

<b>Title:</b> <b>Implementation of Directive 2009/137/EC amending the Measuring Instruments Directive regulations</b>  <b>Lead department or agency:</b> National Measurement Office, Department for Business, Innovation and Skills  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> BIS0137
	<b>Date:</b> 26.10.2010
	<b>Stage:</b> Final
	<b>Source of intervention:</b> EU measure
	<b>Type of measure:</b> Secondary Legislation
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## Summary: Intervention and Options

**What is the problem under consideration? Why is government intervention necessary?**

The essential requirements of the existing Regulations implementing the Measuring Instruments Directive (2004/22/EC - "the MID") in respect of the flow annexes (MI-001 to MI-005) require amendment to ensure that the relevant measuring instruments are set as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK, with the aim of preventing potential fraud whereby an instrument would be deliberately set up to give short measure from within the given tolerances to the benefit of the supplier and the detriment of the consumer. This addresses an information asymmetry market failure in which the consumer would not be aware whereas the supplier would be aware, clarifying existing legislation on gas meters (found unclear by industry) and other flow measuring instruments. It would also remove a potential barrier to trade whereby a Member State (MS) might not accept the test results of another MS because they find that the instrument fails where it had passed before. The amendments make the requirement explicit, rather than implicit as in the MID 2006 Regulations.

**What are the policy objectives and the intended effects?**

To close a legislative loophole by providing that relevant measuring instruments are set as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK, with the aim of preventing potential fraud i.e. short measure from within the given tolerances, the possibility of a lower level of consumer protection and providing clarity for business. Implementation would be achieved at no cost to business as their operations are already compliant with the new requirement. The new legislation is required because although current UK and many other Member States' businesses are compliant, this does not mean that they are all likely to be in the future particularly if new manufacturers enter into the marketplace. The amendments make the requirement explicit, rather than implicit as in the MID 2006 Regulations. The problems that arise from inaccurate measurement are short measure or over measure even if at the extremities of the legal tolerance. To remove the potential barrier to trade mentioned above.

**What policy options have been considered? Please justify preferred option (further details in Evidence Base)**

Two options have been considered:

Option 1: Transpose Commission Directive 2009/137/EC (and at the same time take the opportunity of correcting a typographical error and consequential omission in the relevant Regulations which implemented the MID i.e. the Measuring Instruments (Gas Meters) Regulations 2006, SI 2006/2647).

Option 2: Do nothing. This is not possible because the UK would risk infraction proceedings from non-compliance.

Option 1 is the preferred option as it addresses the information asymmetry problem outlined above.

<b>When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?</b>	It will be reviewed 05/2016
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes

**SELECT SIGNATORY Sign-off** For final proposal stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister: 

Date: 22 November 2010

# Summary: Analysis and Evidence

# Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>
Low	Optional		Optional		<b>Optional</b>
High	Optional		Optional		<b>Optional</b>
Best Estimate	zero		zero		zero
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<p>The implementing legislation closes a potential legislative loophole, provides clarification to users and reflects current industry practice, so there are no costs for business who are already compliant with the legislation. UK-based manufacturers will not have to alter production processes so there will be no costs in that respect. Where a manufacturer is not UK-based, importers/retailers will not suffer from costs being passed on through higher prices. Current manufacturers are already compliant with the legislation.</p>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
<p>There are no other key non-monetised costs by 'main affected groups'. Businesses that are compliant with the legislation currently will remain compliant with it when the legislation is amended. They are meeting the requirements implicit in the current legislation and with the revision will then meet the explicit requirements. They will not have to undertake any actions (e.g. realign their measuring instruments, buy new instruments) to comply with the legislation as they are already compliant.</p>					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>
Low	Optional		Optional		<b>Optional</b>
High	Optional		Optional		<b>Optional</b>
Best Estimate	Unquantified		Unquantified		<b>Unquantified</b>
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<p>It is not possible to quantify the benefits because there is no available evidence relating to the impact of the amending Directive. Feedback from respondents to the Consultation Stage Impact Assessment provided no further evidence. However, any benefit is expected to be minimal. The requirement (to set the relevant measuring instruments as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK) is implicit in the MID 2006 Regulations. Correction became necessary as a result of a specific element in relation to error allowances for gas meters which was found to be incorrect in the English base text but correct in most other language versions. Manufacturers were still complying with the implicit, expected requirements.</p>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<p>By removing the potential for fraud, the proposed amendment also removes the possibility of a lower level of consumer protection. By clarifying current law on gas meters (found unclear by industry) and other flow measuring instruments, it potentially reduces the time and cost that businesses might spend on understanding how to comply with the law. It is difficult to say how much time businesses now spend on this. However, clearer and more explicit legislation is easier to understand.</p>					
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>
<b>Impact on admin burden (AB) (£m):</b>			<b>Impact on policy cost savings (£m):</b>		<b>In scope</b>
New AB:	AB savings: 0	Net: 0	Policy cost savings: 0		Yes

