



# Weights and Measures Act 1985

## 1985 CHAPTER 72

### PART II

#### WEIGHING AND MEASURING FOR TRADE

##### *Weighing or measuring equipment for use for trade*

#### **11 Certain equipment to be passed and stamped by inspector.**

- (1) The provisions of this section shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed.
- (2) No person shall use any article for trade as equipment to which this section applies, or have any article in his possession for such use, unless that article, or equipment to which this section applies in which that article is incorporated or to the operation of which the use of that article is incidental,—
  - (a) has been passed by an inspector [<sup>F1</sup>or approved verifier] as fit for such use, and
  - (b) except as otherwise expressly provided by or under this Act, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear.
- (3) If any person contravenes subsection (2) above, he shall be guilty of an offence and any article in respect of which the offence was committed shall be liable to be forfeited.
- (4) Any person requiring any equipment to which this section applies to be passed [<sup>F1</sup>by an inspector] as fit for use for trade shall submit the equipment, in such manner as the local weights and measures authority may direct, to [<sup>F2</sup>the inspector] who (subject to the provisions of this Act and of any regulations under section 15 below) shall—
  - (a) test the equipment by means of such local or working standards and testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose,
  - (b) if the equipment submitted falls within the prescribed limits of error and by virtue of subsection (10) below is not required to be stamped as mentioned in

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- paragraph (c) of this subsection, give to the person submitting it a statement in writing to the effect that it is passed as fit for use for trade, and
- (c) except as otherwise expressly provided by or under this Act, cause it to be stamped with the prescribed stamp.
- [<sup>F3</sup>(4A) An approved verifier may (subject to the provisions of this Act, to any regulations under section 15 below and to any conditions included in his approval)–
- (a) test any equipment to which this section applies by means of other equipment which has already been tested and which the verifier considers suitable for the purpose,
- (b) if the equipment being tested falls within the prescribed limits of error and by virtue of subsection (10) below is not required to be stamped as mentioned in paragraph (c) below, make a statement in writing to the effect that it is passed fit for use for trade, and
- (c) except as otherwise expressly provided for by or under this Act, stamp it with the prescribed stamp.]
- (5) There shall be charged in respect of any test carried out under subsection (4) above such reasonable fees as the local weights and measures authority may determine.
- (6) An inspector shall keep a record of every test carried out by him under subsection (4) above.
- [<sup>F4</sup>(6A) In this Act approved verifier, in relation to weighing or measuring equipment of any class or description, means a person who is for the time being approved under section 11A below in relation to the testing, passing and stamping of weighing or measuring equipment of that class or description.]
- (7) Except as otherwise expressly provided by or under this Act, no weight or measure shall be stamped as mentioned in subsection (4)(c) [<sup>F5</sup>or (4A)(c)] above unless it has been marked in the prescribed manner with its purported value.
- (8) Subject to subsection (9) below, where any equipment submitted to an inspector under subsection (4) above is of a pattern in respect of which a certificate of approval granted under section 12 below is for the time being in force, the inspector shall not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade.
- (9) If the inspector is of opinion that the equipment is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Secretary of State, whose decision shall be final.
- (10) The requirements of subsections (2), [<sup>F6</sup>(4), (4A) and (7)] above with respect to stamping and marking shall not apply to any weight or measure which is too small to be stamped or marked in accordance with those requirements.
- (11) Where a person submits equipment to an inspector under this section, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and shall not be obliged to proceed with the test until the person provides it; but a failure to provide the assistance shall not constitute an offence under section 81 below.
- (12) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this section and is requested by the person by whom the equipment was

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submitted to give reasons for the refusal, the inspector shall give to that person a statement of those reasons in writing.

(13) In the case of any equipment which is required by regulations made under section 15 below to be passed and stamped under this section only after it has been installed at the place where it is to be used for trade, if after the equipment has been so passed and stamped it is dismantled and reinstalled, whether in the same or some other place, it shall not be used for trade after being so reinstalled until it has again been passed under this section.

