

2016 No. 1153

WEIGHTS AND MEASURES

The Measuring Instruments Regulations 2016

Made - - - - 29th November 2016

Laid before Parliament 6th December 2016

Coming into force - - 28th December 2016

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to, and for purposes ancillary to, the regulation of specifications, construction, placing on the market and use of articles, instruments, containers or other equipment intended for weighing, measuring or testing.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(c) of Schedule 2 to that Act and, in relation to Part 6 of the Regulations (and any other provisions of these Regulations to the extent that they apply to, or give effect to, Part 6), in exercise of powers conferred by sections 15(1) and 86(1) of the Weights and Measures Act 1985(d).

PART 1

INTRODUCTORY

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Measuring Instruments Regulations 2016.
- (2) These Regulations come into force on 28th December 2016.
- (3) These Regulations extend to Northern Ireland except Part 6.

(a) S.I. 1975/427.

(b) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1.

(d) 1985 c.72.

Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Weights and Measures Act 1985;

“accreditation” bears the same meaning as in point 10 of Article 2 of RAMS;

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service or a national accreditation body in another EEA state, attesting that a conformity assessment body meets the notified body requirements;

“active electrical energy meter” means a device which measures the active electrical energy consumed in a circuit which is intended for residential, commercial or light industrial use;

“authorised representative” means any person established within the European Economic Area who has received a written mandate from a manufacturer to act on the manufacturer’s behalf in relation to specified tasks;

“automatic weighing instrument” means an instrument that—

- (a) determines the mass of a product without the intervention of an operator; and
- (b) follows a predetermined programme of automatic processes characteristic of the instrument intended to determine the mass of a body by using the action of gravity on that body;

“automatic gravimetric filling instrument” means an automatic weighing instrument that fills containers with a predetermined and virtually constant mass of product from bulk;

“automatic catchweigher” means an automatic weighing instrument that determines the mass of pre-assembled discrete loads (for example pre-packages) or single loads of loose material;

“automatic checkweigher” means an automatic catchweigher which sub-divides articles of different mass into two or more sub-groups according to the value of the difference between their mass and the nominal set point;

“automatic discontinuous totaliser” means an automatic weighing instrument that—

- (a) determines the mass of a bulk product by dividing the product into discrete loads;
- (b) determines in sequence and sums the mass of each discrete load; and
- (c) delivers each discrete load to bulk;

“automatic rail-weighbridge” means an automatic weighing instrument having a load receptor inclusive of rails for conveying railway vehicles;

“automatic weight grading instrument” means an instrument which sub-divides articles of different mass into several sub-groups, each characterised by a given mass range;

“beltweigher” means an automatic weighing instrument that continuously determines the mass of a bulk product on a conveyor belt without systematic subdivision of the product without interrupting the movement of the conveyor belt;

“capacity serving measure” means a capacity serving measure (such as a drinking glass, jug or thimble measure) designed to determine a specified volume of a liquid (other than a pharmaceutical product) which is sold for immediate consumption;

“CE marking” means a marking which takes the form set out in Annex II of RAMS;

“commencement date” means the date referred to in regulation 1(2);

“Commission” means the Commission of the European Union;

“competent authority” means any person who is pursuant to regulation 67 (enforcement of the Regulations), authorised to enforce these Regulations;

“compliance notice” means a notice served in accordance with regulation 68(2);

“conformity assessment” means the process demonstrating whether the essential requirements relating to a measuring instrument have been met;

“conformity assessment body” means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

“dimensional measuring instrument” means—

- (a) a length measuring instrument that serves for the determination of the length of rope type materials (for example textiles, bands, cables) during feed motion of the product to be measured;
- (b) an area measuring instrument which serves for the determination of the area of irregular shaped objects, for example for leather; or
- (c) a multi-dimensional measuring instrument which serves for the determination of the edge length (length, height, width) of the smallest enclosing rectangular parallelepiped of a product;

“the Directive” means Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments^(a) and references to the Directive (or a specific provision of it) are references to the Directive (or that provision) as from time to time amended;

“disqualification mark” means a mark or sticker the design of which is published by the Secretary of State^(b) and which may be affixed to a regulated measuring instrument in accordance with regulation 72 (disqualification);

“distributor” means any person in the supply chain, other than a manufacturer or an importer, who makes a measuring instrument available on the market;

“economic operator” means a manufacturer, authorised representative, importer or distributor;

“enforcement notice” means a notice served in accordance with regulation 69(2);

“enforcement officer” means—

- (a) an inspector; or
- (b) a person appointed by the Secretary of State to act on the Secretary of State’s behalf to enforce these Regulations;

“essential requirements” means, in relation to a measuring instrument (or a class of that measuring instrument), the requirements specified as being applicable in relation to that measuring instrument (or that class) in Schedule 1;

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with chapter 3 of Part 4;

“EU-design examination certificate” means an EU-design certificate issued by a notified body in accordance with Module H1 of Annex II to the Directive;

“EU-type examination certificate” means an EU-type examination certificate issued by a notified body in accordance with Module B of Annex II to the Directive;

“exhaust gas analyser” means a measuring instrument that serves, in relation to a motor vehicle engine with spark ignition, to determine at the moisture level of the sample analysed the volume fractions of the following exhaust gas components—

- (a) carbon monoxide;
- (b) carbon dioxide;
- (c) oxygen; and
- (d) hydrocarbons;

(a) OJ L 96, 29.3.2014, p.149.

(b) The design of the disqualification mark is published on page 26 of the guidance on the Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006 (S.I. 2006 No. 1260) (as amended by the Measuring Instruments (Amendment) Regulations 2010 (S.I. 2010 No. 281)) and the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995 (S.I. 1995 No.1014) (as amended). This guidance was published by the Department for Business, Innovation and Skills in February 2012 and can be found at www.gov.uk/government/uploads/system/uploads/attachment_data/file/283210/liquid-fuel-lubricants-consolidated-guidance-version-1.pdf. Paper copies are available from the Regulatory Delivery Directorate, Department for Business, Energy and Industrial Strategy 1 Victoria Street, London SW1H 0ET.

