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STATUTORY INSTRUMENTS

1977 No. 1753

WEIGHTS AND MEASURES

The Alcoholometers and Alcohol Hydrometers (Eec Requirements) Regulations 1977

Made - - - -	*28th October 1977*
Laid before Parliament	*4th November 1977*
Coming into Operation	*25th November 1977*

The Secretary of State, being a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the regulation of specifications, construction, placing on the market and use of equipment intended for weighing, measuring or testing or for purposes ancillary thereto, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977 and shall come into operation on 25th November 1977.

Interpretation and extent

2.—(1) In these Regulations:—

"the Directive" means Council Directive No.76/765/EEC on the approximation of the laws of the Member States relating to alcoholometers and alcohol hydrometers;

"inspector" means a person authorised in writing by the Secretary of State to be an inspector for the purposes of these Regulations;

"manufacturer", where more than one person is responsible for the manufacture of an instrument, means the person responsible for the final stage of manufacture.

(2) The Interpretation Act 1889 shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) These Regulations shall extend to Northern Ireland.

(**1**) S.I. 1975/427 (1975 I, p. 1345).

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Application

3. These Regulations apply to instruments of a category to which the Directive applies, namely alcoholometers and alcohol hydrometers used to determine the alcoholic strength of mixtures of water and ethanol.

Pattern approval and initial verification: the EEC signs and marks

4.—(1) The EEC signs and marks referred to in these Regulations are the following signs and marks:—

(a) The sign of EEC pattern approval set out in paragraph 1 of Schedule 1 to the Measuring Instruments (EEC Requirements) Regulations 1975(**2**);

(b) The sign of EEC limited pattern approval set out in paragraph 2 of the said Schedule 1 ; and

(c) The mark of EEC initial verification set out in the Schedule to these Regulations.

(2) In these Regulations, references to the United Kingdom version of a sign or mark referred to in paragraph (1) above are references to the sign or mark appropriate, in accordance with the provisions of the said Schedule 1, or the Schedule to these Regulations (as the case may be), for an EEC pattern approval granted in, or an EEC initial verification carried out in, the United Kingdom.

PART II

EEC PATTERN APPROVAL AND INITIAL VERIFICATION IN THE UNITED KINGDOM

EEC pattern approval

5. Regulations 7 to 11 (which contain provision with respect to the grant, extension and revocation of EEC pattern approval) of the Measuring Instruments (EEC Requirements) Regulations 1975, and Schedule 2 to those Regulations (which regulates the conduct in the United Kingdom of EEC pattern approval), shall so far as applicable apply in relation to the pattern approval of instruments to which these Regulations apply as they apply in relation to the pattern approval of instruments to which those Regulations apply, with the following modifications:—

(a) in Regulation 7(1) the words "on payment of such fee as may be prescribed by, or determined under, Regulations made under section 56 of the Finance Act 1973" shall not apply.

(b) in Regulation 7(2) the words "on payment of such fee as may be prescribed or determined as aforesaid" shall not apply.

6.—(1) Where an EEC pattern approval (whether granted under these Regulations or by any member state other than the United Kingdom) is in force in respect of any pattern of instrument, the manufacturer shall cause the sign of EEC pattern approval, or where the pattern approval is a limited pattern approval, the sign of EEC limited pattern approval, to be affixed to instruments conforming to the approved pattern.

(2) Any sign affixed in accordance with this Regulation shall be affixed at a visible point inside the instrument and must be legible and indelible.

(**2**) (1975 II, p. 4045).

Initial verification

7.—(1) An application for consideration of any instrument for EEC initial verification shall be made to the Secretary of State in such manner as he may direct.

(2) The Secretary of State shall determine whether an EEC pattern approval is in force in respect of the instrument and, if so, whether it conforms to the approved pattern.

(3) Where the Secretary of State is satisfied—

(a) that the instrument conforms to the requirements of the Directive; and

(b) that an EEC pattern approval is in force in respect of the instrument and that the instrument conforms to the approved pattern;

he shall cause to be affixed to the instrument the United Kingdom mark of EEC initial verification.

(4) If the Secretary of State refuses to cause any EEC mark of initial verification to be affixed to an instrument he shall give to the applicant a statement in writing of his reasons for the refusal.

(5) A record of all tests and examinations carried out under this Regulation shall be kept.

(6) Where an EEC pattern approval is subject to a condition limiting the number of instruments which may be submitted for initial verification by reference to the pattern in question, a person who makes an application, or causes or permits the making of an application, which if granted would contravene the condition, shall be guilty of an offence unless it is shown that he did not know, and had no reason to believe, that it would or might contravene the condition.