(14) If any person—

- (a) knowingly uses any equipment in contravention of sub-section (13) above, or
- (b) knowingly causes or permits any other person so to use it, or
- (c) knowingly that the equipment is required by virtue of subsection (13) above to be again passed under this section, disposes of it to some other person without informing him of that requirement,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

(15) Subject to subsection (13) above, a stamp applied to any equipment under this section shall have the like validity throughout Great Britain as it has in the place in which it was originally applied, and accordingly that equipment shall not be required to be re-stamped because it is used in any other place.

(16) If at any time the Secretary of State is satisfied that, having regard to the law for the time being in force in Northern Ireland, any of the Channel Islands or the Isle of Man, it is proper so to do, he may by order provide for any equipment to which this section applies duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with it, to be treated for the purposes of this Act as if it had been duly stamped in Great Britain under this section.

#### Textual Amendments

- F1 Words in s. 11(2)(a)(4) inserted (29.3.1999) by S.I. 1999/503, art. 2(1)(2)
- F2 Words in s. 11(4) substituted (29.3.1999) by S.I. 1999/503, art. 2(2)
- F3 S. 11(4A) inserted (29.3.1999) by S.I. 1999/503, art. 2(3)
- F4 S. 11(6A) inserted (29.3.1999) by S.I. 1999/503, art. 2(4)
- F5 Words in s. 11(7) inserted (29.3.1999) by S.I. 1999/503, art. 2(5)
- F6 Words in s. 11(10) substituted (29.3.1999) by S.I. 1999/503, art. 2(6)

#### Modifications etc. (not altering text)

- C1 S. 11 modified (1.1.1993) by S.I. 1992/1591, art. 2.  
S. 11 modified (1.1.1993) by S.I. 1992/1592, art. 2.  
S. 11 modified (1.1.1993) by S.I. 1992/1593, art. 2.
- C2 S. 11(2) excluded by S.I. 1988/186, arts. 3, 6(2), 23(1), 24(1)

### [<sup>F7</sup>11A Approval of persons to verify equipment manufactured etc by them.

(1) Subsection (2) below applies where, as regards a person who carries on business (whether in Great Britain or elsewhere) as a manufacturer, installer or repairer of equipment to which section 11 above applies, the Secretary of State—

- (a) is satisfied that the person would, if approved under this section, satisfy the requirements set out in Part II of Schedule 3A to this Act, and

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- (b) considers the person a fit and proper person to be so approved.
- (2) The Secretary of State may approve the person for the purpose of–
  - (a) testing any equipment to which section 11 above applies and which is manufactured, installed<sup>F8</sup>, adjusted] or repaired by him,
  - (b) passing any such equipment as fit for use for trade, and
  - (c) stamping any such equipment with the prescribed stamp.
- (3) Before granting an approval under this section, the Secretary of State may carry out such audits and inspections of the person’s systems and procedures as he considers necessary to establish that the conditions of the approval would be observed.
- (4) Schedule 3A to this Act (which relates to approvals under this section and matters connected with such approvals) shall have effect.
- (5) In that Schedule “approval” means an approval under this section and “the verifier”, in relation to such an approval, shall be construed accordingly.]

#### Textual Amendments

**F7** S. 11A inserted (29.3.1999) by [S.I. 1999/503](#), [art. 2\(7\)](#)

**F8** Word in s. 11A(2)(a) inserted (19.12.2008) by [The Legislative Reform \(Verification of Weighing and Measuring Equipment\) Order 2008 \(S.I. 2008/3262\)](#), [arts. 1, 2\(2\)](#)

