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STATUTORY INSTRUMENTS

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**1998 No. 2994**

**WEIGHTS AND MEASURES**

**The Non-automatic Weighing Instruments (EEC Requirements) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>3rd December 1998</i>
<i>Laid before Parliament</i>		<i>4th December 1998</i>
<i>Coming into force</i>	- -	<i>31st December 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 15(1) and 86(1) of the Weights and Measures Act 1985<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Non-automatic Weighing Instruments (EEC Requirements) (Amendment) Regulations 1998 and shall come into force on 31st December 1998.

(2) In these Regulations, the “principal Regulations” means the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995<sup>(2)</sup>.

**Amendment of the principal Regulations**

2. For regulations 28 to 37 inclusive of the principal Regulations there shall be substituted the following—

**“Restrictions on use of instruments for trade**

28.—(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.

(2) 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—

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(1) 1985 c. 72.

(2) S.I. 1995/1907 as amended by S.I. 1997/3035.

- (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.
- (3) A person shall not use for trade any instrument other than an instrument of accuracy classification as Class I or Class II in any transaction—
- (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.
- (4) A person shall not use for trade an instrument carrying a marking in accordance with the EC type-approval certificate, or to which the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive applies, for a purpose which does not accord with the marking or the symbol.
- (5) A person shall not use a Class III instrument for trade for any purpose other than for weighing—
- (a) any of the materials to which the expression “ballast” applies in Schedule 4 to the 1985 Act;
  - (b) any material the disposal of which constitutes a landfill disposal as defined in paragraph (2) of section 70 of the Finance Act 1996<sup>(3)</sup>, whether or not the disposal amounts to a taxable disposal as defined in section 40 of that Act; or
  - (c) household, industrial or commercial waste.
- (6) A person shall not use for trade any instrument for the purpose of multiple weighing, that is to say, determining the mass of a load by totalling the results of more than one static weighing operation during each of which the load is only partially supported by the load receptor.
- (7) For the purposes of this regulation, the terms “household waste”, “industrial waste” and “commercial waste” shall be construed in accordance with section 75 of the Environmental Protection Act 1990<sup>(4)</sup>, provided that “waste” shall include any waste disposed of for reprocessing or recycling purposes but shall not include any radioactive waste as defined in section 2 of the Radioactive Substances Act 1993<sup>(5)</sup>.

#### **Manner of erection of instruments**

**29.** Where an instrument is fitted with one or more level-indicating devices, a person shall not use the instrument for trade unless each such device indicates that it has been set to its reference position.

#### **Instruments marked with temperature range**

**30.** Where an instrument is marked with a temperature range, a person shall not use the instrument for trade at temperatures outside that range.

#### **Instruments marked with manner of use**

**31.** Where an instrument is marked with the manner of use, a person shall not use the instrument for trade in a manner which does not accord with the marking.

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(3) 1996 c. 8.  
(4) 1990 c. 43.  
(5) 1993 c. 12.

### **Instruments fitted with printing devices**

**32.** Where an instrument is fitted with a weight or any other printing device, a person shall not use the instrument for trade unless it is so erected and used that the printing device, when used, produces a legible and durable printout.

### **Load receptors**

**33.—(1)** A person shall not use any instrument for trade unless it is erected and used in such a manner that, during a weighing operation, the load being weighed is stationary relative to the load receptor and supported only by the load receptor.

(2) A person shall not use for trade an instrument for the purpose of sales by retail—

(a) unless—

(i) the load receptor is not less than 10 mm above any adjacent surface; or

(ii) where the load receptor is less than 10 mm above any adjacent surface, the boundary of the top surface of all adjacent surfaces is durably marked in a distinctive and contrasting manner with a band at least 15 mm in width; or

(b) if the load receptor is below the level of any adjacent surface.

### **Operation of instrument**

**34.** Except as specified in the EC type-approval certificate, a person shall not use an instrument for trade unless it is erected in such a manner that the operator can, notwithstanding the nature of the instrument or its surroundings, readily take up a single position from which he can—

(a) see directly or with the aid of mirrors, closed-circuit television or other permanently installed facilities, the whole of the unladen load receptor;

(b) operate the instrument's controls; and

(c) obtain a weight reading from the instrument.

### **Weights marked with EEC initial verification marks to be used**

**35.—(1)** Subject to paragraph (2) below, a person shall not use for trade a Class I or Class II instrument which is used in association with any weight or weights to determine the value of any load in terms of metric units of mass other than carat (metric) units, save in association with weights which bear the mark of EEC initial verification in accordance with—

(a) the provisions of—

(i) in the case of Class II instruments, Council Directive No. [74/148/EEC](#) on above-medium accuracy weights<sup>(6)</sup>, or

(ii) in the case of Class I instruments, the said Directive except for those provisions relating to weights of Class F2 or Class M1; and

(b) the provisions of paragraph 5 of Schedule 1 to the Measuring Instruments (EEC Requirements) Regulations 1988<sup>(7)</sup>.

(2) The requirements of this regulation shall not apply to any instrument for use for trade in any transaction in drugs or other pharmaceutical products before 1st January 2003.

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(6) OJ No. L84, 28.3.1974, p.3.

(7) S.I. [1988/186](#) as amended by S.I. [1988/1128](#).

**Instruments using decimal parts of pound**

**36.**—(1) Before 1st January 2000 a person shall not use an instrument having weight scale intervals expressed solely in decimal parts of a pound for the purposes of a sale by retail unless the buyer is presented with a statement in writing of the weight of the goods.

(2) On and after 1st January 2000 a person shall not use for trade an instrument having weight scale intervals expressed in decimal parts of a pound save by way only of a supplementary indication of the weight of the goods.

**Instruments to be set to zero or to be balanced before use**

**37.**—(1) Subject to paragraph (2) below, a person shall not use an instrument for trade unless it is properly balanced or set to zero immediately prior to use.

(2) Paragraph (1) above shall not apply in the case of an instrument of an approved type if, in the EC type-approval certificate, it is described as not being so constructed as to balance when unloaded.”.

3rd December 1998

*Kim Howells*  
Parliamentary Under Secretary of State for  
Competition and Consumer Affairs,  
Department of Trade and Industry

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## EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

These Regulations amend the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995 (S.I.1995/1907) as amended (“the principal Regulations”) to provide for a substituted Part III to the principal Regulations with modification.

The principal Regulations have two purposes. First, they implemented Council Directive [90/384/EEC](#) (as amended by Council Directive [93/68/EEC](#)) on the harmonisation of the laws of the member States relating to non-automatic weighing instruments (“instruments”). Secondly, the principal Regulations contained provisions in their Part III in relation to instruments which are used for trade.

These Regulations modify the principal Regulations to–

- (a) allow a Class III instrument to be used for trade for the purposes of weighing any material the disposal of which constitutes a landfill disposal and any household, industrial or commercial waste (regulation 2);
- (b) provide consequential amendments.

In other respects the substituted Part III of the principal Regulations re-makes the earlier provisions.

These Regulations have been notified to the European Commission in draft form pursuant to Council Directive [83/189/EEC](#), as amended, now codified by Directive [98/34/EC](#) of the European Parliament and of the Council.