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?						United Kingdom					
From what date will the policy be implemented?						01/06/2011					
Which organisation(s) will enforce the policy?						Trading Standards					
What is the annual change in enforcement cost (£m)?						0					
Does enforcement comply with Hampton principles?						Yes					
Does implementation go beyond minimum EU requirements?						No					
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)						Traded: 0			Non-traded: 0		
Does the proposal have an impact on competition?						No					
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?						Costs: N/A			Benefits: N/A		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)			Micro 0	< 20 0	Small 0	Medium 0	Large 0				
Are any of these organisations exempt?			No	No	No	No	No				

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	8
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	8
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	8
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	9
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	9
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	9
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	9
Justice system <a href="#">Justice Impact Test guidance</a>	No	9
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	8
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	9

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	<u>Directive 2009/137/EC:</u> <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:294:0007:0009:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:294:0007:0009:EN:PDF</a>
2	<u>Consultation including Consultation Stage Impact Assessment:</u> <a href="http://www.nmo.bis.gov.uk/fileuploads/Legislation/ConsDoc_-_MID_Amdmt_Regs_-_Final.pdf">http://www.nmo.bis.gov.uk/fileuploads/Legislation/ConsDoc_-_MID_Amdmt_Regs_-_Final.pdf</a>
3	<u>The (Regulatory) Impact Assessments for the Regulations implementing Directive 2004/22/EC:</u> <a href="http://www.nmo.bis.gov.uk/content.aspx?SC_ID=340">http://www.nmo.bis.gov.uk/content.aspx?SC_ID=340</a> .
4	<u>Government Response:</u> <a href="http://www.nmo.bis.gov.uk/content.aspx?SC_ID=338">http://www.nmo.bis.gov.uk/content.aspx?SC_ID=338</a>

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	0	0	0	0	0	0	0	0	0	0
<b>Total annual costs</b>	0	0	0	0	0	0	0	0	0	0
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Total annual benefits</b>	0	0	0	0	0	0	0	0	0	0

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## 1. Problem under consideration

1.1 The focus of this Impact Assessment is on effective UK implementation of Commission Directive 2009/137/EC<sup>2</sup> (“the MID Amendment Directive”) which amends Directive 2004/22/EC on measuring instruments in respect of exploitation of the maximum permissible errors (MPEs) for the instruments specified in the flow annexes, following agreement in November 2009. The proposal is to transpose the MID Amendment Directive into UK legislation. This would be achieved by amending the essential requirements of the existing Regulations implementing the MID (listed at paragraph 3.3 below) in respect of the flow annexes to ensure that flow measuring instruments are set as accurately as possible to zero for placing on the market and putting into use. There is no European Commission Impact Assessment for the MID Amendment Directive. The (Regulatory) Impact Assessments for the Regulations implementing Directive 2004/22/EC<sup>3</sup> (“the MID”) are available via the following link under the heading ‘MID’: [http://www.nmo.bis.gov.uk/content.aspx?SC\\_ID=340](http://www.nmo.bis.gov.uk/content.aspx?SC_ID=340).

