

**EXPLANATORY MEMORANDUM TO
THE MEASURING INSTRUMENTS (CAPACITY SERVING MEASURES)
REGULATIONS**

2006 No. 1264

**THE MEASURING INSTRUMENTS (MATERIAL MEASURES OF LENGTH)
REGULATIONS**

2006 No. 1267

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 certain capacity serving measures intended for use for trade, and b) certain material measures of length intended for use for trade, excluding dipping and strapping tapes.

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

3.1 None

4. Legislative Background

The Regulations are being made (a) to implement the MID insofar as it relates to certain capacity serving measures and material measures of length; and (b) to specify the requirements that such measures 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.

Final Regulatory Impact Assessment (RIA) on the Regulations implementing the Measuring Instruments Directive (MID)

This RIA is one of ten¹ relating to the implementation of the MID, is relevant to material measures, and pertains to the following Statutory Instrument:

- **The Measuring Instruments (Capacity Serving Measures) Regulations 2006**
- **The Measuring Instruments (Material Measures of Length) Regulations 2006**

The Issue and Objective:

1. Issue: The impact of the transposition of the Measuring Instruments Directive (MID) into UK legislation, on the basis of status quo on regulatory control.

2. Objective: To implement the MID, which aims to harmonise essential requirements on measuring instruments across the member States². The objective of the implementation is to open markets to competition; provide opportunities to innovate and export; improve choice for consumers; remove barriers to trade and reduce the regulatory burden for those instruments, through this deregulatory measure.

Risk Assessment

3. The intention is to maintain the status quo; that is to introduce new regulations to replace existing regulations, covering only those instruments that are currently regulated in the UK. The new regulations do not introduce further requirements, which could act as a burden on business. The risks of pursuing this course, and alternative courses of action, are covered under the three options set out below. In the initial consultation document³ we sought information about the level of interest in deregulating some instruments. There was no great impetus for deregulation, but we did receive feedback about the risk to the levels of consumer protection if the number of instruments regulated were reduced.

Identify Options

4. The three original options, and the risks associated with each, are set out below. These options were explored during the initial consultation. This consultation was in relation to the full scope of NWML regulatory provisions. In view of the responses to that consultation, we are proposing to proceed with option 2 below.

Option 1

5. Do nothing.
- a) face infraction proceedings against the UK for not implementing an agreed Directive.
 - b) miss out on the benefits of a harmonised set of requirements
 - c) goes against the feedback received from the initial consultation document

Option 2

6. Implement on the basis of status quo.
- a) maintains current level of consumer protection
 - b) does not introduce further burdens on business
 - c) is in line with feedback from consultation document

¹ For a full list of all RIAs relating to the implementation of the MID see Annex 1

² A reference to a member State includes Norway, Iceland and Liechtenstein.

³ Measuring Instrument Directive: Consultation on the approach to implementation can be found on the NWML website

http://www.nwml.gov.uk/Docs/Legislation/MID/MID_consultation_on%20approacht.pdf

Option 3

7. Change the scope of regulation

- a) technical expertise and evidence base not in place, in order to support the introduction of further regulations by deadline for implementation
- b) risks unintended consequences
- c) risks missing implementation deadline for whole Directive
- d) goes against feedback from initial consultation document, which did not strongly support an increase or decrease in number of instruments regulated

Results of Consultation

8. An initial consultation document was issued in November 2004. The consultation document was circulated to over five hundred stakeholders and was made available on the NWML website. Forty one responses to the proposals were received, of which seventeen were from the enforcement community (Local Authority Trading Standards Departments, regional Trading Standards groups, the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Trading Standards Institute (TSI)). Responses were also received from the business community, including twelve from individual businesses and four responses from trade associations. Five government organisations responded, along with one consumer organisation, BSi and one individual. In addition, three meetings with stakeholders were carried out during the consultation period.

9. Responses were very positive overall, with a substantial majority of respondents supporting the proposed approach to implementation in principle.

