1014, as amended by S.I. 1998/2218, S.I. 2001/85, S.I. 2003/214 and S.I. 2003/2110.
  - (c) S.I. 1988/186, as amended by S.I. 1988/296 and S.I. 1988/1128.
  - (d) OJ No. L202, 6.9.71, p.32, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (e) OJ No. L239, 25.10.71, p.9 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (f) The Treaty concerning the accession of Norway, Austria, Finland and Sweden, signed 24.06.94.
  - (g) OJ No. L105, 28.4.77, p. 18, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (h) OJ No. L252, 27.8.82, p.10 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (i) OJ No. L202, 6.9.71, p.1, OJ/SE 1971 (II), p 707.
  - (j) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p.71.
  - (k) OJ No. L332, 28.11.83, p.43.
  - (l) OJ No. L192, 11.7.87, p.43.
  - (m) OJ No. L192, 11.7.87, p.46.
  - (n) OJ No. L382, 31.12.88, p.42.

- (a) in respect of which a certificate of approval has been granted before 30th October 2006 and is in force; and
- (b) which was first passed as fit for use for trade and stamped under the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983(a).

**12.—(1)** A meter measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms, delivered from a road tanker:

- (a) in respect of a pattern of which EEC pattern approval was granted before 30<sup>th</sup> October 2006 and is in force; and
- (b) which bears a mark of EU initial verification or EU partial verification.

(2) For the purposes of paragraph (1):

- (a) a grant of EEC pattern approval or the affixing of a mark of EEC initial verification must have been in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988(b) or, in the case of any other member State, in accordance with the measures in force which implemented:
  - (i) Council Directive 71/319 EEC(c)
  - (ii) Council Directive 71/348/EEC(d) as amended by the Treaty of Accession 1994(e); and
  - (iii) Council Directive 77/313/EEC(f) as amended by Commission Directive 82/625/EEC(g); and
- (b) the affixing of a mark of EEC partial verification must have been in accordance with the 1988 Regulations, or in the case of any other member State in accordance with the measures in force which implemented Council Directive 71/316/EEC(h) as amended by Council Directives 72/427/EEC(i), 83/575/EEC(j), 87/354/EEC(k), 87/355/EEC(l) and 88/665/EEC(m).

## Taximeters

### 13. Taximeters:

- (a) in respect of which a certificate of approval has been granted before 30th October 2006 and is in force; and
- (b) which was passed as fit for use for the protection of consumers and marked under the Metropolitan Conditions of Fitness(n).

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- (a) S.I. 1983/1390, as amended by S.I. 1986/1210, S.I.1994/1851, S.I. 1995/3117, S.I. 2001/85 and S.I. 2003/214.
  - (b) S.I. 1988/186, as amended by S.I. 1988/296 and S.I. 1988/1128.
  - (c) OJ No. L202, 6.9.71, p.32, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (d) OJ No. L239, 25.10.71, p.9 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (e) The Treaty concerning the accession of Norway, Austria, Finland and Sweden, signed 24.06.94.
  - (f) OJ No. L105, 28.4.77, p. 18, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (g) OJ No. L252, 27.8.82, p.10 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
  - (h) OJ No. L202, 6.9.71, p.1, OJ/SE 1971 (II), p 707.
  - (i) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p.71.
  - (j) OJ No. L332, 28.11.83, p.43.
  - (k) OJ No. L192, 11.7.87, p.43.
  - (l) OJ No. L192, 11.7.87, p.46.
  - (m) OJ No. L382, 31.12.88, p.42.
  - (n) The Public Carriage Office issued the Construction and Licensing of Motor Taxicabs in London: Conditions of Fitness in 2000. (This document is usually referred to as "the Metropolitan Conditions of Fitness.") The Metropolitan Conditions of Fitness are made under the London Cab Order 1934 (S.I. 1934/1346), article 35. The relevant amending instruments are S.I. 1985/933, 1990/2003 and 2000/1666. S.I. 1934/1346 was made under the Metropolitan Public Carriage Act 1869 (c. 115), section 6. Article 35 of the London Cab Order requires the installation of an approved taximeter. The requirements that must be met by an approved taximeter are set out in the Notice to Owners and Manufacturers of Motor Cabs and Taximeters regarding Taximeters to be used on Taxicabs in the Metropolitan Police District and the City of London, which was issued by the Public Carriage Office in July 1997.

## Exhaust gas analyser

### 14. An exhaust gas analyser:

- (a) in respect of which a certificate of approval has been granted before 30th October and is in force; and
- (b) which is first passed as fit for use for the protection of the environment and public health pursuant to the requirements of OIML R99/ISO 3930(a)

## SCHEDULE 3

Regulation 4

### REVOCATIONS AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

1.—(1) Subject to sub-paragraph (2), the Regulations listed in the table in this paragraph are revoked.