1.2 At the same time, the MID gas meter Regulations<sup>4</sup> will be amended to correct defective drafting reported by the Joint Committee on Statutory Instruments when the MID was implemented on the basis that those Regulations do not provide a clear indication of what each class of meter is. The MID electricity meter Regulations<sup>5</sup> also contain the same defect and the opportunity is therefore being taken to make a corresponding amendment to those Regulations.

1.3 The relevant MID Amendment Regulations will be amended to correct a typographical error and consequential omission in the MID gas meter Regulations.

1.4 In addition, the MID Amendment Regulations will be revised to reflect the Government response to the consultation.

## 2. Rationale for intervention

2.1 The primary aim of the proposed MID Amendment Regulations is:

- (a) to align the 2006 flow Regulations (listed at paragraph 3.3 below) with the MID Amendment Directive in respect of certain requirements in relation to the MPEs
- (b) in particular to clarify the legal position regarding gas meters because of industry concerns that the existing law is unclear

2.2 To remove the potential for fraud and consumer detriment by preventing short measure from within, or exploitation of, the given tolerances whereby a flow measuring instrument with good measurement repeatability could be set to make all deliveries close to the MPE, whether in excess or deficiency. If this does not happen, the consequent problem arising from inaccurate measurement is short measure or over measure even if at the extremities of the legal tolerance.

2.3 Implementation of the MID Amendment Directive helps to take forward NMO's objective to maintain and improve weights and measures and related legislation, in line with Ministerial obligations and requirements.

## 3. Policy objective

3.1 The policy objectives of the proposed MID Amendment Regulations are:

3.1.1 to clarify the legal position regarding gas meters because of industry concerns that the existing law is unclear.

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<sup>2</sup> Commission Directive 2009/137/EC of the European Parliament and of the Council on measuring instruments in respect of exploitation of the maximum permissible errors, as regards the instrument-specific annexes MI-001 to MI-005

<sup>3</sup> Commission Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments

<sup>4</sup> The Measuring Instruments (Gas Meters) Regulations 2006, SI 2006/2647

<sup>5</sup> The Measuring Instruments (Active Electrical Energy Meters) Regulations 2006, SI 2006/1679

3.1.2 to close a legislative loophole and remove the potential for fraud and consumer detriment by preventing short measure from within, or exploitation of, the given tolerances whereby a flow measuring instrument with good measurement repeatability could be set to make all deliveries close to the MPE, whether in excess or deficiency. (The new requirement that relevant measuring instruments are set as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK will also reflect the current industry practice of setting meters accurately to prevent leaks. However, because it is already current industry practice prevention of leaks is a non-problem in relation to the amendment.)

3.1.3 to remove a barrier to trade which presents a hindrance to the completion of the single market in flow measuring instruments i.e. to remove the potential for misunderstanding the existing requirement across the European Union, so that one Member State might not accept the test results of another Member State because they find that the instrument fails where it had passed before.

3.2 Implementation would be achieved at no cost to UK business as their operations are already compliant with the new requirement to set the relevant measuring instruments as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK. The new legislation is required because although current UK and many other Member States' businesses are compliant, this does not mean that they are all likely to be in the future particularly if new manufacturers enter into the marketplace. The amendments make the requirement explicit, rather than implicit as in the MID 2006 Regulations.

3.3 The Regulations to be amended are as follows:

- The Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006
- The Measuring Instruments (Cold-water Meters) Regulations 2006
- The Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006
- The Measuring Instruments (Active Electrical Energy Meters) Regulations 2006
- The Measuring Instruments (Gas Meters) Regulations 2006, and
- The Measuring Instruments (Non-Prescribed Instruments) Regulations 2006 in respect of water meters, heat meters, measuring systems for the continuous and dynamic measurement of quantities of liquids other than water, and volume conversion devices, that are not regulated in the UK

Together these are referred to below as "the 2006 flow Regulations".

