

# WEIGHTS AND MEASURES

**The Measuring Instruments  
(Automatic Catchweighers) Regulations 2006  
(S.I. 2006 No. 1257)**

as amended by

**The Measuring Instruments (Amendment)  
Regulations 2006 (SI 2006/2625)**

**The Weighing Equipment (Automatic  
Catchweighing Instruments) Regulations 2003  
(S.I. 2003 No. 2761)**

Guidance on Regulation

February 2012

Version 1

# Summary

This guidance covers all catchweighers in use for trade. **Part 1** of this document covers catchweighers covered by the Measuring Instruments Directive (MID) i.e. those put on the market on or after 1st October 2006. **Part 2** covers catchweighers under national control i.e. before the MID came into force and during the transitional period.

Nothing in this guidance should be construed as overriding, amending or deferring safety regulations and requirements issued by the Health and Safety Executive (in Northern Ireland the Health and Safety Executive for Northern Ireland), in connection with the conduct of persons and the condition and use of machinery and equipment on any premises.

The guidance is addressed to organisations that are required to comply with weights and measures law. Following the guidance is not in itself obligatory but, if you do follow it, this should help your organisation to meet its legal obligations.

Ultimately, only the courts can provide a definitive interpretation of the law. However, for further guidance on how to comply with the law, you can contact your local authority trading standards department, who provide this service free of charge: <http://www.tradingstandards.gov.uk/advice/index.cfm> - simply type in your postcode and press "go".

*This guidance complies with the Government Code of Practice on Guidance and will be reviewed in October 2016*

National Measurement Office  
Stanton Avenue  
Teddington  
Middlesex  
TW11 0JZ  
[www.nmo.gov.uk/nmo](http://www.nmo.gov.uk/nmo)

ENQUIRIES  
Phone 020 8943 7277  
Email [registry@nmo.gov.uk](mailto:registry@nmo.gov.uk)

## Revision History

[illegible]

**Part 1: The Measuring Instruments (Automatic Catchweighers) Regulations 2006 (S.I. 2006 No. 1257), as amended by the Measuring Instruments (Amendment) Regulations 2006 (SI 2006/2625) [Pages 4 to 29]**

**Contents**

- 1.1 Foreword
- 1.2 Introduction
- 1.3 Background
- 1.4 Part I - Preliminary
  - Citation and commencement
  - Interpretation
  - Application
- 1.5 Part II - Placing on the market and putting into use of automatic catchweighers
  - Requirements for placing on the market and putting into use
  - Compliance with the essential requirements
  - Conformity assessment procedures
  - Designation of United Kingdom notified bodies
  - Provisions supplemental to regulation 7
  - Variation and termination of designations
  - Fees
  - Marking and identification requirements
  - Conformity with other directives
- 1.6 Part III - Use for trade of automatic catchweighers
  - Requirements for use for trade
  - Method of testing dependent on the type and use of the catchweigher
  - Prescribed limits of error
  - Manner of use
  - Manner of erection and installation
- 1.7 Part IV - Enforcement
  - Enforcement authority
  - Compliance notice procedure
  - Immediate enforcement action
  - Disqualification
  - Re-qualification
  - Testing of automatic catchweighers
  - Unauthorised application of authorised marks
  - Powers of entry and inspection
  - Penalties for offences
- 1.8 Part V - Miscellaneous and supplemental
  - Adaptation for Northern Ireland
  - Electromagnetic compatibility
- Annex 1 Marking, inscriptions and stickers
- Annex 2 Extracts from Acts of Parliament relating to the definition of 'waste' referred to in regulation 18(5) of the 2006 Regulations

# **Part 1: The Measuring Instruments (Automatic Catchweighers) Regulations 2006 (S.I. 2006 No. 1257), as amended by the Measuring Instruments (Amendment) Regulations 2006 (SI 2006/2625)**

## **1.1 Foreword**

1.1.1 The Measuring Instruments (Automatic Catchweighers) Regulations 2006, SI 2006/1257, ("the Regulations"), as amended by the Measuring Instruments (Amendment) Regulations 2006 (SI 2006/2625) implement Council Directive 2004/22/EC ("the Directive"), in relation to the class of automatic catchweigher ("catchweighers") within the category of automatic weighing instruments covered by the Directive. The Regulations provide for the harmonisation of laws on automatic catchweighers within Member States, thereby creating a single market for them.

1.1.2 Eleven new measuring instrument Regulations have been made to implement the Directive. Ten of these have been written so that the types of instrument and their field of application mirror the scope of the regulations made previously under the Weights and Measures Act 1985 and the Weights and Measures (Northern Ireland) Order 1981. A separate regulation relates to instruments covered by the Measuring Instruments Directive, but not regulated within the UK. These are referred to as "non-prescribed instruments" and the regulation governing them provides a means by which UK manufacturers can be permitted to undertake conformity assessment procedures on these instruments. This will allow them to export to other Member States where the particular instruments are regulated.

1.1.3 There is also a distinction between measures relating to measuring instruments when they are first placed on the market (which are governed by the Directive) and the in-service provisions which are derived from existing national provisions. The Regulations therefore apply both at the point at which the instrument is placed on the market and include in-service testing and subsequent repair and re-qualification.

1.1.4 This guidance covers the above Regulations as amended by the Measuring Instruments (Amendment) Regulations 2006 (SI 2006/2625).

1.1.5 The Regulations came into force on 30 October 2006 after which date new designs of automatic catchweighers placed on the market must comply with their provisions. This guidance is intended to assist manufacturers, notified bodies and enforcement authorities in meeting the requirements of the Regulations.

1.1.6 A similar system of approval and verification of instruments has been operating successfully for several years for non-automatic weighing instruments (NAWIs) and manufacturers have benefited enormously from its introduction, through savings in costs on both approvals and verification, and through the widening of an easily accessible market. This should also be the case with the Regulations.

1.1.7 There is significant input from WELMEC, the European Co-operation in Legal Metrology, to the understanding and interpretation of the MID. WELMEC has already convened a number of working groups for this purpose. WELMEC is considering questions of application and implementation, particularly in areas of technical uncertainty and acts as a forum for seeking advice from the European Commission on common issues. Information regarding WELMEC and its decisions can be found at [www.welmec.org](http://www.welmec.org).

## **1.2 Introduction**

1.2.1 For guidance on instruments which can be used as both a catchweigher and a non-automatic weighing instrument (NAWI) and to which a different set of Regulations applies depending on the purpose for which it is being used i.e. "hybrid instruments", please see paragraphs 1.4.9, 1.6.5 and 1.7.10 below. It may also be useful to refer to the latest issue of the guidance on the NAWI Regulations 2000, SI 2000/3236, as amended ("the NAWI Regulations") - available on the National Measurement Office's (NMO's) website at [www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo).

## 1.3 Background

1.3.1 The Directive is a "New Approach" directive and was adopted by the EC Council of Ministers in April 2004. It consists of 27 Articles, 14 annexes and 10 instrument specific annexes. Member States were required to implement the provisions of the Directive into their national law by 30 April 2006 and to apply the new legislation with effect from 30th October 2006.

1.3.2 The Directive extends to all measuring instruments listed in Article 1 and provides that Member States may prescribe use of them for measuring tasks for reasons of public interest, public health, public safety, public order, protection of the environment, protection of consumers, levying of taxes and duties and fair trading where they consider it justified. Following a public consultation it was decided that the UK implementation should apply to areas covered by existing weights and measures Regulations only.

1.3.3 The Directive is the second "New Approach" Directive adopted in respect of measuring instruments. The first was Directive 90/384/EEC ("the NAWI Directive"), which relates to non-automatic weighing instruments and came fully into force in January 2003.

1.3.4 The Commission has issued guidance on New Approach directives in "Guidance on the implementation of directives based on the New and Global Approach" which can be found at:

[http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic\\_en.pdf](http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic_en.pdf)

1.3.5 The principles of the Regulations are set out in the Commission Guidance as follows:

- Harmonisation is limited to essential requirements.
- Only products fulfilling the essential requirements may be placed on the market and put into service.
- Harmonised standards, the reference numbers of which have been published in the Official Journal and which have been transposed into national standards, are presumed to conform to the corresponding essential requirements.
- Application of harmonised standards or other technical specifications remain voluntary, and manufacturers are free to choose any technical solution that provides compliance with the essential requirements.
- Manufacturers may choose between different conformity assessment procedures provided for in the applicable directive.

1.3.6 The "New Approach" to Technical Harmonisation is an important part of the process for achieving the single market. It is intended to remove the technical barriers to trade caused by differing national laws. Directives agreed under the New Approach allow for the free movement (placing on the market and putting into service) in the Community of goods that conform to the essential and other requirements of those directives. Such products carry the "CE marking" and no Member State is allowed to refuse complying products access to its

market. In this case all compliant automatic measuring instruments covered by the Directive have free movement throughout the Community.

1.3.7 In the Regulations it is important to distinguish between when instruments are first placed on the market or put into service and requirements that relate to in-service provisions. The first are requirements of the Directive. The second are national provisions and will therefore apply only to Great Britain.

1.3.9 The Directive provides an 'optionality clause'. This means that Member States may prescribe the category and range of applications for measuring instruments they wish to control. This will lead to a variation between Member States which will mean that for the same use, instruments in some Member States will be regulated, whereas in other Member States they will not.

## **1.4 PART I - Preliminary**

1.4.1 The Regulations have been made using powers under the European Communities Act 1972 and, in relation to Part III (Use for trade), the Weights and Measures Act 1985. The Regulations also extend to Northern Ireland except for Part III. Separate in-service regulations for Northern Ireland are covered by the Measuring Instruments (Automatic Catchweighers) (Use for Trade) Regulations (Northern Ireland) 2007 (SR 2007/383).

### **Citation and commencement**

#### **Regulation 1**

1.4.2 This gives the title of the Regulations and states the coming into force dates of 30 May 2006 for the regulations listed in regulation 1.4.3 (essentially relating to the designation of notified bodies for the purpose of these Regulations) and 30 October 2006 for the remaining regulations.

### **Interpretation**

#### **Regulation 2**

1.4.3 The following definitions are important to an understanding of the Regulations:

##### **Manufacturer**

This term means a person responsible for the conformity of a catchweigher with these Regulations with a view to either placing it on the market under his own name or putting it into use for his own purposes, or both.

##### **Authorised representative**

The manufacturer may appoint any natural or legal person to act on his behalf as an authorised representative. For the purposes of the Directive the authorised representative must be established inside the Community. The authorised representative must be established in a Member State. The authorised representative must be authorised by the manufacturer, in writing, to act on his behalf, and he may be addressed by the UK authorities instead of the manufacturer with regard to the latter's obligations under the Regulations. The manufacturer remains generally responsible for actions carried out by an authorised representative on his behalf.

##### **Approved verifier**



This is a term used in Regulation 25, and means a person approved pursuant to section 11(A)(1) of the Weights and Measures Act 1985 (in Northern Ireland Article 9(3B) of the Weights and Measures (NI) Order 1981).

### **Inspector**

This is the term used in Regulation 24, and means an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985 (in Northern Ireland Article 40 of the Weights and Measures (NI) Order 1981).

### **Importer/person responsible for placing on the market**

An importer (a person responsible for placing on the market), for the purposes of the Directive, is any natural or legal person established in the Community who places a product from a third country on the Community market. The importer must ensure that he is able to provide the market surveillance authority with the necessary information regarding the product, where the manufacturer is not established in the Community, and has no authorised representative in the Community. In line with Schedule 1 of the Interpretation Act 1978 a person includes a body of persons corporate or unincorporated in that it applies to both a natural or a legal person.

