
STATUTORY INSTRUMENTS

2016 No. 1152

The Non-automatic Weighing Instruments Regulations 2016

PART 8

MARKET SURVEILLANCE AND ENFORCEMENT

CHAPTER 1

MARKET SURVEILLANCE

Regulated non-automatic weighing instruments presenting a risk E+W+S

58.—(1) This regulation applies where the market surveillance authority has sufficient reason to believe that a regulated non-automatic weighing instrument presents a risk in relation to any of the purposes set out in regulation 3(2).

(2) Where this regulation applies the market surveillance authority must carry out an evaluation of the regulated non-automatic weighing instrument covering all relevant requirements of these Regulations which apply to that instrument.

(3) The relevant economic operators in relation to the non-automatic weighing instrument must co-operate as necessary with the market surveillance authority for that purpose.

(4) Where, in the course of the evaluation referred to in paragraph (2), the market surveillance authority finds that that the regulated non-automatic weighing instrument does not comply with the essential requirements applicable to it, it must without delay issue a direction which requires the relevant economic operator to—

- (a) take all appropriate corrective actions;
- (b) withdraw the regulated non-automatic weighing instrument from the market; or
- (c) recall it within a reasonable period commensurate with the nature of the risk.

(5) Where the market surveillance authority acts under paragraph (4) it must without delay inform the [^{F1}approved] body that carried out the conformity assessment procedure in respect of the regulated non-automatic weighing instrument of—

- (a) the respect in which the regulated non-automatic weighing instrument is not in conformity with the requirements of these Regulations; and
- (b) the actions that the authority is requiring the relevant economic operator to take.

^{F2}(6)

(7) The economic operator must ensure that all appropriate corrective action is taken in respect of all the regulated non-automatic weighing instruments concerned that it has made available [^{F3}in the United Kingdom].

(8) Where the relevant economic operator does not take adequate corrective action within a reasonable period, the market surveillance authority must take all provisional measures to prohibit or restrict the regulated non-automatic weighing instrument being made available on the market, to withdraw the instrument from that market or to recall it.

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W+S - England, Wales and Scotland extent N.I. - Northern Ireland extent
Changes to legislation: There are currently no known outstanding effects for the The Non-automatic Weighing Instruments Regulations 2016, Section 58. (See end of Document for details)

(9) Where the market surveillance authority takes measures under paragraph (8), the market surveillance authority must notify the [^{F4}Secretary of State] of those measures without delay.

(10) A notification under paragraph (9) must include all available details, in particular—

- (a) the data necessary for the identification of the non-compliant regulated measuring instrument;
- (b) the origin of the instrument;
- (c) the nature of the non-compliance alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the non-compliance is due to either of the following—
 - (i) failure of the regulated measuring instrument to meet the requirements relating to a risk; or
 - (ii) shortcomings in the [^{F5}designated] standards referred to in regulation 34(a).

Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F1** Word in reg. 58(5) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 33(a)** (with Sch. 26 para. 5) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 58(6) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 33(b)** (with Sch. 26 para. 5) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 58(7) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 33(c)** (with Sch. 26 para. 5) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 58(9) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 33(d)** (with Sch. 26 para. 5) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in reg. 58(10)(f)(ii) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 33(e)** (with Sch. 26 para. 5) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Regulated non-automatic weighing instruments presenting a risk **N.I.**

58.—(1) This regulation applies where the market surveillance authority has sufficient reason to believe that a regulated non-automatic weighing instrument presents a risk in relation to any of the purposes set out in regulation 3(2).

(2) Where this regulation applies the market surveillance authority must carry out an evaluation of the regulated non-automatic weighing instrument covering all relevant requirements of these Regulations which apply to that instrument.

(3) The relevant economic operators in relation to the non-automatic weighing instrument must co-operate as necessary with the market surveillance authority for that purpose.

(4) Where, in the course of the evaluation referred to in paragraph (2), the market surveillance authority finds that that the regulated non-automatic weighing instrument does not comply with the

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essential requirements applicable to it, it must without delay issue a direction which requires the relevant economic operator to—

- (a) take all appropriate corrective actions;
- (b) withdraw the regulated non-automatic weighing instrument from the market [^{F6}in Northern Ireland]; or
- (c) recall it within a reasonable period commensurate with the nature of the risk.

(5) Where the market surveillance authority acts under paragraph (4) it must without delay inform the notified body that carried out the conformity assessment procedure in respect of the regulated non-automatic weighing instrument of—

- (a) the respect in which the regulated non-automatic weighing instrument is not in conformity with the requirements of these Regulations; and
- (b) the actions that the authority is requiring the relevant economic operator to take.

(6) [^{F7}Subject to paragraph (6A),] where the market surveillance authority considers that non-compliance is not restricted to [^{F8}Northern Ireland], it must inform the Commission and the other [^{F9}relevant] states of the results of the evaluation and of the actions which they have required the economic operator to take.

[^{F10}(6A) Paragraph (6) does not require the Secretary of State to inform the Commission or the other relevant states where the non-compliance extends only to any of England or Wales or Scotland.]

(7) The economic operator must ensure that all appropriate corrective action is taken in respect of all the regulated non-automatic weighing instruments concerned that it has made available on the market throughout [^{F11}Northern Ireland].

(8) Where the relevant economic operator does not take adequate corrective action within a reasonable period, the market surveillance authority must take all provisional measures to prohibit or restrict the regulated non-automatic weighing instrument being made available on the market [^{F12}in Northern Ireland], to withdraw the instrument from that market or to recall it.

(9) Where the market surveillance authority takes measures under paragraph (8), the market surveillance authority must notify the Commission and the other [^{F13}relevant] states of those measures without delay.

(10) A notification under paragraph (9) must include all available details, in particular—

- (a) the data necessary for the identification of the non-compliant regulated measuring instrument;
- (b) the origin of the instrument;
- (c) the nature of the non-compliance alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the non-compliance is due to either of the following—
 - (i) failure of the regulated measuring instrument to meet the requirements relating to a risk; or
 - (ii) shortcomings in the harmonised standards referred to in regulation 34(a).

Extent Information

E2 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

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Changes to legislation: There are currently no known outstanding effects for the The Non-automatic Weighing Instruments Regulations 2016, Section 58. (See end of Document for details)

Textual Amendments

- F6** Words in reg. 58(4)(b) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(a)**
- F7** Words in reg. 58(6) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(b)(i)**
- F8** Words in reg. 58(6) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(b)(ii)**
- F9** Word in reg. 58(6) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(b)(iii)**
- F10** Reg. 58(6A) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(c)**
- F11** Words in reg. 58(7) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(d)**
- F12** Words in reg. 58(8) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(e)**
- F13** Word in reg. 58(9) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 13 para. 6(1)(f)**

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Changes to legislation:

There are currently no known outstanding effects for the The Non-automatic Weighing Instruments Regulations 2016, Section 58.