#### <sup>F9</sup>11B Testing by official EEA testers.

- (1) This section applies where–
  - (a) any equipment which has been tested by an official EEA tester is at any time submitted to an inspector under section 11(4) above,
  - (b) the test report of the official EEA tester is submitted to the inspector at that time, and
  - (c) that report states which tests have been applied to the equipment and sets out the results of those tests.
- (2) Section 11 above shall have effect as if–
  - (a) paragraph (a) of subsection (4) required the inspector not to test the equipment in the manner mentioned in that paragraph,
  - (b) paragraphs (b) and (c) of that subsection required him to rely, for the purposes of those paragraphs, on the test report of the official EEA tester, and
  - (c) the reference in subsection (5) to any test carried out under subsection (4) were a reference to anything done under subsection (4).
- (3) In this section ‘official EEA tester’, in relation to the testing of equipment of any description, means a person who, at the time when the tests were applied–
  - (a) had responsibility in an EEA State for the metrological control of equipment of that description, or
  - (b) was accredited in an EEA State as a person operating a laboratory, in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description.

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- (4) In subsection (3) above 'EEA State' means a Contracting Party to 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.]

**Textual Amendments**

**F9** S. 11B inserted (29.3.1999) by S.I. 1999/503, art. 3

## 12 Approved patterns of equipment.

- (1) Where any pattern of weighing or measuring equipment is submitted by any person to the Secretary of State for the purpose in such manner as may be prescribed, the Secretary of State shall examine in such manner as he thinks fit the suitability for use for trade of equipment of that pattern, having regard in particular to the principle, materials and methods used or proposed to be used in its construction, and—
- (a) may require the person to provide such assistance as the Secretary of State thinks fit in connection with the examination (and shall not be obliged to proceed with the examination until the person provides it), and
  - (b) may require the person to pay in respect of the examination a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury.
- (2) Subsection (1) above applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this subsection "approved pattern" means a pattern in respect of which a certificate of approval under this section is in force.
- (3) If the Secretary of State is satisfied that any equipment in respect of which a pattern is submitted to him under sub-section (1) above is suitable for use for trade, then, subject to subsection (4) and section 14(2) below, he shall issue a certificate of approval of that pattern (in this section referred to as "a certificate of approval") and shall cause particulars of the pattern to be published.
- (4) Where the Secretary of State is satisfied as mentioned in subsection (3) above, he may require the person submitting the pattern of equipment to deposit with the Secretary of State parts of equipment of that pattern or a model or drawings of such equipment or parts of it and may withhold a certificate of approval of that pattern or, as the case may be, a declaration in pursuance of section 14(2) below in respect of the pattern, until the person complies with the requirement.
- (5) A certificate of approval may be granted subject to such conditions as the Secretary of State thinks fit.
- (6) Without prejudice to the generality of subsection (5) above, a certificate of approval may be granted subject to a condition under which it ceases to be in force at the end of a specified period of less than ten years.
- (7) Subject to any condition imposed under subsection (6) above, a certificate of approval, unless previously revoked, shall cease to be in force at the end of the period of ten years beginning with the date when it was granted.
- (8) A certificate of approval may be renewed by the Secretary of State on an application made in such manner and during such period as may be prescribed and on payment,

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except in such cases as the Secretary of State may determine, of a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury; and sub-sections (5) to (7) above apply in relation to the renewal of a certificate of approval as they apply in relation to the grant of such a certificate.

- (9) Where application has been made to the Secretary of State in accordance with subsection (8) above for the renewal of a certificate of approval, the certificate shall remain in force until the Secretary of State gives to the applicant, in such manner as may be prescribed, notice of the Secretary of State's decision with respect to the application.
- (10) The Secretary of State, after consultation with such persons appearing to him to be interested as he thinks fit, may at any time revoke any certificate of approval (including a certificate remaining in force by virtue of subsection (9) above) and shall cause notice of any such revocation to be published.
- (11) Where a certificate of approval—
- (a) expires (whether at the end of a period or by virtue of a notice under subsection (9) above), or
  - (b) is revoked in a case where the notice or revocation published under subsection (10) above states that this subsection and section 13(2) below are to apply with respect to the revocation,
- the certificate shall remain in force in relation to any equipment of the pattern in question which was used for trade at a time when the certificate was in force otherwise than by virtue of this subsection; and the power of revocation under subsection (10) above includes power to revoke a certificate remaining in force by virtue of this subsection.
- (12) Any equipment of a pattern in respect of which a certificate of approval has been granted may, and in such cases as may be prescribed shall, be marked in the prescribed manner so as to identify it with the pattern in question.

