

Directive 2009/23/EC of the European Parliament and of the
Council of 23 April 2009 on non-automatic weighing instruments
(Codified version) (Text with EEA relevance) (repealed)

DIRECTIVE 2009/23/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on non-automatic weighing instruments

(Codified version)

(Text with EEA relevance) (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Directive 90/384/EEC of 20 June 1990 on the harmonisation of the laws of the Member States relating to non-automatic weighing instruments⁽³⁾ has been substantially amended⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) Member States have the responsibility of protecting the public against incorrect results of weighing operations by means of non-automatic weighing instruments when used for certain categories of applications.
- (3) In each Member State, mandatory provisions fix in particular the necessary performance requirements of non-automatic weighing instruments by specifying metrological and technical requirements, together with inspection procedures before and after going into service. These mandatory provisions do not necessarily lead to different levels of protection from one Member State to another but do, by their disparity, impede trade within the Community.
- (4) This Directive should set out mandatory and essential requirements as regards metrology and performance in relation to non-automatic weighing instruments. To facilitate proof of conformity with the essential requirements, it is necessary to have harmonised standards at European level, in particular as to the metrological, design and construction characteristics, so that instruments complying with those harmonised standards may be assumed to conform to the essential requirements. These standards,

harmonised at European level, are drawn up by private bodies and must remain non-mandatory texts. For that purpose the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (Cenelec) and the European Telecommunications Standards Institute (ETSI) are recognised as the competent bodies for the adoption of harmonised standards in accordance with the general guidelines⁽⁵⁾ for cooperation between the Commission, the European Free Trade Association (EFTA) and those three bodies, signed on 28 March 2003.

- (5) A series of Directives designed to remove technical barriers to trade in accordance with the principles established in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards⁽⁶⁾ has been adopted; each of those Directives provides for the affixing of the 'CE' conformity marking. In its communication of 15 June 1989⁽⁷⁾ on a global approach to certification and testing, the Commission proposed that common rules be drawn up concerning a 'CE' conformity marking with a single design. In its Resolution of 21 December 1989 on a global approach to conformity assessment⁽⁸⁾, the Council approved as a guiding principle the adoption of a consistent approach such as this with regard to the use of the 'CE' conformity marking. The two basic elements of the new approach which should be applied are the essential requirements and the conformity assessment procedures.
- (6) Assessment of conformity with the relevant metrological and technical provisions is necessary to provide effective protection for users and third parties. The existing conformity assessment procedures differ from one Member State to another. To avoid multiple assessments of conformity, which are in effect barriers to the free movement of the instruments, arrangements should be made for the mutual recognition of conformity assessment procedures by the Member States. To facilitate the mutual recognition of conformity assessment procedures, Community procedures should be set up, together with criteria for the designation of the bodies responsible for carrying out tasks pertaining to the conformity assessment procedures.
- (7) It is therefore essential to ensure that such designated bodies ensure a high level of quality throughout the Community.
- (8) The presence on a non-automatic weighing instrument of the 'CE' conformity marking or of the sticker bearing the letter 'M' should indicate that there is a presumption that it satisfies the provisions of this Directive and therefore make it unnecessary to repeat the assessments of conformity already carried out.
- (9) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex VII, Part B,

HAVE ADOPTED THIS DIRECTIVE:

- (1) [OJ C 44, 16.2.2008, p. 33.](#)
- (2) [Opinion of the European Parliament of 11 December 2007 \(OJ C 323 E, 18.12.2008, p. 57\)](#) and [Council Decision of 23 March 2009.](#)
- (3) [OJ L 189, 20.7.1990, p. 1.](#)
- (4) See Annex VII, Part A.
- (5) [OJ C 91, 16.4.2003, p. 7.](#)
- (6) [OJ C 136, 4.6.1985, p. 1.](#)
- (7) [OJ C 267, 19.10.1989, p. 3.](#)
- (8) [OJ C 10, 16.1.1990, p. 1.](#)