3.4 The MID Amendment Regulations are relevant to the following industry sectors: The industry for flow measuring instruments (which measure gas, electricity, water, heat, liquids other than water, and volume conversion devices) i.e. manufacturers, notified bodies, retailers and utilities, small businesses and trade associations in that field; and trading standards officers. The MID Amendment Regulations do not affect instruments already placed on the market because industry is already compliant with the requirement to set relevant measuring instruments as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK.

3.5 The policy objective is to provide clarity to the legislation not legislative change.

## **4. Description of Options**

4.1 Option One: Implement the provisions of the MID Amendment Directive

This is the recommended option. Making the proposed MID Amendment Regulations would bring the requirements for MPEs of the 2006 flow Regulations in line with the equivalent provisions in the MID Amendment Directive, and thereby bring the Regulations up to date. The issues identified arise directly though lack of clarity in the legislation and therefore require corrective action through amendment to the 2006 flow Regulations. The MID Amendment Directive is consistent with UK policy and practice on these issues e.g. industry is already doing what is required because they have to set meters accurately to prevent leaks. There is no "gold plating" in the implementation of this directive.

## 4.2 Option Two: Do nothing

As the amendments to the MID have already been agreed, Option Two serves as a theoretical baseline to measure the impact of Option One to implement the MID Amendment Directive. If this Option Two were chosen and no UK implementation took place, the UK would risk infraction proceedings.

## 5. Costs and benefits

### 5.1 Costs

#### 5.1.1 Option One: Implement the provisions of the MID Amendment Directive

Evidence from responses to the consultation shows there was general agreement with the Government's expectations that there would be no monetary or non-monetary cost to business, nor an increase or decrease to administrative burdens. The requirement to set the relevant measuring instruments as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK is implicit in the MID 2006 Regulations. Correction became necessary as a result of a specific element in relation to error allowances for gas meters which was found to be incorrect in the English base text but correct in most other language versions. Manufacturers were still complying with the implicit, expected requirements. Neither one-off costs nor on-going costs are envisaged to occur in order to comply with the MID Amendment Regulations.

#### 5.1.2 Option Two: Do nothing

The cost would be incurred of not providing clarification regarding the legal position and the testing of flow measuring instruments, of not removing the potential for fraud by tightening a legislative loophole, and of not removing the possibility of a lower level of consumer protection. Other Member States' implementing the legislation will benefit from the provisions in the MID Amendment Directive, which will leave the UK at a competitive disadvantage because clear legislation is better regulation and therefore simpler for stakeholders to understand. Finally, non-compliance with EC law would risk infraction proceedings.

### 5.2 Benefits

#### 5.2.1 Option One: Implement the provisions of the MID Amendment Directive

This option would make the 2006 flow Regulations consistent with the MID Amendment Directive regarding the requirements for MPEs, provide legal certainty in clear terms to manufacturers (and retailers). The amendment to the MID clarifies concerns for the gas industry in particular by replacing the very specific requirement of point 2.1 of MID Annex MI-002 relating to gas meters and volume conversion devices with a more general performance requirement. This removes a potential barrier to trade i.e. the potential for misunderstanding the existing requirement across the European Union, so that one Member State might not accept the test results of another Member State because they find that the instrument fails where it had passed before.

The MID Amendment Directive will be implemented in all Member States, and implementation in the UK would ensure that the original policy intention of the 2006 flow Regulations of making clear, fair and accurate provisions is achieved. The proposed amendment also removes the potential for fraud, and the possibility of a lower level of consumer protection.