“gas meter” means an instrument designed to measure, memorise and display the quantity of fuel gas (volume or mass) that has passed it which is intended for residential, commercial or light industrial use;

“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation^(a) (as amended from time to time);

“importer” means any person who—

- (a) is established within the European Economic Area; and
- (b) places a measuring instrument from a third country on the European Economic Area market;

“in writing” includes text that is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference;

“M marking” means a marking applied to a measuring instrument which consists of the capital letter ‘M’ and the last two digits of the year of its affixing surrounded by a rectangle, the height of which is equal to that of the CE marking applied to that instrument;

“measuring instrument” has the meaning in regulation 3(1);

“make available on the market” means any supply of a measuring instrument for distribution, or use on the European Economic Area market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions are to be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures a measuring instrument, or has a measuring instrument designed or manufactured, and markets that measuring instrument under their name or trade mark; or
- (b) is to be treated as a manufacturer by virtue of regulation 6(2);

“market surveillance authority” means the Secretary of State acting in the capacity of the market surveillance authority pursuant to the designation made by regulation 62 (the market surveillance authority) and where the context requires includes a market surveillance authority in another EEA state;

“material measure” means—

- (a) a material measure of length; or
- (b) a capacity serving measure;

“material measure of length” means an instrument comprising scale marks whose distances are given in legal units of length;

“national accreditation body” means the national accreditation body as defined in point 11 of Article 2 of RAMS;

“non-prescribed measuring instrument” means a measuring instrument of a kind referred to in regulation 3(3);

“non-water liquid measuring system” means a measuring system for the continuous and dynamic measurement of quantities of liquids other than water where—

- (a) the system comprises a meter and all devices required to ensure correct measurement or intended to facilitate the measuring operations; and
- (b) the expression “meter” means an instrument designed to measure continuously, memorise and display the quantity at metering conditions of liquid flowing through the measurement transducer in a closed, fully charged conduit;

(a) OJ L 316, 14.11.2012, p.12.

“normative document” means a document containing technical specifications adopted by the International Organisation of Legal Metrology;

“notified body” means a conformity assessment body that has been notified to the Commission in accordance with Part 5 and includes, where the context so requires, a notified body designated as such in another EEA state in accordance with the Directive;

“notified body requirements” means the requirements set out in Schedule 5 (notified body requirements);

“notifying authority” means the notifying authority within the meaning of regulation 54 (the notifying authority)

“place on the market” means the first making available of a measuring instrument on the market, in the European Economic Area and related expressions are to be construed accordingly;

“putting into use” means the first use of a measuring instrument intended for the end-user for the purposes for which it was intended and related expressions are to be construed accordingly;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (a) (as from time to time amended);

“recall” means any measure aimed at achieving the return of a regulated measuring instrument that has already been made available to the end-user and related expressions are to be construed accordingly;

“regulated measuring instrument” means an instrument of the kind referred to in regulation 3(2);

“relevant conformity assessment procedure” means, in relation to a particular measuring instrument, a conformity assessment procedure specified in Schedule 1 as being applicable to that instrument;

“relevant economic operator” means, in relation to a measuring instrument, an economic operator with obligations in respect of that measuring instrument under Part 2;

“re-qualification mark” means a mark or sticker, the design of which is published by the Secretary of State(b) and which is affixed to a regulated measuring instrument in accordance with regulation 73 (re-qualification);

“sub-assembly” means a hardware device mentioned as such in the instrument-specific annexes to the Directive that functions independently and makes up a measuring instrument together with other sub-assemblies with which it is compatible, or with a measuring instrument with which it is compatible;

“taximeter” means a device that works together with a signal generator to make a measuring instrument with the device measuring duration, calculating distance on the basis of a signal delivered by the distance signal generator and calculating and displaying the fare to be paid for a trip on the basis of the calculated distance or the measured duration of the trip, or both;

“technical documentation” means documentation prepared in accordance with Chapter 2 of Part 4;

“technical specification” means a document that prescribes technical requirements to be fulfilled by a measuring instrument;

(a) OJ L 218, 13.8.2008, p.30.

(b) The design of the requalification mark is published on page 25 of the guidance on the Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006 (S.I. 2006 No. 1260) (as amended by the Measuring Instruments (Amendment) Regulations 2010 (S.I. 2010 No. 281)) and the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995 (S.I. 1995 No.1014) (as amended). This guidance was published by the Department for Business, Innovation and Skills in February 2012 and can be found at www.gov.uk/government/uploads/system/uploads/attachment_data/file/283210/liquid-fuel-lubricants-consolidated-guidance-version-1.pdf. Paper copies are available from the Regulatory Delivery Directorate, Department for Business, Energy and Industrial Strategy 1 Victoria Street, London SW1H 0ET.

“thermal energy meter” means an instrument designed to measure the thermal energy which, in a thermal energy exchange circuit, is given up by a liquid called the thermal energy-conveying liquid which is intended for residential, commercial or light industrial use and includes the following sub-assemblies, flow sensors, temperature sensor pairs and calculators where these are manufactured separately;

“Union harmonisation legislation” means any European Union legislation harmonising the conditions for the marketing of products;

“United Kingdom Accreditation Service” means the company limited by guarantee incorporated in England and Wales under number 3076190;

“volume conversion device” means a device fitted to a gas meter that automatically converts the quantity measured at metering conditions into a quantity at the specified conditions to which the measured quantity of fluid is converted;

“water meter” means an instrument designed to measure, memorise and display, the volume at metering conditions of water passing through the measurement transducer for the measurement of volumes of clean, cold or heated water intended for residential, commercial or light industrial use

“weights and measures authority” means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985(a); and

“withdraw”, when used in relation to a measuring instrument, means taking any measure aimed at preventing a measuring instrument in the supply chain from being made available on the market and related expressions are to be construed accordingly.

(2) A regulated measuring instrument that meets the requirements of the Directive by virtue of the laws of another EEA state is to be treated as meeting the requirements of these Regulations (except any requirement of these Regulations for anything to be written in English) and references to a regulated measuring instrument being in conformity with these Regulations are to be construed accordingly.

(3) Other expressions used in these Regulations have in relation to the application of these Regulations to—

- (a) Great Britain, the same meanings as in the Weights and Measures Act 1985; and
- (b) Northern Ireland, the same meanings as in the Weights and Measures (Northern Ireland) Order 1981(b).

Meaning of “measuring instrument” and related expressions and application of these Regulations

3.—(1) In these Regulations the expression “measuring instruments” comprises the following—

- (a) water meters;
- (b) gas meters and sub-assemblies for inclusion in, or attachment to, gas meters in the form of volume conversion devices;
- (c) active electrical energy meters;
- (d) thermal energy meters and any of the following sub-assemblies—
 - (i) flow sensors;
 - (ii) temperature sensor pairs; and
 - (iii) calculators;
- (e) non-water liquid measuring systems;
- (f) automatic weighing instruments of the following kinds—

(a) 1985 c.72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c.43), Schedule 1, the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 144 and the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 75.

(b) S.I. 1981/231 (N.I. 10).

