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STATUTORY INSTRUMENTS

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**2016 No. 1152**

The Non-automatic Weighing Instruments Regulations 2016

**PART 3**

CONFORMITY OF REGULATED NON-AUTOMATIC WEIGHING INSTRUMENTS

CHAPTER 1

ESTABLISHING COMPLIANCE WITH THE ESSENTIAL REQUIREMENTS

**Introductory**

**33.** This Chapter applies for the purposes of establishing whether a regulated non-automatic weighing instrument complies with the essential requirements.

**Methods of establishing conformity with the essential requirements** **E+W+S**

**34.** Conformity with the essential requirements may be established in relation to a regulated non-automatic weighing instrument—

- (a) through conformity with [<sup>F1</sup>designated] standards (or parts of those standards) covering the essential requirements <sup>F2</sup>...; or
- (b) through the use by the manufacturer of any other technical solution that complies with the essential requirements.

**Extent Information**

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F1** Word in reg. 34(a) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 20(a)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Words in reg. 34(a) omitted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 20(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**

**Methods of establishing conformity with the essential requirements** **N.I.**

**34.** Conformity with the essential requirements may be established in relation to a regulated non-automatic weighing instrument—

- (a) through conformity with harmonised standards (or parts of those standards) covering the essential requirements where the harmonised standards have been published in the Official Journal of the European Union; or

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- (b) through the use by the manufacturer of any other technical solution that complies with the essential requirements.

#### Extent Information

- E5** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

### Presumptions of conformity of regulated non-automatic weighing instruments **E+W+S**

**35.** Regulated non-automatic weighing instruments which are in conformity with [<sup>F3</sup>designated] standards (or parts of those standards) shall be presumed to be in conformity with the essential requirements covered by those standards (or parts of those standards).

#### Extent Information

- E2** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F3** Word in reg. 35 substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 21** (with Sch. 26 para. 5) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**

### Presumptions of conformity of regulated non-automatic weighing instruments **N.I.**

**35.** Regulated non-automatic weighing instruments which are in conformity with harmonised standards (or parts of those standards) shall be presumed to be in conformity with the essential requirements covered by those standards (or parts of those standards).

#### Extent Information

- E6** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

### Conformity assessment procedures **E+W+S**

**36.—**(1) The conformity of regulated non-automatic weighing instruments to the essential requirements may, subject to paragraph (2), be established by either of the following conformity assessment procedures as selected by the manufacturer—

- (a) Module B as set out in point 1 of [<sup>F4</sup>Schedule 7] followed by either—
- (i) Module D as set out in point 2 of [<sup>F5</sup>Schedule 7]; or
- (ii) Module F as set out in point 4 of [<sup>F6</sup>Schedule 7]; or
- (b) Module G as set out in point 6 of [<sup>F7</sup>Schedule 7].

(2) Module B is compulsory for instruments—

- (a) which use electronic devices; and
- (b) the load measuring device of which uses a spring to balance the load.

(3) Where an instrument is not submitted to Module B, either of the following modules must be applied—

- (a) Module D1 as set out in point 3 of [<sup>F8</sup>Schedule 7]; or
- (b) Module F1 as set out in point 5 of [<sup>F9</sup>Schedule 7].
- (4) [<sup>F10</sup>An approved] body must carry out the conformity assessment procedure selected by the manufacturer in accordance with the requirements of Schedule 2.
- (5) The documents and correspondence relating to the conformity assessment procedures referred to in this regulation, and which are carried out in the United Kingdom, must be drawn up in English.
- (6) In this regulation a reference to a module other than Module B includes the common provisions as set out in point 7 of [<sup>F11</sup>Schedule 7].