10. 95% of respondents who provided an answer to the question about status quo agreed that this would be the preferable way forward. 86% of those who replied to the question about deregulation did not want any instruments deregulated. Ten respondents said they would like to see Liquid Petroleum Gas (LPG) dispensers regulated, with a further four saying that they would like the situation regarding LPG to be reviewed – together they make up 66% of respondents to this question.

11. 78% of respondents agreed with the proposal to produce a separate Statutory Instrument (SI) for each type of instrument to be regulated.

12. A second consultation document, on the draft Regulations themselves, was issued in August 2005. Twenty nine responses were received, of which thirteen were from the enforcement community, fourteen from the business community and two from BSi. In addition, four formal and several informal stakeholder meetings were held during the consultation period. All comments have been considered and changes made to the legislation, where necessary to accommodate concerns raised.

13. We received useful information about the costs and benefits of MID in response to the initial consultation document. Overall, we are satisfied that the costs to manufacturers of implementing the MID are not significant, indeed several respondents explained that there would be benefits in terms of costs and time of getting their products to market, outweighing the costs of compliance.

14. Some of the Trading Standards community expressed views that the implementation of the MID would adversely affect their levels of income. Whilst these comments touch on issues that are, strictly speaking, outside the scope of the MID implementation project, we have noted these comments and will be integrating them into our future strategies for the infrastructure of weights and measures enforcement.

Issue of Equity and Fairness

15. Implementation will be equal across the whole of each industry in relation to the instruments covered, although regulation in each of the member States for each of the instrument types may be different. The optionality clause of the Directive enables member States to choose to regulate instruments for prescribed measurement tasks – as is currently the case, i.e. different member States may regulate different instruments and for different purposes.

16. Instruments that do not have to be type approved, e.g. capacity serving measures and length measures, do not have a transitional period under the MID. This means that products will need to move from crown stamp approval to a CE mark on 30th October 2006. We have received feedback that this will present problems for manufacturers, the majority of which are small businesses. This is, however, the position under the MID which, though adopted in March 2004, doesn't come into force until 30th October 2006, thus providing a long lead-in period for manufacturers to plan for change accordingly

17. In this sector there could be a disproportionate impact on small businesses due to the lack of a transitional period and the fact that the small business has less administrative capacity.

Identify the Benefits

Option 1

18. The only benefit to UK manufacturers is that they would continue as at present. However, it is a disadvantage to the UK manufacturing base to remain regulated solely by UK legislation, as it is a disincentive to export to the EU marketplace, which will be closed to non-compliant measuring instruments in any member State which has opted to implement the MID. UK manufacturing would then potentially be limited to the UK marketplace alone although the UK would not be able to prevent the placing on its market of instruments complying with the MID.

Option 2

19. The first benefit of implementation will be the removal of technical barriers that currently exist caused by dissimilar national regulation across the EU and the provision of a harmonised set of requirements for each of the instrument categories. However, most member States already comply with the Recommendations of the Organisation Internationale de Métrologie Légale (OIML), which means that, even under current national legislation, the technical requirements are often the same.

20. Under the MID there are more choices for manufacturers with respect to the routes to obtaining conformity assessment (previously known as type approval and verification). Options now also include self-verification and sample testing of instruments, depending on the category of instrument and the quality systems the manufacturer has employed. This enables the manufacturer to have more control over the conformity assessment of his products and the costs incurred.

21. Not only do manufacturers have choice about how to obtain conformity assessment, they also have a choice about where to obtain that assessment. This will introduce an element of competition into the marketplace and enable manufacturers to shop around for high quality and value for money services. This will have the effect of removing the potential monopoly of the individual member State, in relation to the home market.

22. The Directive will have no impact on existing instruments already placed on the market, which will remain controlled by the national legislation under which they were originally approved.

