
STATUTORY INSTRUMENTS

2007 No. 872

HALLMARK

The Hallmarking Act 1973 (Amendment) Regulations 2007

<i>Made</i>	- - - -	<i>15th March 2007</i>
<i>Laid before Parliament</i>		<i>16th March 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Secretary of State, in exercise of his powers under section 4(7) of the Hallmarking Act 1973(1) and section 2(2) of the European Communities Act 1972(2), makes the following Regulations.

In accordance with section 4(7) of the Hallmarking Act 1973, the Secretary of State has consulted the British Hallmarking Council and such other persons as he thinks fit.

The Secretary of State is a Minister designated(3) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to articles made of, comprising or resembling precious metals.

Citation and commencement

1. These Regulations may be cited as the Hallmarking Act 1973 (Amendment) Regulations 2007 and shall come into force on 6th April 2007.

Amendment of the Hallmarking Act 1973

2.—(1) The Hallmarking Act 1973 is amended as follows.

(2) In section 2, there is substituted for subsection (2A)—

“(2A) In this section “EEA State” has the meaning given to it in Schedule 1 to the Interpretation Act 1978(4)

(3) In section 4, after subsection (3) there is inserted—

“(3A) An article comprised of more than one precious metal part shall be struck with the approved hallmarks only if the assay office are of the opinion that a person will be able to determine, when the article is hallmarked, which part is made of which precious metal.”.

(1) 1973 c.43; relevant amendments were made to section 2 by S.I. 1998/2978, section 4 by S.I. 1986/1757 and 1998/2978, paragraphs 12 and 14A of Part 2 of Schedule 1 by S.I. 1982/256 and 1986/1758 and Parts 2 and 3 of Schedule 2 by S.I. 1986/1757.

(2) 1972 c.68.

(3) S.I. 1995/2983.

(4) 1978 c.30; relevant amendment was made by the Legislative and Regulatory Reform Act 2006 c.51, section 26.

- (4) In paragraph 12 of Part 2 of Schedule 1 after sub-paragraph (2) there is inserted—
 - “(3) In relation to an article manufactured before 1st January 2008 the reference to Part 3 of Schedule 2 to this Act is to that Part as it had effect immediately before 6th April 2007 (the date of the coming into force of the Hallmarking Act 1973 (Amendment) Regulations 2007).”.
- (5) In paragraph 14A of Part 2 of Schedule 1 after sub-paragraph (2) there is inserted—
 - “(3) In relation to an article manufactured before 1st January 2008 the reference to Part 3 of Schedule 2 to this Act is to that Part as it had effect immediately before 6th April 2007 (the date of the coming into force of the Hallmarking Act 1973 (Amendment) Regulations 2007).”.
- (6) For Parts 2 and 3 of Schedule 2 there are substituted the new Parts contained in the Schedule.
- (7) In Part 4 of Schedule 2 paragraph 7 is renumbered paragraph 20.

Jim Fitzpatrick
Parliamentary Under-Secretary of State for
Employment Relations and Postal Services
Department of Trade and Industry

15th March 2007

SCHEDULE

Regulation 2(6)

Parts 2 and 3 of Schedule 2 are substituted as follows.

“PART 2

ARTICLES COMPRISED OF TWO OR MORE PRECIOUS METALS

6. An article comprised of two or more precious metals shall not be hallmarked unless, upon assay, each precious metal is of a standard of fineness not less than the minimum fineness for that precious metal.

7. The article shall be struck with—

- (a) the assay office mark, and
- (b) the appropriate standard mark for each precious metal.

8.—(1) The person who submits the article to an assay office may request the assay office to strike the marks mentioned in paragraph 7 on a particular precious metal part.

(2) The assay office must comply with such a request unless they think that, in consequence of doing so, it would not be clear which part of the article is made of which precious metal.

9.—(1) This paragraph applies if—

- (a) an assay office have refused to hallmark an article in accordance with a request under paragraph 8(1), and
- (b) the person making the request refers the matter in writing to the Council.

(2) The Council may direct the assay office to comply with the request.

(3) The assay office must comply with the direction.

10.—(1) This paragraph applies to the striking of hallmarks other than in accordance with a request under paragraph 8.

(2) Each standard mark must be struck on the precious metal part to which it relates.

(3) The assay office mark must be struck together with the standard mark for the least precious metal.

(4) If it is not practical to strike the marks in accordance with sub-paragraphs (2) and (3) they must be struck as follows—

- (a) they must be struck together on the least precious metal part,
- (b) if sub-paragraph (a) is not practical, they must be struck together on another precious metal part, or
- (c) if neither sub-paragraph (a) nor (b) is practical, the assay office mark and the standard mark for the least precious metal must be struck on the least precious metal part and all other hallmarks must be omitted.

11.—(1) If the person who submits the article to the assay office so requests, the assay office must, if it is practical to do so—

- (a) strike the marks set out in section 4(1)(a)(iii) for the least precious metal part, and
- (b) strike the marks set out in section 4(1)(a)(iv) and (v).

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(2) The absence of an approved hallmark as mentioned in sub-paragraph (1) does not render the article unhallmarked for the purposes of this Act.

