

**EXPLANATORY MEMORANDUM TO
THE MEASURING INSTRUMENTS (BELTWEIGHERS) REGULATIONS**

2006 No. 1259

**THE MEASURING INSTRUMENTS (AUTOMATIC CATCHWEIGHERS)
REGULATIONS**

2006 No. 1257

**THE MEASURING INSTRUMENTS (AUTOMATIC GRAVIMETRIC FILLING
INSTRUMENTS) REGULATIONS**

2006 No. 1258

**THE MEASURING INSTRUMENTS (AUTOMATIC RAIL-WEIGHBRIDGES)
REGULATIONS**

2006 No. 1256

**THE MEASURING INSTRUMENTS (AUTOMATIC DISCONTINUOUS
TOTALISERS) REGULATIONS**

2006 No. 1255

1. This explanatory memorandum has been prepared by the National Weights and Measures Laboratory, an Executive Agency of the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations implement Directive 2004/22/EC (the Measuring Instruments Directive) (“MID”) and apply to:

- a) beltweighers;
- b) automatic catchweighers;
- c) automatic gravimetric filling instruments;
- d) automatic rail-weighbridges; and
- e) automatic discontinuous totalisers intended for use for trade

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Regulations are being made (a) to implement the MID insofar as it relates to the weighing instruments listed in Para 2; and (b) to specify the requirements that such instruments must meet when they are in use for trade in the United Kingdom. Accordingly, they are made under section 2(2) of the European Communities Act and sections 15(1) and 86(1) of the Weights and Measures Act 1985.

The MID was adopted in March 2004 and covers a number of different devices and systems, including gas and electricity meters; petrol pumps and automatic weighing instruments. It repeals ten other directives which covered these measurement systems and devices. Transitional provisions in the MID mean that current UK Regulations implementing those earlier directives may remain in force to regulate measuring instruments placed on the market after 30th October 2006 but produced pursuant to certificates of approval and EEC pattern approvals granted before that date, whilst those certificates and approvals are in force, provided that such instruments are duly stamped and passed as fit for use for trade as required by the relevant current Regulations.

No specific undertakings have been given to Parliament that relate to this instrument, in the course of debate, Parliamentary Question or Committee appearance.

The following is a list of the Regulations, including the ones mentioned in this Memorandum, that to date have been prepared to implement the MID:

SI 2006/1270 The Measuring Instruments (Non-Prescribed Instruments) Regulations 2006

SI 2006/1258 The Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006

SI 2006/1259 The Measuring Instruments (Beltweighers) Regulations 2006

SI 2006/1264 The Measuring Instruments (Capacity Serving Measures) Regulations 2006

SI 2006/1257 The Measuring Instruments (Automatic Catchweighers) Regulations 2006

SI 2006/1268 The Measuring Instruments (Cold Water Meters) Regulations 2006

SI 2006/1255 The Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006

SI 2006/1266 The Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006

SI 2006/1269 The Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006

SI 2006/1267 The Measuring Instruments (Measures of Length) Regulations 2006; and

SI 2006/1256 The Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006

Transposition

The SIs implement Directive 2004/22/EC on measuring instruments. The transposition note is attached at Annex A.

Scrutiny Committee History:

An explanatory memorandum (to Parliament) covering the opinion of the Commission on the European Parliament's amendments at second Reading (5788/04) to the common position of the Council regarding the proposal for a Directive of the European Parliament and Council Directive on Measuring Instruments was submitted by DTI on 17 February 2004. The Commons European Scrutiny Committee did not consider the text to be legally or politically important and cleared it from scrutiny on 25 February 2004 (Report 11 Session 03/04). The Lords Select Committee on the EU in its Progress of Scrutiny sift of 24 February 2004 did not report on the content.

The amendments proposed by the European Parliament at second Reading did not change any of the provisions of the Directive in respect of matters which were of earlier concern to the Commons Scrutiny Committee and did not introduce any new technical provisions. The main focus of the amendments was to provide for greater transparency in relation to those areas in which the Member State may choose not to

regulate, greater clarity in the presentation and drafting of the text, and an invitation to the Commission to more widely review the arrangements of the Directive particularly in relation to conformity assessment.

The previous explanatory memorandum covering the amended proposal following the Commission's response to amendments of the European Parliament at first Reading (6121/02) was submitted by DTI on 12 March 2003. This was considered by the Commons European Scrutiny Committee to be legally or politically important was not therefore, cleared from scrutiny, and a request was made for further information (Report 32, Session 01/02). The Lords Select Committee on the EU in its Progress of Scrutiny sift of 01 April 2002 did not report on the content. Following this the key issues were resolved and a supplementary explanatory memorandum was presented for consideration. This again was regarded by the Commons European Scrutiny Committee to be legally or politically important and cleared (Report 4, Session 02/03). The Lords Select Committee on the EU in its Progress of Scrutiny sift of 09 December 2002 again did not report on the content.

