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STATUTORY INSTRUMENTS

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**1995 No. 428**

**WEIGHTS AND MEASURES**

**The Non-automatic Weighing Machines and Non-automatic Weighing Instruments (Amendment) Regulations 1995**

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| <i>Made</i>                   | - - - - | <i>22nd February 1995</i> |
| <i>Laid before Parliament</i> |         | <i>23rd February 1995</i> |
| <i>Coming into force</i>      | - -     | <i>27th March 1995</i>    |

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of subsection (2) of section 2 of the European Communities Act 1972<sup>(2)</sup> 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 on him by that section (as respects regulations 1 and 3) and of the powers conferred on him by sections 15(1) and 86(1) of the Weights and Measures Act 1985<sup>(3)</sup> (as respects regulations 1, 2 and 4) and all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Non-automatic Weighing Machines and Non-automatic Weighing Instruments (Amendment) Regulations 1995 and shall come into force on 27th March 1995.

**Amendment of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988**

2.—(1) The Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988<sup>(4)</sup> (in this regulation referred to as “the principal Regulations”) shall have effect as amended by the following provisions of this regulation.

(2) The principal Regulations are hereby further amended, in regulation 4, by the substitution for paragraph (1) of the following paragraphs—

“(1) A non-automatic weighing machine marked with a weighing range may be used for trade for determining the weight of any item by ascertaining the difference between two weights (both of which fall within the weighing range), that is to say, the weight of that item and another item or items and the weight of that other or those other items only.

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(1) S.I.1975/427.

(2) 1972 c. 68.

(3) 1985 c. 72: section 94(1) contains a definition of “prescribed”.

(4) S.I. 1988/876 as amended by S.I. 1988/2120, S.I. 1991/2019, S.I. 1992/3037 and S.I. 1994/1851.

(1A) Where a non-automatic weighing machine is marked with a weighing range, save in accordance with paragraph (1) above, no person shall use that machine for trade for determining a weight outside that range in relation—

- (a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) to precious stones or pearls; or
- (c) to drugs or other pharmaceutical products.”,

by the omission of paragraph (2) and, in paragraph (5), by the substitution for sub-paragraphs (a) to (c) of the following sub-paragraphs—

- “(a) in, or in articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) in precious stones or pearls.”.

(3) The principal Regulations are hereby further amended by the addition in Part IV, after regulation 34, of the following regulation—

**“Non-automatic weighing machines imported from another member State or an EEA State**

**34A.**—(1) In relation to any non-automatic weighing machine imported into Great Britain from another member State or from an EEA State, subject to paragraph (4) below, an inspector shall not carry out any test in accordance with these Regulations if, together with the machine being imported, he is presented with the requisite documentation.

(2) In this regulation and in regulation 37(5) below—

- (a) “requisite documentation” means—
  - (i) the test report of an approved body that the machine which is the subject of that report has been tested on the same basis as those set out in these Regulations and stating which tests have been applied to it; and
  - (ii) the test results relating to those tests; and
- (b) “EEA State” means a State which is a Contracting Party to the EEA Agreement other than the United Kingdom but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein; and in this paragraph “the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.

(3) A body is an “approved body” for the purposes of this regulation if it is a body in a member State or in an EEA State which has the responsibility in that State for metrological control of non-automatic weighing machines or is a laboratory which has been accredited in a member State as being a body which conforms with the criteria set out in EN 45001(5).

(4) Nothing in these Regulations shall prevent an inspector testing in accordance with the foregoing provisions of this Part of these Regulations where he is not satisfied—

- (a) as to the authenticity of the test report or the results presented to him; or
- (b) that the test results presented to him are results which in fact relate to the machines being imported.”.

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(5) EN 45001 is a European Standard which has the status of a British Standard; it is identical with BS 7501 (ISBN 0 580 17939 7), “General criteria for the operation of testing laboratories”.

(4) The principal Regulations are hereby further amended, in regulation 35, by the substitution for paragraph (2) of the following paragraph—

“(2) In the case of a machine marked with an approved minimum load, the limits of error specified in Schedule 4 to these Regulations shall on and after 27th March 1995 apply for test loads of less than the amount of that load.”.

(5) The principal Regulations are hereby further amended, in regulation 37,—

(a) in paragraph (1), by the substitution for the words “paragraphs (2) to (4) below” of the words “paragraphs (2) to (5) below”; and

(b) by the addition after paragraph (4) of the following paragraph—

“(5) In the case of any non-automatic weighing machine imported from another member State or an EEA State, it shall not be passed as fit for use for trade unless—

(a) where the requisite documentation is presented in accordance with regulation 34A above, the test report recites and the test data confirm to the satisfaction of the inspector that on testing in the relevant member State it fell within the prescribed limits of error; and

(b) it complies with all the relevant requirements of these Regulations.”.

### **Amendment of the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992**

**3. —(**

(1) The Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992(6) (in this regulation and in regulation 4 below referred to as “the principal Regulations”) shall have effect as amended by the following provisions of this regulation.

(2) The principal Regulations are hereby amended in regulation 9,—

(a) by the addition after paragraph (3), of the following paragraphs—

“(3A) The Secretary of State may vary or amend an approval if—

(a) the body so requests; or

(b) having regard to these Regulations and to the Directive, it appears to him necessary or expedient.”

“(3B) the Secretary of State may from time to time carry out inspections of the functions of an approved body with a view to verifying that it complies with any conditions subject to which the approval is granted and with the provisions of these Regulations and the Directive but, unless it appears to him that there are circumstances which make it necessary or expedient to do so, he shall not carry out such an inspection within two years from the date of approval of the body or, if later, of his last inspection under this paragraph.”; and

(b) in paragraph (4), by the addition of the word “or” at the end of sub-paragraph (b), by the addition after that sub-paragraph of the following sub-paragraph—

“(c) varies or amends an approval pursuant to paragraph (3A)(b) above;”,

and by the substitution for the words from “he shall inform” to the end of the paragraph of the words “he shall inform the body of the grounds for the decision.”.

**4.** The principal Regulations are hereby further amended in regulation 28 by the substitution for paragraph (1) of the following paragraphs—

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(6) S.I. 1992/1579.

“(1) An instrument marked with a weighing range may be used for trade for determining the weight of any item by ascertaining the difference between two weights (both of which fall within the weighing range), that is to say, the weight of that item and another item or items and the weight of that other or those other items only.

(1A) Save in accordance with paragraph (1) above, a person shall not use for trade an instrument marked with a weighing range for determining a weight outside that range in relation—

- (a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) to precious stones or pearls; or
- (c) to drugs or other pharmaceutical products.”,

by the omission of paragraph (2) and, in paragraph (4), by the substitution for sub-paragraphs (a) to (c) of the following sub-paragraphs—

- “(a) in, or in articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) in precious stones or pearls.”.

22nd February 1995

*Jonathan Evans*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988 and the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992.

They amend both the 1988 and 1992 Regulations to forbid the use for trade of equipment outside its prescribed weighing range in relation to gold and other precious metals, precious stones or pearls and drugs and other pharmaceutical products (regulations 2(2) and 4).

They also amend the 1988 Regulations to permit the import of non-automatic weighing machines which have been tested in another member State or an EEA State on the same basis as is required by those Regulations (regulation 2(3) and (5)).

They also amend the 1992 Regulations to enable the Secretary of State to vary or amend his approval of a body to carry out functions under the Regulations and to enable him to inspect its performance of those functions (regulation 3(2)).