### **13 Offences in connection with approved patterns of equipment.**

- (1) Where one or more conditions are imposed by the Secretary of State on the grant or renewal of a certificate of approval, then if any person—
- (a) knowing that a condition, other than such a condition as is mentioned in section 12(6) above, has been imposed with respect to any equipment, uses, or causes or permits any other person to use, that equipment in contravention of that condition, or
  - (b) knowing that any condition has been imposed with respect to any equipment, disposes of that equipment to any other person in a state in which it could be used for trade without informing that other person of that condition,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (2) Where a certificate of approval in respect of any pattern of equipment—
- (a) expires (whether at the end of a period or by virtue of a notice under section 12(9) above), or
  - (b) is revoked in a case falling within section 12(11)(b) above,
- then if any person, knowing that the certificate has expired or has been so revoked, supplies to another person any equipment of the pattern in question which is marked with a stamp and which was not used for trade at a time when the certificate was in

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force otherwise than by virtue of section 12(11) above, he shall be guilty of an offence and the equipment supplied shall be liable to be forfeited.

- (3) Where a certificate of approval in respect of any pattern of equipment is revoked in a case not falling within section 12(11)(b) above, then if any person, knowing that the certificate has been so revoked (and except as may be permitted by any fresh certificate granted in respect of that pattern)—
- (a) uses for trade, or has in his possession for such use, any equipment of that pattern,
  - (b) causes or permits any other person to use any such equipment for trade, or
  - (c) disposes of any such equipment to any such person in a state in which it could be used for trade without informing that other person of the revocation,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (4) In this section “certificate of approval” means a certificate of approval of a pattern of weighing or measuring equipment granted under section 12 above; and subsections (1) and (3) above have effect in relation to a certificate of approval remaining in force by virtue of subsection (9) or (11) of section 12 above as they have effect in relation to other certificates of approval.

#### **14 General specifications of equipment.**

- (1) The Secretary of State may by regulations prescribe general specifications for the construction of equipment to which section 11 above applies and, subject to subsection (4) below, while any such specification is for the time being so prescribed no equipment which does not conform with it shall be passed or stamped by an inspector [<sup>F10</sup>or approved verifier] under that section unless it is of a pattern in respect of which a certificate of approval under section 12 above is in force.
- (2) If the Secretary of State is satisfied that any pattern submitted to him under section 12(1) above conforms with any general specification for the time being prescribed under this section he may, instead of issuing a certificate of approval under that section, cause to be published a declaration to that effect together with particulars of that pattern.
- (3) Where a specification prescribed by regulations under this section is varied or revoked by further regulations under this section, then if any person—
- (a) uses for trade any equipment which conformed with that specification but which to his knowledge no longer conforms with any specification prescribed by regulations under this section,
  - (b) has any such equipment in his possession for use for trade,
  - (c) causes or permits any other person to use any such equipment for trade, or
  - (d) disposes of any such equipment to any other person in a state in which it could be used for trade without informing that other person that it no longer conforms with any specification prescribed by regulations under this section,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (4) Where, in the case of any particular equipment, the Secretary of State is of opinion that there are special circumstances which make it impracticable or unnecessary for that equipment to comply with any particular requirement of any specification prescribed under this section, the Secretary of State may exempt that equipment from that requirement subject to compliance with such conditions, if any, as he thinks fit.

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- (5) If any person knowingly contravenes any condition imposed with respect to any equipment by virtue of subsection (4) above, he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (6) If any difference arises between an inspector and any other person as to the interpretation of any specification prescribed under this section, or as to whether or not any equipment conforms with such a specification, that difference may with the consent of that other person, and shall at the request of that other person, be referred to the Secretary of State, whose decision shall be final.

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**Textual Amendments**

**F10** Words in s. 14(1) inserted (29.3.1999) by S.I. 1999/503, art. 2(8)



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