12. Any small working parts contained within an article which for technical reasons are of a lower standard of fineness or of a less precious metal than the remainder of the article shall, if it is practicable to strike a mark on those parts, be struck with the standard mark only but shall otherwise be ignored for the purpose of determining which hallmarks are to be struck on the remainder of the article.

13. Where any article of gold, silver or platinum is coated in whole or in part with rhodium the rhodium shall be ignored for the purpose of determining which hallmarks are to be struck.

14. Where any article of silver or platinum is coated in whole or in part with gold the gold coating shall be ignored for the purpose of determining which hallmarks are to be struck.

15. For the purposes of this Part and Part 3—

- (a) platinum is more precious than silver or gold and gold is more precious than silver and “least precious” and “less precious” shall be construed accordingly,
- (b) “assay office mark” means the mark determined in accordance with section 4(1)(a)(i), and
- (c) “standard mark” means the mark determined in accordance with section 4(1)(a)(ii) as if the precious metal part comprised a single article.

PART 3

ARTICLES COMPRISED OF PRECIOUS METAL PARTS AND OTHER MATERIALS

16.—(1) A mixed material article shall not be hallmarked unless, upon assay, each precious metal is of a standard of fineness not less than the minimum fineness for that precious metal and sub-paragraph (2) or (3) applies.

(2) If the article includes base metal the base metal part must be clearly distinguishable in appearance (either by the colour of that part or by having struck on it the name of that metal, or the word “metal”, in a manner which complies with any regulations made by the Council) from any precious metal.

(3) If the article does not include base metal the condition in sub-paragraph (4) or (5) must apply.

(4) The condition in this sub-paragraph is that—

- (a) the other materials must be clearly distinguishable from any precious metal part,
- (b) they must not be plated so as to resemble any precious metal or be of a colour which resembles any precious metal,
- (c) their extent must be clearly visible, and
- (d) the precious metal part must be of a thickness of not less than 100 micrometres.

(5) The condition in this sub-paragraph is that in respect of any article in which the other materials are wholly or mainly enclosed by precious metal—

- (a) the article has been so manufactured as to be capable of being hallmarked before it is filled, and
- (b) there has been struck on the article the word “filled” in a manner which complies with any regulations made by the Council.

(6) Paragraph (b) of sub-paragraph (5) does not apply in the case of the handle to a knife, fork or spoon if the quantity of filling in the handle is not more than is necessary for joining.

17. A mixed material article with only a single precious metal part shall be hallmarked on the precious metal part as if it were a separate article.

18. A mixed material article comprised of two or more precious metal parts shall be hallmarked on a precious metal part in accordance with Part 2.

19. For the purposes of this Part—

- (a) “base metal” means any metal other than gold, silver or platinum, and
- (b) “mixed material article” means an article comprised of one or more precious metal parts and one or more other materials.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Hallmarking Act 1973 (the “1973 Act”).

Regulation 2(2), exercising the power set out in section 2(2) of the European Communities Act 1972, amends the definition of EEA state. The original definition was inserted as part of the amendments to make the provisions of the 1973 Act consistent with Article 30 of the EC Treaty as explained, in relation to the importation by one Member State of articles made of or comprising precious metals from another Member State, by the European Court of Justice in the case of *Houtwipper* (Case C-293/93) [1994] ECR I – 4249).

Regulation 2(3) amends section 4 of the 1973 Act by imposing a duty on assay offices in relation to an article containing more than one precious metal. An assay office must only hallmark such an article if it is clear which part is made of which precious metal.

Regulation 2(6) substitutes for Parts 2 and 3 of Schedule 2 of the 1973 Act the new parts set out in the Schedule to the Regulations. Part 2 deals with articles of more than one precious metal. The requirement for a particular precious metal to exceed 50% of the weight of the article (previously set out in paragraph 4 of Part 2) has been removed. Articles containing more than one precious metal are eligible for hallmarking if each precious metal is of the minimum fineness. Part 2 sets out the procedure for determining which marks are to be struck and where they are to be struck.

Part 3 sets out the requirements for hallmarking an article of one or more precious metals and one or more other materials. The requirements relating to articles containing base metals have been modified so that an article is eligible for hallmarking if the base metal part is clearly distinguishable from any precious metal part. This requirement can be met either because of the colour of the base metal or by having its name, or the word “metal”, struck on it in a manner that complies with any regulations made by the British Hallmarking Council. Part 3 has also been modified so that it is no longer possible to hallmark an article containing gold, silver or platinum of less than the minimum fineness (prior to these Regulations gold, silver or platinum of less than the minimum fineness was defined as a base metal).

The weight based exemptions in paragraphs 12 and 14A of Part 2 of Schedule 1 apply to articles containing other materials, providing the article complies with the conditions of Part 3 of Schedule 2 to the 1973 Act. Regulations 2(4) and 2(5) provide that, for articles manufactured before 1st January

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2008, the conditions of Part 3 of Schedule 2 that apply are the conditions prior to amendment by these Regulations.

These Regulations were notified in draft to the European Commission in accordance with Directive [98/34/EC](#) as amended by Directive [98/48/EC](#).

A full regulatory impact assessment of the effect that these Regulations will have on the costs to business is available from the Consumer and Competition Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website. Copies have also been placed in the libraries of both Houses of Parliament.