<i>Instrument title</i>	<i>Reference</i>
The Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006	S.I.2006/1255
The Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006	S.I. 2006/1256
The Measuring Instruments (Automatic Catchweighers) Regulations 2006	S.I. 2006/1257
The Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006	S.I. 2006/1258
The Measuring Instruments (Beltweighers) Regulations 2006	S.I. 2006/1259
The Measuring Instruments (Capacity Serving Measures) Regulations 2006	S.I. 2006/1264
The Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006	S.I. 2006/1266
The Measuring Instruments (Material Measures of Length) Regulations 2006	S.I. 2006/1267
The Measuring Instruments (Cold Water Meters) Regulations 2006	S.I. 2006/1268
The Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006	S.I. 2006/1269
The Measuring Instruments (Non-Prescribed Instruments Regulations 2006	S.I. 2006/1270
The Measuring Instruments (Active Electrical Energy Meters) Regulations 2006	S.I. 2006/1679
The Measuring Instruments (Exhaust Gas Analysers) Regulations 2006	S.I. 2006/2164
The Measuring Instruments (Taximeters) Regulations 2006	S.I. 2006/2304
The Measuring Instruments (Amendment) Regulations 2006	S.I. 2006/2625
The Measuring Instruments (Gas Meters) Regulations 2006	S.I. 2006/2647
The Measuring Instruments (Amendment) Regulations 2010	S.I. 2010/2881

(2) Regulation 28 of the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006 and regulation 28 of the Measuring Instruments (Gas Meters) Regulations 2006 remain in force.

2.—(1) In this paragraph, “the former law” means the Regulations referred to in paragraph 1(1).

(2) This paragraph applies to a measuring instrument placed on the market or put into use before the commencement date which—

- (a) was required by any provision of the former law to meet the essential requirements; and
- (b) would be a regulated measuring instrument if it were placed on the market or put into use on or after the commencement date.

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(a) OIML, the Organisation Internationale de Métrologie Légale, is an intergovernmental body dedicated to the harmonisation of the national metrology regulations of its members. The OIML R99 standard edition 2000E, was developed by the OIML subcommittee TC16/SC 1, Air pollution

(3) An instrument to which this paragraph applies which meets the requirements of the former law applicable to it is to be treated as meeting the requirements of these Regulations.

(4) Where an instrument to which this paragraph applies does not meet the requirements of the former law it shall be treated as not meeting the requirements of these Regulations and these Regulations apply to that instrument as they apply to a regulated instrument placed on the market or put into use after the commencement date which does not comply with the requirements of these Regulations

(5) Part 6 (Use for trade of regulated measuring instruments) applies to instruments to which this paragraph applies as it applies to a regulated measuring instrument placed on the market or put into use after the commencement date.

(6) A certificate granted under any provision of the former law has effect as if granted under the corresponding provision of these Regulations.

**3.—**(1) The Electromagnetic Compatibility Regulations 2006 are amended as follows.

(2) In regulation 13(1), after “Directive 2004/22/EC” insert “or Directive 2014/32/EU”.

**4.—**(1) Schedule 5 to Consumer Rights Act 2015(a) is amended as follows.

(2) In the list in paragraph 10 insert the following entry—

“regulation 69 of the Measuring Instruments Regulations 2016”.

## SCHEDULE 4

Regulation 44(2)

### OPERATIONAL OBLIGATIONS OF NOTIFIED BODIES

**1.** Conformity assessment must be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators.

**2.** Conformity assessment bodies must perform their activities taking due account of

- (a) the size of an undertaking;
- (b) the sector in which it operates, its structure;
- (c) the degree of complexity of the of the measuring instrument technology in question; and
- (d) the mass or serial nature of the production process

but respecting the degree of rigour and the level of protection required for compliance of the measuring instrument with these Regulations.

**3.** Where a notified body finds that the essential requirements have not been met by a manufacturer, it must require that manufacturer to take appropriate corrective measures and must not issue a certificate of conformity.

**4.** Where in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a measuring instrument no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

**5.** Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

**6.** Where a person is aggrieved at a decision taken by a notified body in relation to the conformity assessment of a measuring instrument, the notified body must have appropriate arrangements for the review of that decision by a person who was not involved in the taking of that decision

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(a) 2015 c.5.

**7.** Notified bodies must inform the notifying authority of the following—

- (a) any refusal, restriction, suspension or withdrawal of a certificate;
- (b) any circumstances affecting the scope of or conditions for notification;
- (c) any request for information which they have received from market surveillance authorities regarding conformity assessment; and
- (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

**8.** Notified bodies must provide other bodies notified under this Directive carrying out similar conformity assessment activities covering the same measuring instruments with relevant information on issues relating to negative and, on request positive conformity assessment results.

**9.** Notified bodies must—

- (a) when requested by the Secretary of State, nominate a representative to attend a group convened by the Commission pursuant to Article 40 of the Directive; and
- (b) ensure attendance of that representative at meetings of the group.

## SCHEDULE 5

Regulation 58(4)

### REQUIREMENTS RELATED TO NOTIFIED BODIES

**1.** A conformity assessment body must be established under the national law of a Member State and have legal personality

**2.—**(1) A conformity assessment body must be a third-party body independent of the organisation or the measuring instrument it assesses.

(2) A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of measuring instruments which it assesses may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered a body of the kind referred to in sub-paragraph (1).

**3.—**(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not be—

- (a) the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the measuring instruments they assess; or
- (b) the representative of any of the parties referred to in paragraph (a).

(2) Sub-paragraph (1) does not preclude the use of assessed measuring instruments that are necessary for the operations of the conformity assessment body or the use of such instruments for personal purposes.

