

## EXPLANATORY MEMORANDUM TO

### THE NON-AUTOMATIC WEIGHING INSTRUMENTS REGULATIONS 2016

2016 No. 1152

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The purpose of this instrument is to implement Directive 2014/31/EU of the European Parliament and of the Council (OJ No L96, 29.3.2014, p107) on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments (“the 2014 Directive”). This Directive sets out the technical specifications applicable to non-automatic weighing instruments, the procedures for ensuring that non-automatic weighing instruments meet the specifications (commonly referred to as conformity assessment procedures) and the obligations of manufacturers, importers and distributors in relation to such instruments. The 2014 Directive recasts Directive 2009/23/EC of the European Parliament and of the Council of 23 April 2009 on non-automatic weighing instruments. The instrument also re-enacts provisions relating to the use for trade of non-automatic weighing instruments which were contained in the Non-automatic Weighing Instruments Regulations 2000.
- 2.2 This instrument will meet the United Kingdom’s legal obligations to implement the 2014 Directive. The intended effects of implementing the 2014 Directive are to ensure that the obligations of all of the economic operators in the supply chain for non-automatic weighing instruments are clearer (and in particular importers and distributors) and to provide a more structured market surveillance regime.
- 2.3 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of the exit negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

#### 3. Matters of special interest to Parliament

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

- 3.1 None.

##### *Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### **4. Legislative Context**

- 4.1 This instrument is made in order to implement the 2014 Directive
- 4.2 This instrument revokes and replaces the Non-automatic Weighing Instruments Regulations 2000 (as amended).

#### **5. Extent and Territorial Application**

- 5.1 The extent of this instrument applies to all of the United Kingdom except for Part 7 which does not extend to Northern Ireland.
- 5.2 The territorial application of this instrument applies to all of the United Kingdom except for Part 7 which does not extend to Northern Ireland.

#### **6. European Convention on Human Rights**

- 6.1 The Minister of State for Small Business, Industry and Enterprise has made the following statement regarding Human Rights:

“In my view the provisions of the Non-automatic Weighing Instruments Regulations 2014 are compatible with the Convention rights.”

#### **7. Policy background**

##### *What is being done and why*

- 7.1 The 2014 Directive sets harmonised rules relating to the manufacture of non-automatic weighing instruments. It repeals and replaces Directive 2009/23/EC of the European Parliament and of the Council of 23 April 2009 on non-automatic weighing instruments (OJ L 122, 16.5.2009, p. 6) which was a codification of Council Directive 90/384/EEC of 20 June 1990 on the harmonisation of the laws of Member States relating to non-automatic weighing instruments (OJ L 189, 20.7.1990, p. 1). In particular, the 2014 Directive applies the approach set out in the EU’s New Legislative Framework (“the Framework”) to non-automatic weighing instruments. The Framework is a set of general principles and rules which aims to make the legislation on the single market for goods clearer, more consistent and more effective. The key changes that are made are the following:

- The definitions have been brought into line with the framework.
- The obligations of economic operators have been extended and clarified. For example, manufactures and importers will need to monitor the conformity of non-automatic weighing instruments placed on the market.
- New requirements have been introduced to increase the traceability of non-automatic weighing instruments placed on the market, including labelling requirements and a requirement for economic operators to keep records of other economic operators in the supply chain for 10 years.
- More detailed requirements have been introduced concerning the process by which, and the criteria which must be satisfied before, bodies carrying out conformity assessment procedures can be considered notified bodies able to carry out tasks under the Directive.

- Enforcing authorities have been given additional powers where non-automatic weighing instruments are found not to comply with the requirements of the Directive

### ***Consolidation***

7.2 Issues of consolidation do not arise as the 2016 Regulations are replacing the earlier Regulations.

## **8. Consultation outcome**

8.1 A consultation on the implementing proposals and the implementing draft Regulations ran from 4<sup>th</sup> August 2015 to 29<sup>th</sup> September 2015. All comments have been considered, and changes made to the legislation where necessary to accommodate concerns raised. In addition, during the transposition period various stakeholder meetings with business and trading standards, along with presentations at national and regional level were held to raise awareness of the proposals and to answer questions or concerns.

## **9. Guidance**

9.1 Comprehensive guidance on the implemented changes will be made available in the “Weights and measures regulation” section of [www.gov.uk](http://www.gov.uk).

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is detailed in the Impact Assessment attached.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is submitted with this memorandum.

## **11. Regulating small business**

11.1 The legislation applies to activities that are undertaken by small businesses. The Government considers that the legislation is not expected to impose a disproportionate cost to small business.

## **12. Monitoring & review**

12.1 The 2016 Regulations will be reviewed by the Secretary of State and the conclusions of that review will be published in a report will be published no later than 5 years after the 2016 Regulations come into force.

## **13. Contact**

13.1 Robert Harper at the Department for Business, Energy and Industrial Strategy  
Telephone: 020 8943 7255 or email: [robert.harper@beis.gov.uk](mailto:robert.harper@beis.gov.uk) can answer any queries regarding the instrument.