### **Notified Body**

This means

- (a) the Secretary of State i.e. National Measurement Office (NMO) Services; or
- (b) a United Kingdom notified body namely a person designated under Regulation 7; and
- (c) for the purposes of regulations 4(1)(c), 22(1)(b), 24(1)(c) and 27(6), a person designated by another Member State who has been notified to the Commission and the other Member States pursuant to Article 11.1 of the Directive.

### **Installer**

The installer and assembler of a product, which is already placed on the market, should take necessary measures to ensure that it still complies with the essential requirements at the moment of first use within the Community. This applies to products where the directive in question covers putting into service, and where such manipulations may have an impact on the compliance of the product.

## **Application**

1.4.4 The Regulations apply to a range of catchweighers, with certain exclusions (such as automatic weight grading instruments and automatic checkweighing instruments – see paragraph 1.4.8 below), that are used for a variety of trade purposes. A catchweigher may, amongst other things, be a weigh labeller or a weigh-price labeller (referred to in the directive as “weight labeller” and “weight/price labeller” respectively), or an on-board weighing system i.e. a garbage weigher or a front-end loader. Weigh-price labellers are often used in the food packaging industry in factories for packing and labelling products such as meat, cheese, fruit or vegetables; weigh labellers are used in the weighing of parcels to determine a conveying tariff, front-end loaders might be used by builders’ merchants to weigh sand, for example, and garbage weighers are used for weighing waste or recycled goods, such as glass.

### **Regulation 3(1)**

1.4.5 The Regulations apply to automatic catchweighers in use for trade as defined by section 7 of the Weights and Measures Act 1985 (in Northern Ireland Article 5 of the Weights and Measures (NI) Order 1981) that have been first placed on the market or put into use on



or after 30 October 2006. The Regulations have similar in-service provisions to those included in the existing Regulations insofar as they are consistent with the Directive.

### Regulation 3(2)

1.4.6 The Regulations do not apply to an instrument that has been first passed as fit for use for trade and stamped under the following Regulations in respect of which a certificate of approval granted before 30 October 2006 is still in force and which is first passed as fit for use for trade and stamped under:

- The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761 (“the 2003 Regulations”).

The 2003 Regulations relate solely to instruments of accuracy classes Y(a) and Y(b).

- The Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932 (“the Weighing Machines Regulations 2000”).

The 2000 Regulations relate to instruments of accuracy classes I and II which approximately correspond to accuracy classes Y(I) and Y(II), and up to the coming into force of the 2003 Regulations also instruments of accuracy classes III and IIII which approximately correspond to accuracy classes Y(a) and Y(b).

A certificate of approval referred to in Regulation 3(2) will remain valid until the date on which it expires but no later than 29 October 2016 and may be modified up to the date of expiry. Thus an automatic catchweigher may continue to be used indefinitely provided it complies with the expired certificate.

For instruments of accuracy classes III and IIII to which the 2000 Regulations apply (and which correspond approximately with classes Y(a) and Y(b) in the 2006 Regulations), in accordance with Regulation 4(1) of the 2003 Regulations, instruments with a valid type approval certificate may continue to be first passed as fit for use for trade and stamped until the date on which it expires by no later than 2 March 2014. After that date only Y(a) and Y(b) instruments to which the 2003 Regulations apply can be passed as fit for use for trade and stamped for the further period up to 29 October 2016.

1.4.7 The Regulations do not apply to automatic weight grading instruments and automatic checkweighing instruments as respectively defined in the exclusion to the definition of “automatic catchweigher” in the 2006 Regulations.

### Regulation 3(3)

1.4.8 The Regulations do not apply to hybrid instruments, when being used in NAWI mode. Where a catchweigher has, in addition to its automatic weighing mode of operation, a non-automatic mode of operation, the non-automatic mode is subject to the requirements of the NAWI Regulations, or regulations in other Member States implementing Directive 90/384/EEC. A hybrid instrument is also subject to type approval under the same legislation. It will therefore be required to carry the CE conformity marking and the metrology marking in respect of both the 2006 Regulations and the NAWI Regulations. It should be noted that a catchweigher can operate in either a dynamic or static (start-stop) mode of automatic operation. The static (start-stop) automatic mode should not be confused with an instrument operating as a NAWI. A catchweigher with a non-automatic mode of operation solely for the purpose of calibration or setting up - this type of catchweigher is subject only to the 2006 Regulations, not to the NAWI Regulations or regulations in other Member States implementing the NAWI Directive.

To aid in the classification of an instrument as either an automatic weighing Instrument or a NAWI reference should be made to WELMEC guide 2 on the NAWI Directive, which can be found at: <http://www.welmec.org>.

### Regulation 3(4)

1.4.9 Instruments not in conformity with the Regulations may be displayed or presented at a trade fair, exhibition or demonstration if they are clearly marked to indicate that they are not compliant with the essential requirements of the Regulations and cannot be acquired or used until they have been made to comply by the manufacturer.

1.4.10 The 'test' for the potential applicability of the 2006 Regulations, would be that the following statements **all** apply:

- the instrument weighs pre-assembled discrete loads or single loads of loose material (for the purposes of this guidance, the terms 'material/s' and 'product/s' and 'goods' shall be taken to have the same meaning)
- the instrument is automatic, meaning that it follows a predetermined programme of automatic (weighing) processes without an operator intervening and that the feed of the material and determination of the weight of the load is automated
- the instrument is not an automatic weight grading instrument, that is to say, it is not an instrument which sub-divides articles of different mass into several subgroups each characterised by a given mass range
- the instrument is not an automatic checkweighing instrument, that is to say, it is not an instrument 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
- the instrument is (or will be) in use for trade, meaning that the material being weighed will form part of a transaction for money or money's worth, or relates to the payment of a toll or duty, and the instrument will be the final arbiter of the weight of that material (it is not to be checked weighed on another instrument for the purposes of such a transaction)
- the instrument has not already been verified and brought into use under SI 2000/932 or SI 2003/2761; and
- if the instrument is a "hybrid instrument" (see paragraphs 1.2 above and 1.4.9, 1.6.5 and 1.7.10 below), it is being used in its automatic weighing mode.

## 1.5 PART 10 - Placing on the market and putting into use of automatic catchweighers

### Requirements for placing on the market and putting into use

#### Regulation 4(1)

1.5.1 This regulation makes it an offence to first place on the market or put into use a catchweigher to which the Regulations apply unless it:

- a) meets the essential requirements,
- b) has demonstrated conformity with these essential requirements and
- c) carries the CE marking, M marking and identification number of the notified body which carried out the conformity assessment.

1.5.2 In Regulation 4(1)(b) "its" refers to "the instrument's".

1.5.3 The terms placing on the market and putting into use are defined in the Regulations and originate from the Directive. The requirements of regulation 4(1) apply only to when instruments are first placed on the market or put into use. Any subsequent re-qualification is addressed by Part IV of the Regulations. It should be remembered that it is intended that these Regulations apply when automatic catchweighers that are being used for trade as defined in section 7 of the Weights and Measures Act 1985 (in Northern Ireland Article 5 of the Weights and Measures (NI) Order 1981. This applies to instruments when they are first placed on the market or re-qualified.

## **Compliance with the essential requirements**

### **Regulation 5(1)**

1.5.4 Manufacturers can use more than one method to demonstrate compliance with the essential requirements. These methods are identified as:-

- a) using any technical solution that complies with the essential requirements;
- b) correctly applying solutions set out in the relevant national standard; or
- c) correctly applying solutions set out in the relevant normative document,

and selecting and following one of the conformity assessment procedures referred to in regulation 6.

### **Regulation 5(2)**

1.5.5 This includes the presumption that instruments which conform fully or in part to relevant national standards or normative documents will be presumed to conform fully or in part with the essential requirements. Relevant national standards and normative documents for this purpose will be published by the Secretary of State, or the competent authority in another Member State in accordance with regulation 2. Normative documents for automatic catchweighers identified by the Commission are published on the NMO website and can be found at: <http://www.bis.gov.uk/nmo>.

1.5.6 The appropriate OIML Recommendation for automatic catchweighers is R 51-1 which is available from OIML's website at: <http://www.oiml.org>.

1.5.7 Where conformity is only in part to relevant national standards or normative documents then either alternative, or parts of both documents, where available, should be used to give full conformity or other technical solutions provided. Other technical solutions could include the use of European standards which are not harmonised standards and international standards such as OIML Recommendations which are not normative documents.

### **Regulation 5(4)**

1.5.8 Provides for devices which do not meet the essential requirements and which are not in use for trade. These can be connected to an automatic catchweigher without affecting the conformity of the instrument to the essential requirements. Examples of such devices are printers or data storage devices for management purposes only. These devices are likely to carry their own CE marking under directives other than 2004/22/EC.

## **Conformity assessment procedures**

### **Regulation 6(1)**

1.5.9 The different conformity assessment procedures available to manufacturers are set out as modules in the annexes of the Directive. These are numbered A to H1. The options available to manufacturers for automatic catchweighers are as follows:

|  | D1 | F1 | B+D | B+E | B+F | G | H1 |
|--|----|----|-----|-----|-----|---|----|
| <b>AWIs - Mechanical</b>                 | •  | •  | •   | •   | •   | • | •  |
| <b>AWIs - Electro-mechanical</b>         |    |    | •   | •   | •   | • | •  |
| <b>AWIs - Electronics &amp; Software</b> |    |    | •   |     | •   | • | •  |

The options above represent:

- Declaration of conformity by the manufacturer based on quality assurance of the production process (including test and final inspection) but without the need for type examination (Module D1)
- Third party verification but without the need for type examination (Module F1)
- Type examination followed by declaration of conformity by the manufacturer based on formal quality assurance of the production process (including test and final inspection) as two separate processes (Modules B + D)
- Type examination followed by declaration of conformity by the manufacturer based on formal quality assurance of product testing and final inspection only (Modules B + E)
- Type examination followed by third party verification (Modules B + F)
- Third party verification for one off 'bespoke' instruments which would otherwise need type examination (Module G)
- Design examination together with declaration of conformity by the manufacturer based on full formal quality assurance of the design and production process (including test and final inspection) as part of an integrated process (Module H1)

1.5.10 For further information on conformity assessment procedures and other aspects regarding the interpretation of the Directive, reference should be made to the "Guide to the implementation of directives based on the New Approach and the Global Approach". This document can be found at the following website:

[http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic\\_en.pdf](http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic_en.pdf)

1.5.11 For Modules F/F1 under 6.1. and 7.2 of these Regulations the recommended tests to be carried out for initial and subsequent verification should be identified together with the standards necessary to ensure traceability of measurement. Local Government Regulation (formerly LACORS) have issued guidance for testing catchweighers at [www.lacors.gov.uk](http://www.lacors.gov.uk). The above instructions along with test forms and conformity certificates provide guidance for those notified bodies designated to carry out declaration of conformity based on product verification (Module F1) i.e. 3<sup>rd</sup> party initial verification. It is primarily aimed at Trading Standards Services but could be used by other organisations carrying out verification activities whether as part of initial or subsequent verification.

1.5.12 The EU Commission in relation to the Directive has published a list of references to normative documents in the Official Journal (2011/C 33/01 and 2006/C 269/01) which in part gives presumption of conformity to the essential requirements. This includes details on automatic catchweighers (MI-006, Chapter II) in relation to R 51-1. This information is

available on the NMO web-site or by reference to the EU website under the following two links:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:033:0001:0012:EN:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:269:0001:0028:EN:PDF>

1.5.13 The normative references address all the relevant provisions of the Directive i.e. both the general and instrument specific requirements, in tabular form, in relation to the corresponding paragraphs of the respective OIML Recommendation and makes comment, in general terms only, of any differences.