Option 3

23. There is a possibility that consumers will receive greater benefits since they could enjoy greater protection if the number of instruments regulated increases. However, businesses in the UK market

could experience an increase in the burden resulting from compliance with a greater number of regulations. The potential marketplace for UK manufacturers would, however, be opened up to include all member States where a similar level of regulation exists.

24. If the number of instruments controlled through regulation was reduced, there could be a corresponding reduction in the level of consumer protection. Businesses in the UK market would have greater benefits through a reduction in the burdens resulting from compliance with regulations, but would not benefit from free access to the markets in all member States.

Quantifying and Valuing Benefits

Option 1

25. No change - current national position prevails

Option 2

26. In response to the initial consultation document two companies and one trade association said that, post MID, the time to market should be reduced, in some cases significantly so. One company said that they expected time to market and costs to remain almost the same, although they recognised that there would be some reduction in the paperwork relating to compliance. One trade association said that its members did not expect there would be any significant increases in Type Approval costs in the member State where the EU type approval was obtained. One company said that there might be future benefits from the wide range of conformity assessment modules available.

Option 3

27. If the number of instruments regulated increases, then it is likely that the benefits of increased consumer protection would increase proportionally, along with the burdens on business. Conversely, if the number of instruments regulated went down, then benefits to business could increase as, potentially, consumer protection decreased.

Costs

28. One of the costs of getting a new product to market is the time taken to do this. It normally takes one to two years to take a new product from initial concept to the marketplace. Development costs, including tooling, range from £150,000 up to about £2m, depending on the complexity of the instrument. Approval time in the UK varies from about four weeks, where test results from another body support an application, to between six to twelve weeks. Costs range from £3,500 to £15,000. It was pointed out that, in other parts of the world, e.g. in Canada, approvals can take a lot longer, typically up to nine months.

29. There are costs attached to the exportation of products. Direct Type Approval costs within the EU can amount to £80,000, based on an initial cost of £30,000, plus £2,000 for each additional country. The trade association (mentioned in Para 30) represents companies that export to most EU countries and many outside the EU. They stated that exporting within Europe was fairly straightforward, as a result of the Type Approval Agreement from WELMEC¹. They also stated that the OIML Certificates of Conformity ease the type approval process in many countries outside the EU.

30. In response to a question in the initial consultation document about costs of gearing up for the MID, three companies said that they were anticipating the gearing up costs to be zero or very small. One trade association did not expect costs to increase significantly. The Trade Association was itself planning to provide training and expected the costs of this training to be reasonable. As part of the second consultation, three businesses that manufacture material measures were specifically consulted regarding the costs of implementation. One 'Measures of Length' company said that the

¹ The European Cooperation in Legal Metrology

MID will help with production, providing a quicker turnover and more control and only envisaged some future training costs. The other two companies dealt with 'Capacity Serving Measures' and both expected some small short-term costs, involving increased audit costs, cost of new stamps and stock control problems. NWML has been working with this sector to identify further solutions to these issues. One of these companies also stated that the MID is a definite advantage as they will be able to stamp their products in-house and will not need to move their stock between TSOs and their factories any more.

31. However, type approval is not required for material measures, including capacity serving measures and length measures. Therefore there is no transitional period for these measures. This means that manufacturers of capacity serving measures (generally glassware) and length measures will need to change from making products that bear a crown stamp to those which bear a CE mark overnight. One small company said that it would be very costly to change their production process in order to comply with the legislation. Several manufacturers have pointed out that they also run the risk of loss of redundant stock immediately post implementation, which will be a cost to their businesses.

Opportunities and Threats

32. Two trade associations and one company, who responded to the question in the initial consultation document, saw implementation of the MID as an opportunity. Respondents stated that the opportunities include savings in costs and time to market, based on the advantage that one approval ensures compliance in all EU countries.