(3) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not—

- (a) be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of the measuring instruments they assess;
- (b) represent the parties engaged in the activities referred to in paragraph (a); or
- (c) engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified, in particular consultancy services.

(4) Paragraph (3) does not preclude the possibility of exchanges of technical information between the manufacturer and the body for the purposes of conformity assessment.

(5) Conformity assessment bodies must ensure that the activities of their subsidiaries or sub-contractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

**4. Conformity assessment bodies and their personnel must—**

- (a) carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field; and
- (b) be free from all pressures and inducements, particularly financial, which might—
  - (i) influence their judgement or
  - (ii) the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in those activities.

**5.—(1)** A conformity assessment body must be capable of carrying out all the conformity assessment tasks assigned to it by Schedule 3 and in relation to which it has been notified, whether those tasks are carried out by—

- (a) the conformity assessment body itself; or
- (b) on its behalf and under its responsibility.

**(2)** A conformity assessment body must, at all times and for each conformity assessment procedure and each kind or category of measuring instruments in relation to which it has been notified—

- (a) have at its disposal the necessary—
  - (i) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
  - (ii) descriptions of procedure in accordance with which conformity assessment is carried out, ensuring, the transparency and the ability of reproduction of those procedures; and
  - (iii) procedure for the performance of activities which take due account of the size of and undertaking, the sector in which it operates, its structure, the degree of complexity of the measuring instrument technology in question and the mass or serial nature of the production process; and
- (b) have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities.

**(3)** A conformity assessment body must have

- (a) the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner; and
- (b) access to all necessary equipment or facilities.

**6.** The personnel responsible for carrying out conformity assessment tasks must have the following—

- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of—
  - (i) the essential requirements;
  - (ii) the applicable harmonised standards and normative documents; and
  - (iii) the relevant provisions of Union harmonisation legislation and of national legislation; and
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

**7.** The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible

**8.—(1)** The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks must be guaranteed.

(2) The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or the results of those assessments

**9.—(1)** Conformity assessment bodies must take out liability insurance.

(2) Sub-paragraph (1) does not apply to the Secretary of State or a body where liability for conformity assessment activities is assumed by the Crown.

**10.—(1)** Except where disclosure is permitted by virtue of any rule of law, the personnel of a conformity assessment body must observe professional secrecy with regard to all information obtained in the carrying out their tasks under these Regulations except in relation to competent authorities of the Member States in which its activities are carried out.

(2) Proprietary rights must be protected.

**11.** Conformity assessment bodies must participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and the activities of the notified body co-ordination group established under the relevant Union harmonisation legislation and shall apply as general guidance, the administrative decisions and documents produced as a result of the work of that group.

## SCHEDULE 6

Regulation 64

### IN SERVICE REQUIREMENTS FOR CERTAIN KINDS OF REGULATED MEASURING INSTRUMENTS

#### PART 1

#### INTRODUCTORY

**1.** This Schedule applies to the use for trade of regulated measuring instruments as follows—

- (a) Part 2 applies to water meters used for trade for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) Part 3 applies to measuring systems which are used for the continuous and dynamic measurement of a liquid fuel, lubricant or a mixture of fuel and lubricant in a quantity not exceeding 100 litres or 100 kilograms other than—
  - (i) liquefied petroleum gas; or
  - (ii) liquefied natural gas;
- (c) Part 4 applies to meter measuring systems (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which are used for the continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms delivered from a road tanker other than—
  - (i) liquefied gases;
  - (ii) lubricating oils;
  - (iii) liquid fuels of a temperature below -153°C; or
  - (iv) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (d) Part 5 applies to automatic catchweighers;
- (e) Part 6 applies to automatic gravimetric filling instruments;;

- (f) Part 7 applies to automatic discontinuous totalisers;
- (g) Part 8 applies to automatic rail weighbridges;
- (h) Part 9 applies to beltweighers;
- (i) Part 10 applies to material measures of length; and
- (j) Part 11 applies to capacity serving measures.

## PART 2

### COLD WATER METERS

#### Requirements for use for trade

2. No person may use for trade a water meter for the supply of potable water to domestic premises in the temperature range from 0.1°C to and including 30°C (“a cold water meter”) unless—

- (a) it is compliant with the essential requirements applicable to cold water meters (other than the provisions relating to maximum permissible errors);
- (b) it operates within the maximum permissible errors set out in paragraph 3; and
- (c) the requirements of paragraph 4 are complied with.

#### Maximum permissible error

3.—(1) Where a cold-water meter is used for trade within a flowrate range set out in column 1 of the following Table, it must operate within the maximum permissible error specified for that flowrate range set out in column 2 of that Table.

**Table**

<i>Column 1</i>	<i>Column 2</i>
Flowrate range	Maximum permissible error as a percentage of quantity delivered
$Q_2$ to $< Q_2$	$\pm 6\%$
$Q_2$ to and including $Q_4$	$\pm 2.5\%$

(2) For the purposes of that Table—

- (a) “ $Q_1$ ” is the lowest flowrate at which the cold-water meter provides indications that satisfy the requirements concerning the maximum permissible errors;
- (b) “ $Q_2$ ” is the flowrate value occurring between the permanent and minimum flowrates, at which the flowrate range is divided into two zones, the upper zone and the lower zone, each zone having a characteristic maximum permissible error;
- (c) “ $Q_3$ ” is the permanent flowrate; and
- (d) “ $Q_4$ ” is the highest flowrate at which the cold-water meter operates in a satisfactory manner.