1.5.14 WELMEC documents, published on the WELMEC website, set out as guidance full versions of these simplified tables with background information and comment for interested parties. Automatic catchweighers are covered by document WELMEC 8.1.14, which can be found at: <http://www.welmec.org>.

1.5.15 It will be for the manufacturer and/or notified body to decide how to interpret the guidance.

#### **Regulation 6(2)**

1.5.16 Schedule 3 of the 2006 Regulations outlines the nature of the technical documentation that a manufacturer or his authorised representative must maintain. This information must be provided to a notified body to enable them to carry out the relevant assessment. This documentation must be provided in the language of the notified body or any other language acceptable to it in compliance with paragraph 10(1)(a) of Part II of Schedule 2.

1.5.17 The 2006 Regulations do not provide for manufacturers that 'self verify' to notify the Chief Inspector of Weights and Measures of details such as the location, certificate number and date of installation of a catchweigher. However, should the manufacturer wish to do so in the interests of openness there is nothing to prevent this from happening.

### **Designation of United Kingdom notified bodies**

#### **Regulation 7(1)**

1.5.18 Under Article 11 of the Directive, notified bodies are required for the tasks relating to the conformity assessment modules A to G (see paragraph 1.5.9 of this guidance for those relevant to automatic catchweighers. The criteria for designation of these bodies in accordance with Article 12 are included in Schedule 2 Part 1 of the 2006 Regulations.

1.5.19 If an organisation meets the requirements of Schedule 2 Part I the Regulations permit the Secretary of State to designate a person, whether that is a person resident or incorporated or carrying on a business in the United Kingdom or any other type of person e.g. a local weights and measures authority, to be a UK notified body. The definition of a notified body includes a person although it would appear unlikely that an individual person would be appointed. Where the designation is in respect of a particular description of an automatic catchweigher the Secretary of State must be satisfied that the applicant meets the criteria as respects that instrument. As with the definition of an importer and, in line with Schedule 1 of the Interpretation Act 1978, a person includes both a natural or a legal person.

The application form for bodies applying to be designated as a United Kingdom notified body under Regulation 7 is available on the NMO website: [www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo).

### **Regulation 7(3)**

1.5.20 If a person applying to be a notified body operates an approved quality system under a relevant harmonised standard e.g. EN 17025/17020 and EN 45011/45012 he shall be presumed to meet the criteria of the Directive only to the extent that the standard corresponds with the criteria of the Directive. The application form for bodies applying to be designated as a notified body under Article 11 and bodies wishing to extend their current status to include conformity assessment tasks in the Directive can be found on the NMO website: [www.bis.gov.uk/nmo/regulation](http://www.bis.gov.uk/nmo/regulation).

### **Regulation 7(4)**

1.5.21 Designations under the Regulations must be in writing which may be either in electronic or hard copy format. They may include conditions such as the scope of the designation.

### **Regulations 7(5) and 8**

1.5.22 In addition to the criteria in Schedule 2 Part I of the Regulations the Secretary of State may consider any matter appearing to him to be relevant prior to designating a person to be a UK notified body under Regulation 7. The functions of a notified body in Regulation 8 are set out in Part 2 of Schedule 2 to the Regulations.

## **Provisions supplemental to regulation 7**

### **Regulation 9**

1.5.23 The provisions of Regulation 9 deal with the publication of lists of notified bodies and the inspection of notified bodies. The Secretary of State will periodically carry out an inspection of UK notified bodies. The purpose of that inspection shall be to verify whether the notified body meets the notified body criteria and complies with any designation to which it is subject and complies with the Regulations. It is important to remember that although such an inspection may result in a visit to a manufacturer, it is the notified body that will be inspected, not the manufacturer.

### **Regulation 9(4)**

1.5.24 The Secretary of State will publish a list which specifies for which instruments the notified body is designated and any conditions to which it is subject. These details will be available on the NMO website at <http://www.bis.gov.uk/nmo/regulation>.

1.5.25 The European Commission also publishes a list of notified body numbers which gives details of the notified body and the instruments on the New Approach Notified and Designated Organisations (NANDO) website. For the MID, click on:

<http://ec.europa.eu/enterprise/newapproach/nando/>.

1.5.26 Search by Annex for the relevant declaration of conformity and then by instrument type.

Search by country and then by notified body number to give name and, for the Directive, both the instruments for which it has been notified and the applicable procedures/annexes.



1.5.27 This site will enable you to find the European notified bodies as well as third country bodies designated under formal agreements - Mutual Recognition Agreements (MRAs), Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (PECAs) and European Economic Area (EEA) - responsible for carrying out the conformity assessment procedures referred to in the application.

## **Variation and termination of designations**

### **Regulation 10(1)(a)**

1.5.28 This refers to United Kingdom notified bodies only.

### **Fees**

### **Regulation 11**

1.5.29 This regulation permits notified bodies (which includes the Secretary of State) to charge such fees in connection with or incidental to the carrying out of conformity assessments or specific tasks as it may determine.

1.5.30 Section 56 of the Finance Act 1973 requires the Secretary of State to define by statute the fees he charges for certain tasks to be carried out in relation to EU commitments/obligations.

1.5.31 The Regulations do not govern the fees that may be charged by other notified bodies other than identifying broad parameters in which all notified body fees should be set. The Regulations do not govern other duties undertaken by local authorities relative to these Regulations i.e. in-service inspection, re-qualification and market surveillance.

### **Regulation 11(4)**

1.5.32 Provides that, in cases where fees (charged after work is completed or payment of fees has been requested in writing) have not been paid within a period of 28 days, the notified body may give 14 days' notice in writing that the certificates or notification appropriate to the conformity assessment will be suspended until the fees have been paid.

## **Marking and identification requirements**

### **Regulation 12**

1.5.33 Annex 1 to this guidance describes the CE marking, supplementary metrology (M) marking and the identification number of the notified body concerned with the conformity assessment which must be affixed to each instrument so as to be visible and legible. The M mark denotes that the instrument is regulated by one of the metrology directives.

1.5.34 It should be noted the supplementary markings are different from those in the NAWI Directive. For the purposes of the Directive, the M marking does not have to be on a green background as it does under the NAWI Directive but it must be accompanied by the last two digits of the year in which it is affixed. See drawings in Annex 1 to this guidance.

## **Conformity with other directives**

### **Regulation 13**



1.5.35 Where an automatic catchweigher fall within the scope of other directives which provide for the affixing of the CE mark the CE marking affixed to automatic catchweighers shall, in addition to conformity with the Measuring Instruments Directive, indicate conformity with those other directives. Other directives of which manufacturers should be aware include the following:

- 89/336/EEC (amended by 91/263/EEC, 92/31/EEC and 2004/108/EC) on electro-magnetic compatibility, as implemented by The Electromagnetic Compatibility Regulations 2005 (as amended);
- 89/392/EEC (amended by 91/368/EEC, 93/44/EEC and 93/68/EEC) on machinery safety (for some but not all industrial products), as implemented by the Supply of Machinery (Safety) Regulations 1992 (as amended); and
- 73/23/EEC (amended by 93/68/EEC) on low voltage, as implemented by the Electrical Equipment (Safety) Regulations 1994.

This list is not exhaustive.

## **1.6 PART III - Use for trade of automatic catchweighers**

### **Regulations 14 – 19**

1.6.1 This part only applies to catchweighers in use for trade once they have been placed on the market and put into use in Great Britain (see paragraph 1.8.23 regarding Northern Ireland). It equally applies irrespective of whether the instruments were attested under the Regulations or the corresponding regulations issued by another Member State.

1.6.2 This part of the Regulations is made under section 15 of the Weights and Measures Act 1985. This part of the Regulations prescribes the requirements for use for trade of the instruments and for the avoidance of doubt prescribes the instruments for the purposes of section 11(1) of the Act once put into use. The enforcement provisions of Part IV of the Regulations make reference to Regulation 14 in Part III by providing the Inspector or approved verifier with the criteria under which a disqualification or re-qualification sticker may be applied to an instrument. Only the Inspector of weights and measures can apply a disqualification mark to an instrument. The activities of an approved verifier are controlled by an approval issued by the Secretary of State under section 11A of the Weights and Measures Act 1985. Approved verifiers must apply to the Secretary of State to have any automatic catchweigher covered by the regulation that they propose to re-qualify added to the appendix which accompanies their approval.

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

#### **Regulation 14**

1.6.3 This Regulation requires instrument to continue to meet the essential requirements in-service. There are separate in-service values for maximum permissible errors (MPEs).

Regulations 14(d) and (e)

1.6.4 In both Schedule 1 and Schedule 5 values are given in relation to an automatic mode (dynamic) and non-automatic mode (static) of testing of the catchweigher. The method of testing to be used will depend on the type and use of the catchweigher.

1.6.5 A non-automatic testing mode of a catchweigher is completely separate from any distinct non-automatic weighing instrument mode of operation. The latter is regarded as part of a hybrid instrument and is considered elsewhere (see paragraph 1.4.9).

1.6.6 The values given for the MPEs in Schedule 1 and Schedule 5 are the same as those presented in OIML R51-1 (Clause 2.5.1.2) but with the exception that the MPEs for the automatic mode of testing of the catchweigher in-service are given as those in Schedule 5 but less 0.5 e i.e. the MPE-value excludes the digital rounding error of the indicating device.

1.6.7 Method of testing dependent on the type and use of the catchweigher

- All instruments designed to weigh loose material may be tested in non-automatic (static) operation.
- All tests with loads greater than or equal to 20 kg may be done in non-automatic (static) operation.
- For instruments that weigh pre-assembled discrete loads dynamically, they must be done in automatic (dynamic) operation.
- For instruments that weigh pre-assembled discrete loads statically, they may be done in non-automatic (static) operation\*.

\* it is important to first establish that testing in non-automatic (static) operation is appropriate and does not overlook/mask any characteristics relevant to the normal static mode of operation of the catchweigher. This may be established by the application of the acceptance criteria as set out under paragraph 6.4.5.1 of OIML R 51-1.

1.6.8 Prescribed Limits of Error

For digital indicators that have a high resolution indication (i.e. 0.2 e), it is possible to ascertain the errors given in Table 1 of R 51 (which is reproduced as Table 1 in Schedule 5 to the 2003 Regulations) during automatic operation. It should be noted that in this case the 0.5 e added for the digital rounding error should be subtracted from the error limits specified.

For digital indicators that do not possess a high resolution indication, the test load value (weight value) has to be selected so as to eliminate the rounding error.

## **Manner of use**

1.6.9 Regulations 16 and 17 have been retained from SI 2000/932.

### **Regulation 15**

1.6.10 This regulation provides for difference weighing where a catchweigher may be used for making household waste or recycling collections and the net result is the result of two separate but related weighings. In certain circumstances the difference could be less than the minimum capacity.

### **Regulations 16 and 17**

1.6.11 These regulations indicate there is no technical reason why catchweighers should not be used for transactions in precious materials as there could be a market requirement for such transactions in future. The regulations state the importance of not weighing outside the

weighing range. This can be achieved by having the correct scale interval of instrument for the goods being weighed.

1.6.12 Regulation 17 requires the use of Class Y(I) or Class Y(II) instruments for the weighing of high value items such as gold, silver and other precious metals as well as precious stones and jewellery.

### **Regulation 18**

1.6.13 Unlike the equivalent provision of the 2003 Regulations this regulation under subparagraph (3) does not permit the weighing of 'other goods' according to the type/design approval on a Class Y(b) instrument as uses provisions are a Member State matter and to include such a provision would enable other Member States to decide what was acceptable in the UK.