33. The ten other respondees to this question saw the implementation of the MID as both a threat and an opportunity. The perceived threat was that countries will regulate different instruments, so there might be the case whereby a manufacturer of an MID compliant product would not be able to compete equally in a country that did not regulate that particular instrument in line with the MID, because it could well be in competition with a non-compliant product which would be cheaper and easier to make. This point was echoed by one of the trade associations, which stated that the lack of uniformity in prescription across the EU was seen as unhelpful and not in the spirit of the internal market. However, where a member State does not regulate in accordance with the MID, it cannot prevent compliant instruments being placed on its market or put into use.

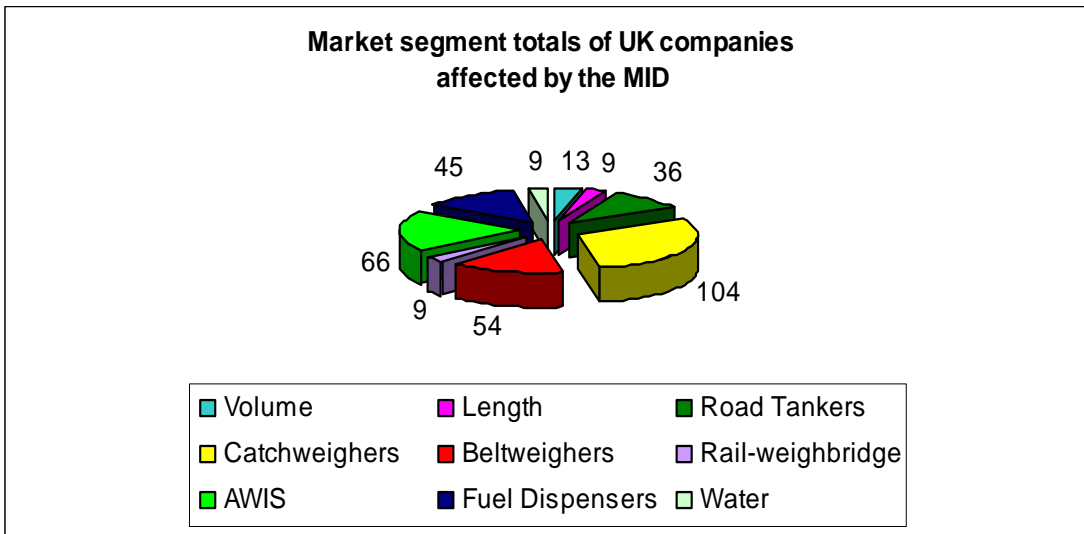
34. Another comment made was that, unless appropriately implemented, the MID could become a threat to consumer protection. In general, the trading standards organisations were concerned about how the implementation would affect the viability of their services and whether or not there would be sufficient demand to justify Local Authorities becoming Notified Bodies. Some comments concerned the possibility of Local Authorities working in partnership with others to provide a regional service.