- (i) automatic catchweighers;
- (ii) automatic gravimetric filling instruments;
- (iii) discontinuous totalisers;
- (iv) beltweighers; and
- (v) automatic rail weighbridges;
- (g) taximeters;
- (h) material measures;
- (i) dimensional measuring instruments; and
- (j) exhaust gas analysers.

(2) In these Regulations a reference to a regulated measuring instrument means a measuring instrument of any of the following descriptions —

- (a) water meters used for trade for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) gas meters for use for trade except a gas meter which is used under an agreement providing for the supply of a quantity of gas at a rate of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic meters an hour (or the equivalent quantity in kilograms);
- (c) active electrical energy meters for use for trade other than an instrument which is used under an agreement providing for the supply of active electrical energy where—
 - (i) the maximum quantity supplied exceeds 100 kilowatts per hour; and
 - (ii) the instrument provides measurement on a half-hourly basis;
- (d) non-water liquid measuring systems for use for trade of the following descriptions—
 - (i) a measuring system which is used for the continuous and dynamic measurement in a quantity not exceeding 100 litres or 100 kilograms of a liquid fuel, lubricant or a mixture of fuel and lubricant other than—
 - (aa) liquefied petroleum gas; or
 - (bb) liquefied natural gas;
 - (ii) a measuring system (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which is used for the continuous and dynamic measurement in a quantity exceeding 100 litres or 100 kilograms of liquid fuel delivered from a road tanker other than—
 - (aa) liquefied gases;
 - (bb) lubricating oils;
 - (cc) liquid fuels of a temperature below -153°C; or
 - (dd) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (e) automatic weighing instruments of the following kinds which are for use for trade—
 - (i) automatic gravimetric filling instruments;
 - (ii) automatic catchweighers (other than automatic checkweighers and automatic weight grading instruments);
 - (iii) automatic rail-weighbridges;
 - (iv) beltweighers; and
 - (v) discontinuous totalisers;
- (f) taximeters intended for use for the protection of consumers;
- (g) material measures which are for use for trade of the following kinds—
 - (i) material measures of length (excluding dipping and strapping tapes);

- (ii) capacity serving measures for the measurement of draft beer or cider of the following capacities: $\frac{1}{3}$ pint, $\frac{1}{2}$ pint, $\frac{2}{3}$ pint, 1 pint, 2 pints, 4 pints, 8 pints and 16 pints;
 - (iii) capacity serving measures for the measurement of liquids other than draft beer or cider (a) of the following capacities in millilitres (ml) and litres (l): 5 ml, 10 ml, 20 ml, 25 ml, 35 ml, 50 ml, 70 ml, 100 ml, 125 ml, 150 ml, 175 ml, 200 ml, 250 ml, 500 ml, 1 l, 2 l, 2.5 l, 5 l, 10 l and 20 l;
 - (h) exhaust gas analysers intended for use for the protection of the environment and public health except where the exhaust gas analyser includes or is connected to a device which is not used for the protection of the environment and public health;
- (3) In these Regulations “non-prescribed measuring instruments” are measuring instruments that are neither regulated measuring instruments nor measuring instruments referred to in paragraph (4) and Schedule 2.
- (4) These Regulations do not apply to the putting into use of the instruments listed in Schedule 2.

Revocations and transitional and consequential provisions

4. Schedule 3 (revocations, and transitional and consequential provisions) has effect.

Exception for trade fairs, exhibitions and demonstration

5. Nothing in these Regulations prevents the showing and use of a regulated measuring instrument which is not in conformity with the requirements of these Regulations at a trade fair, exhibition or demonstration for the marketing of regulated measuring instruments, provided that a visible sign clearly indicates—

- (a) the name and date of the trade fair or exhibition;
- (b) that the instrument is not in conformity with these Regulations; and
- (c) that the instrument is not available for sale until brought into conformity with these Regulations.

PART 2

REGULATED MEASURING INSTRUMENTS – OBLIGATIONS OF ECONOMIC OPERATORS

CHAPTER 1

OBLIGATIONS OF MANUFACTURERS AND PERSONS TO BE TREATED AS MANUFACTURERS

Introductory

6.—(1) This Chapter applies in relation to the placing on the market or the putting into use of a regulated measuring instrument by a manufacturer.

- (2) The obligations in this Chapter also apply to an importer or distributor who—
- (a) places a regulated measuring instrument on the market under the name or trade mark of that importer or distributor; or
 - (b) modifies a regulated measuring instrument already placed on the market in such a way that compliance with these Regulations may be affected,

(a) The Weights and Measures (Intoxicating Liquor) Order 1988 (S.I. 1988/2039 amended by S.I. 1990/1550, 1994/1883, 2009/663 and S.I. 2011/2331) makes provision as to the units of measurement and capacities that may be used in relation to certain intoxicating liquors.

and the expression “manufacturer” is to be construed accordingly.

Manufacturers’ responsibilities – design, conformity assessment and marking of regulated measuring instruments

7. A manufacturer must not place on the market or put into use a regulated measuring instrument unless the manufacturer has—

- (a) designed and manufactured the instrument in accordance with the essential requirements;
- (b) drawn up technical documentation in relation to the instrument;
- (c) carried out (or procured the carrying out of) the relevant conformity assessment procedure which has demonstrated compliance of the instrument with the applicable requirements;
- (d) drawn up an EU declaration of conformity; and
- (e) affixed to the instrument—
 - (i) the CE marking; and
 - (ii) the M marking.

Manufacturers – obligations in respect of records

8. A manufacturer must keep the technical documentation and the EU declaration of conformity for a period of 10 years beginning with the day after the day on which the regulated measuring instrument to which it relates has been placed on the market.

Manufacturers’ obligations to ensure continuing conformity with essential requirements

9.—(1) Manufacturers must have procedures in place for series production of regulated measuring instruments by them to ensure that instruments so manufactured continue to meet the essential requirements.

(2) The procedures mentioned in paragraph (1) must adequately take into account changes in—

- (a) measuring instrument design or characteristics; and
- (b) changes in the harmonised standards, normative documents or in other technical specifications by reference to which the conformity of the regulated measuring instrument is declared.

(3) When deemed appropriate with regard to the performance of a regulated measuring instrument, manufacturers must—

- (a) carry out sample testing of regulated measuring instruments manufactured by them made available on the market;
- (b) investigate complaints about regulated measuring instruments manufactured by them;
- (c) if necessary, keep a register of—
 - (i) such complaints;
 - (ii) non-conforming measuring instruments; and
 - (iii) measuring instrument recalls; and
- (d) keep distributors informed of any monitoring undertaken by them.

