

# WEIGHTS AND MEASURES

## THE MEASURING INSTRUMENTS (MATERIAL MEASURES OF LENGTH) REGULATIONS 2006 (S.I. 2006 No. 1267)

Guidance on Regulation

March 2012

Version 5

This publication was withdrawn on 1 January 2021.

## Summary

This guidance covers material length measures in use for trade covered by the Measuring Instruments Directive (MID) i.e. those put on the market on or after 1st October 2006.

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*

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## Revision History

Version and date of change	Sections affected
2 December 2007	Schedule 4 - source of stickers
3 February 2009	Revised Schedule 4 – markings and inscriptions Revised criteria for re-qualification replaces para 87 and deletes para 88
4 July 2009	Corrects error in Schedule 4
28 March 2012	Updates existing guidance on 2006 MID Regulations to comply with the BRE “Code of Practice on Guidance on Regulation”

This publication was withdrawn on 7 January 2021.

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This publication was withdrawn on 7 January 2021.

## 1. Foreword

1.1 The Measuring Instruments (Material Measures of Length) Regulations 2006 (S.I. 2006 No. 1267) implement Council Directive 2004/22/EC (“the Directive”) in relation to material measures of length (“length measures”) within the category of material measures covered by the Directive. The Regulations provide for the harmonisation of laws on length measures within Member States, thereby creating a single market for them.

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 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 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.

1.3 There is also a distinction between measures relating to the 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.

1.4 This guidance covers the above Regulations.

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

1.6 A similar system of approval and verification of instruments has been operating successfully for several years for non-automatic weighing instruments (NAWI) 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.

1.7 There is a significant input from WELMEC, the European Co-operation in Legal Metrology, to the understanding and interpretation of the Directive. 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).

## 2. Background

2.1 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 30 October 2006.

2.2 The Directive extends to all measuring instruments listed in Article 1 and provides that Member States may prescribe use 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.

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

2.4 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)

2.5 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.

2.6 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.

2.7 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.

2.8 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.

### 3. PART I - Preliminary

3.1 The Regulations have been made using powers under the European Communities Act 1972 and, in relation to Part III, 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 (Material Measures of Length) (Use for Trade) Regulations (Northern Ireland) 2007 (SR 2007/390).

#### Citation and commencement

##### Regulation 1

3.2 This gives the title of the Regulations and states the coming into force dates of 30 May 2006 for the regulations listed in 1(2) (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

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

**Manufacturer** - This term means a person responsible for the conformity of a length measure 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.

**Approved verifier** - This is a term used in Regulation 23, and is not defined in the Regulations. The interpretation of this phrase can be found in 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).

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

**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.

**Inspector** - This term is used in Regulation 21 and means a person approved pursuant to section 11(A) of the Weights and Measures Act 1985 (in Northern Ireland Article 40 of the Weights and Measures (NI) Order 1981).

### **Material measures of length**

In the Regulations, a material measure of length ("length measure") is defined as an instrument comprising scale marks whose distances are given in legal units of length. The definition of a *material measure* from the Directive Annex I is a device intended to reproduce or supply in a *permanent manner*, during its use, one or more known values of a given quantity. From these two definitions, a length measure can be seen to be a device fitted with permanent marks that indicate length in legal units.

The above definitions do not cover electronic instruments that measure length, e.g. those based on lasers, ultrasonics, satellite positions, etc, so such instruments are not covered by these regulations.

Similarly, length measures fitted with electronic or mechanical displays to indicate length or differences in length do not fall within the definition of a length measure and shall not be used for trade.

Length measures fall into one of three categories:

- a. End measures - where the principal scale marks<sup>1</sup> are formed by two surfaces.

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<sup>1</sup> The principal scale marks are the two marks whose distance apart represents the 'nominal length' of the measure. The 'nominal length' of a measure of length is the length by which that measure is designated.



- b. Line measures - where the principal scale marks are formed by two lines, holes or marks
- c. Composite measures - where one of the principal scale marks is a surface and the other a line, hole or mark.

**Notified Body** 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), 18(1)(b), 20(1)(c) and 22(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.

## **Application**

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

3.4 The Regulations apply to length measures for use 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), which have been first placed on the market or put into use on or after the 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.