4.—(1) Where a cold water meter is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range;
- (b) a flowrate range, it must not be used at a flowrate outside that range.

(2) Where a cold-water meter bears a mark which signifies the manner and purposes of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) A cold water meter must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or



- (b) which are likely prematurely to degrade its metrological characteristics.
- (4) A cold-water meter must not be used for trade unless, when adjusted, the calibration of the instrument is set as close to zero as practicable.

## PART 3

### LIQUID FUEL AND LUBRICANTS

#### Requirements for use for trade

5. In this Part of this Schedule “measuring system” means a measuring system which is used for the continuous and dynamic measurement of a liquid fuel, lubricant or a mixture of fuel and lubricant in a quantity not exceeding 100 litres or 100 kilograms other than—

- (a) liquefied petroleum gas; or
- (b) liquefied natural gas.

6. No person may use for trade a measuring system unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is so positioned as to facilitate testing;
- (c) it operates within the maximum permissible errors in paragraph 7; and
- (d) the requirements of paragraph 8 are complied with.

#### Maximum permissible error

7.—(1) In the case of a measuring system used to measure a quantity of liquid fuel—

- (a) above the measured quantity of the instrument, the maximum permissible error shall be determined in accordance with the following Table

	<i>Accuracy class of measuring system</i>				
	0.3	0.5	1.0	1.5	2.5
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
<i>Quantity</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>
Less than 0.1L	+ 4.8ml -2.4mL	+8mL -4mL	+16mL -8mL	+24mL -12mL	+40mL -20mL
From 0.1L to < 0.2L	+ 4.8% -2.4%	+ 8% -4%	+16% -8%	+ 24% -12%	+ 40% -20%
From 0.2L to < 0.4L	+ 4.8ml -2.4mL	+ 8mL -4mL	+ 16mL -8mL	+ 24mL -12mL	+ 40mL -20mL
From 0.4L to < 1L	+ 1.2% -0.6%	+ 2% -1%	+ 4% -2%	+ 6% -3%	+ 10% -5%
From 1L to < 2L	+12mL -6mL	+20mL -10mL	+40mL -20mL	+60mL -30mL	+100mL -50mL
2L or more	+0.6% -0.3%	+1% -0.5%	+2% -1%	+3% -1.5%	+5% -2.5%

- (b) equal to the minimum measured quantity of the instrument, the maximum permissible error shall be determined in accordance with the following Table.

	<i>Accuracy class of measuring system</i>				
	0.3	0.5	1.0	1.5	2.5

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
<i>Quantity</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>	<i>MPE</i>
Less than 0.1L	□+4.8ml -2.4mL	+8mL -4mL	+16mL -8mL	+24mL -12mL	+40mL -20mL
From 0.1L to < 0.2L	+ 4.8% -2.4%	+8% -4%	+ 16% -8%	+24% -12%	+40% -20%
From 0.2L to < 0.4L	+ 9.6mL -4.8mL	+ 16mL -8mL	+ 32mL -16mL	+ 48mL -24mL	+ 80mL -40mL
From 0.4L to < 1L	+ 2.4% -1.2%	+ 4% -2%	+8% -4%	+ 12% -6%	+ 20% -10%
From 1L to < 2L	+24mL -12mL	+40mL -20mL	+80mL -40mL	+120ml -60mL	+200mL -100mL
2L or more	+1.2% -0.6%	+2% -1%	+4% -2%	+6% -3%	+10% -5%

(2) But the maximum permissible error for a quantity above the minimum measured quantity of the instrument shall not be less than the maximum permissible error for a quantity equal to the minimum measured quantity.

(3) Where the instrument falls within an accuracy class of 0.3, 0.5, 1.0, 1.5 or 2.5, it shall, for a quantity set out in column 1 of the relevant Table, operate within the maximum permissible error set out in column 2, 3, 4, 5 or 6 of that Table for that class and that quantity.

#### **Manner of use**

8.—(1) Where a measuring system is marked with—

- (a) a temperature range, it shall not be used for trade in temperatures outside that range;
- (b) a flowrate range, it shall not be used for trade at a flowrate outside that range

(2) A measuring system shall not be used for trade unless it is marked in a manner which is sufficiently clear to enable the buyer to identify the product which that instrument delivers but this paragraph shall not apply where the instrument is used in the absence of the buyer.

(3) A measuring system shall not be used for trade in circumstances which are likely prematurely to degrade its metrological characteristics.

(4) A measuring system shall not be used for trade unless the sales indicator—

- (a) is set to zero before measurement of the liquid fuel commences;
- (b) remains at zero until that fuel starts to emerge from the instrument;
- (c) is not reset to zero during measurement of that fuel; and
- (d) cannot be advanced by any means other than by the discharge of that fuel from the instrument and the proper operation of instrument.

(5) If a measuring system is adjusted, it shall not be used for trade unless the calibration of the instrument is set as close to zero error as is practicable.