Manufacturers’ obligations in relation to the marking of regulated measuring instruments with serial numbers etc.

10.—(1) A manufacturer must ensure that a regulated measuring instrument, which that manufacturer has placed on the market, bears a type, batch or serial number or other element allowing identification of that instrument.

(2) Paragraph (1) does not apply where the dimensions of the regulated measuring instrument are too small or it is of too sensitive a composition to allow it to bear the information required by that paragraph and in such a case the information must be marked on the instrument's packaging (if any) and the accompanying documents required by these Regulations.

Manufacturers to mark contact details on regulated measuring instruments where possible

11.—(1) A manufacturer must indicate on every regulated measuring instrument manufactured by that manufacturer, the manufacturer's name, registered trade name or registered trade mark and the postal address at which the manufacturer can be contacted.

(2) Paragraph (1) does not apply where the dimensions of the regulated measuring instrument are too small or it is of too sensitive a composition to allow it to bear the information required by that paragraph and in such a case the information must be marked on the instrument's packaging (if any) and the accompanying documents required by these Regulations.

(3) The address required by this regulation must indicate a single point at which the manufacturer can be contacted.

(4) The contact details required by this regulation must be in a language easily understood by end-users and market surveillance authorities and, in the case of regulated measuring instruments made available in the United Kingdom, they must be in English.

Documentation to accompany regulated measuring instruments

12.—(1) A manufacturer must ensure that regulated measuring instruments that the manufacturer has placed on the market are accompanied by—

- (a) a copy of the EU declaration of conformity relating to the instruments;
- (b) information on the operation of the instruments including, where relevant, the following—
 - (i) rated operating conditions;
 - (ii) mechanical and electromagnetic environment classes;
 - (iii) the upper and lower temperature limit, whether condensation is possible or not, open or closed location;
 - (iv) instructions for installation, maintenance, repairs, permissible adjustments;
 - (v) instructions for correct operation and any special conditions of use; and
 - (vi) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

(2) Paragraph (1)(b) does not apply where the simplicity of the regulated measuring instrument makes the supply of the information referred to in that paragraph unnecessary.

(3) Information supplied in accordance with this regulation must be in a language that can easily be understood by end-users and where the end users are in the United Kingdom, the information must be in English.

(4) Such instructions and information (and any labelling) relating to a regulated measuring instrument must be clear, understandable and intelligible.

Action to be taken where regulated measuring instruments placed on the market are not in conformity with the essential requirements

13.—(1) This regulation applies where a manufacturer considers or has reason to believe that a regulated measuring instrument placed on the market by that manufacturer is not in conformity with the requirements of these Regulations.

(2) The manufacturer must immediately take the corrective measures necessary to bring the regulated measuring instrument into conformity or withdraw or recall it, if appropriate.

(3) Where the regulated measuring instrument presents a risk, the manufacturer must immediately inform the competent national authorities of the EEA states in which the instrument has been made available on the market to that effect giving details, in particular, of the non-compliance and of any corrective measures taken.

Provision of information to the competent authority

14.—(1) A manufacturer must, further to a reasoned request from a competent authority, provide the competent authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of a regulated measuring instrument manufactured by it with the requirements of these Regulations.

(2) Information and documentation supplied to a competent authority pursuant to this regulation must be supplied in English.

(3) A manufacturer must co-operate with a competent authority, at the request of that authority, on any action to eliminate the risks posed by regulated measuring instruments that the manufacturer has placed on the market.

Use of authorised representatives by manufacturers

15.—(1) A manufacturer may, by a written mandate, appoint an authorised representative to discharge the responsibilities under these Regulations in relation to the placing on the market of a regulated measuring instrument.

(2) A representative appointed under paragraph (1) may not discharge the manufacturer's obligations under regulation 7(a) and 7(b).

(3) An authorised representative shall be treated as being authorised to—

- (a) keep the EU declaration of conformity and the technical documentation at the disposal of the market surveillance authority for 10 years beginning with the day after the day the regulated measuring instrument has been placed on the market;
- (b) provide a competent authority, further to a reasoned request from that authority, with all the information and documentation necessary to demonstrate the conformity of a regulated measuring instrument; and
- (c) cooperate with a competent authority, at its request on any action taken to eliminate the risks posed by regulated measuring instruments covered by its mandate.

CHAPTER 2

OBLIGATIONS OF IMPORTERS

Introductory

16. This Chapter applies to the placing on the market or the putting into use of a regulated measuring instrument from a country outside the European Economic Area that is imported into the United Kingdom.

Ensuring compliance of regulated measuring instruments

17.—(1) An importer must only place compliant regulated measuring instruments on the market.

(2) An importer must ensure that—

- (a) the appropriate conformity assessment procedure has been carried out by the manufacturer of the regulated measuring instrument (or by the importer where the importer is to be regarded as the manufacturer by virtue of regulation 6(2));
- (b) the manufacturer has drawn up the technical documentation (or that the importer has done so where the importer is treated as the manufacturer by virtue of regulation 6(2));
- (c) the regulated measuring instrument bears the CE marking and the M marking;

- (d) the regulated measuring instrument is accompanied by a copy of the EU declaration of conformity and the documents referred to in regulation 12 (documentation to accompany regulated measuring instruments); and
- (e) the manufacturer (or the importer where he is treated as the manufacturer) has complied with the requirements of regulations 10 (manufacturers' obligations in relation to the marking of regulated measuring instruments with serial numbers etc.) and 11 (manufacturers to mark contact details on regulated measuring instruments where possible).

Importers duty to notify manufacturer and market surveillance authorities of non-compliant regulated measuring instruments that present a risk

18. Where an importer considers or has reason to believe that the regulated measuring instrument is not in conformity with the essential requirements and presents a risk, the importer must inform the manufacturer and the market surveillance authority.

Requirements to mark importers' details on regulated measuring instruments

19.—(1) An importer must indicate on regulated measuring instruments imported by that importer, the importer's name, registered trade name or trademark and the postal address at which the importer can be contacted.

(2) Where a regulated measuring instrument is too small or of too sensitive a composition to allow it to bear the information required by paragraph (1), such information must be marked on any packaging in which the instrument is supplied and on any accompanying documents.

(3) Any contact details required by this regulation must be in a language easily understood by end-users and market surveillance authorities and, in the case of regulated measuring instruments made available in the United Kingdom, they must be in English.