#### Extent Information

- E3** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F4** Words in reg. 36(1)(a) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(a)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Words in reg. 36(1)(a)(i) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in reg. 36(1)(a)(ii) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** Words in reg. 36(1)(b) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in reg. 36(3)(a) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in reg. 36(3)(b) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(b)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F10** Words in reg. 36(4) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(c)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**
- F11** Words in reg. 36(6) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 22(a)** (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**

#### Conformity assessment procedures **N.I.**

36.—(1) The conformity of regulated non-automatic weighing instruments to the essential requirements may, subject to paragraph (2), be established by either of the following conformity assessment procedures as selected by the manufacturer—

- (a) Module B as set out in point 1 of Annex II to the Directive followed by either—
- (i) Module D as set out in point 2 of Annex II; or
- (ii) Module F as set out in point 4 of Annex II; or
- (b) Module G as set out in point 6 of Annex II.
- (2) Module B is compulsory for instruments—

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- (a) which use electronic devices; and
  - (b) the load measuring device of which uses a spring to balance the load.
- (3) Where an instrument is not submitted to Module B, either of the following modules must be applied—
- (a) Module D1 as set out in point 3 of Annex II; or
  - (b) Module F1 as set out in point 5 of Annex II.
- (4) A notified body must carry out the conformity assessment procedure selected by the manufacturer in accordance with the requirements of Schedule 2.
- (5) The documents and correspondence relating to the conformity assessment procedures referred to in this regulation, and which are carried out in the United Kingdom, must be drawn up in English.
- (6) In this regulation a reference to a module other than Module B includes the common provisions as set out in point 7 of Annex II to the Directive.

#### **Extent Information**

- E7** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### **[<sup>F12</sup>Subsidiaries and contractors**

- 37.**—(1) This regulation applies where—
- (a) a notified body subcontracts specific conformity assessment activities, or
  - (b) has such activities carried out by a subsidiary.
- (2) The activities are only to be treated as having been carried out by a notified body for the purposes of regulation 36 (conformity assessment procedures) where the conditions in paragraphs (3) and (4) are met.
- (3) The notified body must—
- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
  - (b) inform the Secretary of State accordingly.
- (4) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.
- (5) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the notified body must for a period of at least 10 years beginning on the day after the activities are carried out, keep at the disposal of the Secretary of State the documentation concerning—
- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
  - (b) the conformity assessment activities carried out by the subcontractor or subsidiary.
- (6) When monitoring a notified body in accordance with regulation 52 (monitoring), the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.]

**F12** Reg. 37 omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 26 para. 23** (with Sch. 26 para. 5) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, **Sch. 5 para. 1(1)**

## Fees **E+W+S**

**38.**—(1) [<sup>F13</sup>An approved] body may charge fees in connection with, or incidental to, the carrying out of conformity assessment procedures or specific tasks as it may determine.

(2) The fees referred to in paragraph (1) must not exceed the following—

- (a) the costs incurred or to be incurred by the [<sup>F14</sup>approved] body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by that notified body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) The power in paragraph (1) includes the power to require payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

(4) Where any fees payable to [<sup>F13</sup>an approved] body pursuant to this regulation remain unpaid 28 days after either the work has been requested or payment of the fees has been requested in writing, whichever is the later, the notified body may by 14 days' notice in writing provide that, unless the fees are paid before the expiry of the notice, the certificate or notification appropriate to the relevant conformity assessment procedure may be suspended until payment of the fees has been received.

(5) This regulation does not apply to the Secretary of State.

### Extent Information

- E4** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only
- F13** Words in [reg. 38](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 26 para. 24\(a\)](#) (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F14** Word in [reg. 38\(2\)\(a\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 26 para. 24\(b\)](#) (with [Sch. 26 para. 5](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## Fees **N.I.**

**38.**—(1) A United Kingdom notified body may charge fees in connection with, or incidental to, the carrying out of conformity assessment procedures or specific tasks as it may determine.

(2) The fees referred to in paragraph (1) must not exceed the following—

- (a) the costs incurred or to be incurred by the United Kingdom notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by that notified body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) The power in paragraph (1) includes the power to require payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

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**Changes to legislation:** There are currently no known outstanding effects for the The Non-automatic Weighing Instruments Regulations 2016, CHAPTER 1. (See end of Document for details)

(4) Where any fees payable to a United Kingdom notified body pursuant to this regulation remain unpaid 28 days after either the work has been requested or payment of the fees has been requested in writing, whichever is the later, the notified body may by 14 days' notice in writing provide that, unless the fees are paid before the expiry of the notice, the certificate or notification appropriate to the relevant conformity assessment procedure may be suspended until payment of the fees has been received.

(5) This regulation does not apply to the Secretary of State.

**Extent Information**

**E8** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Non-automatic Weighing Instruments Regulations 2016, CHAPTER 1.