PART III

SUPPLEMENTARY PROVISIONS

Effect of revocation of EEC pattern approval

8.—(1) Where an EEC pattern approval is revoked, whether under these Regulations or by any member state other than the United Kingdom, any person who, knowing that the pattern approval has been revoked, uses, or has in his possession for use, or causes or permits any other person to use, an instrument of the pattern in question bearing any EEC sign or mark related to that pattern approval, or disposes of any such instrument to any other person in a state in which it could be used without informing that other person of the revocation, shall be guilty of an offence and the instrument shall be liable to be forfeited.

(2) Paragraph (1) above does not apply if any such sign or mark on the instrument has been obliterated under Regulation 10 below.

(3) For the purposes of this Regulation and Regulation 9 below, an EEC sign or mark shall be regarded as related to a pattern approval if it is a sign framed by reference to that pattern approval or a mark of EEC initial verification which was affixed by reference to conformity to the pattern which was the subject of that pattern approval.

(4) A certificate by the Secretary of State stating that an EEC pattern approval granted by any member state other than the United Kingdom has been revoked and thereby ceased to have effect on a date specified shall be conclusive as to the matters certified in any proceedings for an offence under this Regulation.

Effect of non-extension of EEC pattern approval

9. Where an EEC pattern approval, whether granted under these Regulations or by any member state other than the United Kingdom, is not extended—

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(a) these Regulations shall, in relation to any instrument of the pattern in question which was used before the pattern approval ceased to have effect, apply as if the pattern approval had continued in force;

(b) the manufacturer of any instrument of the pattern in question, bearing any EEC sign or mark related to that pattern approval, which has not been used shall be guilty of an offence if, after the pattern approval has ceased to have effect, he disposes of the instrument to any other person, and the instrument shall be liable to be forfeited.

Temporary prohibition of sale or use

10.—(1) Where the Secretary of State is satisfied that instruments constructed according to a pattern in respect of which an EEC pattern approval granted by a member state other than the United Kingdom is in force reveal in service a defect of a general nature which makes them unsuitable for their intended use, he may issue a prohibition notice under this Regulation with respect to instruments of that pattern.

(2) Regulation 8 above shall apply, with the necessary modifications, so long as a prohibition notice issued under this Regulation is in force with respect to instruments of any pattern, as it applies in a case where pattern approval is revoked by the Secretary of State.

(3) A prohibition notice under this Regulation shall give particulars of the pattern to which it relates.

(4) The Secretary of State may withdraw a prohibition notice at any time.

(5) If the Secretary of State issues a prohibition notice under this Regulation he shall give a statement in writing of his grounds for doing so to any person appearing to him to be concerned.

(6) The Secretary of State shall cause to be published—

(a) any prohibition notice issued under this Regulation; and

(b) notice of withdrawal of any such prohibition notice.

Obliteration of EEC signs and marks

11.—(1) An inspector may obliterate any EEC sign or mark if he is satisfied—

(a) that the instrument bearing the sign or mark falls outside the relevant limits of error; or

(b) that the instrument does not comply in any other respect with the requirements of the Directive.

(2) In paragraph (1) above "the relevant limits of error" means the maximum permissible errors laid down by section 8 of the Annex to the Directive.

(3) Without prejudice to paragraph (1) above, an inspector may, at the request of any person appearing to him to be the owner of an instrument, obliterate any EEC sign or mark on the instrument which is related to an EEC pattern approval (whether granted under these Regulations or by any member state other than the United Kingdom) which the inspector is satisfied has ceased to have effect.

(4) Obliteration under this Regulation shall be carried out in such manner as the Secretary of State may direct.

Unauthorised application of EEC signs and marks, etc

12.—(1) Subject to paragraph (2) below, any person who, in the case of any instrument—

(a) not being a manufacturer authorised or required to do so under any provision of these Regulations, or the duly authorised agent of any such manufacturer, marks any such instrument with any EEC sign; or

(b) forges, counterfeits or, except in accordance with Regulation 11 above, in any way alters or defaces any EEC sign or mark; or

(c) makes any alteration in the instrument after any EEC sign or mark has been applied to it in accordance with these Regulations, so that it no longer complies with the requirements of the Directive;

shall be guilty of an offence.