Conclusion on Costs and Benefits

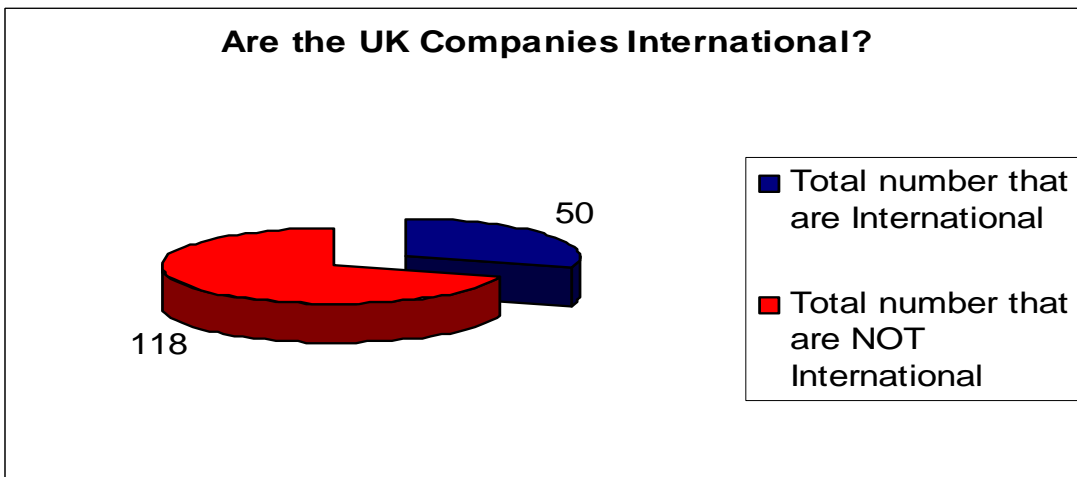
35. The comments received on the initial consultation were mixed as to whether the MID presented an opportunity or a threat. However, it was clear that there would be benefits to business of reduced regulatory burden, which would result in reduced time and costs of getting new products to the EU market. The Government accepts that prescription may not be the same across all member States, since the optionality clause enables member States to decide which instruments to regulate and for what purposes. However, where instruments are prescribed, the requirements will be identical. Where member States do not prescribe them, no national regulation will be permitted, allowing MID compliant products to circulate freely alongside non-MID compliant products. There was, nevertheless, a concern expressed that non-compliant instruments would be cheaper to make and therefore would ultimately cost less, so that they undercut the cost of compliant instruments.

Business Sectors Affected

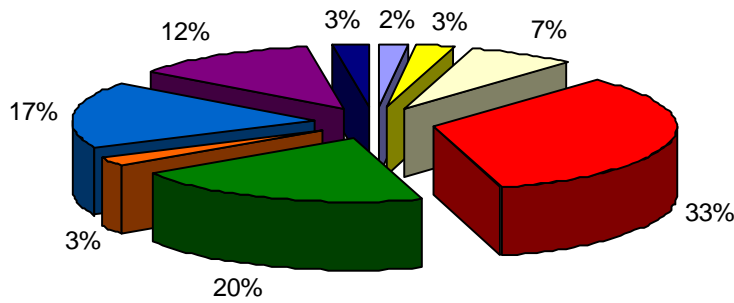
36. Research into the number of UK companies affected by the MID has concluded there are in excess of 260 companies affected. The following graph illustrates how the impact is spread across the MID market segments:



37. Following the initial research, NWML took a snap shot involving 148 of these companies to find out more about the impact the MID was expected to have on them. We were able to establish that the combined turnover of the UK market is in excess of £450 million and more than 28,000 staff will be affected. A further enquiry established whether the UK companies were international, in which of the MID market segments they operated and the EU countries to which they exported. The results are listed below:



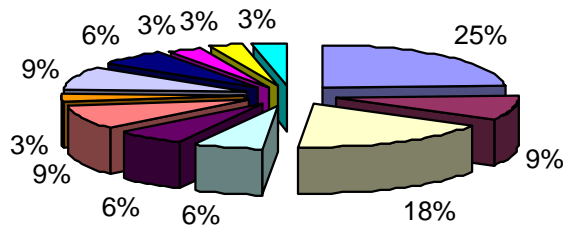
UK Companies that are International by MID market segments



Volume
 Length
 Road tankers
 Catchweighers
 Beltweighers

Rail weighbridge
 AWIS
 Fuel Dispensers
 Water

Where the UK companies export to in Europe



All Other EU Members
 Holland
 Germany
 Greece

Ireland
 Norway
 Denmark
 France

Belgium
 Sweden
 Austria
 Italy

Small Firms Impact Test

38. After having conducted 2 consultations and held 4 stakeholder meetings, (on the advice of the Small Business Service) NWML tried to contact at least one small firm manufacturing each specific instrument in the draft Regulations. During the course of this research, NWML was unable to identify any disproportionate impact on the small firms polled as a result of the implementation of the Directive.