Importers' duty to ensure that regulated measuring instruments are accompanied by relevant documentation

20.—(1) An importer must ensure that regulated measuring instruments imported by that importer are, where relevant, accompanied by the following instructions and information in a language easily understood by end-users—

- (a) rated operating conditions;
- (b) mechanical and electromagnetic environment classes;
- (c) the upper and lower temperature limit, whether condensation is possible or not, open or closed location;
- (d) instructions for installation maintenance, repairs, permissible adjustments;
- (e) instructions for correct operation and any special conditions of use; and
- (f) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

(2) Where the end users are in the United Kingdom, the instructions and information referred to in paragraph (1) must be in English.

Duty of importers to ensure proper conditions of storage and transport

21. An importer must, in respect of regulated measuring instruments under the importer's responsibility ensure that the conditions of their storage or transport are not such as to jeopardise their continuing compliance with the essential requirements.

Duties of importers with regard to monitoring etc.

22.—(1) When deemed appropriate with regard to the performance of a regulated measuring instrument imported by an importer, the importer must—

- (a) carry out a sample testing of regulated measuring instruments made available on the market by the importer;
- (b) investigate complaints about regulated measuring instruments imported by the importer ; and
- (c) if necessary, keep a register of—
 - (i) such complaints;
 - (ii) non-conforming regulated measuring instruments; and
 - (iii) regulated measuring instrument recalls; and
- (d) where the importer is not also the distributor of the regulated measuring instrument, keep distributors to whom the importer has supplied regulated measuring instruments informed of any monitoring undertaken by that importer.

Action to be taken by importers where regulated measuring instruments placed on the market by them are not in conformity with essential requirements

23.—(1) This regulation applies where an importer considers, or has reason to believe, that a regulated measuring instrument placed on the market by the importer is not in conformity with the requirements of these Regulations.

(2) The importer must immediately take the corrective measures necessary to bring the regulated measuring instrument into conformity or withdraw or recall it, if appropriate.

(3) Where the regulated measuring instrument presents a risk, the importer must immediately inform the competent authority to that effect, giving details, in particular, of the non-compliance of the instrument and of the corrective measures taken by that importer.

Requirement for importer to keep copy of EU declaration of conformity

24. An importer must, for a period of 10 years beginning with the day after the day on which the regulated measuring instrument is placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.

Provision of information to the competent authority

25.—(1) The importer must, further to a reasoned request from a competent authority, provide the competent authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the regulated measuring instrument with the requirements of these Regulations.

(2) Information and documentation supplied to a competent authority pursuant to this regulation must be supplied in English.

(3) An importer must co-operate with a competent authority, at its request, as regards any action to eliminate the risks posed by any regulated measuring instrument that the importer has placed on the market.

CHAPTER 3

OBLIGATIONS OF DISTRIBUTORS

Introductory

26. This Chapter applies in relation to the making available on the market or the putting into use of a regulated measuring instrument by a distributor.

Distributors – duty to act with due care

27. Before making the regulated measuring instrument available on the market or putting it into use, the distributor must act with due care in relation to the requirements of these Regulations.

Distributors – verification obligations

28.—(1) The distributor must verify that the regulated measuring instrument bears the CE marking and the M marking.

(2) The distributor must verify that the regulated measuring instrument is accompanied by—

- (a) a copy of the EU declaration of conformity relating to it; and
- (b) information on the operation of the instrument including where relevant the following—
 - (i) rated operating conditions;
 - (ii) mechanical and electromagnetic environment classes;
 - (iii) the upper and lower temperature limit, whether condensation is possible or not, open and closed location
 - (iv) instructions for installation, maintenance, repairs, permissible adjustments;
 - (v) instructions for correct operation and any special conditions of use; and
 - (vi) conditions for compatibility with interfaces, sub-assemblies or measuring instruments.

(3) Paragraph (2)(b) does not apply where the simplicity of the regulated measuring instrument makes the supply of the information referred to in that paragraph unnecessary.

(4) Instructions and information supplied in accordance with this regulation must be in a language that can be easily understood by end-users and where those end users are in the United Kingdom must be in English.

(5) The distributor must verify that the manufacturer and the importer have complied with the requirements set out in regulation 10 (manufacturers' obligations in relation to the marking of regulated measuring instruments with serial numbers etc.), regulation 11 (manufacturers to mark contact details on regulated measuring instruments where possible) and regulation 19 (requirements to mark importers' details on regulated measuring instruments).

Distributors not to make non-conforming regulated measuring instruments available on the market etc.

29.—(1) This regulation applies where a distributor considers, or has reason to believe, that a regulated measuring instrument is not in conformity with the essential requirements.

(2) Where this regulation applies, the distributor must not make the regulated measuring instrument available on the market or put it into use until it has been brought into conformity.

(3) Where the regulated measuring instrument presents a risk, the distributor must immediately inform—

- (a) the manufacturer;
- (b) the importer (where the distributor is not also the manufacturer or importer); and
- (c) the market surveillance authorities,

to that effect, giving details, in particular, of the non-compliance of the instrument and of the corrective measures taken by that distributor.

Duty of distributors to ensure proper conditions of storage and transport

30. A distributor must, in respect of regulated measuring instruments under that distributor's responsibility, ensure that the conditions of their storage or transport are not such as to jeopardise their continuing compliance with the essential requirements.

Action to be taken by distributors where regulated measuring instruments placed on the market by them are not in conformity with essential requirements

31.—(1) This regulation applies where a distributor considers, or has reason to believe, that a regulated measuring instrument placed on the market or put into use by that distributor is not in conformity with the requirements of these Regulations.

(2) The distributor must immediately take the corrective measures necessary to bring the regulated measuring instrument into conformity, or withdraw or recall it, if appropriate.

(3) Where the regulated measuring instrument presents a risk, the distributor must immediately inform the competent authority to that effect, giving details, in particular, of the non-compliance of the instrument and of the corrective measures taken by that distributor.

Provision of information to the competent authority

32.—(1) The distributor must, further to a reasoned request from a competent authority, provide that authority with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the regulated measuring instrument with the requirements of these Regulations.

(2) Information and documentation supplied to a competent authority pursuant to this regulation must be supplied in English.

(3) A distributor must co-operate with a competent authority, at its request, as regards any action to eliminate the risks posed by any regulated measuring instrument that the distributor has placed on the market.

CHAPTER 4

IDENTIFICATION OF ECONOMIC OPERATORS

33.—(1) Economic operators must, on request, identify to the market surveillance authorities—

- (a) any economic operator who has supplied them with a regulated measuring instrument; and
- (b) any economic operator to whom they have supplied a regulated measuring instrument.

(2) Economic operators must be able to present the information referred to in paragraph (1) for 10 years beginning with the day after the day on which they have been supplied with the regulated measuring instrument and for 10 years day beginning with the day after the day they have supplied the instrument.