5. Extent

5.1 This SI applies to all of the United Kingdom, except Part III which applies to Great Britain only.

6. European Convention on Human Rights

As the SI is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1

Policy Objectives of the Directive

The primary aim of the MID is to create a single market in measuring instruments for the benefit of manufacturers and consumers across Europe. The MID specifies the essential requirements that a product covered by the Directive must meet before it can be placed on the market and put into use. These requirements are both general (the essential requirements that apply to all measuring instruments) and instrument specific. The MID requires manufacturers to follow a conformity assessment procedure to ensure that the product satisfies the requirements of the MID, but gives them a wide choice of assessment procedures from which to choose. These procedures may be specific to instrument types.

Under the optionality provisions of the MID, Member States can choose which measuring instruments to regulate and can also choose the measurement tasks to be regulated.

The MID has been implemented in the UK on the basis of 'status quo' i.e. maintaining the current scope of regulatory control, by only regulating those measuring instruments that are currently regulated and regulating the purpose of use i.e. use for trade. By doing so we aim to maintain the current levels of consumer protection, bring the benefits of the single market to business and avoid any further regulatory burdens on business. We have therefore introduced self-contained Regulations in respect of each type of measuring instrument concerned. Each set of Regulations includes the

general requirements of the MID, the specific technical requirements applicable to the measuring instrument covered by the particular Regulations, the provisions setting out the requirements applicable where an measuring instrument is in use for trade and enforcement provisions.

The size and nature of the problem it is addressing

The MID will create a single market providing opportunities for UK manufacturers to innovate and to export their new products much more easily to the Member States, Norway, Iceland and Liechtenstein. The costs and time needed to get a product to market will reduce significantly. The single market will result in greater competition and improved choice for customers which, in turn, will help promote innovation. At the same time, barriers to trade will be removed and the market will become freer and fairer.

The MID is a 'New Approach' Directive, which means only the essential requirements are specified. Therefore, businesses have greater scope and choice about how to comply.

The optionality provisions of the MID will provide an opportunity for the UK to deregulate or regulate other measuring instruments if this is considered appropriate in the course of time. Deregulation would provide manufacturers with an even greater scope for innovation and would enable products to get to market more quickly and cheaply. However, measuring instruments are generally controlled in order to protect the customer from fraud or short measure – these measurements are important because they provide the basis for about £2bn of legal transactions on goods in the UK every week. The decision to maintain the status quo was supported in consultation.

There is generally no media attention and a low public interest in the policy.

The change is neither politically nor legally important.

Who has been consulted?

We have held two consultations: A Consultation on the approach to implementation in November 2004, followed by a Consultation on the draft Regulations implementing the Directive in August 2005. In addition, various stakeholder meetings were held during both consultation periods, along with visits and meetings with individual and regional groupings of Local Authorities, manufacturers and trade associations. The consultees were NWML Stakeholders including manufacturers, consumers, enforcement officers, trade associations, government organisations, consumer organisations and individual businesses. For a full list of organisations consulted please see Annex B.

What was the outcome?

Outcome from 1st consultation:

Responses were very positive overall with a substantial majority of respondents supporting the proposed approach to implementation. Therefore it was decided that the Government would:

- Implement on the basis of status quo i.e. maintaining the current scope of regulatory control;
- Produce a self-contained Statutory Instrument for each type of instrument to be regulated;
- Issue a further consultation document to include the draft regulations themselves.

Outcome from 2nd consultation:

Varied comments were made in response to the list of instrument specific questions. In addition, stakeholders raised a significant number of other issues and their own questions, provoked by the original consultation questions and the discussions at the stakeholder meetings. All comments have been considered, and changes made to the legislation where necessary to accommodate concerns raised. Comprehensive notes for guidance on all of the Regulations will be produced by NWML, and there will be a consultation on these in the summer of 2006.

Detailed analysis of the 2nd consultation responses (entitled 'Government response to consultation on the draft regulations implementing the MID November 2005') can be found on the NWML website, using the link below: -

<http://www.nwml.gov.uk/Docs/MID/MID%202nd%20Consultation%20Government%20Response.pdf>

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum at Annex C

8.2 The impact on the public sector is detailed in the Regulatory Impact Assessment attached to this memorandum.

9. Contact

Peter Edwards at the National Weights and Measures Laboratory, Tel: 020 8943 7298 or e-mail: peter.edwards@nwml.gov.uk can answer any queries regarding the instrument.