39. A small number of firms may incur a slight cost at the initial stages of the Regulations coming into force, but only in the very short term. The consensus view was that the advantages gained would outweigh these initial costs. Therefore, NWML does not anticipate that this implementation will have any significant or complex impact on small firms, within the sectors affected by the proposed changes.

Case Study: Fisco Products Ltd

Fisco Products Ltd manufactures tape measures of a number of different types, which are sold throughout the world, the largest markets being in Europe. The company is UK owned, employs 110 full time equivalent staff and has an annual turnover of over

£6m. Annual production is about two million items but only a small proportion of these are subject to regulation in EC markets.

Type approval of new products and variants costs the company around £2,000 per annum and the company spends an additional £8,000 with Essex Trading Standards and £20,000 in-house for initial verification of individual tapes. Total costs add up to £30,000 per annum.

It is estimated that after investing £10,000 for equipment and training of staff, in-house verification can be carried out for £20,000 per annum, giving an ongoing saving of about £10,000.

The chief executive said “The MID means that we will have the freedom to carry out in-house verification, which will reduce the cost and time of getting our new products onto the market.”

40. As stated above, capacity serving measure manufacturers will need to switch from crown stamped to CE marked products on 30th October 2006. This sector is characterised by small manufacturers. In discussions with the manufacturers they have raised the issue of cost of changing tooling over and the cost of loss of crown stamped stock remaining at 30th October 2006. NWML have worked with the sector to find ways of minimising the cost of changeover.

Identify Any Other Costs

Option 1

41. None

Options 2 and 3

42. No additional costs for the manufacturer, although, for the member State as the designating authority, there would be the additional costs, estimated at around £40,000, for setting up a designation and auditing programme for Notified Body (NB) activities. The costs of the actual designation and audit would be met directly by the NB themselves. The costs of setting up a market surveillance programme would need to be met by the member State, as well as the on-going operation of programme. The on-going cost is likely to be in the order of £100,000 per year for those instruments currently regulated by NWML.

43. Individual Trading Standards Departments, along with Trading Standards organisations, have raised the issue of impact of the MID on their operations. They have identified a number of costs associated with gearing up for the MID. Costs fell into the following categories:

- Staff training - estimated to be about £140,000 in total, to cover 200 TSOs;
- Becoming an NB - which includes maintaining competences, estimated at about £70,000 overall, and the costs of implementing, managing and auditing a quality system though this should only entail a broadening of existing quality procedures;
- Actual designation and audit in order to become an NB - costs are yet to be determined;
- Acquiring the documentary information (Type Approval Certificates) - which currently stands at about £2,000 per Local Authority, for membership of EMeTAS¹;
- Third Party Insurance - estimated to be about £1,000 per Local Authority;
- Loss of income due to reduced verification revenue - as a result of the increase in self-verification expected, post MID.

¹ EMeTAS is the current EU information system, applicable to Non-Automatic Weighing Instruments under Directive 90/384/EEC, though the future system is still the subject of debate.

44. The main concern, raised by several bodies, was the impact of self-verification conformity assessment routes on the operations of Local Weights and Measures Authorities (LWMAs). Manufacturers will be able to carry out self verification (initial verification) of their equipment and, under existing national provisions, approved verifiers will be able to carry out subsequent verifications of instruments in use for trade, thus reducing demand for this service from LWMAs. The result will be a significant loss of revenue for the LWMAs.

45. A further concern, voiced by a number of organisations, was the decision by LWMAs about whether to become a NB, which was essential in order to permit LWMAs to continue to be able to carry out third party conformity assessment (initial verification) under the MID. Because of the uncertainty surrounding the level of uptake of self-verification, it is difficult for LWMAs to be able to decide now whether or not to become a NB. The risk is that if LWMAs decide it is not economically viable to become a NB and there is no provision of this service in a region, the costs to manufacturers of obtaining independent third party conformity assessment (initial verification) may rise steeply because they will need to pay more for a NB to travel to undertake the verification. Manufacturers will always have the possibility of self assessment as an option. Subsequent third party verification remains a duty of the LWMA.