(3) The Secretary of State may impose a monetary penalty on an economic operator who fails to comply with an obligation imposed on it under this regulation.

(4) Schedule 7 has effect in relation to a monetary penalty imposed under paragraph (3).

PART 3

NON-PRESCRIBED MEASURING INSTRUMENTS

Introductory

34. This Part applies where a manufacturer wishes to place on the market or put into use a non-prescribed measuring instrument in another EEA state where that measuring instrument must comply with the essential requirements under the law relating to legal metrological control of that EEA state.

Establishing compliance with the essential requirements – non-prescribed measuring instruments

35. A manufacturer may demonstrate compliance with the essential requirements in respect of a non-prescribed measuring instrument in the same manner as a regulated measuring instrument and the requirements of Part 4 accordingly apply.

PART 4

CONFORMITY OF MEASURING INSTRUMENTS

CHAPTER 1

ESTABLISHING COMPLIANCE WITH THE ESSENTIAL REQUIREMENTS

Introductory

36. This chapter applies for the purposes of establishing whether a measuring instrument (whether it is a regulated measuring instrument or a non-prescribed measuring instrument) complies with the essential requirements.

Methods of establishing conformity with the essential requirements

37. Conformity with the essential requirements may be established in relation to a measuring 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;
- (b) through conformity with parts of normative documents which cover the essential requirements where the parts of the normative documents have been included in a list published in the Official Journal of the European Union; or
- (c) through the use by the manufacturer of any other technical solution that complies with the essential requirements.

Presumptions of conformity of measuring instruments

38.—(1) Measuring instruments which are in conformity with harmonised standards (or parts of those standards) of a kind mentioned in regulation 37(a), are to be presumed to be in conformity with the essential requirements covered by those standards (or parts of those standards).

(2) Measuring instruments which are in conformity with parts of normative documents of a kind mentioned in regulation 37(b), are to be presumed to be in conformity with the essential requirements covered by those parts of normative documents.

(3) To benefit from a presumption of conformity under paragraphs (1) or (2), the manufacturer must correctly apply solutions mentioned in the relevant harmonised standards or in the normative documents.

(4) Compliance with the appropriate tests mentioned in regulation 45(1)(i) is to be presumed if the corresponding test programme has been performed in accordance with the documents mentioned in paragraphs (1) and (2) and if the test results ensure compliance with the essential requirements.

Conformity assessment procedures

39.—(1) Conformity assessment of a measuring instrument with the essential requirements must be established by the application at the choice of the manufacturer, of one of the conformity assessment procedures listed as applicable in relation to the measuring instrument in Schedule 1.

(2) A notified body must carry out the conformity assessment procedure selected by the manufacturer in accordance with the requirements of Schedule 4.

(3) The documents and correspondence relating to the conformity assessment procedures referred to in this regulation which are carried out in the United Kingdom must be drawn up in English.

Capacity serving measures - accredited in house bodies

40.—(1) This regulation applies to the conformity assessment of capacity serving measures.

(2) An accredited in-house body may be used to carry out conformity assessment activities for the undertaking of which it forms part for the purposes of implementing the procedures set out in Module A2 of Annex II to the Directive.

(3) The body must constitute a separate and distinct part of the undertaking and must not participate in the design, production, supply, installation, use or maintenance of the measuring instrument it assesses.

(4) An accredited in-house body must meet the following requirements—

- (a) it must be accredited in accordance with RAMS;
- (b) the body and its personnel must be organisationally identifiable and have reporting methods within the undertaking of which they form a part which ensure their impartiality and demonstrate it to the relevant national accreditation body;
- (c) neither the body, nor its personnel shall be responsible for the design, manufacture, supply, installation, operation or maintenance of the measuring instruments they assess nor shall they engage in any activity that might conflict with their independence of judgment or integrity in relation to their assessment activities; and
- (d) it must supply its services exclusively to the undertaking of which it forms a part.

(5) An accredited in-house body need not be notified to the notifying authority or the Commission, but information concerning its accreditation must be given by the undertaking of which it forms part to the notifying authority at the request of that authority.

Subsidiaries and contractors

41.—(1) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the activities are only to be treated as having been carried out by a notified body for the purposes of regulation 39 (conformity assessment procedures) where the conditions in paragraphs (2) and (3) are met.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.

(4) 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 on which 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.

(5) When monitoring a notified body in accordance with regulation 58 (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.

Fees

42.—(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.

(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.

CHAPTER 2

REQUIREMENTS AS TO THE TECHNICAL DOCUMENTATION REQUIRED FOR THE PURPOSES OF CONFORMITY ASSESSMENT

Application of this Chapter

43. The technical documentation required for the purposes of conformity assessment under these Regulations must satisfy the requirements of this Chapter.

General requirements to be met by technical documentation

44.—(1) The technical documentation must—

- (a) render the design, manufacture and operation of the measuring instrument intelligible; and
- (b) permit an assessment of its conformity with the applicable requirements of the Directive.

(2) The technical documentation must be sufficiently detailed to ensure compliance with the following requirements—

- (a) the definition of the metrological characteristics;
- (b) the reproducibility of the metrological performances of produced measuring instruments when properly adjusted using appropriate intended means; and
- (c) the integrity of the measuring instrument.

Specific information to be included in technical documentation

45.—(1) The technical documentation must, insofar as relevant for assessment and identification of either the measuring instrument or its type (or both), include the following information—

- (a) a general description of the measuring instrument;
- (b) the conceptual design and manufacturing drawings and plans of components, sub-assemblies, circuits etc.;

- (c) manufacturing procedures to ensure consistent production;
 - (d) if applicable, a description of the electronic devices with drawings, diagrams, flow diagrams of the logic and general software information explaining their characteristics and operation;
 - (e) descriptions and explanations necessary for the understanding of the information referred to in sub-paragraphs (b) to (d);
 - (f) a list of any harmonised standards and normative documents which have been applied in full or in part, the references of which have been published in the Official Journal of the European Union;
 - (g) descriptions of the solutions adopted to meet the essential requirements where harmonised standards or normative documents have not been applied, including a list of other relevant technical specifications applied;
 - (h) results of design calculations, examinations etc.;
 - (i) the appropriate test results, where necessary to demonstrate that the type or measuring instruments or both comply with the following—
 - (i) the requirements of the Directive under declared rated operating conditions and under specified environmental disturbances; and
 - (ii) the durability specifications for gas, water and thermal-energy meters as well as for liquids other than water; and
 - (j) the EU-type examination certificates or EU design examinations certificates in respect of measuring instruments containing parts identical to those in the design.
- (2) The manufacturer must specify where seals and markings have been applied.
- (3) The manufacturer must indicate the conditions for compatibility with interfaces and sub-assemblies where relevant.