Extracts from primary legislation relating to the definition of 'waste' referred to in Regulation 18(5) have been reproduced in Annex 2 for ease of reference.

### **Regulation 18(1)**

1.6.14 There is no requirement in the Directive for a catchweigher to be marked with the temperature but the Directive does require that it should be specified by the manufacturer in the accompanying technical documentation.

## **Manner of erection and installation**

### **Regulation 19**

1.6.15 Where special equipment which is not a permanent part of the automatic catchweigher is needed to permit the control of measuring tasks when the instrument has been placed on the market, details must be incorporated in the operation manual describing the procedure for testing the equipment.

## **1.7 PART IV - Enforcement**

### **Enforcement authority**

### **Regulation 20**

1.7.1 All enforcement of these Regulations will be under the European Communities Act 1972. The powers of the Weights and Measures Act 1985 (in Northern Ireland the Weights and Measures (NI) Order 1981) do not extend to enforcement for these Regulations.

1.7.2 This regulation imposes a duty on every local weights and measures authority in Great Britain to enforce the Regulations within its area (in Northern Ireland the enforcement authority is the Department of Enterprise, Trade and Investment). It also authorises the Secretary of State to enforce Part II of the Regulations and for that purpose gives him the power to appoint any persons to act on his behalf. The power of the Secretary of State is independent of local weights and measures authorities and is to ensure the Secretary of State is able to fulfil his obligations to conduct market surveillance. Those authorised by this regulation are referred to as "enforcement authorities".

## **Compliance notice procedure**

## **Regulation 21**

1.7.3 In cases where the enforcement authority has established that the CE marking and the M marking were inappropriately affixed for an the instrument that has been placed on the market or put into use it may serve a notice on the manufacturer or his authorised representative who must rectify the contravention. It must be noted that this power rests with an enforcement authority, not with an officer of that authority. It therefore does not limit the issuing of these notices to Inspectors.

1.7.4 It should also be remembered that the application of the CE and the M markings confirm compliance with the essential requirements in Schedule 1 of the Regulations when the instrument was placed on the market or put into use. This will include selecting and following one of the conformity assessment routes. Any contravention that falls outside of these definitions is not caught by the compliance notice procedure.

## **Immediate enforcement action**

### **Regulation 22**

1.7.5 An enforcement authority has powers to take action pursuant to this Regulation where it has reasonable grounds for considering that either:

- (a) the requirements of a compliance notice procedure have not been complied with; or
- (b) an automatic catchweigher which has been placed on the market or put into use does not bear one or more of the CE marking, the M marking and the identification number of the notified body which carried out the conformity assessment procedure in respect of that instrument; or
- (c) a catchweigher bearing the CE marking and the M marking does not meet all the essential requirements when placed on the market or properly installed and put into use in accordance with the manufacturer's instructions.

1.7.6 The Secretary of State will publish particulars of any notice issued withdrawing a certificate or notification. It is expected that this will take the form of advice to trading standards officers/interested parties and will be published on the NMO website ([www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo)).

## **Disqualification**

### **Regulation 24**

1.7.7 In cases where an instrument has been altered and the inspector has been notified in writing of the alteration a disqualification sticker will be required in all cases where the instrument no longer meets the essential requirements.

It should be noted that the maximum permissible errors for instruments (mpes) in use for trade are those in the Table in Schedule 5 of the Regulations and not those in Schedule 1 paragraph 17.

### **Regulation 24(1)(c)(ii)**

1.7.8 This regulation provides that an Inspector may affix a disqualification sticker to an instrument which has, since it was last verified, had any adjustment, alteration, addition, repair or replacement made to it such that it is no longer compliant with regulation 14 (which describes requirements for use for trade). That provision overrides any other circumstance in which an Inspector shall or may affix a disqualification sticker.

### **Regulation 24(3)**

1.7.9 This regulation provides that where the instrument does not fully comply but, in the Inspector's opinion, a disqualification sticker should not be immediately affixed to it, the Inspector may require compliance within a specified period not exceeding 28 days; if correction is not made within the specified period, the Inspector shall affix a disqualification sticker to the instrument.

### **Regulation 24(5)**

1.7.10 A hybrid instrument (see paragraph 1.2.2 above), being both a catchweigher and a NAWI, will need to be conformity assessed both under the 2006 Regulations for the catchweigher mode of operation and under the NAWI Regulations for the non-automatic mode of operation. Dependent upon the circumstances requiring disqualification, the Inspector will wish to consider whether either or both modes of operation require disqualification. If only one mode of operation is being disqualified, this is permitted only on condition that the disqualification sticker can be clearly positioned on the instrument and it is clear which mode is being disqualified.

### **Re-qualification**

#### **Regulation 25**

1.7.11 It is important to contrast this process with that initially placing a measure on the market for the first time which requires the involvement of a notified body. Re-qualification may be by an inspector of weights and measures or by an approved verifier, e.g. the manufacturer or a repairer.

1.7.12 Re-qualification is the process by which either an Inspector or an approved verifier assesses compliance of the instrument after it has, or could have, been disqualified and returned to conformity with the essential requirements. The re-qualification process requires compliance with the MPEs given in Schedule 1 of the Regulations.

### **Testing of automatic catchweighers**

#### **Regulation 26**

1.7.13 This regulation, being part of Part IV (Enforcement), relates only to the testing carried out by the Inspector in relation to his duties as an enforcement officer when he makes an in-service inspection of the catchweigher. It does not apply to testing for conformity assessment or re-qualification.

#### **Regulation 26(1)**

1.7.14 Requires the person in control of the equipment to provide such assistance as necessary to enable the inspector to carry out his duties. In most cases, this normally means allowing access to the equipment and co-operation of site staff so that inspection of the equipment can take place. However, the regulation gives the inspector the power to require reasonable assistance in a number of specific and non-specific ways. This helps to ensure the inspector cannot be prevented from carrying out his duties without very good reason.

1.7.15 The 2006 Regulations do not stipulate a test procedure for conformity assessment or verification. They only stipulate that an instrument must comply with the essential requirements. The use of a harmonised standard or normative document will demonstrate

compliance with the essential requirements. The reference for normative documents covering catchweighers is given in the section describing regulation 5(2) above.

1.7.16 Where third party testing is carried out in accordance with Module F/F1 the testing requirement is specified in the harmonised standard or normative document or equivalent tests. In the absence of these documents the notified body is responsible for specifying the appropriate tests to be used for the purposes of Sections 6.1 and 7.2 of Annex F1 to the Directive.

## **Unauthorised application of authorised marks**

### **Regulation 27**

1.7.17 Any automatic catchweigher in use for trade but not marked with the notified body number, CE marking and M marking and put into use on or after 30 October 2006 may be disqualified unless it can be demonstrated that the instrument is not subject to the Regulations.

## **Powers of entry and inspection**

### **Regulation 28(1)**

1.7.18 It is important to consider the definition of Enforcement Officer. It is either an Inspector as defined in the Weights and Measures Act (in Northern Ireland the Weights and Measures (NI) Order 1981), or a person appointed by the Secretary of State to act on his behalf to enforce Part II of the Regulations.

1.7.19 It should be noted that this Regulation gives an enforcement officer the authority to inspect and test an automatic catchweigher, but it is only an Inspector of weights and measures that may reject the instrument if it is found not to comply with the Regulations. The enforcement authority does have the power to issue a compliance notice (regulation 21) or take immediate enforcement action (regulation 22) if the requirements of those Regulations are not met.

1.7.20 The powers under regulation 28(1) should be contrasted with those existing in relation to the NAWI Regulations 2000 (SI 2000/3236), as amended - "the NAWI Regulations". These give an authorised officer an extra power to inspect relevant quality systems. A similar power has not been included in these Regulations. This means that an enforcement officer will not have the power to look at the quality systems that a manufacturer or approved verifier may be using when engaging in conformity assessment procedures for their own instruments. Where this becomes a necessity such action may be authorised as part of a market surveillance exercise.

1.7.21 It should be noted that there is no provision in these Regulations which allows a person to refuse to give information if it may incriminate them. This should be contrasted with the NAWI regulations which do contain such a provision.

## **Penalties for offences**

### **Regulation 30**

1.7.22 The enforcement provisions for these Regulations have been made under the European Communities Act 1972. The maximum penalty is a fine not exceeding level 5 on the standard scale levied on summary conviction. The scale has 5 levels, each corresponding to a certain amount. This means that the level of fines can be updated by



changing the value of each level, without the need to amend the legislation relating to each separate offence. The current values of the standard scale are contained in section 37 of the Criminal Justice Act 1982, which provides as follows:

| Level on the scale | Amount of fine |
|--------------------|----------------|
| 1                  | £200           |
| 2                  | £500           |
| 3                  | £1,000         |
| 4                  | £2,500         |
| 5                  | £5,000         |

1.7.23 This penalty avoids the threat of imprisonment previously applicable to offences made under the Weights and Measures Act 1985.

## **1.8 PART V - Miscellaneous and supplemental**

### **Adaptation for Northern Ireland**

#### **Regulation 35**

1.8.23 The Regulations apply to Northern Ireland subject to Schedule 6. This means that the 2006 Regulations apply the requirements relating to placing on the market and putting into use to the whole of the UK. However the in-service provisions relate to Great Britain only. Northern Ireland will make in-service provisions for automatic catchweighers.

#### **The Electromagnetic Compatibility Regulations 2005**

1.8.24 The Electromagnetic Compatibility Directive was implemented in the UK by the Electromagnetic Compatibility Regulations 2005 (SI 2005/281) and applies to all instruments. The MID specifically provides immunity requirements in relation to instruments within its scope and therefore these implementing Regulations have been disapplied for all MID instruments by regulation 33 of the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 (SI 2006/1258). The EMC Regulations 2005 remain in force for all other automatic catchweighers not subject to the 2006 Regulations i.e. all those instruments that are not regulated whether because the instrument type is not regulated in the UK or is a regulated instrument that is not in use for trade. The EMC Regulations continue to apply to emissions.



# Annex 1

## MARKING AND INSCRIPTIONS

Regulation 12(3)

### Supply of Stickers

The Secretary of State has decided that it is necessary to provide a long-term, professional solution to resolve the difficulties that have arisen in securing a consistent good quality source for the supply of the metrology stickers that local authorities and others require to fulfil their statutory obligations for both initial verification, disqualification and subsequent re-qualification activities.

A new solution has been identified which will enable NMO to produce printed versions of the stickers described below on demand. The system has the capability to incorporate the specific identification data required in thermal printed form. This solution will replace the solution introduced in 2006 to allow for the changes to the marking requirements in the MID which meant that, when re-qualifying an instrument, an inspector had to apply both his number and the year of re-qualification in manuscript on a modified NAWI sticker using a “permanent” marker. It was clear that these marks were not sufficiently permanent so as to withstand the harsh cleaning requirements in some conditions of use particularly in the food preparation sector.

The new stickers have been tested and performed well in a harsh cleaning environment and have been found to meet the requirements applicable in the food industry.

It is the opinion of the Secretary of State that the following stickers should be required to be used for the statutory marks. The new stickers are 12.7 mm x 11.1 mm.

It is not envisaged that the Weights and Measures (Prescribed Stamp) Regulations 1968 (SI. 1968/1615) will need to be amended as re-qualification is carried out under the provisions of these regulations.

The Green M metrology mark, and the CE mark for initial verification which are the responsibility of the instrument manufacturer will not be supplied centrally.

The new stickers will also be relevant to local authorities who are notified bodies and to approved verifiers under the regulations. Organisations which need to obtain supplies are invited to contact **stickers@nmo.gov.uk** to discuss availability and prices.