(6) Where a measuring instrument used for trade bears a mark (other than a mark referred to in paragraph (1) which signifies the manner and purpose of use, that instrument shall not be used in a manner or for a purpose which does not accord with that marking.

(7) A measuring system shall not be used in circumstances in which it may be prevented from operating consistently or accurately.

(8) Nothing in paragraphs (6) or (7) shall prevent the use for trade of an instrument where a buyer chooses to take a delivery which is less than the minimum measured quantity.

## PART 4

### LIQUID FUEL DELIVERED FROM ROAD TANKERS

#### Requirements for use for trade

9. In this Part of this Schedule, “meter measuring system” means a meter measuring system (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which is used for the continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms delivered from a road tanker other than—

- (a) liquefied gases;
- (b) lubricating oils;
- (c) liquid fuels of a temperature below -153°C; or
- (d) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;

10. No person shall use for trade a meter measuring system unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is erected and installed so as to facilitate testing;
- (c) it operates within the maximum permissible errors in paragraph 11;
- (d) the requirements of paragraphs 12 and 13 are complied with.

#### Maximum permissible error

11.—(1) An instrument which falls within an accuracy class of 0.3, 0.5 or 1.0 must, when used to measure a quantity set out in column 1 of the following Table, operate within the maximum permissible error as set out in column 2, 3 or 4 of that Table for that class and that quantity.

	<i>Accuracy class</i>		
	0.3	0.5	1.0
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Quantity delivered</i>	<i>Maximum permissible error</i>	<i>Maximum permissible error</i>	<i>Maximum permissible error</i>
MMQ to and including MMQ x 2	$\pm 0.6\% \times \text{MMQ}$	$\pm 1\% \times \text{MMQ}$	$\pm 2\% \times \text{MMQ}$
>MMQ x 2	$\pm 0.3\% \times \text{quantity delivered}$	$\pm 0.5\% \times \text{quantity delivered}$	$\pm 1.0\% \times \text{quantity delivered}$

(2) In the Table, “MMQ” means minimum measured quantity

#### Manner of use

12.—(1) Where a measuring system is marked with—

- (a) a temperature range, it shall not be used for trade in temperatures outside that range;
- (b) a flowrate range, it shall not be used for trade at a flowrate outside that range

(2) A meter measuring system which bears a mark which signifies the manner and purpose of use shall not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) If a measuring system is adjusted, it shall not be used for trade unless the calibration of the instrument is set as close to zero error as is practicable.

(4) A meter measuring system shall not be used for trade unless it is fitted with a ticket printing mechanism which provides an individual printed ticket

(5) A measuring system shall not be used for trade in circumstances which are likely prematurely to degrade its metrological characteristics.

(6) A measuring system shall not be used for trade unless the sales indicator—

- (a) is set to zero before measurement of the liquid fuel commences;
- (b) remains at zero until that fuel starts to emerge from the instrument;
- (c) is not reset to zero during measurement of that fuel; and
- (d) cannot be advanced by any means other than by the discharge of that fuel from the instrument and the proper operation of instrument.

(7) A measuring system shall not be used in circumstances

- (a) which are likely prematurely to degrade its metrological characteristics; or
- (b) in which it may be prevented from operating consistently or accurately.

### **Minimum measured quantity**

**13.**—(1) A meter measuring system shall not be used to measure quantities of liquid fuel delivered from a road tanker that are less than the minimum measured quantity but this paragraph shall not apply where—

- (a) a measurement is made to determine payments in respect of any customs or excise duty; or
- (b) a frustrated delivery had taken place and all reasonable precautions have been taken and all due diligence has been exercised to avoid a frustrated delivery.

(2) In sub-paragraph (1)(b), “frustrated delivery” means a delivery of liquid fuel from a road tanker which cannot be completed because—

- (a) there is insufficient space in the buyer’s storage tank;
- (b) continuing the delivery would result in contamination of the liquid fuel or the mixing of different types of liquid fuel; or
- (c) a component of the meter measuring system breaks down.

## **PART 5**

### **AUTOMATIC CATCHWEIGHERS**

#### **Interpretation of Part**

**14.** In this Part—

- (a) references to an automatic catchweigher being in class Y(I) are to an automatic catchweigher which has a minimum capacity of not less than 100e;
- (b) references to an automatic catchweigher being in class Y(II) are to an automatic catchweigher which has a minimum capacity of not less than 20e for  $0.001g \leq e \leq 0.05g$  and 50 e for  $0.1g \leq e$ ;
- (c) references to an automatic catchweigher being in class Y(a) are to an automatic catchweigher which has a minimum capacity of not less than 20e; and
- (d) references to an automatic catchweigher being in class Y(b) are to an automatic catchweigher which has a minimum capacity of not less than 10 e.