(2) Any person who uses, sells or exposes or offers for sale any instrument which to his knowledge—

(a) bears any EEC sign or mark which is a forgery or counterfeit, or which has been transferred from another instrument, or which has been altered or defaced otherwise than under Regulation 11 above or as permitted by virtue of paragraph (1) above; or

(b) does not comply with the requirements of the Directive by reason of any alteration made in it after any EEC sign or mark was applied to it in accordance with these Regulations.

shall be guilty of an offence.

(3) Any instrument in respect of which an offence under this Regulation was committed, and any implement used in the commission of the offence, shall be liable to be forfeited.

Powers of inspection and entry

13.—(1) Subject to the production if so requested of his authority, an inspector may, at all reasonable times—

(a) inspect and test any instrument;

(b) enter any premises at which he has reasonable cause to believe there to be any instrument, not being premises used only as a private dwelling house.

(2) Subject to the production if so requested of his authority, an inspector may at any time seize and detain any article which he has reasonable cause to believe is liable to be forfeited under these Regulations.

(3) If a justice of the peace, by information on oath—

(a) is satisfied that there is reasonable ground to believe that any such instrument or article as is mentioned in paragraph (1) or (2) above is on any premises, or that any offence under these Regulations has been, is being or is about to be committed on any premises; and

(b) is also satisfied either—

(i) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise and inspector to enter the premises, if need be by force. In the application of this paragraph to Scotland, the expression “a justice of the peace” shall be construed as including the sheriff.

(4) An inspector entering any premises by virtue of this Regulation may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under paragraph (3) above, being premises which are unoccupied

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or the occupier of which is temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(5) If any inspector or other person who enters any work-place by virtue of this Regulation discloses to any person any information obtained by him in the work-place with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

Obstruction of inspectors

14.—(1) Any person who—

(a) wilfully obstructs an inspector acting in the execution of any provision of these Regulations; or

(b) without reasonable cause fails to give any inspector acting as aforesaid any assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under these Regulations;

shall be guilty of an offence.

(2) If any person, in giving an inspector any such information as is mentioned in paragraph (1) above, gives any information which he knows to be false, he shall be guilty of an offence.

Offences by corporations

15.—(1) Where an offence under any provision of these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Prosecution and punishment of offences under these Regulations

16. Proceedings for any offence under these Regulations shall not—

(a) in England and Wales, be instituted except by or on behalf of the Secretary of State or the chief officer of police for a police area; or

(b) in Northern Ireland be instituted except by or on behalf of the Department of Commerce for Northern Ireland.

17. Any person guilty of an offence under Regulation 12, 13 or 14(2) above shall be liable on summary conviction to a fine not exceeding £200, and any person guilty of an offence under any other provision of these Regulations shall be liable on summary conviction to a fine not exceeding £50.

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J.D. Fraser
Minister of State
Department of Prices and Consumer Protection

28th October 1977

THE SCHEDULE

Regulation 4

THE MARK OF EEC INITIAL VERIFICATION

1. The mark of EEC initial verification consists of the following, in the order set out:—

(a) a small letter "e";

(b) the last two digits of the year when the examination to determine whether the mark should be applied is carried out;

(c) the distinguishing capital letter of the state where such examination is carried out (B for Belgium, DK for Denmark, D for the Federal Republic of Germany, F for France, IR for Ireland, I for Italy, L for Luxembourg, NL for the Netherlands and UK for the United Kingdom); and

(d) if necessary, the identification number of the verifying agent or office.

2. In the case of a United Kingdom mark of EEC initial verification, the identification number referred to in paragraph 1(d) above shall be the identification number of the person carrying out the examination.

3. The following is an example of the mark of EEC initial verification, in the form appropriate for an EEC initial verification carried out in the United Kingdom:

e 75 UK 99.

EXPLANATORY NOTE

These Regulations implement Council Directive No. 76/765/EEC relating to alcoholometers and alcohol hydrometers used to determine the alcoholic strength of mixtures of water and ethanol.

Provision is made for the Secretary of State, on application being made for that purpose, to approve patterns of alcoholometers or alcohol hydrometers which comply with the Directive (Regulation 5). Provision is also made for him to carry out initial verification of such instruments to determine whether they comply with the approved pattern, granted in the United Kingdom or in another Member State, and with the requirements of the Directive, and for the application of the mark of EEC initial verification (Regulation 7 and the Schedule).

The Regulations also provide for offences (Regulations 8–10, 12–15) and penalties (Regulation 16) and include powers of inspection of instruments and entry of premises for the enforcement of the Regulations (Regulation 13).