3.5 Regulations 3(1) sets out the measures that are lawful for use for trade in the UK. It mirrors the requirements under the Weights and Measures Act 1985 (in Northern Ireland Schedule 1 Part I paragraph 2 of the NI Order) and ensures that the placing on the market provisions and the enforcement provisions which are the subject of national not MID controls are identical.

## **Exclusions**

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

3.6 The Regulations do not apply to measures that are used for non-trade purposes, e.g. DIY. However, if their manner of use changes to that for trade, they will then become subject to the Regulations.

3.7 Tipping and strapping tapes are excluded from the Regulations because they are special purpose tapes with a different error allowance regime from that of normal tapes. They are used for the measurement of the height and circumference of storage tanks, primarily in the oil/ petrochemical industry. These measures are covered by section 17 of the 1985 Weights and Measures Act (in Northern Ireland Article 15 of the Weights and Measures (NI) Order 1981), i.e. they should not be false or unjust.

### **Regulation 3(2)**

3.8 The Regulations do not apply to a measure of length that has been first passed as fit for use for trade and stamped before 30 October 2006 and is still in force and which was first passed as fit for use for trade and stamped under:

- The Measuring Equipment (Measures of Length) Regulations 1986, as amended

3.9 These measures stamped under those regulations may continue to be used for trade until they are no longer fit for such use.

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

3.10 The Regulations do not apply to instruments that have been first passed as fit for use for trade before 30 October 2006 under the following Regulations and have a certificate of EEC pattern approval that is still in force:

- The Measuring Instruments (EEC Requirements) Regulations 1988

3.11 A certificate of approval referred to in Regulation 3(3) will remain valid until the date on which they expire but no later than 29 October 2016 and may be modified up to the date of expiry. Thus a length measure may continue to be used indefinitely provided it complies with the expired certificate.

#### **Regulation 3(4)**

3.12 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.

### **4. PART II - Placing on the market and putting into use of material measures of length**

4.1 Placing on the market and putting into use are defined in Regulation 2. Placing on the market means that a new type is made available for sale for the first time in a member State. In order to be placed on the market, the type will need to have passed the appropriate conformity assessment module(s). Conformity assessment is undertaken by notified bodies. Before the instrument is first put into use by an end user, the instrument must be initially verified and stamped by a notified body. This could be a different notified body from that which undertook the conformity assessment.

#### **Regulation 4(1)**

4.2 This regulation makes it an offence to first place on the market or put into use a length measure 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.

4.3 In Regulation 4(1)(b) “its” refers to “the instrument’s”.

4.4 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 these Regulations apply only to length measures 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)**

4.5 Manufacturers can use more than one method to demonstrate compliance with the essential requirements. Regulation 5(1) lists some of these methods:-

- using any technical solution that complies with the essential requirements;
- correctly applying solutions set out in the relevant national standard; or
- 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)**

4.6 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 to 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. Normative documents for length measures, when identified by the Commission, will be published on the NMO website at <http://www.bis.gov.uk/nmo>

4.7 The appropriate OIML Recommendation for length measures is Recommendation R35-1 (Edition 2007), which can be found on the OIML website at <http://www.oiml.org>. (R35-2 and R35-3, Editions 2011, are awaiting publication.)

4.8 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 should be 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.

## **Conformity assessment procedures**

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

4.9 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 length measures are as follows:

B+D	D1	F1	G	H
•	•	•	•	•

The options above represent:

- 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)
- 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)
- 3<sup>rd</sup> Party verification but without the need for type examination (Module F1)
- 3<sup>rd</sup> Party verification for one off 'bespoke' instruments which would otherwise need type examination (Module G)
- Declaration of conformity by the manufacturer based on quality assurance of the design and production process (including test and final inspection) but without the need for type examination (Module H)

4.10 As an example, the manufacturer could submit his new type to a notified body for type examination under conformity assessment module B. Following the granting of a type approval certificate and if the manufacturer were an approved verifier, he could carry out the initial verification himself under module D.

4.11 For further information on conformity assessment procedures and other aspects regarding the interpretation of the Directive reference should be made to "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)

4.12 For Module 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. This is particularly important in the absence of harmonised standards and normative documents.

4.13 The EU Commission in relation to the Directive will publish relevant normative references for length measures. They will include 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 to 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. Normative documents for length measures identified by the Commission will be published on the NMO website.