There is no available evidence as to how much time and money industry spends now on having to comply with unclear Regulations and feedback from respondents to the consultation stage Impact Assessment provided no further evidence on this specific point. Therefore, taking these facts together with the relatively small-scale size and focus of the amendments, it has not been possible to quantify the benefits. They are expected to be minimal. However, respondents to the consultation agreed generally with the Government's expectations that there would be both improved clarity in the Regulations which would achieve the non-quantifiable benefit of reducing any unnecessary burden on industry in terms of time and therefore cost in having to comply with unclear Regulations, and also a simplification of the

requirements for testing flow measuring instruments. In addition, it was believed that potential cost savings would come from the certainty brought about by improved objectivity in the Regulations<sup>6</sup>.

### 5.2.2 Option Two: Do nothing

In the absence of any corrective action, there would be no benefit as unclear information would continue to be provided. The clarification which the MID Amendment Directive provides is that flow measuring instruments require protection against unduly biased errors inside the controlled range. The existing legislative loophole could potentially give rise to an instrument being incorrectly set up so that it favours one party to a transaction. This would defeat the original policy intention of the 2006 flow Regulations to make clear, fair and accurate provisions.

## 6. Risks and assumptions

6. If Option 2 'Do nothing' was chosen and no UK implementation took place, the UK would risk infraction proceedings. The new Regulations are designed to provide sufficient clarity to business and it is highly unlikely that they would not do so because they were drafted by stakeholders and in particular by those in the industries concerned.

## 7. Administrative burdens

There are no administrative burdens or savings and no policy savings. However we believe the legal clarification may help businesses better understand the legal requirements thus spend less time (and cost) trying to understand their legal obligations. It is not possible to quantify the savings spent from this simplification of legislation.

## 8. Specific Impact Tests

### 8.1 Equality Tests

After initial screening as to the potential impact of the proposed Regulations on race, disability and gender equality, it has been decided that there will not be a major impact upon minority groups in terms of either the numbers affected or the seriousness of the likely impact.

### 8.2 Small Firms Impact Test

This legislation applies equally to SMEs as it does to large enterprises. After initial screening as to the potential impact of the proposed Regulations on small firms including SMEs, it has been decided that there will not be a significant disproportionate impact upon small firms in terms of either the numbers affected or the seriousness of the likely impact. It was not foreseen at consultation stage that implementation of the MID Amendment Directive will have a negative effect. However, to help identify any unintended impacts or consequences of the proposal for small firms, views were sought from small firms or their representative bodies during the consultation exercise and the majority view was that there would not be any unintended impacts or consequences of the proposal for small firms including SMEs.

### 8.3 Rural Proofing

No aspect of the MID Amendment Regulations has been identified as having an impact upon rural communities or areas.

### 8.4 Competition Assessment

#### 8.4.1 Option One

There would be no change in the operations or number of businesses affected by these provisions to that intended originally under the 2006 flow Regulations. The proposal is corrective and a simplifying measure to ensure that the original policy intention is achieved in each case. Screening of the Office of Fair Trading competition filter test concluded that because the proposed MID Amendment Regulations

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<sup>6</sup> See 'Government response to the consultation on the draft Regulations to amend the Regulations implementing the Measuring Instruments Directive in respect of the flow annexes' pp.10-11 at [http://www.nmo.bis.gov.uk/content.aspx?SC\\_ID=338](http://www.nmo.bis.gov.uk/content.aspx?SC_ID=338) under the heading 'MID'.



are to clarify the requirements of the 2006 flow Regulations with respect to MPEs they would be unlikely to hinder the number or range of suppliers or the ability and incentive for businesses to compete.

The MID Amendment Regulations should provide a level playing field for all firms operating in this sector – fair-dealing businesses will not potentially be put at a disadvantage.

#### 8.4.2 Option Two

Option Two would be a continuation of existing policy and does not give rise to any significant competition issues. There is no major impact to competition. Manufacturers and providers in other Member States of flow meter equipment calibrated to comply with the amendment to the MID would potentially be at a competitive advantage if the UK did not implement them because they would have clear legislation which is simpler and therefore quicker to understand.