The Secretary of State has determined that there will be benefits arising from a change of process with the stickers produced centrally and supplied by NMO directly to local authorities. To that end the decision has been made to supply a limited quantity of stickers free of charge to all inspectors. The stickers used for re-qualification of NAWI and MID instruments will be supplied overprinted with the inspector's number and on an annual basis with the year also overprinted. Stickers can also be overprinted with the relevant Notified Body/Approved Verifier numbers on request.

If you have a requirement for a larger quantity, or you are not a local authority, please contact **stickers@nmo.gov.uk**. It will be possible to agree terms under which larger numbers/other stickers can be provided (at a cost).

## **STICKER 1 – RE-QUALIFICATION**

### **Inspector or**

INS/0704/08



This is all white label printed on which with the prescribed crown and the information for Inspector's number will be overprinted using thermal printing technology for use for NAWI and MID instruments.

### **Approved Verifier**

AV/0704/08



This is all white label printed on which with the prescribed crown and the information for Approved Verifier number will be overprinted using thermal printing technology.

## **STICKER 2 – DISQUALIFICATION**



This is a plain white label bearing the prescribed crown mark which has been printed with the disqualification mark. No overprinting is required.

### **STICKER 3 - NOTIFIED BODY IDENTIFICATION NUMBER FOR INITIAL VERIFICATION**

**NB 0126**

This is a plain white label in which the Notified Body number has been overprinted using a thermal printer. It is not a requirement for the number to be pre-fixed by NB.

### **Other marks and requirements for MID instruments**

1. The CE marking consists of the symbol "CE" according to the design laid down in paragraph I.B(d) of the Annex to Decision 93/465/EEC. The CE marking shall be at least 5 mm high.
2. The M marking consists of the capital letter "M" and the last two digits of the year of its affixing, surrounded by a rectangle. The height of the rectangle shall be equal to the height of the CE marking. The M marking shall immediately follow the CE marking.
3. The identification number of the notified body concerned shall follow the CE marking and the M Marking.
4. The CE marking and the M marking shall be indelible. The identification number of the notified body concerned shall be indelible or self destructive upon removal. All markings shall be clearly visible or easily accessible.

Directive 2004/22/EC does not itself contain diagrams for any of these marks although **the CE mark** is prescribed by reference to paragraph 1.B(d) of the Annex to Decision 93/465/EEC.

### Possible Examples of Article 17 Markings required by the MIB Directive



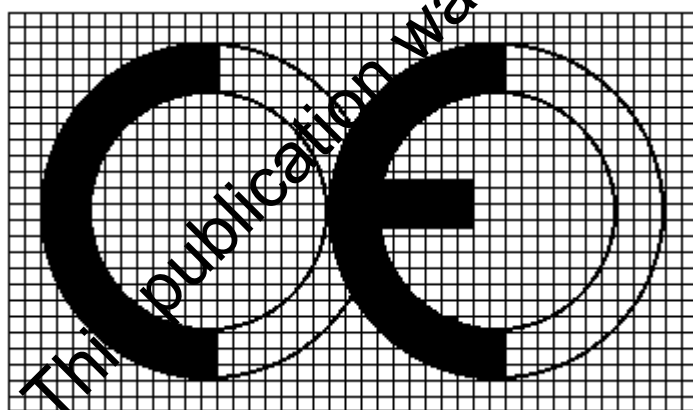
CE Mark  
All parts same height

Supplementary markings, same as CE  
Covering a height the same as CE  
Transducer follows CE

Markings for use on a CE marked body  
Follows CE and Supplementary markings



*“The CE mark must not be less than 5mm in its vertical height, and the proportions maintained. It is generally shown on a grid in the guidance booklets, as below (the grid does not form part of the marking and is for information only):*



This mark looks the same as some previous marks, but there are subtle changes, and it should be studied closely. It should be noted, for example, that the C and E are not formed by perfect semi-circles, i.e. the top and bottom arms extend one square beyond the semi-circles, and the middle arm of the E stops one square short.

The graphic is not made available for download from any official sources, but can be obtained in a wide variety of file formats from commercial organisations, sometimes freely available for download.

As far as **the M mark** is concerned the manufacturer applying the mark has freedom over the design provided that the M marking meets the criteria set down in Paragraph 2 of Schedule 4 of Directive 2004/22/EC, as to being surrounded by a rectangle also containing the last two digits of the year of affixing, and is placed immediately after the CE mark.

Similarly **the Notified Body** must place its mark, or authorise the manufacturer to do so on its behalf, so that it follows the CE and M markings.

The identification number of the notified body concerned shall follow the CE marking and M marking.

When a catchweigher consists of a set of devices operating together, the markings shall be affixed on the instrument's main device.

The CE marking and the M marking must be indelible. The identification number of the notified body concerned must be indelible or self-destructive upon removal. All markings shall be clearly visible or easily accessible.

The Directive does not specify in detail the form and appearance of all the various markings. It has therefore been necessary to decide on the details that will apply under the Regulations as indicated in the examples statutory marks above.

This publication was withdrawn on 7 January 2021

## Annex 2

### EXTRACTS FROM ACTS RELATING TO THE DEFINITION OF 'WASTE' REFERRED TO IN REGULATION 18(5) OF THE 2006 REGULATIONS

#### Environmental Protection Act 1990

##### Section 75

(1) The following provisions apply for the interpretation of this Part.

(2) 'Waste' includes -

(a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substances arising from the application of any process; and (b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled; but does not include a substance which is an explosive within the meaning of the Explosives Act 1875.

(3) Anything which is discarded or otherwise dealt with as it if were waste shall be presumed to be waste unless the contrary is proved.

(4) 'Controlled waste' means household, industrial and commercial waste or any such waste.

(5) Subject to subsection (8) below, 'household waste' means waste from -

(a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;

(b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960) which usually and for the time being is situated on a caravan site (within the meaning of that Act);

(c) a residential home;

(d) premises forming part of a university or school or other educational establishment;

(e) premises forming part of a hospital or nursing home.

(6) Subject to subsection (8) below, 'industrial waste' means waste from any of the following premises -

(a) any factory (within the meaning of the Factories Act 1961);

(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;

(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services; or

(d) any premises used for the purposes of, or in connection with the provision to the public of postal or telecommunications services.

(7) Subject to subsection (8) below, 'commercial waste' means waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding -

(a) household waste;

(b) industrial waste;

(c) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the Agriculture Act 1947 or, in Scotland, the Agriculture (Scotland) Act 1948; and

(d) waste of any other description prescribed by regulations made by the Secretary of State for the purposes of this paragraph.

(8) Regulations made by the Secretary of State may provide that waste of a description prescribed in the regulations shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made in respect of such waste as is mentioned in subsection (7)(c) above and references to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise.

(9) 'Special waste' means controlled waste as respects which regulations are in force under section 62 above.

## **Radioactive Substances Act 1993**

### **Section 2**

In this Act 'radioactive waste' means waste which consists wholly or partly of -

- (a) a substance or article which, if it were not waste, would be radioactive material, or
- (b) a substance or article which has been contaminated in the course of the production, keeping or use of radioactive material, or by contact with or proximity to other waste falling within paragraph (a) or this paragraph.

This publication was withdrawn on 7 January 2021.



## **Part 2: The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003 (S.I. 2003 No. 2761) [Pages 30 to 46]**

### **Contents**

- 2.1 Foreword
  - 2.2 Part 1 – General
    - Introduction
    - Scope and Application
    - Transitional Exclusion
    - OIML and removal of barriers to trade
    - Changes made by the 2003 Regulations
    - Use of supplementary indications
  - 2.3 Part 2 - Guidance for Manufacturers/Importers
    - Automatic Weighing Instrument/NAWI: Aid to Classification
    - Class of instrument
    - Stamping
    - Obliteration of the Stamp
  - 2.4 Part 3 - Approved Verification under Section 11A of the Weights and Measures Act 1985
  - 2.5 Part 4 - Guidance for Inspectors (Trading Standards Officers)
    - Testing and Stamping
    - Schedule 5 Prescribed Limits of Error
    - Obliteration of the Stamp
    - Electronic access to OIML recommendations
  - 2.6 Part 5 - Guidance for Owners and Users
    - Testing
    - Manner of Erection and Installation
    - Variations to the instrument
- Annex 1 Extracts from Acts relating to the definition of 'waste' referred to in Schedule 3 to the 2003 Regulations
- Annex 2 Extracts from OIML R 51 Part 1, which are referenced in the 2003 Regulations but not reproduced there, or which are required for testing for passing as fit for use for trade

## Part 2: The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003 (S.I. 2003 No. 2761)

### 2.1 Foreword

The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761, hereafter referred to as "the 2003 Regulations", implement International Recommendation R 51 of the Organisation Internationale de Métrologie Légale (OIML) into our law, that is to say the law of Great Britain. This Recommendation covers automatic catchweighing instruments, such an instrument being defined as an "instrument which weighs pre-assembled discrete loads or single loads of loose material" (R 51 T.1.3) but the definition in the 2003 Regulations specifically excludes automatic weight grading instruments and automatic checkweighing instruments. The 2003 Regulations came into force on 3rd March 2004.

The 2003 Regulations set out requirements for compliance with the type approval (also known as pattern approval) of automatic catchweighing instruments, the manner in which such instruments should be erected and installed, their use and manner of use, their verification and the need for them to meet with certain marking and other requirements if they are to be used for trade.

*Please note that for the purposes of this guidance:*

- (a) Statutory Instrument Number is abbreviated to "SI"*
- (b) the terms 'material/s' and 'product/s' and 'goods' shall be taken to have the same meaning*

### 2.2 Part 1 - General

#### Introduction

2.2.1 This guidance has been prepared to help explain the Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003, SI 2003/2761 ("the 2003 Regulations"), which implement OIML R 51 ("R 51"). The 2003 Regulations apply to a range of automatic catchweighing instruments ("catchweighers"), with certain exclusions, that are used for a variety of trade purposes. A catchweigher may, amongst other things, be a weigh labeller or a weigh-price labeller, or an on-board weighing system i.e. a garbage weigher or a front-end loader. Weigh-price labellers are often used in the food packaging industry in factories for packing and labelling products such as meat, cheese, fruit or vegetables; weigh labellers are used in the weighing of parcels to determine a conveying tariff, front-end loaders might be used by builders' merchants to weigh sand, for example, and garbage weighers are used for weighing waste or recycled goods, such as glass. This guidance is for all who are concerned with observing or applying the controls required by the 2003 Regulations. This includes the weighing instrument manufacturing industry, Inspectors of Weights and Measures (Trading Standards Officers - TSOs), users and owners of catchweighers. For guidance on instruments which can be used as both a catchweigher and a non-automatic weighing instrument (NAWI) and to which a different set of Regulations applies depending on the purpose for which it is being used i.e. "hybrid instruments", it may also be useful to refer to the guidance on the Non-automatic Weighing Instruments Regulations 2000 (SI 2000/3236), available on NMO's website at [www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo).

2.2.2 The 2003 Regulations provide:

- (a) for the principles of the construction and marking of catchweighers – please note that a catchweigher under the 2003 Regulations is marked with 'R 51';
- (b) for the manner of their erection, installation and use;

- (c) for their testing, passing as fit for use for trade, stamping, and obliteration of stamps;
- (d) for their prescribed limits of error; and
- (e) that an accuracy class shall be confirmed and that, where these instruments are used for certain purposes, instruments of a certain accuracy class must be used.

2.2.3 The 2003 Regulations also made a change that did not derive from R 51, but reflected re-existing policy on weighing and measuring instruments, which was to permit these instruments to be imported from another State of the European Economic Area (EEA) without the need for further testing within Great Britain, provided that they have already been tested on the same or equivalent basis as that required by the 2003 Regulations. The 2003 Regulations will help to reduce barriers to trade as they play a part in harmonising requirements for these instruments throughout the EEA. The 2003 Regulations also contain enforcement provisions.