4.14 The appropriate OIML Recommendation for length measures is OIML R35-1 (Edition 2007) and contains the international recommendations for length measures. It can be found on the OIML website at <http://www.oiml.org/>. (R35-2 and R35-3, Editions 2011, are awaiting publication.)

4.15 If OIML R35 becomes a normative document, compliance with the specified parts will give presumption of conformity with the essential requirements for the specified parts of Annexes 1 and MI-008 of Directive 2004/22/EC. WELMEC will provide greater details of the normative references in a guide yet to be published. Details will be published on the NMO website when R35 becomes a normative document and WELMEC publishes its guide.

4.16 Where conformity is only in part to relevant national standards or normative documents then either alternative, 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.

4.17 When the Commission has published the normative document it will be for the manufacturer and/or notified body to decide how to interpret the guidance.

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

4.18 Schedule 3 of the 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.

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

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

4.19 Under Article 9 of the Directive, notified bodies are required for the tasks relating to the conformity assessment of modules A to H1 (see paragraph 4.9 of this guidance for those relevant to length measures). The criteria for designation of these bodies in accordance with Article 12 are included in Schedule 2 Part 1 of the Regulations.

#### **Regulation 7(2)**

4.20 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 a meter measuring system, 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 a body of persons corporate or unincorporated in that it applies to both a natural and a legal person. The application form for bodies applying to be designated as a United Kingdom notified body under Regulation 7 can be found on the NMO website at: [www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo).

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

4.21 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 EN45011/45012, 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 persons 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 at: [www.bis.gov.uk/nmo/regulation](http://www.bis.gov.uk/nmo/regulation).

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

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

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

4.23 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 are set out in Regulation 8 and Part 2 of Schedule 2 to the Regulations.

## **Provisions supplemental to regulation 7**

### **Regulation 9**

4.24 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 being inspected, not the manufacturer.

### **Regulation 9(1)**

4.25 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>.



4.26 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 MID instruments click on: <http://ec.europa.eu/enterprise/newapproach/nando/>.

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 directives and for MID both the instruments for which it has been notified and the applicable procedures/annexes

4.27 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 (PECCAs) and European Economic Area (EEA) - responsible for carrying out the conformity assessment procedures referred to in the application.

## **Fees**

### **Regulation 11**

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

4.29 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.

4.30 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 the Regulations i.e. in service inspection, subsequent re-qualification and market surveillance.

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

4.31 Provides that, in cases where fees (charged after work is completed or payment of fees 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**

4.32 The annex 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.

4.33 It should be noted the supplementary markings are different from those in the NAWI Directive 90/384/EEC. For the purposes of the Directive, the M marking does not have to be on a green background as it does under 90/384/EEC but it must be accompanied by the last two digits of the year in which it is affixed. See drawings in the annex to this guidance.

## **Conformity with other directives**

### **Regulation 13**

4.34 Where a length measure falls within the scope of other directives which provide for the affixing of the CE marking the CE marking affixed to the length measures shall, in addition to conformity with the Measuring Instruments Directive, indicate conformity with those other directives.

## **5. PART III – Use for trade of material measures of length**

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

5.1 This part only applies to all length measures in use for trade once they have been placed on the market and put into use in Great Britain (see Part V regarding Northern Ireland). It applies irrespective of whether the instrument was attested under these Regulations or the corresponding regulations issued by another Member State.

5.2 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 meter measuring systems and, for the avoidance of doubt, prescribes meter measuring systems 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 a meter measuring system. Only an inspector of weights and measures can apply a disqualification mark to a meter measuring system. 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 length measure covered by the Regulation that they propose to re-qualify added to the appendix that accompanies their approval.

### **Regulation 14**

5.3 This regulation requires instruments to continue to meet the essential requirements in-service. There are separate values for maximum permissible errors.



5.4 **14(a)** requires the instrument to be compliant with the essential requirements in Schedule 1 other than the error limits specified in that schedule. It should be noted that many of the requirements of Schedule 1 will have been checked during the conformity assessment. For example, if module B has been used, many of the essential requirements will have been tested during the type examination. It may then only be necessary to check the conformity of the measuring instrument to the type approval certificate.

5.5 **14(b)** Note that the maximum permissible errors (MPEs) for in-service use are twice those for conformity assessment and initial verification, which are specified in Schedule 1, paragraph 14.