CHAPTER 3

REQUIREMENTS RELATING TO EU DECLARATIONS OF CONFORMITY

Application of Chapter

46. This Chapter applies in relation to EU declarations of conformity made in relation to a measuring instrument for the purposes of these Regulations.

Form and contents of EU declaration of conformity etc.

47.—(1) The EU declaration of conformity must—

- (a) state that the fulfilment of the essential requirements has been demonstrated in relation to the measuring instrument;
- (b) contain the elements specified in the relevant conformity assessment modules set out in Annex II to the Directive and be updated when appropriate;
- (c) have the model structure set out in Annex XIII to the Directive.

(2) Where a regulated measuring instrument is placed or made available on the market in the United Kingdom, the EU declaration of conformity in relation to the instrument must be in English.

Measuring instruments that require more than one declaration of conformity

48.—(1) This regulation applies where a measuring instrument is subject to a requirement of European Union legislation for an EU declaration of conformity otherwise than by virtue of these Regulations.

(2) Where this regulation applies, a single EU declaration of conformity must be drawn up covering all applicable requirements which identifies the Union acts concerned including their publication references.

Responsibility of manufacturer that draws up declaration of conformity

49. A manufacturer, who draws up an EU declaration of conformity in relation to a measuring instrument, is responsible for compliance of the measuring instrument with the requirements of these Regulations.

CHAPTER 4 CONFORMITY MARKING

Conformity with Directive requirements to be indicated by the CE marking

50. The conformity of a measuring instrument with the requirements of these Regulations must be indicated by the presence on it of the CE marking and the M marking.

General principles relating to the M marking

51. The general principles set out in article 30 of RAMS apply to the M marking with such modifications as are necessary in the circumstances.

Rules and conditions for affixing the CE marking and the M marking

52.—(1) The CE marking and the M marking (“the markings”) must be affixed to a measuring instrument in accordance with the provisions of this regulation.

(2) The markings must be affixed visibly, legibly and indelibly to the measuring instrument or its data plate.

(3) Paragraph (2) does not apply where it is not possible or not warranted on account of the nature of the measuring instrument, in which case the markings must be affixed to the documents which accompany the measuring instrument and any packaging.

(4) When a measuring instrument consists of a series of devices, not being sub-assemblies, operating together, the markings must be affixed on the instrument’s main device.

(5) The markings must be affixed before the measuring instrument is placed on the market.

(6) The markings may be affixed to the measuring instrument during the fabrication process, if justified.

(7) The M marking must immediately follow the CE marking.

(8) The markings must immediately be followed by the identification number of the notified body where that body is involved in the production control phase as set out in Annex II to the Directive.

(9) The identification number of the notified body referred to in paragraph (8) must—

(a) be affixed by the body itself, or under its instructions by the manufacturer or his authorised representative; and

(b) be indelible or self-destructive upon removal.

(10) The markings and (where applicable) the identification number of the notified body may be followed by any other mark indicating a special risk or use.

PART 5

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Introductory

53.—(1) This Part applies to the notification to the Commission and other EEA states of the bodies authorised to carry out conformity assessment procedures in the United Kingdom in relation to measuring instruments.

- (2) For the purposes of this Part, a notified body is a conformity assessment body—
- (a) which has been notified to the Commission and to other EEA states under regulation 55 (notification); and
 - (b) in respect of which no objections are raised by the Commission or other EEA states—
 - (i) within 2 weeks of a notification, where an accreditation certificate is used; or
 - (ii) within 2 months of a notification, where accreditation is not used.
- (3) Paragraph (2) has effect subject to regulation 60 (changes to notifications).

The notifying authority

54.—(1) The notifying authority for the purposes of these Regulations is the Secretary of State.

- (2) The functions of the notifying authority are—
- (a) to assess whether applicants for recognition as conformity assessment bodies meet the requirements for recognition as such;
 - (b) where an assessment that a body is qualified to act as a conformity assessment body is made, to notify the Commission of that fact; and
 - (c) to carry out such monitoring of bodies notified to the Commission to ensure continuing compliance with the requirements of these Regulations.

(3) The notifying authority may delegate the performance of its functions to a body that meets the requirements of Articles 24(3) and 25 of the Directive but in the event of such a delegation the notifying authority remains fully responsible for the performance of those functions.

(4) The notifying authority must supply such information as the Commission may request in relation to a body notified by it.

Notification

55.—(1) The Secretary of State may notify to the Commission and the other EEA states only those conformity assessment bodies that qualify for notification.

(2) A conformity assessment body qualifies for notification if the first and the second conditions below are met.

(3) The first condition is that the conformity assessment body makes an application to the Secretary of State for notification and that application is accompanied by—

- (a) a description of—
 - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
 - (ii) the conformity assessment module for which the conformity assessment body claims to be competent; and
 - (iii) the measuring instrument for which the conformity assessment body claims to be competent; and either
- (b) an accreditation certificate; or

- (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the requirements of Schedule 5 ("the notified body requirements").

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.

(6) When deciding whether to notify a conformity assessment body that qualifies for notification to the Commission and the other EEA states, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) The Secretary of State must inform the Commission of the United Kingdom's procedures for the assessment and notification of conformity assessment bodies, and any changes to those procedures.

Presumption of conformity of notified bodies

56.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal of the European Union, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

Contents of notification

57. A notification under regulation 55 (notification) must include—

- (a) details of—
 - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
 - (ii) the conformity assessment module in respect of which the conformity assessment body has made its application for notification;
 - (iii) the measuring instrument in respect of which the conformity assessment body has made its application for notification; and either
- (b) an accreditation certificate; or
- (c) documentary evidence which attests to—
 - (i) the conformity assessment body's competence; and
 - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to meet the notified body requirements.

Monitoring

58.—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) meets any conditions set in accordance with regulation 55(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the Commission of the United Kingdom's procedures for the monitoring of notified bodies, and any changes to those procedures.

Delegation to the United Kingdom Accreditation Service

59. The Secretary of State may authorise the United Kingdom Accreditation Service to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies.

(2) Where the Secretary of State authorises the United Kingdom Accreditation Service pursuant to paragraph (1), the Secretary of State remains fully responsible for anything done pursuant to that authorisation.

Changes to notifications

60.—(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirement, or that it is failing to fulfil any of its obligations under these Regulations other than conditions set in accordance with regulation 55(6)(b), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 55 (notification).

(2) With the consent of a notified body, or where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 55(6)(b), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 55.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the failure.