### Scope and Application

2.2.4 The 2003 Regulations, in effect, apply only to those catchweighers that fall into accuracy classes III and IIII of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000, SI 2000/932, as amended ("the Weighing Machines Regulations 2000"). Accuracy class Y(a) of the 2003 Regulations approximately corresponds with class III of the Weighing Machines Regulations 2000, and accuracy class Y(b) of the 2003 Regulations approximately corresponds with class IIII of the Weighing Machines Regulations 2000.

2.2.5 Accordingly, the 2003 Regulations do not apply to:

- (i) catchweighers which meet the requirements for accuracy classes I and II of the Weighing Machines Regulations 2000 because there are no corresponding accuracy classes in R 51
- (ii) catchweighers which were in use for trade before the 2003 Regulations came into force: however, these catchweighers may have been prescribed under national legislation by the Weighing Machines Regulations 2000. Modification of an instrument that was already in use before the 2003 Regulations came into force will not make any difference to whether or not the 2003 Regulations apply - such instruments will continue to be subject to the Weighing Machines Regulations 2000
- (iii) automatic weight grading instruments and automatic checkweighing instruments as respectively defined in the exclusion to the definition of "automatic catchweighing instrument" in the 2003 Regulations
- (iv) hybrid instruments, when being used in NAWI mode. Where a catchweigher has, in addition to its automatic weighing mode of operation, a non-automatic mode of operation, the non-automatic mode is subject to the requirements of the Non-automatic Weighing Instruments Regulations 2000, SI 2000/3236 ("the NAWI Regulations"), or regulations in other EEA States implementing Directive 90/384/EEC. A hybrid instrument is also subject to type approval under the same legislation. It will therefore be required to carry the CE conformity marking and the metrology marking, as well as the Crown stamp. It should be noted that a catchweigher can operate in either a dynamic or static (start-stop) mode of automatic operation. The static (start-stop) automatic mode should not be confused with an instrument operating as a NAWI.

2.2.6 Where a catchweigher has a non-automatic mode of operation solely for the purpose of calibration or setting up, then it is subject only to the 2003 Regulations, not to the NAWI Regulations or regulations in other EEA States implementing Directive 90/384/EEC.

2.2.7 Where a catchweigher bears a mark indicating the purpose for or manner in which it is to be used, it should not be used for a purpose or in a manner which does not accord with that marking (see section on obliteration of stamps, paragraphs 2.3.13 and/or 2.5.17). Instruments of accuracy class Y(b) shall only be used for weighing ballast or waste or other goods - for example, sand - in accordance with the particulars of the approved pattern (see 'Specified purpose or manner of use', Schedule 3).

2.2.8 Catchweighers which do not fall within the scope of the 2003 Regulations may continue to be passed as fit for use for trade under the Weighing Machines Regulations 2000, e.g. class II catchweighers.

### **Transitional exclusion**

2.2.9 The 2003 Regulations allow, at regulation 4, a transitional period during which catchweighers which fall within the scope of the 2003 Regulations, may nevertheless continue to be first passed as fit for use for trade under the Weighing Machines Regulations 2000 up until and including 2 March 2014 - thereby allowing manufacturers of these instruments to make the most of type approvals that have already been granted. During this transitional period either the 2003 Regulations or the Weighing Machines Regulations 2000 may be applied but this would depend under which Regulations the particular type approval was granted. If a catchweigher were approved under the 2003 Regulations, the type approval certificate would require it to be marked 'R 51'; whereas, if a catchweigher were approved under the Weighing Machines Regulations 2000, the type approval certificate would not make such a requirement. At the end of the transitional period the 2003 Regulations will replace the Weighing Machines Regulations 2000 to the extent that they apply to the same catchweighers (although any instruments that were passed as fit for use for trade under the Weighing Machines Regulations 2000 before the end of the transitional period can remain in use).

### **OIML and removal of barriers to trade**

2.2.10 All of the EU member States, and many other countries, are members of OIML. The OIML is an intergovernmental body which is dedicated to harmonising the national metrology regulations of its members. Harmonisation not only provides an important basis for measurement credibility, but also serves to promote international trade through the elimination of technical barriers. Members of OIML have an obligation to implement its Recommendations into their national law in order to effect this.

2.2.11 In line with this, the 2003 Regulations help to remove barriers to trade by harmonising the scope of our national legislative requirements for catchweighers with the related wider scope of the requirements of OIML Recommendation R 51. Therefore if manufacturers are manufacturing catchweighers for any of the OIML member countries which have implemented this Recommendation, they need meet only the requirements of this Recommendation, which should eliminate the technical barriers to trade and considerably reduce the regulatory burden, although this is not a direct consequence of the 2003 Regulations which have effect in Great Britain only.

2.2.12 Copies of OIML R 51 may be obtained via the OIML website.

### **Changes made by the 2003 Regulations**

2.2.13 In implementing the requirements of R 51, the 2003 Regulations make the following changes of substance from the Weighing Machines Regulations 2000:

- (a) they allow catchweighers that fall into the lowest accuracy class to be used for weighing waste as well as ballast;
- (b) they make new requirements for the marking of catchweighers, including for catchweighers to bear the marking "R51" where the 2003 Regulations have been complied with (this latter requirement does not derive from R51 itself, but is intended to enable Inspectors to know more readily whether a catchweigher was passed under the Weighing Machines Regulations 2000 or the 2003 Regulations);
- (c) they make new requirements for the construction, erection and installation of catchweighers, and relating to their use;
- (d) a person in possession of a catchweigher which requires testing may be required to provide a control instrument for the Inspector's use (see paragraph 2.3.9); and
- (e) the tests that will be applied to catchweighers and the error limits to be applied derive directly from R 51.

2.2.14 The 2003 Regulations also go further than the Weighing Machines Regulations 2000 in providing for the testing of instruments to be carried out at a place other than the place of use, where the Inspector is satisfied that any subsequent dismantling, reassembly or transportation to the intended place of use will not affect the accuracy or functioning of an instrument. The 2003 Regulations do not provide for self verifiers to notify the Chief Inspector of Weights and Measures of details such as the location, certificate number and date of installation of a catchweigher. However, should the self verifier wish to do so in the interests of openness, there is nothing to prevent him from doing this.

#### **Use of supplementary indications**

2.2.15 Regulation 7 of the 2003 Regulations permits instruments to provide a supplementary indication of the quantity of material weighed, as well as the metric indication. This means that catchweighers may indicate the imperial measurements of the quantity as a supplementary indication, in addition to the metric indication.

### **2.3 Part 2 - Guidance for Manufacturers/Importers**

2.3.1 This part is intended to provide advice for manufacturers. Manufacturers will wish to check first whether their instrument is subject to legislation (including the 2003 Regulations), and if so, which particular legislation applies to it (regulations 3 and 4). It is possible for manufacturers to continue to have instruments to which the 2003 Regulations could apply, passed as fit for use for trade under the Weighing Machines Regulations 2000, up until and including 2 March 2014. It has also been possible, from the coming into force of the 2003 Regulations, for manufacturers to have instruments passed as fit for use for trade under those Regulations. In both cases it will be dependent on which set of Regulations the type approval was granted under. Under certain circumstances, it is also possible that neither set of Regulations will apply, and the Scope and Application section above at paragraphs 2.2.4 – 2.2.9 gives guidance on this.

*Please note the guidance regarding testing of catchweighers which are both subject to the 2003 Regulations and imported from other EEA States at paragraph 2.3.10 below.*

2.3.2 The 'test' for the potential applicability of the 2003 Regulations, would be that the following statements all apply:

- the instrument weighs pre-assembled discrete loads or single loads of loose material (for the purposes of this guidance, the terms 'material/s' and 'product/s' and 'goods' shall be taken to have the same meaning)
- the instrument is automatic, meaning that it follows a predetermined programme of automatic weighing processes without an operator intervening and that the feed of the material and determination of the weight of the load is automated
- the instrument is not an automatic weight grading instrument, that is to say, it is not an instrument which sub-divides articles of different mass into several subgroups each characterised by a given mass range
- the instrument is not an automatic checkweighing instrument, that is to say, it is not an instrument which sub-divides articles of different mass into two or more subgroups according to the value of the difference between their mass and the nominal set point
- the instrument is (or will be) in use for trade, meaning that the material being weighed will form part of a transaction for money or money's worth, or relates to the payment of a toll or duty, and the instrument will be the final arbiter of the weight of that material (it is not to be checkweighed on another instrument for the purposes of such a transaction)
- the instrument has not already been verified and brought into use under the Weighing Machines Regulations 2000; and

- if the instrument is a “hybrid instrument” (see paragraph 2.2.1), it is being used in its automatic weighing mode.

### **Automatic Weighing Instrument/NAWI: Aid to Classification**

2.3.3 The following interpretation of the definition of an automatic weighing instrument (AWI) or a NAWI (taken from Clause 3.1.9 of WELMEC Guide 2 on Directive 90/384/EEC) is intended to be used only when doubt exists in applying the definitions contained in the OIML recommendations and Directive 90/384/EEC: ‘An instrument capable of performing consecutive weighing cycles without any intervention of an operator is always regarded to be an AWI. If an instrument needs the intervention of an operator, it is regarded to be a NAWI only if the operator is required to determine or verify the weighing result. Determining the weighing result includes any intelligent action of the operator that affects the result, such as deciding when an indication is stable or adjusting the weight of the weighed product. Verifying the weighing result means making a decision regarding the acceptance of each weighing result on observing the indication. The weighing process allows the operator to take an action which influences the weighing result in the case where the weighing result is not acceptable.

Note: the necessity to give an instruction to start the weighing process or to release a load is not relevant in deciding the category of instrument’.

### **Obtaining Type Approval (also known as Pattern Approval)**

2.3.4 In order for an instrument to be passed as fit for use for trade, a type approval certificate must have been issued by the Secretary of State under national legislation (regulation 6(a) and the definition of “certificate of approval” in regulation 2(1)) which is in force when the instrument is so passed. This means that the design of the instrument must be examined and tested to ensure that it meets certain legal, technical and accuracy requirements. Note that the 2003 Regulations do not actually make provision for type approval, other than that it must have been carried out (by reference to the type approval certificate in regulation 6(a)). Subject to compliance with that certificate, the 2003 Regulations take effect from the point at which the instrument is submitted for initial verification, which is subsequent to type approval. However, in practice, those carrying out type approval in Great Britain will take into account the requirements of the 2003 Regulations. R 51 itself makes provision for type approvals.

### **Class of instrument**

2.3.5 When a manufacturer submits a catchweigher for initial verification testing in accordance with the provisions of the 2003 Regulations, he will submit either a class Y(a) or a class Y(b) instrument and it will either pass or fail: the accuracy class of an instrument is not determined at initial verification, but shall be confirmed at that stage if the verification is successful - see regulation 6(c) and paragraph 2.3.10 below.

### **Testing and Stamping**

*Please note, if you are a manufacturer importing catchweighers from another EEA State and if the relevant tests have been carried out successfully in that other EEA State in accordance with R 51 or on an equivalent basis, no further tests will be required provided the instrument is also accompanied by the “requisite documentation” – see paragraph 2.3.10.*

2.3.6 Regulation 6 specifies the requirements to be satisfied for an instrument to be passed as fit for use for trade and regulation 8 makes supplementary requirements. The testing and examination for passing as fit for use for trade will normally be carried out at the place at which the instrument will be installed.