#### **Requirements for use for trade of automatic catchweighers**

**15.**—(1) No person shall use for trade an automatic catchweigher unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;

- (b) in the case of an automatic catchweigher of accuracy class Y(I), Y(II), Y(a) or Y(b) it operates within the maximum permissible errors in paragraph 16
- (c) the requirements of paragraphs 17 to 20 are complied with;
- (d) it has been erected and installed in accordance with the requirements of paragraph 21;

### Maximum permissible error

**16.**—(1) The maximum permissible error for an automatic catchweigher in automatic operation is to be determined in accordance with the following table—

<i>Net Load (m) in verification scale intervals (e)</i>				<i>Maximum permissible error</i>	<i>Maximum permissible error</i>
Y(I)	Y(II)	Y(a)	Y(b)	Static Weighing	Dynamic weighing
$0 < m \leq 50\,000$	$0 < m \leq 5\,000$	$0 < m \leq 500$	$0 < m \leq 50$	$\pm 0.5 e$	$\pm 1.0 e$
$50\,000 < m \leq 200\,000$	$5\,000 < m \leq 20\,000$	$500 < m \leq 20\,000$	$5 < m \leq 200$	$\pm 1.0 e$	$\pm 1.5 e$
$200\,000 < m$	$20\,000 < m \leq 100\,000$	$2\,000 < m \leq 10\,000$	$200 < m \leq 20\,000$	$\pm 1.5 e$	$\pm 2.0 e$

(2) The maximum permissible error for an automatic catchweigher in non-automatic operation is to be determined in accordance with the following table—

<i>Accuracy classes</i>	<i>Verification scale interval</i>	<i>Number of verification scale intervals <math>n = \text{Max}/e</math></i>	
		Minimum	Maximum
Y(I)	$0.001\text{ g} \leq e$	50 000	-
Y(II)	$0.001\text{ g} \leq e \leq 0.05\text{ g}$	100	100 000
	$0.1\text{ g} \leq e$	5 000	100 000
Y(a)	$0.1\text{ g} \leq e \leq 2\text{ g}$	100	10 000
	$5\text{ g} \leq e$	500	10 000
Y(b)	$5\text{ g} \leq e$	100	1 000

### Manner of use

**17.** An automatic catchweigher marked with a measurement range may be used for trade for trade for determining the weight of any item by ascertaining the difference between the weight of that item and a separate item, where both items fall within the measurement range.

**18.** Where an automatic catchweigher is marked with a measurement range, no person may use the instrument for trade 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; or
- (b) to precious stones or pearls; or
- (c) to drugs or other pharmaceutical products.

**19.** No person may use for trade an automatic catchweigher other than an instrument of accuracy class Y(I) or Y(II) in any transaction—

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

**20.**—(1) Where an automatic catchweigher is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where an automatic catchweigher bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic catchweigher of accuracy class Y(b) must only be used for weighing ballast or waste.

(4) An automatic catchweigher must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

(5) For the purposes of paragraph (3), “waste” means any substance that its holder , discards, or intends or is required to discard, including any waste disposed of for reprocessing or recycling purposes.

### **Manner of erection and installation**

**21.**—(1) Every automatic catchweigher must be positioned so as to facilitate cleaning and testing.

(2) The installation of an automatic catchweigher must be so designed that an automatic weighing operation will be the same for testing as for use for a transaction.

(3) If an automatic catchweigher has any special equipment for its control which is not a permanent fixture of the instrument, it must be kept in the vicinity of the instrument.

## **PART 6**

### **AUTOMATIC GRAVIMETRIC FILLING INSTRUMENTS**

**22.**—(1) No person may use for trade an automatic gravimetric filling instrument unless

- (a) it is compliant with the essential requirements other than the provisions relating to permissible errors;
- (b) the instrument operates within the limits of the maximum permissible error determined in accordance with paragraph 23
- (c) the requirements of paragraphs 24 and 25 are complied with;
- (d) it has been erected and installed in accordance with the requirements of paragraph 26;
- (e) subject to paragraph (f), where test fills are required these limits are determined on the basis of consecutive fills; and
- (f) in the case of an instrument of the description and maximum capacity set out respectively, in columns 1 and 2 of the Table set out in this paragraph, it is within the accuracy class specified for that instrument in column 3 or within an accuracy class of a higher level of precision than the specified class

#### **Accuracy classes for automatic gravimetric filling instruments used for trade**

<i>Description of use of filling instrument</i>	<i>Maximum capacity of filling instruments</i>	<i>Accuracy Class</i>
(1)	(2)	(3)
For use for weighing potato crisps and other snack foods	Any capacity	X2
For use for weighing solid fuel	110 kg or less	X(1)
For use for weighing vegetable produce	55kg or less	X(1)
For weighing waste	Any capacity	X(1)
For use for weighing materials not described in any of the	Less than 5kg	X(1)

above	5kg or more	X(0.5)
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### Maximum permissible error

**23.—**(1) A automatic gravimetric filling instrument shall have a specified accuracy class X(x) for which the maximum permissible error value of each fill from the average shall be equal to the limits specified in the following table, multiplied by the class designation factor (x) calculated in accordance with sub-paragraph (2)

<i>Value of the mass of the fills (m) in grams</i>	<i>Maximum permissible deviation of each fill from the average for class X(1)</i>
	In use
$m \leq 50$	9%
$50 < m \leq 100$	4.5 grams
$100 < m \leq 200$	4.5%
$200 < m \leq 300$	9 grams
$300 < m \leq 500$	3%
$500 < m \leq 1000$	15 grams
$1\ 000 < m \leq 10\ 000$	1.5%
$10\ 000 < m \leq 15\ 000$	150 grams
$15\ 000 < m$	1%

(2) In sub-paragraph (1), (x) shall be  $1 \times 10^k$ ,  $2 \times 10^k$ ,  $5 \times 10^k$ , k being a positive or negative whole number or zero.