## Manner of use

### Regulation 15

5.6 Where a length measure is marked with a temperature range it shall not be used for trade in temperatures outside that range.

5.7 **15(1) Temperature** Where a temperature range is not specified, conformity assessment tests ensure that approved measures do not exceed the maximum permissible error for temperature excursions of  $\pm 8^{\circ}\text{C}$  about the reference temperature, usually  $20^{\circ}\text{C}$  or the temperature indicated on the measure (Schedule 1, paragraphs 15 and 13(2) respectively).

5.8 **15(3) Environmental or other influences** A measure should not be used in such a manner that its accuracy is adversely affected. For example, measures made from wood can swell when wet and undergo irreversible dimensional changes.

## 6. PART IV - Enforcement

### Enforcement authority

#### Regulation 16

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

#### Regulation 16(1)

6.2 This regulation imposes a duty on every local weight 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 gives authority to 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 17**

6.3 In cases where the enforcement authority has established that the CE marking and/or M mark have been inappropriately affixed for an instrument that has been placed on the market or put into use, it may serve a notice on the manufacturer or his authorised representative requiring him to end the infringement. 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.

6.4 It should also be remembered that the application of the CE and the M marking 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 18**

6.5 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) that a length measure which has been placed on the market or put into use, does not bear on it 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 length measure 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.

6.6 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 published on the NMO website ([www.bis.gov.uk/nmo](http://www.bis.gov.uk/nmo)).

## **Disqualification**

### **Regulation 20**

6.7 It should be noted that the maximum permissible errors for instruments (mpes) in use for trade are those in Table 1 of Part 2 of Schedule 5 of the Regulations not those in Schedule 1 paragraph 3.

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

## Re-qualification

### Regulation 21

6.9 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.

6.10 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. This means that the mpes will be those applicable to first placing the instrument on the market.

## Testing of material measures of length

### Conformity assessment/verification

6.11 The Regulations do not stipulate a test procedure for conformity assessment or verification. It only stipulates 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.

6.12 The Regulations do not stipulate a verification procedure. 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.

6.13 It should be noted that OIML R35 is not yet a normative document but it does represent a recognised and consistent method of conformity assessment. R35-1 (Edition 2007) can be found on the OIML website at <http://www.oiml.org>, and R35-2 and R35-3 (Editions 2011) are awaiting publication. When complete R35 will form the basis on which the normative document will be derived. The latter will be published once this process is complete.

6.14 Where third party testing is carried out in accordance with Modules F1 or G, the testing requirement is specified in the harmonised standard or normative document. 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 or Section 4 of Annex G to the Directive.

### Testing for conformity assessment

6.15 The tests chosen are the responsibility of the notified body and cannot be described here. Notified bodies are likely to select the tests described in OIML R35

(when revised and published) using the requirements specified in the Regulations, where appropriate. The MPEs are specified in Schedule 1, paragraph 14.

### Testing for initial or subsequent verification

6.16 The MPEs specified in Schedule 1, paragraph 14 are used as the basis for initial verification tests. The same MPE limits would normally be used for subsequent verification unless specified differently elsewhere, e.g. normative document.

### Testing for in-service inspection

6.17 There is no explicit section on testing length measures as part of in-service inspection. Regulation 23(1)(a) empowers an enforcement officer to inspect and test a measure in such a manner as he considers appropriate. There is a similar requirement for re-qualification in 21(3) where he may also use any test equipment he considers appropriate. Guidance on testing measures will be given in the revised version of OIML R35<sup>2</sup> (when published).

6.18 For in-service tests, the MPEs are specified in Regulation 14(b); they are twice the initial verification MPE limits specified in Schedule 1, paragraph 14. NMO recommends that measures of length should be tested by comparison with an appropriate local or working standard linear measure using equipment and under conditions which are appropriate to the degree of accuracy required, taking the following factors into account:

- a. The ambient temperature, when the standard and the measure of length being compared are of different materials;
- b. The tensioning and support of flexible measures of length; and
- c. The method of magnification for viewing.

6.19 Earlier guidance given by NMO is:

- a. An inspector may use a spring balance or other suitable means of determining the tension or pull in testing a tape or linked measure in those cases where it is impracticable to employ a dead weight on a pulley;
- b. A local standard 30 m, or longer, sub-divided steel tape should not be used for testing measures of 3 m or under.

