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STATUTORY INSTRUMENTS

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**2004 No. 1300**

**FEES AND CHARGES**

**The Measuring Instruments (EEC Requirements) (Fees) Regulations 2004**

<i>Made</i>	- - - -	<i>10th May 2004</i>
<i>Laid before Parliament</i>		<i>11th May 2004</i>
<i>Coming into force</i>	- -	<i>1st June 2004</i>

The Secretary of State for Trade and Industry, with the consent of the Treasury, in exercise of the powers conferred on her by section 56(1) and (2) of the Finance Act 1973<sup>(1)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Measuring Instruments (EEC Requirements) (Fees) Regulations 2004 and shall come into force on 1st June 2004.

**Revocation and transitional provisions**

2.—(1) Subject to paragraph (2) below, the Measuring Instruments (EEC Requirements) (Fees) Regulations 1998<sup>(2)</sup> are hereby revoked.

(2) Where, for the purposes of the determination of an application for any of the services received by the Secretary of State on or before 31st May 2004, the whole or part of those services is conducted on or after the coming into force hereof, the fee to be charged in respect of the whole of that service shall be the fee provided for in the Measuring Instruments (EEC Requirements) (Fees) Regulations 1998.

**Interpretation**

3.—(1) In these Regulations —  
“the 1988 principal Regulations” means the Measuring Instruments (EEC Requirements) Regulations 1988<sup>(3)</sup>;

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(1) 1973 c 51.  
(2) S.I. 1998/1177, amended by S.I. 1999/861, 2000/689, 2000/3236, 2002/511 and 2003/551.  
(3) S.I. 1988/186, as amended by S.I. 1988/1128 and 1996/319.

“the 2000 principal Regulations” means the Non-automatic Weighing Instruments Regulations 2000(4);

“approved body”, “approved type”, “EC type-approval certificate”, “EC unit verification”, and “instrument” shall have the same meaning as in the 2000 principal Regulations;

“officer” means a person engaged in carrying out any of the services on behalf of the Secretary of State; and

“variable fee” means an amount calculated in accordance with Schedule 1 hereto.

(2) The services referred to in regulations 4 and 5 are those services mentioned or referred to in Schedule 2 hereto.

(3) In calculating a variable fee, each period of time taken by each officer involved in carrying out any service shall be counted separately, and the total for each officer aggregated, and shall be divided into complete periods of 15 minutes, with any remaining period of 7.5 minutes or more but less than 15 minutes being counted as a complete period of 15 minutes, and any remaining period of less than 7.5 minutes being disregarded.

#### **Fees relating to EEC initial verification of certain instruments and systems**

4.—(1) The fee payable in connection with the services provided by the Secretary of State relating to EEC initial verification pursuant to regulation 13(9) of, and Schedule 3 to, the 1988 principal Regulations, whether or not the instrument passes the EEC initial verification, shall be the sum of—

- (a) the variable fee;
- (b) the amount (if any) based on the time, which it is estimated by the Secretary of State, will be required for use of equipment for testing the relevant type—
  - (i) in an environmental testing chamber at the rate of £15.00 per hour; or
  - (ii) for electromagnetic compatibility in an electromagnetic chamber at the rate of £60.00 per hour; and
- (c) the anticipated amount of additional expense, if any, to be incurred by or occasioned to the Secretary of State by reason of employing the assistance of a third party for the consideration of any such initial verification.

(2) The fee payable in connection with the services provided by the Secretary of State relating to EEC initial verification pursuant to regulation 7 of the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977(5) shall be determined in accordance with paragraph (1) above, whether or not the instrument passes the EEC initial verification.

(3) The amount of the fee referred to in this regulation shall be due and payable in accordance with regulation 9.

#### **Fees relating to EEC pattern approval**

5.—(1) The fee payable in connection with the services provided by the Secretary of State relating to the grant and extension of EEC pattern approval and modifications or additions to EEC approved patterns pursuant to regulation 8 (1), (2) or (5) of, and Schedule 2 to, the 1988 principal Regulations, whether or not EEC pattern approval is granted or extended, as the case may be, shall be the sum of—

- (a) the variable fee;
- (b) the amount (if any) based on the time, which it is estimated by the Secretary of State, will be required for use of equipment for testing the relevant pattern—

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(4) S.I. 2000/3236.