(3) For in-service testing, when the reference particle mass exceeds 0.1 of the maximum permissible in-service deviation, the values derived from the table in sub-paragraph (1) shall be increased by 1.5 times the value of the reference particle mass. However the maximum value of the maximum permissible deviation shall not exceed (x) x 9%.

(4) Particle mass correction is not applicable to limits which are derived from the table in sub-paragraph (1) including influence quality tests and zero setting

(5) The table in sub-paragraph (1) is illustrative of the maximum permissible deviation where the class designation factor is 1.

### Manner of use

**24.—**(1) Where an automatic gravimetric filling instrument is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where an automatic gravimetric filling instrument bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic gravimetric filling instrument must only be used for trade for the purpose of weighing material the value of which, expressed in units of measurement of mass, is neither less than the value of the minimum capacity nor more than the value of the maximum capacity.

(4) An automatic gravimetric filling instrument must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

### Automatic gravimetric filling instruments to be set to zero

**25.—**(1) Subject to sub-paragraph (2), a person must not use an automatic gravimetric filling instrument for trade unless it is properly balanced or set to zero immediately prior to use.

(2) Paragraph (1) does not apply in the case of an instrument if it is designed so as not to balance when unloaded.

#### **Manner of erection and installation**

**26.**—(1) Every automatic gravimetric filling instrument must be so positioned as to facilitate cleaning and testing.

(2) Any special equipment for the control of measuring tasks performed by an automatic gravimetric filling instrument which is not a permanent fixture of the instrument must be kept in the vicinity of the instrument.

## **PART 7**

### **AUTOMATIC DISCONTINUOUS TOTALISERS**

#### **Requirements for use for trade**

**27.** No person shall use for trade an automatic discontinuous totaliser unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) the requirements of paragraph 28
- (c) it has been erected and installed in accordance with the requirements of paragraph 29;
- (d) in the case of an instrument falling within an accuracy class set out in column 1 of the following Table, it falls within the maximum permissible error for that class set out in column 2 of that Table.

**Table**

<i>(1)</i> <i>Accuracy class</i>	<i>(2)</i> <i>Maximum permissible error of totalised load</i>
0.2	± 0.2%
0.5	± 0.5%
1	± 1.0%
2	± 2.0%

#### **Manner of use**

**28.**—(1) Where an automatic discontinuous totaliser is marked with a temperature range, it shall not be used for trade in temperatures outside that range.

(2) Where an instrument bears a mark which signifies the manner and purpose of use, it shall not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic discontinuous totaliser shall only be used for trade for the purpose of weighing material the value of which, expressed in units of measurement of mass, is not—

- (a) less than the minimum totalised load;
- (b) less than the value of the minimum capacity unless processed as the last discrete load of a trade transaction; or
- (c) more than the value of the maximum capacity.

(4) An automatic discontinuous totaliser shall not be used for trade in such a manner as to cause—

- (a) spillage of material from the load receptor; or
- (b) loading of the weighing unit above its maximum capacity.

(5) An automatic discontinuous totaliser shall not be used for trade in circumstances—



- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

#### **Manner of erection and installation**

**29.**—(1) An automatic discontinuous totaliser shall be so positioned as to facilitate cleaning and testing.

(2) If any special equipment for an automatic discontinuous totaliser is not a permanent fixture of the instrument, it shall be kept in the vicinity of the instrument.

(3) In this paragraph “special equipment” means equipment to allow the control of the measuring tasks.

(4) An automatic discontinuous totaliser which has either a non-automatic zero-setting device or semi-automatic zero setting device shall be erected in such a manner that the operator can, notwithstanding the nature of the instrument or its surroundings, readily take up a position from which he can check the zero and operate the zero setting controls.

## **PART 8**

### **AUTOMATIC RAIL WEIGHBRIDGES**

#### **Requirements for use for trade**

**30.** No person shall use for trade an automatic rail weighbridge unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is erected and installed in accordance with paragraph 31;
- (c) it operates within the maximum permissible errors in paragraph 32 ;
- (d) the requirements of paragraph 33 are complied with.

#### **Manner of erection and installation**

**31.**—(1) Every automatic rail-weighbridge shall be—

- (a) so positioned as to facilitate cleaning and testing; and
- (b) installed so that the weighing operation is the same for testing as it is for a transaction.

(2) If the weighing mechanism of the automatic rail-weighbridge is contained in a pit, there shall be provision for drainage to ensure that no portion of the instrument becomes submerged or partially submerged in any liquid.

#### **Maximum permissible error and accuracy class**

**32.**—(1) Where an automatic rail-weighbridge falls within an accuracy class in column 1 of the following Table, the instrument shall operate within the maximum permissible error specified for that class in column 2 of that Table—

<i>Column 1</i>	<i>Column 2</i>
<i>Accuracy class</i>	<i>Maximum permissible error as a percentage of the mass of a single wagon or total train</i>
0.2	± 0.2%
0.5	± 0.5%
1	± 1.0%
2	± 2.0

(2) Where an automatic rail-weighbridge falls within an accuracy class of 2, it shall only be used for trade for the weighing of a wagon loaded with—

- (a) any of the materials to which the expression “ballast” applies in Schedule 4 of the 1985 Act;
- (b) any material the disposal of which constitutes a landfill disposal as defined in section 70(2) of the Finance Act 1996<sup>(a)</sup>, whether or not the disposal amounts to a taxable disposal as defined in section 40 of that Act; or
- (c) waste.