### 8.5 Other Specific Impact Tests

After initial screening as to the potential impact of the proposed Regulations on the Environment, Society and Sustainable Development, it has been decided that there will not be a major impact of either the numbers affected or the seriousness of the likely impact.

## 9. Alternatives to Regulation

Alternatives to regulation have been considered. However, in order to implement the provisions of the MID Amendment Directive effectively, the principal MID Regulations 2006 need to be amended. This will ensure that the existing legislation is made accurate and clear, and that the current potential for a barrier to trade and for fraud and consumer detriment (as described above) is removed from it. Therefore alternatives to regulation have been ruled out in order to arrive at the preferred option in this case.

### 9. One In, One Out

The Coalition Agreement states that "we will cut red tape by introducing a 'one-in, one-out rule' whereby no new regulation is brought in without other regulation being cut by a greater amount". This new Regulation will not fall within the one-in-one-out rule as it implements a European Directive and in any case has a zero cost effect. A 'One Out' therefore does not need to be sought for this measure.

## 10. Enforcement, Sanctions, Monitoring and Evaluation

The existing provisions in the 2006 flow Regulations apply. There are no new enforcement implications in this proposal. A Post Implementation Review will be carried out in 2016 i.e. 10 years after it was implemented in the UK, in line with review of the MID as a whole. We understand the European Commission are not planning to review this amending directive although they will review the original directive in 2016.

## 11. Summary and Recommendation

The recommendation is that Option One is taken forward. The UK's legal obligations under the Treaty of Rome require implementation of the MID Amendment Directive into UK law. The MID Amendment Directive is in line with government policy and practice in relation to the MPEs of flow measuring instruments. Implementation would fully realise the benefits and avoid the risks set out on pages 6 and 7 of this Impact Assessment.

One in, One Out. The Coalition Agreement states that "we will cut red tape by introducing a 'one-in, one-out rule' whereby no new regulation is brought in without other regulation being cut by a greater amount". This new regulation will not fall within this rule (a) because it implements European legislation which is currently exempt, and perhaps more importantly (b) because it does not introduce any new cost.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>The Measuring Instruments Directive will be reviewed by the Commission in 2016. At the same time, the UK will review the implementing regulations as the final part of the policy making process while feeding into the Commission's review.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>It is strongly anticipated that the policy objective will be met as it reflects current practice in the UK therefore a low-key check is proportionate in this case. There are no costs/benefits to be re-evaluated.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>We will gain feedback from the enforcement authority (trading standards, largely represented by TSI and LGR) and from businesses, trade associations and manufacturers of measuring instruments</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The effectiveness of the legislation is measured against the do nothing option as a baseline. This is to retain unclear legislation with the potential for a barrier to trade and for fraud and consumer detriment.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Confirmation from industry that no costs or other negative impacts have arisen due to the change.</p> <p>Legislative clarity is provided for business so less time and money are spent attempting to understand the Regulations.</p> <p>Removal of potential barrier to trade whereby a Member State (MS) might not accept the test results of another MS because they find that the instrument fails where it had passed before.</p> <p>Potential fraud i.e. short measure or over measure arising from inaccurate measurement is prevented.</p> <p>Potentially lower level of consumer protection is prevented.</p> <p>If any new manufacturers enter into the marketplace, their businesses (like current businesses) are compliant (including with the new requirement that relevant measuring instruments are set as accurately as possible to zero for placing on the market and putting into use where prescribed in the UK) .</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>Feedback obtained from regular meetings with industry stakeholders, trade organisations (the Petrol Retailers Association and the Forecourt Equipment Federation) and the enforcement community (the Trading Standards Institute and Local Government Regulation) will provide the indicators/statistics that will be used to measure the success of the policy.</p>

**Reasons for not planning a PIR:** [If there is no plan to do a PIR please provide reasons here]

Add annexes here.