(5) S.I. 1977/1753, amended by S.I. 1988/1128.

- (i) in an environmental testing chamber at the rate of £15.00 per hour; or
- (ii) for electromagnetic compatibility in an electromagnetic chamber at the rate of £60.00 per hour; and
- (c) the anticipated amount of additional expense, if any, to be incurred by or occasioned to the Secretary of State by reason of employing the assistance of a third party for the consideration of any such grant and extension of EEC pattern approval and modifications or additions to EEC approved patterns.

(2) In the case of alcoholometers and alcohol hydrometers and taximeters, in respect of which regulation 8 of, and Schedule 2 to, the 1988 principal Regulations are applied by regulation 5 of the Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977 and regulation 6 of the Taximeters (EEC Requirements) Regulations 1979<sup>(6)</sup> respectively, the fee shall be determined in accordance with paragraph (1) above, whether or not EEC pattern approval is granted or extended, as the case may be.

(3) The amount of any fee referred to in this regulation shall be due and payable in accordance with regulation 9.

#### **Fees relating to Designation and Inspection of Approved Bodies**

6.—(1) The fee payable in connection with the services provided by the Secretary of State relating to the designation of approved bodies pursuant to regulation 9(1) of the 2000 principal Regulations, whether the body is designated or not, shall be the sum of—

- (a) the variable fee; and
- (b) the anticipated amount of additional expense, if any, to be incurred by or occasioned to the Secretary of State by reason of employing the assistance of a third party for the consideration of any such application.

(2) Where regulation 9(4) or 9(5) of the 2000 principal Regulations applies (variation or amendment, on request, of an approval and inspection of approved bodies respectively) the fee shall be determined in accordance with paragraph (1) above.

(3) The amount of the fee referred to in this regulation shall be due and payable in accordance with regulation 9.

#### **Fees relating to the grant of an EC Type-Approval Certificate**

7.—(1) The fee payable in connection with the services provided by the Secretary of State in relation to the grant or extension of an EC type-approval certificate and the issue of an addition to an original EC type-approval certificate pursuant to regulation 10 of the 2000 principal Regulations, notwithstanding that the Secretary of State may not grant or extend the EC type-approval certificate or issue an addition to the original EC type-approval certificate in accordance with regulations 10(3), (4) and (9) respectively of the 2000 principal Regulations, shall be the sum of—

- (a) the variable fee;
- (b) the amount (if any) based on the time, which it is estimated by the Secretary of State, will be required for use of equipment for testing the relevant type—
  - (i) in an environmental testing chamber at the rate of £15.00 per hour; or
  - (ii) for electromagnetic compatibility in an electromagnetic chamber at the rate of £60.00 per hour; and

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(6) S.I. 1979/1379, amended by S.I. 1988/1128.

- (c) the anticipated amount of additional expense, if any, to be incurred by or occasioned to the Secretary of State by reason of employing the assistance of a third party in the relevant examination or testing.

(2) The amount of the fee referred to in this regulation shall be due and payable in accordance with regulation 9.

#### **Fees relating to EC Unit Verification**

8.—(1) The fee payable in connection with the services provided by the Secretary of State in relation to EC unit verification pursuant to regulation 12 of the 2000 principal Regulations, notwithstanding that the Secretary of State may refuse to affix her identification number in accordance with regulation 12(5) of the 2000 principal Regulations, shall be the sum of—

- (a) the variable fee;
- (b) the amount (if any) based on the time, which it is estimated by the Secretary of State, will be required for use of equipment for testing the relevant instrument—
  - (i) in an environmental testing chamber at the rate of £15.00 per hour; or
  - (ii) for electromagnetic compatibility in an electromagnetic chamber at the rate of £60.00 per hour; and
- (c) the anticipated amount of additional expense, if any, to be incurred by or occasioned to the Secretary of State by reason of employing the assistance of a third party in the consideration of the application for EC unit verification.

