

EXPLANATORY MEMORANDUM TO
THE MEASURING INSTRUMENT (EEC REQUIREMENTS) (FEES)
(AMENDMENT) REGULATIONS 2010

2010 No. 728

1. This explanatory memorandum has been prepared by the National Measurement Office (NMO), an Executive Agency of the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The instrument introduces new invoicing arrangements for fees relating to the approval of manufacturer's quality systems and the issuing of certificates of conformity and design or type examination certificates. A certificate of conformity is issued following a unit verification of a weighing or measuring instrument under the non-automatic weighing instruments directive or the measuring instruments directive. A type examination certificate is issued for a weighing or measuring instrument that complies with the requirements of the non-automatic weighing instruments directive or the measuring instruments directive.

An amount representing average travel costs in Great Britain is incorporated into the hourly rate for certification auditors. From time to time charges in respect of travel costs fluctuate as a result of the respective locations of the certification auditor and the recipient of services. Averaging the travel costs and including an amount representing the average in the hourly rate avoids apparent anomalies.

A new basis of calculation of variable fees is provided for (so that they are calculated with reference to the type of work undertaken as opposed to the grade of the officer carrying out the work) in the case of design examination or type examination and testing associated with the type examination process.

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

3.1 None.

4. **Legislative Context**

4.1 The instrument amends the law with a view to protecting the recipients of services against fluctuations in fees attributable to the involvement of senior officers in the provision of services which would, in the ordinary course have been provided by more junior personnel, introducing greater flexibility in invoicing arrangements and rationalising the recovery of travel costs incurred in Great Britain by National Measurement Office auditors and is made with the consent of Her Majesty's Treasury.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

5.2 Northern Ireland has its own Weights and Measures legislation.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

7.1 The instrument allows for flexible invoicing arrangements. The 2004 Regulations only allow for charging once the work has been completed. This has presented NMO with issues relating to recovery of costs, where customers do not pay NMO invoices. The new invoicing structure will allow NMO, at its discretion, to invoice for the work prior to the commencement of work, in instalments, or after the work has been completed. The ability to charge at different stages of the process will lead to a reduction in NMO's debt collecting costs.

NMO currently charges an hourly rate for services provided by a certification auditor and that the rate is standard across Great Britain. However, travel costs are incurred by those auditors which are paid for by the customer. What this means, is that charges in relation to travel costs regularly fluctuate depending on the respective locations of the recipient of the services and the auditor. By averaging travelling costs incurred by the recipients of services and including the average within the hourly rate for auditors, apparent anomalies are resolved and customers are placed on a level playing field.

The 2004 Regulations only allow for charges to be based on the grade of the officer carrying out the work. Should the appropriate officer not be available, the work would be carried out by a senior officer and consequently the customer would be charged more for an identical piece of work, compared to another customer where the appropriate grade was available to carry out the work. In order to rectify this anomaly, the new Regulation allows charges to be based on the type of work carried out irrespective of grade.

- *Consolidation*

7.2 The amendments to the 2004 Regulations made by this instrument are minor in nature and of relevance to only one sector of the market. The 2004 Regulations will be consolidated when the next substantive amendment is proposed.

8. Consultation outcome

8.1 Not required. Consultation has not taken place as the changes to the charging structure will not see an increase in fees. In fact, some customers in Great Britain will see a reduction in their costs.

9. Guidance

9.1 No guidance has been produced by NMO to accompany the amendments as the changes will not impose any burdens on business who pay NMO's invoices on a timely basis.

10. Impact

10.1 There will be no impact on charities or voluntary bodies. The changes proposed relating to flexible invoicing arrangement will benefit business by permitting staged payments. The changes relating to travel costs for auditing activities will mean a reduction in fees for business and will ensure a level playing field. The changes associated with charging by type or work rather than grade of officer will rectify the current anomaly faced by business. There will be no impact on the public sector. An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business, but the changes proposed will have a positive impact as described above.

12. Monitoring & review

12.1 The effectiveness of the legislative change will be reviewed after 1 year. Any changes to fee rates or charging arrangements will be made as appropriate.

13. Contact

Paul Dixon at the National Measurement Office Tel: 020 8943 7282 or email: paul.dixon@nmo.gov.uk can answer any queries regarding the instrument.