2.3.7 However, where the testing has been carried out elsewhere, regulation 8(4) provides that instruments which have then been dismantled, transported and reassembled, need not

necessarily be tested again if the Inspector is satisfied that the requirements for accuracy and functioning are still met by the instrument.

2.3.8 Manufacturers are often uncertain as to whether their instrument must be tested in-situ, or whether it is transportable. As a guide, it should be considered whether the instrument needs to be taken apart in order to transport it, and if so, whether the detachment and re-attachment of even peripheral parts could have an effect on the instrument's accuracy and functioning.

2.3.9 Under regulation 8(2), manufacturers requiring an Inspector to pass an instrument as fit for use for trade must provide suitable material for the Inspector to use in testing the instrument and must make available for the Inspector's use a control instrument; which is an instrument which will be used to carry out an independent test of the weight of the test material.

2.3.10 Regulations 9 and 10(2) will be relevant for manufacturers importing catchweighers from another EEA State. In that event and if the relevant tests have been carried out successfully in that other EEA State in accordance with R 51 or on an equivalent basis, no further tests will be required provided the instrument is also accompanied by the "requisite documentation" - see regulation 9(2). In practice, "requisite documentation" means a copy of the test report completed for that instrument indicating that the instrument has been so successfully tested (see 'Sample test report' on pages 80 – 82 of R 51 Part 2; you may also find it useful to refer to 'Annex 2 to WELMEC 2.6'). Further, the relevant test results presented must relate to testing with the same material with which the current instrument will be used. However, in each case, it will be for the Inspector to decide whether re-testing is necessary if he is not satisfied as regards the authenticity of the test report or results, that those results relate to the instrument being imported, or the effect of any dismantling of the instrument after such tests - see regulation 9(2).

2.3.11 When the Inspector is satisfied that the instrument may be passed as fit for use for trade, the instrument will be stamped on the verification mark support unless there is any mark on the instrument which might be mistaken for the stamp or other expression of approval or guarantee of accuracy - see regulation 11(1) and (2), the definition of "the stamp" or "verification mark" in regulation 2(1) and the provisions of clause 3.9.2 of R 51 (reproduced in Schedule 4 to the 2003 Regulations). Some manufacturers have queried whether clause 3.9.2 infers that the verification mark can be made other than by way of a stamp (such as a sticker), but, in the context of the other requirements of R 51 and its implementation in the 2003 Regulations, it is considered that the verification mark can only be made with a stamp (i.e. the prescribed stamp) in the case of catchweighers; however, this may be an issue which will be addressed in the next revision of R 51, in which case a suitable amendment of the 2003 Regulations would be considered at an appropriate time to clarify any ambiguity.

2.3.12 The manufacturer will need to determine whether the catchweigher is going to be permanently fixed or mobile. An instrument that has been type approved only for a fixed installation would be illegal for mobile use. If an instrument is to be used as a mobile unit it will need to have undergone tilt testing at the type approval stage. Clause 2.9.3 of R 51 (reproduced under the heading 'Tilting' in Schedule 3 of the 2003 Regulations) requires that mobile units which do not have a level indicator should be tested at levels of tilt of 5%. However, it has been accepted within WELMEC that on-board weighing systems should be either fitted with a tilt inhibiting device or tested at levels of tilt of 10%. In such cases NMO is prepared to issue letters of dispensation under section 14(4) of the Weights and Measures Act 1985 for any system not provided with a tilt inhibiting device that requires testing to 10%. The Weights and Measures Act 1985, as amended, can be found at:

<http://www.legislation.gov.uk/>.

### **Obliteration of the Stamp**

2.3.13 For the purposes of the following paragraphs, where a stamp (see paragraph 2.3.11 above) is to be obliterated for any reason, regulation 12 of the 2003 Regulations specifies the method of obliteration. The stamp may be obliterated or shall be obliterated, by an Inspector, depending on the precise circumstances described in regulations 13 to 16 of the 2003 Regulations. Manufacturers will need to be aware, on behalf of their customers, of those circumstances.

2.3.14 Regulation 14(1) provides that an Inspector shall obliterate the stamp on an instrument which has, since it was last stamped, had any alteration or addition made to it such that it could not be passed as fit for use for trade under regulation 10 (which describes circumstances under which an Inspector shall not pass as fit for use for trade such an instrument). That provision overrides any other circumstance in which an Inspector shall or may obliterate the stamp.

2.3.15 Regulations 14(2) and (3) draw a distinction between cases in which an Inspector *shall* obliterate the stamp and cases where the Inspector *may* obliterate the stamp. The distinction is that where alterations or additions etc. have been made to an instrument that might affect its accuracy and function, and the local Chief Inspector of Weights and Measures was informed about it beforehand, the Inspector then has the discretion not to obliterate the stamp. However, if the Inspector comes across such an instrument and has not been informed about the alteration or addition etc. beforehand, then the stamp must be obliterated. This provision is intended to encourage users of instruments to inform their local Inspector of alterations that they intend to make to an instrument. It is suggested that, where packers or other users are proposing to make alterations to an instrument that may affect its accuracy or function, they should send written details to their local Chief Inspector of Weights and Measures, in order to minimise the likelihood that the stamp on the instrument will be obliterated.

2.3.16 A further distinction is drawn, in regulation 13(1) and (2), between cases in which an Inspector shall obliterate the stamp and may obliterate the stamp. Subject to the circumstances described in paragraphs 2.3.14 and 2.3.15 (above), an Inspector shall obliterate the stamp on an instrument which does not fall within the prescribed limits of error for in-service testing or does not comply otherwise with the 2003 Regulations. However, where the instrument does not fully comply but in the Inspector's opinion, immediate obliteration of the stamp is not required, the Inspector shall require compliance within a specified period not exceeding 28 days; if correction is not made within the specified period, the Inspector shall obliterate the stamp.

2.3.17 See regulation 15 - in addition, an Inspector may obliterate the stamp in the following circumstances: either where an instrument is in use for trade for a particular purpose and such use does not meet the requirements of regulation 5, or is used for trade in extraordinary environmental or operating conditions which the Inspector considers prevent the instrument from operating properly or maintaining its metrological characteristics.

2.3.18 A "hybrid instrument" (see paragraph 2.2.1 above), being both a catchweigher and a NAWI, will bear two verification marks, one under the 2003 Regulations for the catchweigher mode of operation and the other under the NAWI Regulations for the non-automatic mode of operation. Dependent upon the circumstances requiring obliteration of the relevant verification mark, the Inspector will wish to consider whether either or both modes of operation require obliteration/disqualification of the relevant verification marks - see regulation 16(2).



## **PART 3 – Verification by Approved Verifiers under Section 11A of the Weights and Measures Act 1985**

The Weights and Measures Act 1985, as amended, can be found at:

<http://www.legislation.gov.uk/>

2.4.1 The Deregulation (Weights and Measures) Order 1999 (SI 1999/503) introduced new provisions into the Weights and Measures Act 1985 which permit self-verification of weighing and measuring equipment intended for use for trade in certain circumstances.

2.4.2 Amongst other things, the Order introduced section 11A to the 1985 Act which permits the Secretary of State to approve persons (manufacturers, installers or repairers of equipment to which section 11 applies) to conduct the testing, passing as fit for use for trade and stamping with the prescribed stamp (verification) of equipment to which section 11 applies.

2.4.3 This provision is underpinned by a requirement that the approved verifier must possess an acceptable documented quality system which will be expected to conform with the relevant clauses of ISO 9001 and which must also fully encompass the requirements of Schedule 3A of the Weights and Measures Act 1985.

2.4.4 Among other things the approved verifier's quality system documentation in the case of catchweighers shall include:

- details of the organisational structure
- procedures for the testing of the equipment for which an approval is sought
- procedures for ensuring that only catchweighers complying with the 2003 Regulations and with a certificate of type approval are passed as fit for use for trade
- procedures for ensuring that staff involved in verification activities are competent and for their training to be kept up to date
- procedures for the identification and control of measuring and test equipment used to perform verification testing
- procedures for the control of documents and records
- procedures for undertaking internal reviews and audits of his quality system
- procedures to notify NMO of any changes to the quality system which might have an influence on the businesses' verification activities.

2.4.5 Normally, an applicant becoming an approved verifier will have had their quality system certified by an acceptable Accredited Certification Body which will have undertaken its assessment of the applicant's quality system in accordance with requirements which have been issued by NMO.

2.4.6 Approved verifiers will also be subjected to audits to confirm that their verification activities continue to be conducted to the requirements of the approval. In the case of approved verifiers possessing an acceptable certified quality system these audits will generally form part of the normal surveillance and audits conducted by the certification body. *(However, the Secretary of State may require additional audits and may issue directions to the approved verifier in respect of matters specified in its approval.)*

2.4.7 NMO will conduct additional inspection visits upon approved verifiers as it sees necessary.

## **Part 4 – Guidance for Inspectors (Trading Standards Officers)**

2.5.8 Inspectors will need to determine first whether an instrument with which they have been presented falls within the scope of the 2003 Regulations – see paragraphs 2.2.4, 2.2.9 and 2.3.1 above.

*Please note the guidance regarding testing of catchweighers which are both subject to the 2003 Regulations and imported from other EEA States at paragraph 2.3.10 above.*

### **Stamping**

2.5.9 Inspectors who are presented with an instrument for passing as fit for use for trade should be able to obtain the type approval details from the TSI website which may be accessed from “tslinkonline.co.uk” or from a hard copy version, available from the manufacturer or NMO. For imported instruments, the Inspector would also need to ensure that type approval had been granted in this country. The Inspector may take account of the results of tests, associated with the certificate of conformity, set out in the format followed in the sample test report on pages 80 - 82 of R 51 Part 2.

2.5.10 Inspectors who are asked to carry out the initial verification of an instrument should be aware that the type approval documentation for the instrument may have resulted from the testing of the prototype with different products or materials from those with which the instrument currently before the Inspector will be used. The type approval only indicates that the instrument was able to operate accurately with the particular product with which it was tested. The Inspector will need to be satisfied that the instrument will function correctly within the appropriate accuracy class with the product that is now proposed. Where the instrument which is being presented is made up of modules which have been type approved, provided that the type approval is valid for the system as a whole the verification may be carried out without the need for the Inspector to contact NMO.

2.5.11 Inspectors will wish to take account of all of the provisions of the 2003 Regulations in passing instruments as fit for use for trade, but especially those at regulations 6 and 10. Regulation 6(c) provides for initial verification testing, including testing to an accuracy class specified by the manufacturer (see paragraph 2.3.5 above), and refers to clause 5.3 of R 51 Part 1, which is headed ‘Initial verification and in service inspection’. This sets out the examinations and tests that the Inspector will need to carry out. Note that clause 5.3.1 refers to ‘clause 2 excluding 2.8’ – this should read ‘2.9’. Although the third paragraph of clause 5.3.1 stipulates that the tests must be carried out in-situ, this requirement has necessarily been relaxed, to take account of arrangements for the mutual recognition of test results with our EEA partners – see regulation 8(4). Clause 5.3 as a whole cross-refers to various other clauses of R 51, to which the Inspector would need to refer, in particular, clauses 6.1.1 and 6.1.2. Inspectors may find it useful to refer to the guidance given in WELMEC 2.6 ‘Guide for the testing of automatic catchweighing instruments’ (“WELMEC Guide 2.6”) at [www.welmec.org](http://www.welmec.org). Reference to WELMEC Guide 5.1 ‘European Directory of Legal Metrology’ may assist in determining whether the “requisite documentation” defined in regulation 9(2)(a)(i) is genuine’. WELMEC Guide 5.1 gives details of leading weights and measures organisations in European countries and either contact details or links to the same. It can be accessed by clicking on the following link: [www.welmec.org](http://www.welmec.org).