(2) The amount of the fee referred to in this regulation shall be due and payable in accordance with regulation 9.

#### **Timing of payment of fees**

9.—(1) On receipt of an application for a service to which these Regulations apply, the Secretary of State shall estimate the total amount to be payable in accordance with these Regulations in respect of that application and shall notify the applicant of the amount so estimated.

(2) On completion of the relevant service, the Secretary of State shall serve an invoice on the applicant for the actual amount owed to the Secretary of State, which shall thereupon be due and payable to the Secretary of State.

#### **Consolidated Fund**

10. All fees received under these Regulations shall be paid into the Consolidated Fund.

*Sainsbury of Turville*  
Parliamentary Under Secretary of State for  
Science and Technology,  
Department of Trade and Industry

6th May 2004

We consent

10th May 2004

*Nick Ainger*  
*Derek Twigg*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## SCHEDULE 1

Regulation 3(1)

## CALCULATION OF VARIABLE FEE

The amount to be included in the variable fee for the purposes of these Regulations shall be the sum of the following —

- (a) an amount per officer for the time spent in providing the service, calculated in accordance with the following table—

<i>Grade of Officer</i>	<i>Amount per hour</i>
	£
Junior Engineer/Junior Metrologist	45.00
Engineer/Metrologist	70.00
Senior Engineer/Senior Metrologist	90.00
Assistant Director/Director	120.00

- (b) any travelling costs reasonably incurred by reason of any part of the service taking place at a place other than the National Weights and Measures Laboratory of the Department of Trade and Industry;
- (c) any other additional expense, other than as specified elsewhere in these Regulations, incurred by or occasioned to the Secretary of State directly related to the provision of the relevant service.

## SCHEDULE 2

Regulation 3(2)

<i>Council Directive No</i>	<i>Subject Matter</i>	<i>Pattern Approval</i>	<i>Initial Verification</i>
71/319/EEC(7)	Meters for liquids other than water	Yes	Meters for Pressurised liquefied gas only
71/347/EEC(8)as amended(9)	The measuring of the standard mass per storage volume of grain	Yes	Yes
71/348/EEC(10) as amended(11)	Ancillary equipment for meters for liquids other than water	Yes	No
73/360/EEC(12) as amended(13)	Non-automatic weighing machines	No	Machines of class of special or high accuracy only

(7) OJNo. L202, 6.9.71, p.32 (OJ/SE 1971 (III) p.740).

(8) OJ No. L239, 25.10.71, p1.

(9) Cmnd. 5179-I p.181.

(10) OJ No. L239, 25.10.71, p.9 (OJ/SE 1971 (III) p.860).

(11) Cmnd. 5179-I p.182.

(12) OJ No.L335, 5.12.73, p.I.

(13) OJ No. L236.

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<i>Council Directive No</i>	<i>Subject Matter</i>	<i>Pattern Approval</i>	<i>Initial Verification</i>
73/362/EEC(14) as amended(15)	Material measures of length	Yes	Measures in Class I Only
74/148/EEC(16)	Above-medium accuracy weights	No	Yes
75/33/EEC(17)	Cold-water meters	Yes	No
75/410/EEC(18)	Continuous totalising weighing machines	Yes	No
76/765/EEC (19)	Alcoholometers and alcohol hydrometers	Yes	Yes
77/95/EEC(20)	Taximeters	Yes	Yes
77/313/EEC(21)as amended(22)	Measuring systems for liquids other than water	Yes, for those systems specified in section 3.3.3 of the Annex to the Directive	Pressurised liquefied gas measuring systems only
78/1031/EEC (23)	Automatic checkweighing and weight grading machines	Yes	No
79/830/EEC(24)	Hot-water meters	Yes	No
86/217/EEC(25)	Tyre pressure gauges for motor vehicles	Yes	No

## EXPLANATORY NOTE

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

These Regulations prescribe the fees to be charged in relation to certain services provided by the Secretary of State with regard to measuring instruments. They replace the Measuring Instruments (EEC Requirements) (Fees) Regulations 1998 (S.I.1998/1177), as amended, (the former

(14) OJ No. L335, 5.12.73, p.56.