### Points of note for manufacturing and testing

6.20 The following points are NMO recommendations to manufacturers and testers based on experience with the old approach directive:

- a. **Effects of ends** It is recommended that the free ends of end and composite measures are flat and are provided with a band or tip resistant to wear.
- b. **Effects of joints** Folding rules are not permitted to belong to Class 1 uncertainty. For folding rules in Classes 2 and 3, the sum of the errors due to the joints alone, between the end surface and any point, is not permitted to exceed 0.3 mm and 0.5 mm respectively.
- c. **Handles, end-rings and hooks**

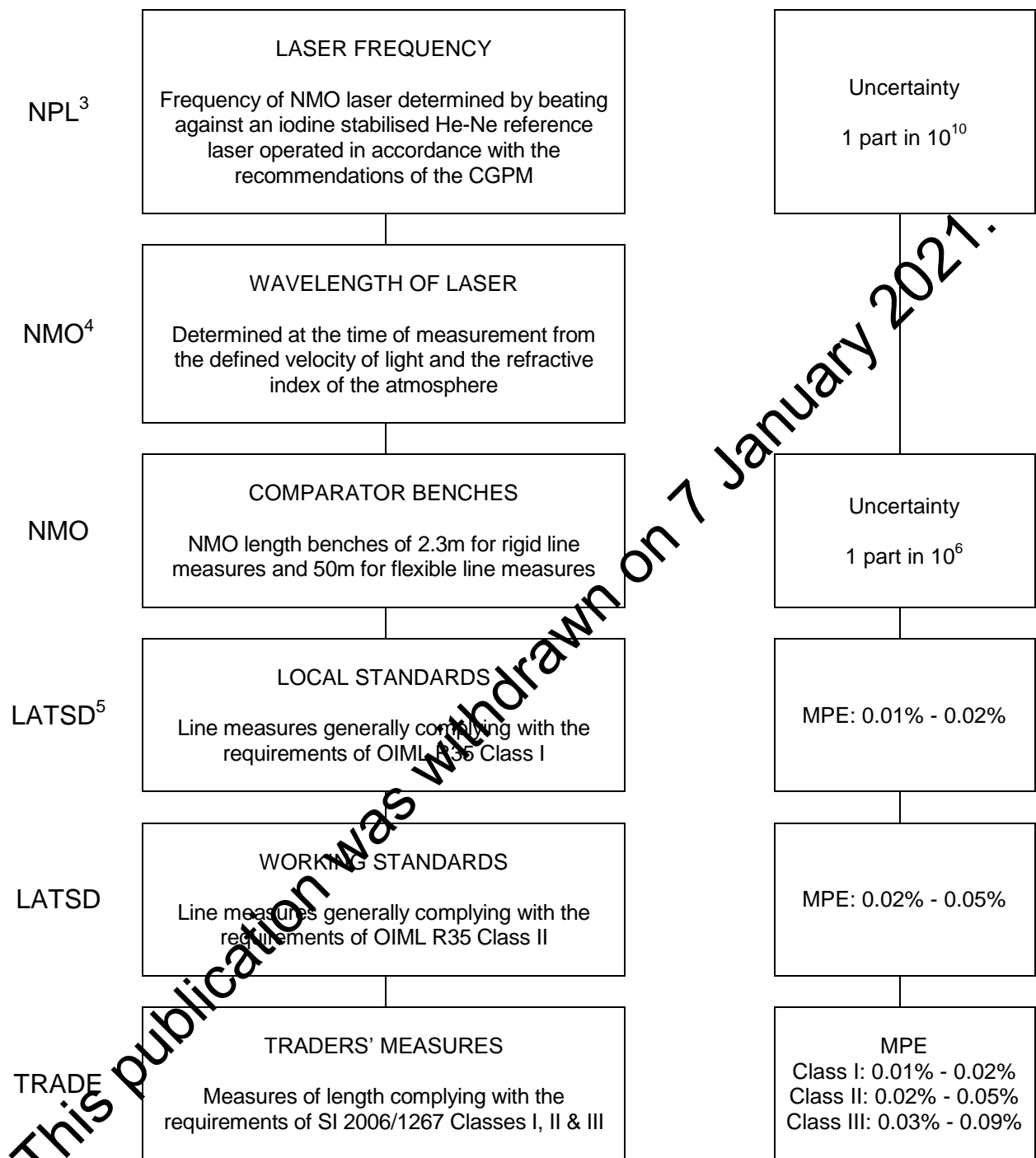
<sup>2</sup> Material measures of length for general use, OIML R35, [www.oiml.org/publications](http://www.oiml.org/publications)