2.5.12 The equipment and test material that the Inspector will need in order to carry out testing of an instrument should be provided by the person or organisation in ownership of the instrument (see regulation 8(2) and paragraph 2.3.9 above). However, it would be advisable for the Inspector to discuss in advance the material that will be needed and whether it would be practicable to attempt to recycle the same material for each test. Typically only four test loads (one near Min, one near Max and two at critical points in the weighing range) of the type representative of what the instrument is to be used for, are required. These test loads shall be of known weight, determined on a control instrument. The person submitting or

manufacturer of the catchweigher may be able to provide testing equipment that the Inspector can use, provided that it is traceable (section 5(2)(a) of the Weights and Measures Act 1985 refers).

*2.5.13 The following applies only to automatic instruments that weigh statically and can be verified in the static mode of operation*

In the case of an instrument provided with a means of giving a visual indication and/or printout of the value of the measurement made of individual weighments, the Inspector will need to provide:

- weights or masses to load the instrument to its maximum capacity; and
- change point weights equivalent to one-tenth of the scale interval, to cover at least one scale interval. The inspector will also need to have available protective clothing and stationery as required.

2.5.14 In connection with regulation 10(1), Inspectors will need to know whether an instrument has been approved as a fixed or mobile installation, and if the instrument is intended to be mobile they will need to ensure that the type approval permits this (testing to ensure compliance with clause 2.9.3 of R 51 Part 1 - reproduced in Schedule 3 to the Regulations for the purposes of catchweighers - will need to have taken place as a part of type approval).

2.5.15 See paragraph 2.3.6 above regarding catchweighers imported from other EEA States and testing in accordance with R 51 or on an equivalent basis.

**Prescribed Limits of Error**

2.5.16 For digital indicators that have a high resolution indication (i.e. 0.2 e), it is possible to ascertain the errors given in Table 3 of R 51 (which is reproduced as Table 1 in Schedule 5 to the 2003 Regulations) during automatic operation. It should be noted that in this case the 0.5 e added for the digital rounding error should be subtracted from the error limits specified. For digital indicators that do not possess a high resolution indication, the test load value (weight value) has to be selected so as to eliminate the rounding error.

**Obliteration of the Stamp**

2.5.17 Regulation 12 provides for the method of obliteration of stamps and it is accepted that the verification mark takes the form of a stamp (see paragraph 2.3.11 regarding the second paragraph of clause 3.1.2 of OIML R 51, reproduced in Schedule 4 to the 2003 Regulations).

2.5.18 The Inspector is required to obliterate the stamp on any instrument which does not meet with the requirements of the 2003 Regulations. This might be because it does not meet with the limits of error requirements, or it has been altered or adjusted such that its accuracy or function have been affected and the local Chief Inspector was not forewarned of the alteration in advance – see regulations 13 and 14. Other reasons for obliterating the stamp include: that the loads the instrument is being used to measure are outside of the minimum to maximum capacity range; that the instrument is being subjected to extraordinary operating conditions; or that it is being used for an unsuitable purpose. See also paragraph 2.3.15 on guidance to regulation 15, and paragraph 2.6.5 for information.

2.5.19 A “hybrid instrument” (see paragraph 2.2.1 above), being both a catchweigher and a NAWI, will bear two verification marks, one under the 2003 Regulations for the catchweigher mode of operation (i.e. the prescribed stamp – see regulation 2(1) for the definition of “the stamp” or “verification mark”) and the other under the NAWI Regulations for the non-automatic mode of operation. Depending upon the circumstances requiring obliteration of the relevant verification mark, the Inspector will wish to consider whether either or both modes of

operation require obliteration/disqualification of the relevant verification marks - see regulation 16(2).

## **Part 5 - Guidance for Owners and Users**

### **Testing**

2.6.1 When submitting a catchweigher to an Inspector for testing and stamping, the owner or user of the instrument would normally need to arrange for suitable test loads to be available (regulation 8(2)), along with access to and use of a control instrument (likely to be a separate non-automatic weighing instrument).

### **Manner of Erection and Installation**

2.6.2 Schedule 2 to the 2003 Regulations makes requirements in relation to the manner of erection and installation of instruments. When an instrument is permanently installed, it should be level. This may necessitate alignment with a spirit level when it is being installed.

2.6.3 A moveable instrument should have undergone tilt testing at the type approval stage and ideally should be fitted with one or more integral level indicating devices which should be used to set it into its reference position. When the instrument is (temporarily) installed, the integral level indicating device should be utilised or a spirit level with the appropriate degree of sensitivity should be used.

2.6.4 An example relating to regulation 15(a)(ii) may be if a front end loader, accuracy class IV, is being used to determine general household waste in a recycling plant where it is used occasionally to weigh scrap metal for sale to a processor, rather than going to landfill, which would require the use of a class III instrument.

2.6.5 Regulation 15(b) of the 2003 Regulations makes provision for the obliteration of the stamp on a catchweigher where environmental or operating conditions adversely affect the operation or metrological characteristics of the catchweigher - please note that requirements relating to the use of catchweighers are made at Schedule 3 to the 2003 Regulations.

### **Variations to the instrument**

2.6.6 If the owner or user of the instrument discovers that they will need to change some of the parts of the instrument in order to use it for a different purpose, they will need to refer to the type approval certificate in order to ensure that any changes that are made to the instrument are compatible with the certificate. If the change may be incompatible, a variation to the type approval certificate which was issued to the manufacturer will be needed. Owners and users should also be aware that changes made to an instrument could result in the obliteration of the stamp on that instrument under regulation 14, thereby taking the instrument out of use - see paragraphs 2.3.5 and 2.3.6 above.

## Annex 1

### EXTRACTS FROM ACTS RELATING TO THE DEFINITION OF 'WASTE' REFERRED TO AT SCHEDULE 3 OF THE 2003 REGULATIONS

#### Environmental Protection Act 1990

##### Section 75

(1) The following provisions apply for the interpretation of this Part.

(2) "Waste" includes -

(a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substances arising from the application of any process; and

(b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled; but does not include a substance which is an explosive within the meaning of the Explosives Act 1875.

(3) Anything which is discarded or otherwise dealt with as it if were waste shall be presumed to be waste unless the contrary is proved.

(4) "Controlled waste" means household, industrial and commercial waste or any such waste.

(5) Subject to subsection (8) below, "household waste" means waste from -

(a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;

(b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960) which usually and for the time being is situated on a caravan site (within the meaning of that Act);

(c) a residential home;

(d) premises forming part of a university or school or other educational establishment;

(e) premises forming part of a hospital or nursing home.

(6) Subject to subsection (8) below, "industrial waste" means waste from any of the following premises -

(a) any factory (within the meaning of the Factories Act 1961);

(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;

(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services; or

(d) any premises used for the purposes of, or in connection with the provision to the public of postal or telecommunications services.

(7) Subject to subsection (8) below, "commercial waste" means waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding -

(a) household waste;

(b) industrial waste;

(c) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the Agriculture Act 1947 or, in Scotland, the Agriculture (Scotland) Act 1948; and

(d) waste of any other description prescribed by regulations made by the Secretary of State for the purposes of this paragraph.

(8) Regulations made by the Secretary of State may provide that waste of a description prescribed in the regulations shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made in respect of such waste as is mentioned in subsection (7)(c) above and references to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise.

(9) "Special waste" means controlled waste as respects which regulations are in force under section 62 above.

## **Radioactive Substances Act 1993**

### **Section 2**

In this Act “radioactive waste” means waste which consists wholly or partly of -

- (a) a substance or article which, if it were not waste, would be radioactive material, or
- (b) a substance or article which has been contaminated in the course of the production, keeping or use of radioactive material, or by contact with or proximity to other waste falling within paragraph (a) or this paragraph.

This publication was withdrawn on 7 January 2021.

## Annex 2

### EXTRACTS AND PRINCIPLE FROM R 51 WHICH ARE REFERENCED IN THE 2003 REGULATIONS BUT NOT REPRODUCED THERE, OR WHICH ARE REQUIRED FOR TESTING FOR PASSING AS FIT FOR USE FOR TRADE

| Clause in R 51   | Where in Regulations (if referred to)            |
|--|--|
| <p>5.3 Initial verification and in-service inspection</p> <p>5.3.1 Tests<br/>Instruments shall be tested to verify that they comply with the requirements in clause 2, excluding 2.8*, and clause 3 for the type of article(s) for which they are intended and when operated under the normal conditions of use. Instruments that weigh statically may be tested in nonautomatic mode.</p> <p>Tests shall be carried out by the appropriate metrological authority, in-situ, with the instrument fully assembled and fixed in the position in which it is intended to be used. The installation of an instrument shall be so designed that an automatic weighing operation will be the same whether for the purposes of testing or for use for a transaction.</p> <p>The appropriate metrological authority:</p> <ul style="list-style-type: none"> <li>• shall conduct the tests in a manner that prevents an unnecessary commitment of re-sources,</li> <li>• may, where appropriate and to avoid duplicating tests previously done on the instrument for pattern evaluation under 5.2.1.4, use the results of observed tests for initial verification.</li> </ul> <p>Dynamic tests shall be done:</p> <ul style="list-style-type: none"> <li>• in accordance with the descriptive markings (3.8),</li> <li>• under the rated conditions for which the instrument is intended,</li> <li>• in accordance with the test methods in clause 6 using test loads described in 6.1.3.</li> </ul> <p>Accuracy requirements shall be applied in accordance with the appropriate part or parts in 2.2 or 2.3.</p> <p>Note: The accuracy class that was achieved at approval stage may not be achieved at</p> | <p>6(c); 8(2)(a)(i)</p> <p>9(2)(a); 13(1)(a)</p> |

| initial verification if the loads to be used are significantly less stable or of different dimensions. In this case a lower accuracy class shall be marked in accordance with 2.2 or 2.3 and 3.8.4. Marking of a higher accuracy class than was achieved at approval stage is not permitted.   |                                    |                          |      |                                    |  |
|--|------------------------------------|--------------------------|------|------------------------------------|--|
| <p>5.3.2 Provision of means of testing For the purposes of testing, the metrological authority may require from the applicant an appropriate quantity of articles, a control instrument and personnel to perform the tests.</p> <p>* Should read '2.9'.</p>  |                                    |                          |      |                                    |  |
| <p>6.1.1 Values of the mass of test loads<br/>Test loads shall be applied as follows:</p> <ul style="list-style-type: none"> <li>a) test load values close to Min and Max,</li> <li>b) test loads at two critical points in between Min and Max.</li> </ul> <p>It is only necessary to use one test load at each of the above nominal values.</p>  |                                    |                          |      |                                    |  |
| <p>6.1.2 Number of test weighings<br/>The number of consecutive test weighings taken and used to determine the mean value and the standard deviation shall be as specified in Table 4.</p> <p>Table 4</p> <table border="1"> <thead> <tr> <th>Class</th><th>Number of test weighings</th></tr> </thead> <tbody> <tr> <td>Y(y)</td><td>Minimum 10 weighments for any load</td></tr> </tbody> </table> | Class                              | Number of test weighings | Y(y) | Minimum 10 weighments for any load |  |
| Class  | Number of test weighings           |                          |      |                                    |  |
| Y(y)   | Minimum 10 weighments for any load |                          |      |                                    |  |



This publication was withdrawn on 7 January 2021.

National Measurement Office  
Stanton Avenue  
Teddington  
Middlesex  
TW11 0JZ  
Tel: +44 (0)20 8943 7272  
Fax: +44(0)20 8943 7270

Crown Copyright 2012