(3) For the purposes of paragraph (2)(c), “waste” means any substance that its holder discards, or intends or is required to discard, including any waste disposed of for reprocessing or recycling purposes.

### **Manner of use**

**33.**—(1) Where an automatic rail-weighbridge is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range;
- (b) a weight measurement range, it must not be used for trade in a manner or for a purpose that does not accord with that marking.

(2) Where an automatic rail-weighbridge bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic rail-weighbridge must not be used for trade—

- (a) unless it is properly balanced or set to zero immediately prior to use; or
- (b) in circumstances—
  - (i) in which it may be prevented from operating consistently or accurately; or
  - (ii) which are likely prematurely to degrade its metrological characteristics.

(4) Where an automatic rail-weighbridge is fitted with a printing device, the instrument must not be used for trade unless the printing device produces a printout which—

- (a) indicates the weight of each wagon weighed or, in the case of a total train, the weight of that total train;
- (b) indicates which wagon, if any, has travelled over the load receptor at a speed outside the range of operating speeds; and
- (c) is not altered due to any wagon travelling over the load receptor more than once.

## **PART 9**

### **BELTWEIGHERS**

### **Requirements for use for trade**

**34.** No person shall use for trade a beltweigher unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) the requirements of paragraphs 35 and 36 are complied with;
- (c) it has been erected and installed in accordance with the requirements of paragraph 37; and

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<sup>(a)</sup> 1996 c.8.

- (d) in the case of a beltweigher of an accuracy class set out in column 1 of the Table set out in this paragraph it is within the maximum permissible error for that accuracy class as set out in column of that Table.

<i>Column (1)</i>	<i>Column 2</i>
Accuracy Class	Maximum permissible error for totalised load
0.5	$\pm 0.5\%$
1	$\pm 1\%$
2	$\pm 2.0\%$

### **Manner of use**

**35.**—(1) Where a beltweigher is marked with a temperature range, it shall not be used for trade in temperatures outside that range.

(2) Where a beltweigher bears a mark which signifies the manner and purpose of use, it shall not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) A beltweigher of accuracy class 2 shall only be used for trade for weighing any of the materials to which the term “ballast” applies in Schedule 4 of the 1985 Act.

(4) A beltweigher shall not be used for trade in such a manner as to cause—

- (a) spillage of material from the belt; or
- (b) loading of the weighing unit above its maximum capacity.

(5) A beltweigher shall not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately;
- (b) or which are likely prematurely to degrade its metrological characteristics.

### **Position of the operator**

**36.** Every beltweigher shall be erected in such a manner that the operator can readily take up a position from which he can—

- (a) read any indication of zero totalisation;
- (b) operate any zero-setting control; and
- (c) see whether the belt passing over the weighing unit is empty.

### **Manner of erection and installation**

**37.**—(1) Every beltweigher shall be positioned so as to facilitate cleaning and testing.

(2) The installation of a beltweigher shall be so designed that an automatic weighing operation will be the same for testing as for a transaction.

(3) Every beltweigher shall be erected in such a way that it is possible to carry out a material test in a place where it is to be used, including in particular the depositing on, or removal from, the belt of material test loads in a reliable and easy manner, without disrupting the normal operation of the beltweigher.

(4) Any special equipment for the control of the measuring tasks of a beltweigher which is not a permanent fixture of the instrument, must be kept in the vicinity of the instrument.

## PART 10

### MATERIAL MEASURES OF LENGTH

#### **Requirements for use for trade**

**38.** No person shall use for trade a material measure of length unless—

- (a) it is compliant with the essential requirements other than the provisions relating to limits of maximum permissible errors;
- (b) it operates within twice the limits of maximum permissible error referred to in the essential requirements; and
- (c) the requirements of paragraph 39 are complied with.

#### **Manner of use**

**39.**—(1) Where a material measure of length is marked with a temperature range, it shall not be used for trade in temperatures outside that range.

(2) Where a measure bears an inscription which signifies the manner and purpose of use, it shall not be used for trade in a manner or for a purpose which does not accord with that inscription.

(3) No person shall use a material measure of length for trade in such manner as to expose it to environmental or other influences which may adversely affect its accuracy or function

## PART 11

### CAPACITY SERVING MEASURES

#### **Requirements for use for trade**

**40.** No person shall use for trade a capacity serving measure unless—

- (a) it is compliant with the essential requirements;
- (b) the requirements of 41 are complied with; and
- (c) it does not bear any decorations or designs which may cause confusion in use.

#### **Manner of use**

**41.** No person shall use for trade a capacity serving measure for the measurement of intoxicating liquor before its transfer to a container in which the buyer is to receive it, unless the buyer has a clear and unobstructed view of the measurement and transfer.

### **EXPLANATORY NOTE**

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