- i. Directive 73/362/EEC required handles, rings or hooks on the free ends not to be included in the nominal length for some categories of tape measure. The MID has no such requirements so a manufacturer is free to adopt his own solutions.
- ii. In the case of handles or rings, it is recommended that an inscription on the blade states whether or not they are included in the nominal length.
- iii. Traditionally, in the case of a sliding end-hook, the hook slides by a length equivalent to its thickness, so that both hook-on and butt-on measurements are equally accurate. In the case of a fixed end-hook the thickness of the hook uses up some of the permissible error. It is recommended that these practices continue.
- d. **Inscriptions** The mandatory inscriptions are given in Schedule 1, paragraph 10. The regulations do not stipulate where the inscriptions should be placed but it is recommended that they are placed near the beginning of the blade, preferably within the first 20 cm.
- e. **Tape cases intended for internal measurements**
  - i. A pocket clip, if fitted, must not obscure the dimensions marked on the side of the case.
  - ii. A strap, if fitted, must not interfere with measurements (it must not prevent the end of the case from touching the object being measured).

## Traceability

6.21 The instruments and standards used in testing must be traceable to national standards. The hierarchy of traceable standards used is shown in Figure 1 (on the following page).

This publication was withdrawn on 7 January 2021.



**Figure 1: Hierarchy of traceability of length standards**

<sup>3</sup> National Physical Laboratory: the government owned, contractor operated laboratory charged with maintaining and disseminating the highest level measurement standards in the United Kingdom

<sup>4</sup> National Measurement Office – within the Department for Business, Innovation and Skills, the organisation that administers weights and measures legislation on behalf of the Secretary of State

<sup>5</sup> Local Authority Trading Standards Department – locally based organisation which deals with verification and surveillance of measuring equipment in use for trade

## Unauthorised application of authorised marks

### Regulation 22

6.22 Any length measure in use for trade but not marked with the notified body number, CE mark and M mark and put in 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 23

6.23 It is important to consider the definition of Enforcement Officer. It is either an inspector as defined in the Weights and Measures Act 1985 (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.

6.24 It should be noted that this Regulation gives an enforcement officer the authority to inspect and test a length measure 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 19) or take immediate enforcement action (regulation 20) if the requirements of those regulations are not met.

6.25 The powers under regulation 26(1) should be contrasted with those existing in relation to the NAWI Regulations 2000 (SI 2000/3236), as amended - "the NAWI Regulations". The latter 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, installer or verifier may be using when engaging in conformity assessment procedures of their own instruments. Where this becomes a necessity, such action may be authorised as part of a market surveillance exercise.

6.26 It should be noted that there is no provision in these regulations that 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 25

6.27 The enforcement provisions for these Regulations have been made under the European Communities Act 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 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

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

## **7. PART V - Miscellaneous and supplemental**

### **Adaptations for Northern Ireland**

#### **Regulation 30**

7.1 The Regulations apply to Northern Ireland, subject to Schedule 5. This means that these Regulations apply the requirements relating to placing on the market to the whole of the UK. However, the in-service provisions relate to Great Britain only. Northern Ireland has made in-service provisions for length measures (under the Measuring Instruments (Material Measures of Length) (Use for Trade) Regulations (Northern Ireland) 2007 (SR 2007/390)).

This publication was withdrawn on 7 January 2021.



## Annex

### 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 current stop-gap 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 has to apply both his number and the year of re-qualification in manuscript on a modified NAWI sticker using a "permanent" marker. It has become 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. Commercial organisations which need to obtain supplies are invited to contact [stickers@nmo.gov.uk](mailto: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](mailto: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**

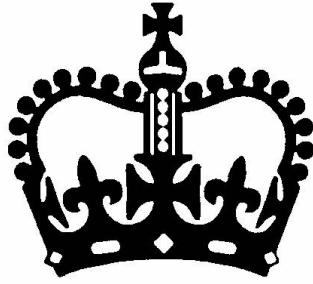


This is all white label printed on which with the prescribed crown and the information for Inspector's number will be overprinted using thermal printing technology for use for NAWI and MID instruments.

