

The Legislative Reform (Hallmarking) Order 2012

Guidance for Businesses

September 2012

Version 3

This publication was withdrawn on 5 January 2021.

Revision History

Version number and date of change	Sections affected
Version 1 – May 2012	First issued April 2012. Some minor re-ordering of sections on page 2
<i>Version 2 – September 2012</i>	<i>Some changes to dates to reflect delayed coming into force of the Order</i>

This publication was withdrawn on 5 January 2021

Summary

1. This guidance has been produced by the National Measurement Office, an Executive Agency of the Department for Business, Innovation and Skills to accompany the Legislative Reform (Hallmarking) Order 2012. Subject to Parliamentary approval the Order will come into force in *December* 2012.
2. The new law will introduce a number of amendments to existing UK hallmarking law. It will amend sections 2(1), 4, 5(5) and 13 together with Schedules 2 and 5 of the Hallmarking Act 1973.
3. This guidance is addressed to all organisations and individuals involved in the manufacture, hallmarking, retail or purchase of articles of precious metal, such as jewellery, and also to those bodies responsible for the enforcement of hallmarking law. Following the guidance is not in itself obligatory, however, if you do follow it, this should help your organisation to meet its legal obligations.
4. Ultimately, only the courts can provide a definitive interpretation of the law. For further guidance on how to comply with the law you can contact your local trading standards department, who provide this service free of charge: www.tradingstandards.gov.uk – simply type in your postcode and press ‘go’.
5. *This guidance complies with the Government Code of Practice on Guidance and will be reviewed in April 2013.*

Executive Summary

6. From *December* 2012 amendments to the Hallmarking Act 1973 will come into force which will provide the UK Assay Offices, for the first time, with the opportunity to set up offshore hallmarking operations if they wish to do so. This will be achieved by a relatively limited, but significant, change to existing UK hallmarking law. Under the newly implemented law, the UK Assay Offices will be able to strike UK hallmarks in overseas locations, an opportunity currently denied them by the Hallmarking Act 1973. This is significant as it will allow them to compete on level terms with those EEA counterparts whose law contains no such geographical limitation.
7. A related change to the law will remove restrictions on the type of sponsors’ marks permitted under the Act. Currently, such marks must include the initial letters of the name or names of the manufacturer or sponsor. An additional change will correct an anomaly in the Act relating to the coating of certain hallmarked articles.

What is the current law and why is it changing?

8. Hallmarking law is designed to protect purchasers of precious metal articles, such as jewellery, from being deceived as to the purity of the precious metal content of an article. The hallmarks which are struck on precious metal articles provide a guarantee that such articles have been independently tested. Hallmarking has been in existence in one form or another for some 700 years and is therefore one of the oldest forms of consumer protection.

9. Current UK hallmarking law, which comprises the Hallmarking Act 1973 and subordinate legislation, is restrictive in that it prohibits the UK Assay Offices from striking hallmarks other than in the UK. This restriction is impacting increasingly on the commercial viability of the UK Assay Offices in a market which is becoming ever more globalised. The economic attractions of being able to co-locate the manufacture and hallmarking of precious metal articles mean that more manufacturers of, for example, high volume low cost jewellery are combining these operations on their premises, or in close proximity, by engaging the services of sub-offices of Assay Offices from those EEA countries (which operate independent systems of hallmarking) whose hallmarking law is not geographically restrictive.

10. The discrepancy between UK hallmarking and that of some other EEA countries has created a distortion in the market whereby UK Assay Offices are unable to take advantage of the opportunity to hallmark in these offshore locations, resulting in a severe decline in their economic viability. The need to arrest this decline has lent urgency to the need to change UK law so as to address this competitive imbalance.

11. The NMO consulted on its proposals to change hallmarking law between January and April 2012 in order to seek the views of a wide range of organisations and individuals prior to making the changes. The response to the consultation was almost unanimous in support of the proposals. Details of the consultation exercise can be found at:

<http://www.bis.gov.uk/nmo/Consultations/Offshore-Hallmarking>

In what way is the law changing?

12. The primary change, to allow UK Assay Offices to set up offshore hallmarking operations, is being effected by an amendment to section 2(1) of the Hallmarking Act 1973. Broadly, section 2(1) defines approved hallmarks as being one of the following:

(a) marks struck by the British Assay Offices in the UK;

- (b) pre-1923 Dublin hallmarks;
- (c) Convention hallmarks; and
- (d) equivalent marks struck in an EEA State other than the UK.

13. Section 2(1) of the Act defines as approved hallmarks: (a) "marks struck by an Assay Office in the United Kingdom, whether before or after the commencement of the Act, under the law for the time being in force". The geographical limitation which the new Reform Order removes lies in the words "marks struck in the UK...". The Act has therefore been amended by inserting after section 2(1)(a) by means of a new subsection (2(1)(a)(a)) the words "marks struck by an Assay Office outside the United Kingdom under this Act...". Such marks will be struck in the same manner as if carried out in the UK but with an Assay Office mark approved by the British Hallmarking Council. In addition, we have made related changes to the Act to address the question of restrictions on the choice of sponsors' marks and the anomaly within the Act which prevents the unrestricted coating of articles of precious metal with platinum. As regards the former, changes to section 3(3) of the Act now remove the requirement that manufacturers' or sponsors' marks registered under this section shall include the initial letters of the name or names of the manufacturer or sponsor. In the case of the coating of precious metals section 5 (5) of the Act has been amended so as to permit the coating of hallmarked articles of silver, gold or platinum articles with platinum without having first to obtain the written consent of an Assay Office.

What will this mean for businesses and consumers?

14. The protection currently afforded by UK hallmarking law will remain undiminished. The law will apply equally to marks struck in offshore locations and those struck within the UK and continue to be enforced by local authority trading standards officers. Those businesses which either already operate offshore manufacturing operations, or choose to do so in future, will stand to benefit from the broadening of market choice should one or more of the UK Assay Offices opt to locate some of their operations overseas. The improved economic viability of the UK Assay Offices should be of benefit to UK-based manufacturers who would stand to gain from the price stability likely to result from the increased competitiveness of the UK Assay Offices.

15. A copy of the Legislative Reform Order will be available from the Legislation UK website at www.legislation.gov.uk on the coming into force of the legislation.

Further information

16. This guidance can be accessed at:
<http://www.bis.gov.uk/nmo/regulation/hallmarking>. It comprises comprehensive advice on the changes to the legislation.

17. Should you require further information or clarification you should contact Paul Cole at the National Measurement Office located at Stanton Avenue, Teddington, Middlesex TW11 OJZ. Telephone: 0208 943 7218. Email: paul.cole@nmo.gov.uk

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