Competition Assessment

46. It is anticipated that manufacturers would not incur any significant additional costs as a result of the proposed Directive. It is probable that manufacturers already comply with the technical requirements of the International Recommendations of the OIML, on which the essential requirements of the Directive are based. The Directive will reduce barriers to trade by harmonising national legislative requirements at European level. It is not likely that implementation of the proposed Directive would result in any disproportionate costs or other effects between manufacturers of the same type/categories of instruments.

47. In the light of the above comments, it is not anticipated that implementation of the proposed Directive will have significant impact on competition within any affected markets.

Rural Proofing

48. Please see Annex 2.

Summary and Recommendation

49. Evidence, provided in response to the consultation document, suggests that the time and costs of getting new products to market will be reduced as a result of implementing the MID. However, there will be some costs for Government in providing the infrastructure for Notified Bodies; for Trading Standards Departments through potential loss of income; and for capacity serving measures manufacturers as a result of switching overnight to a new system of instrument assessment.

50. Notwithstanding these identified costs, the responses received to the initial consultation document were very positive overall, with a substantial majority supporting the proposed approach to implementation.

51. The recommendation is, therefore, to proceed with implementation along the lines set out in the initial consultation document:

- Implementation on the basis of status quo of regulatory control
- Produce an individual SI for each category of instrument
- Include the in-service provisions in each SI.

Enforcement, Sanctions, Monitoring and Review

52. These activities are already carried out on similar instruments currently controlled under national legislation and will equally be applied to the same instruments regulated under the MID, by the respective regulatory authorities within the UK. There will be no effect on the compliance regime, as a result of the Hampton Review.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister *Barry Gardiner*
Parliamentary Under Secretary of State for Competitiveness
Department of Trade and Industry

Date **28th April 2006**

Contact point: Peter Edwards, NWML, 020 8943 7298
e-mail address: peter.edwards@nwml.gov.uk

Annex 1

List of RIAs relating to the implementation of the MID

1. Weighing Instruments, which covers:
 - a. Automatic Beltweighers
 - b. Automatic Catchweighers
 - c. Automatic Gravimetric Filling Instruments
 - d. Automatic Rail-weighbridges
 - e. Automatic Discontinuous Totalisers
2. Liquid Fuel delivered from Road Tankers
3. Liquid Fuel and Lubricants
4. Material Measures, which covers:
 - a. Capacity Serving Measures
 - b. Material Measures of Length
5. Cold-water Meters
6. Non-Prescribed Instruments
7. Exhaust Gas Analysers
8. Gas Meters¹
9. Electricity Meters²
10. Taximeters³

¹ The Regulations and associated RIA for these instruments are the responsibility of DTI Energy Group, working with Ofgem, who are working to a different timetable.

² See above footnote.

³ The Regulations and associated RIA for these instruments are the responsibility of Department for Transport, who are working to a different timetable.

Annex 2

Rural Proofing

1. Will the policy affect the availability of public and private services? *No*
2. Is the policy to be delivered through existing service outlets, such as schools, banks and GP surgeries? *No*
3. Will the cost of delivery be higher in rural areas where clients are more widely dispersed or economies of scale are harder to achieve? *No*
4. Will the policy affect travel needs or the ease and cost of travel? *No*
5. Does the policy rely on communicating information to clients? *No*
6. Is the policy to be delivered by the private sector or through a public-private partnership? *No*
7. Does the policy rely on infrastructure (e.g. broadband ICT, main roads, utilities) for delivery? *No*
8. Will the policy impact on rural businesses, including the self-employed? *There has been no indication of significant costs.*
9. Will the policy have a particular impact on land-based industries and, therefore, on rural economies and environments? *No*
10. Will the policy affect those on low wages or in part-time or seasonal employment? *No*
11. Is the policy to be targeted at the disadvantaged? *No*
12. Will the policy rely on local institutions for delivery? *No*
13. Does the policy depend on new buildings or development sites? *No*
14. Is the policy likely to impact on the quality and character of the natural and built rural landscape? *No*
15. Will the policy impact on people wishing to reach and use the countryside as a place for recreation and enjoyment? *No*

TRANSPOSITION NOTE
MEASURING INSTRUMENTS (CAPACITY SERVING MEASURES) REGULATIONS
2006

Directive 2004/22/EC of the European Parliament and Council on measuring instruments.