(15) OJ No. L206, 29.7.78, p.8.

(16) OJ No. L84, 28.3.74, p.3.

(17) OJ No. L14, 20.1.75, p.2.

(18) OJ No. L183, 14.7.75, p.25.

(19) OJ No. L262, 29.7.76, p.143.

(20) OJ No. L26, 31.1.77, p.59.

(21) OJ No. L105, 28.4.97, p.18.

(22) OJ No. L252, 27.8.82, p.10.

(23) OJ No. L364, 27.12.78, p.1.

(24) OJ No. L259, 15.10.79, p.1.

(25) OJ No. L152, 6.6.86, p.48.

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Regulations) which are revoked subject to transition arrangements relating to any application for such services received by the Secretary of State before the coming into force date of these Regulations.

The fixed fees and hourly rates specified in the former Regulations are replaced in the case of all services by a fee comprising the sum of:

- (a) a variable fee (as defined in regulation 3(1) and calculated in accordance with Schedule 1) comprising an amount per officer for the time spent by that officer in providing the relevant service (depending upon the appropriate amount per hour for the grade of officer involved as set out in Schedule 1), travelling costs reasonably incurred and any other additional expense not falling within (b) or (c) below directly related to the provision of the relevant service;
- (b) except in the case of regulation 6 (designation and inspection of approved bodies), an amount in respect of any use of specified equipment; and
- (c) an amount in respect of any use of third parties by the Secretary of State in connection with the provision of the relevant service.

Instead of the arrangements for invoices and payments monthly in arrears (or, in the case of fixed fees, on completion of the service) in the former Regulations, these Regulations provide that an estimate of the fee shall be provided by the Secretary of State on receipt of an application for services, with an invoice being served and payment being due on completion of the relevant service (regulation 9).

Compared with the fixed hourly rate of £80 per hour (£75 per hour where regulation 9(5) of the Non-automatic Weighing Instruments Regulations 2000 (the 2000 principal Regulations) applies – inspection of approved bodies) in the former Regulations, an hourly rate respectively of £45, £70, £90, and £120, as prescribed in Schedule 1 of these Regulations, will result in the possibility of a saving of £35 or £10 (£30 or £5) respectively per hour or an increase of £10 or £40 (£15 or £45) per hour depending on the grade of officer who provides the relevant service. Whilst these revisions take into account inflation which has occurred since the former Regulations were last amended in 2003, the changes also reflect more accurately the grade of the officer providing the relevant service. It is anticipated that the services will mainly be provided by officers of the lower grades and the higher grade officers will only be involved in providing services where more complex issues are involved. The charging of amounts described in paragraph 2(b) and (c) above will be dependent upon the circumstances of each case. The hourly rate for use of an environmental test chamber (£15) or for testing for electromagnetic compatibility (£60) are the same as under the former Regulations.

Under the former Regulations, a fixed fee of £52, £130 or £260 was payable in certain circumstances, but it is not possible to draw a direct comparison between the circumstances in which a fixed fee was payable under the former Regulations with the revised charging arrangements in these Regulations.

Revised definitions are provided in regulation 3 and regulation 3(2) provides that the services referred to in regulations 4 and 5 of these Regulations are those services mentioned or referred to in Schedule 2 to these Regulations. The services referred to in regulations 6 to 8 of these Regulations are services provided in relation to Directive 90/384/EEC (to which reference is made in the relevant provisions of the 2000 principal Regulations referred to in regulations 6 to 8 of these Regulations).

A regulatory Impact Assessment has not been prepared for the purposes of these Regulations. Further, since the prescription of fees to be charged in these circumstances are ancillary arrangements to the implementation of the relevant Directives, a transposition note is not required.

The variable fee arrangements in these Regulations will enable applicants to be provided with more accurate estimates, whilst ensuring recovery by the Secretary of State of the actual cost of services provided. The revised arrangements for estimates, invoices and payments will provide the flexibility required by both parties.



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