**Approved Verifier**

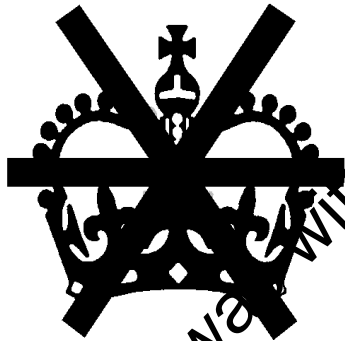
*This publication was withdrawn on 7 January 2021.*

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 publication was withdrawn on 7 January 2021.

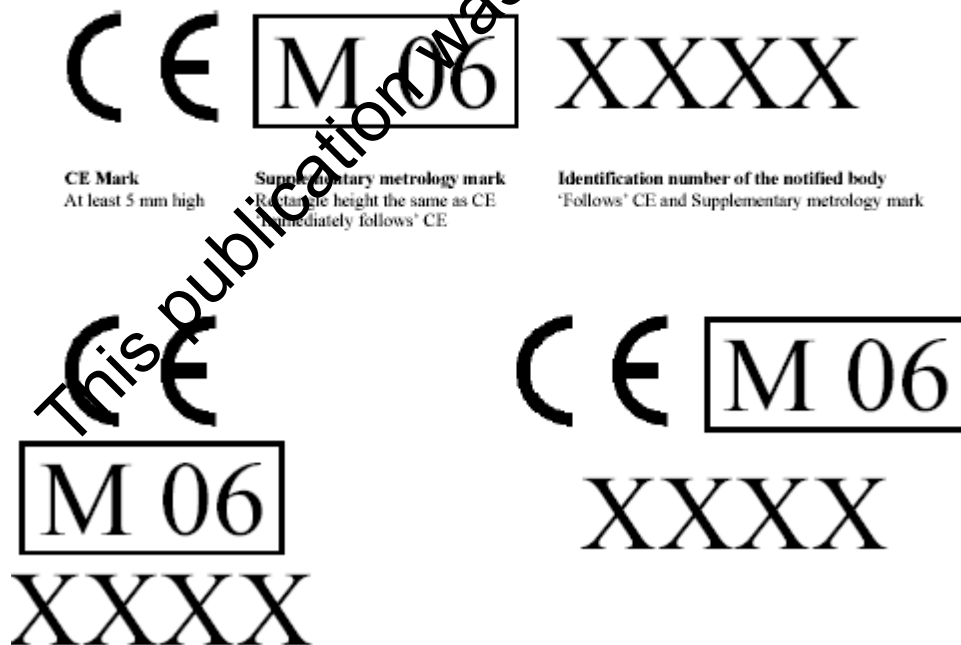
This is a plain white label in which the Notified Body number has been overprinted using a thermal printer. It is not a requirement for the number to be pre-fixed by NB.

**Other marks and requirements for MID instruments**

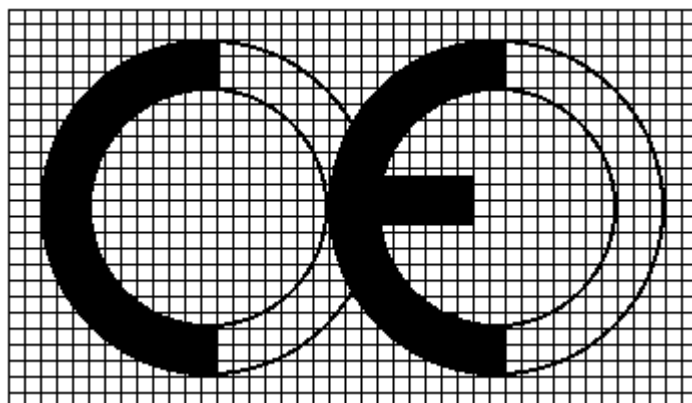
1. The CE marking consists of the symbol “CE” according to the design laid down in paragraph I.B(d) of the Annex to Decision 93/465/EEC. The CE marking shall be at least 5 mm high.
2. The M marking consists of the capital letter “M” and the last two digits of the year of its affixing, surrounded by a 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 Marking required by the MID Directive**



*“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 2004/37/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 length measure 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.



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