These Regulations transpose the Measuring Instruments Directive (MID) (2004/22/EC – OJ No. L135, 30.4.04) in relation to specified capacity serving measures in use for trade . The Secretary of State is responsible for taking measures to implement the MID in relation to the making of Regulations, the appointment of notified bodies, enforcement of provisions and market surveillance. Administrative actions that are the responsibility of the Secretary of State are not included within the Regulations.

Article	Objectives	Implementation
1	Specifies scope of the directive in respect of measuring instruments controlled.	Regulation 3(1) Regulations apply to certain Capacity Serving Measures for use for trade within MI-008 and first placed on the market or put into use on or after 30 October 2006.
2	Specifies scope of the directive in respect of the tasks for which measuring instruments are prescribed.	Regulation 3(1) Regulations for certain Capacity Serving Measures within MI-008, only applies to measures for use for trade.
3	Sets out the essential requirements for measuring instruments to be placed on the market and put into use The directive provides requirements for electromagnetic immunity.	Schedule 1 This provision is given effect by regulation 33 of the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 (one of the set of Regulations implementing MID). This provides that the provisions of Directive 89/336/EEC are disapplied in relation to the electromagnetic immunity of measuring instruments by amendment of the Electromagnetic Compatibility Regulations 2005 (EMC Regulations) in respect of measuring instruments complying with the marking and identification requirements of the MID. The emission requirements of the EMC Regulations continue to apply to measuring instruments.

4	Definitions	Where applicable, included within regulation 2
5	Applicability to sub-assemblies	Not relevant
6	Essential requirements and assessment of conformity	Regulations 5 and 6, Schedule 1 and Part 2 of Schedule 2
7	Conformity marking	Regulations 12 and 13, and Schedule 4.
8	Placing on the market and putting into use	Regulation 4 Regulation 3(3) disapples the obligations in relation to non-compliant measures displayed at trade fairs and exhibitions subject to certain conditions.
9	Conformity assessment	Regulations 5 and 6
10	Technical documentation	Regulation 6 and Schedule 4
11	Procedure for the designation of notified bodies	Regulations 7, 9 and 10
12	Criteria to be satisfied by designated bodies	Regulation 7 and Part 1 of Schedule 4
13	Harmonised Standards and Normative Documents	Regulations 2(1) and 5(2) and (3)
17	Markings	Regulation 12 and Schedule 5
18.1	Market surveillance	Regulations 17 and 18
18.2, 18.3 and 18.4	Administrative cooperation	Not relevant
19.1	Safeguard clause	Regulations 17 and 18
19.2	Administrative provisions for Commission	Not relevant
20.	Unduly affixed markings	Regulations 17 and 18
21	Decisions entailing withdrawal from the market or prohibition or restriction on placing on the market of non-compliant measuring instruments	Regulations 18 and Part 2 of Schedule 2
22	Repeals of directives	Not relevant
23	Transitional provisions	Regulation 3. The Regulations do not apply to instruments placed on the market before 30 October 2006 or instruments placed on the market after that date which comply with current Regulations

24.1	Transposition	Regulation 1. The Regulations come into force on 30 October 2006 except regulations relating to the designation of notified bodies which come into force on 30 May 2006.
24.2	Administrative action for member States	Not relevant
Annex I	Essential Requirements	Schedule 1
Annex MI-008	Definitions	Regulation 2 and Schedule 1
Annex MI-008 Chapter II	Requirements for Capacity Serving Measures	Schedule 1