(4) Before taking action under paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing that the Secretary of State intends to take such action and the reasons for taking such action; and
- (b) give the notified body an opportunity to make representations within a reasonable period from the date of that notice and consider any such representations.

(5) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the Commission and the other EEA states.

(6) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the body must—

- (a) on the request of the Secretary of State, transfer its files to another notified body or to the Secretary of State; or
- (b) in the absence of a request under sub-paragraph (a), ensure that its files are kept available for the Secretary of State and each enforcing authority for such period as the Secretary of State may specify.

(7) The Secretary of State may impose a monetary penalty on a United Kingdom notified body that fails to comply with any requirement imposed by or under paragraph (6).

(8) Schedule 7 has effect in relation to a monetary penalty imposed under paragraph (7)

PART 6

USE FOR TRADE OF CERTAIN REGULATED MEASURING INSTRUMENTS

61. The use for trade of the following equipment must comply with the requirements of Schedule 6—

- (a) water meters for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) measuring systems which are used for the continuous and dynamic measurement in a quantity not exceeding 100 litres or 100 kilograms of a liquid fuel, lubricant or a mixture of fuel and lubricant other than—

- (i) liquefied petroleum gas; or
- (ii) liquefied natural gas;
- (c) measuring systems (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which are used for the continuous and dynamic measurement in a quantity exceeding 100 litres or 100 kilograms of liquid fuel delivered from a road tanker other than—
 - (i) liquefied gases;
 - (ii) lubricating oils;
 - (iii) liquid fuels of a temperature below -153°C; or
 - (iv) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (d) automatic catchweighers;
- (e) automatic gravimetric filling instruments;;
- (f) automatic discontinuous totalisers;
- (g) automatic rail weighbridges;
- (h) beltweighers;
- (i) material measures of length; and
- (j) capacity serving measures.

PART 7

MARKET SURVEILLANCE AND ENFORCEMENT

CHAPTER 1

MARKET SURVEILLANCE

The market surveillance authority

62. The Secretary of State is the market surveillance authority for the purposes of these Regulations and RAMS.

Regulated measuring instruments presenting a risk

63.—(1) This regulation applies where the market surveillance authority has sufficient reason to believe that a regulated measuring instrument presents a risk on grounds of public interest, public health, public safety, public order, protection of the environment, protection of consumers, the levying of taxes and duties or fair trading.

(2) Where this regulation applies the market surveillance authority must carry out an evaluation of the regulated measuring instrument covering all relevant requirements of these Regulations which apply to that instrument.

(3) The relevant economic operators in relation to the regulated measuring instrument must co-operate as necessary with the market surveillance authority for that purpose.

(4) Where in the course of the evaluation referred to in paragraph (2), the market surveillance authority finds that the regulated measuring instrument does not comply with the essential requirements applicable to it, it must without delay issue a direction which requires the relevant economic operator to—

- (a) take all appropriate corrective actions;
- (b) withdraw the instrument from the market; or
- (c) recall it within a reasonable period commensurate with the nature of the risk.

(5) Where the market surveillance authority acts under paragraph (4), it must without delay inform the notified body that carried out the conformity assessment procedure in respect of the regulated measuring instrument of—

- (a) the respect in which the instrument is not in conformity with the requirements of these Regulations; and
- (b) the actions that the authority is requiring the relevant economic operator to take.

(6) Where the market surveillance authority considers that non-compliance is not restricted to the United Kingdom, it must inform the Commission and the other EEA states of the results of the evaluation and of the actions which they have required the economic operator to take.

(7) The economic operator must ensure that all appropriate corrective action is taken in respect of all the regulated measuring instruments concerned that it has made available on the market throughout the European Economic Area.

(8) Where the relevant economic operator does not take adequate corrective action within a reasonable period, the market surveillance authority must take all provisional measures to prohibit or restrict the regulated measuring instrument being made available on the market, to withdraw the instrument from the market or to recall it.

(9) Where the market surveillance authority takes measures under paragraph (8), the market surveillance authority must notify the Commission and the other EEA States of those measures without delay.

(10) A notification under paragraph (9) must include all available details, in particular—

- (a) the data necessary for the identification of the non-compliant regulated measuring instrument;
- (b) the origin of the instrument;
- (c) the nature of the non-compliance alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the non-compliance is due to either of the following—
 - (i) failure of the regulated measuring instrument to meet the requirements relating to a risk;
 - (ii) shortcomings in the harmonised standards referred to in regulation 37(a).

EU safeguard procedure

64.—(1) Where another EEA State has initiated the procedure under Article 42 of the Directive, the Market surveillance authority must without delay, inform the Commission and the other EEA States of—

- (a) any measures taken by a competent authority in respect of the regulated measuring instrument;
- (b) any additional information which the market surveillance authority has at its disposal relating to the lack of conformity of the regulated measuring instrument; and
- (c) any objections that the market surveillance authority may have to the measure taken by the EEA State initiating the procedure.

(2) Where a measure taken by another EEA state in respect of a regulated measuring instrument is considered justified under Article 42 of the Directive, the market surveillance authority must ensure that appropriate measures to withdraw the instrument are taken in respect of the regulated measuring instrument without delay.

(3) If, pursuant to Article 43 of the Directive, the Commission considers a direction given pursuant to regulation 63(4) is unjustified, the market surveillance authority must forthwith withdraw it and notify other enforcement authorities and economic operators affected accordingly.

Compliant regulated measuring instruments which present a risk

65.—(1) This regulation applies where, having carried out an evaluation under regulation 63, the market surveillance authority finds that although a regulated measuring instrument is in compliance with the requirements of these Regulations, it presents a risk on grounds of public interest, public health, public safety, public order, protection of the environment, protection of consumers, the levying of taxes and duties or fair trading.

(2) Where this regulation applies, the market surveillance authority must issue a direction requiring the economic operator to—

- (a) take all appropriate measures to ensure that the regulated measuring instrument concerned, when placed on the market, no longer presents that risk;
- (b) withdraw the regulated measuring instrument from the market; or
- (c) recall it within a reasonable period, commensurate with the nature of the risk as it may prescribe.

(3) Where this regulation applies, the market surveillance authority must immediately inform the Commission and the other EEA states of all available details including—

- (a) the data necessary for the identification of the regulated measuring instrument concerned;
- (b) the origin and supply chain of the regulated measuring instrument;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the national measures taken.

Provisions as to directions under regulations 63 and 65

66.—(1) This regulation applies in relation to directions given under regulations 63 and 65.

(2) A direction must—

- (a) be in writing;
- (b) describe the regulated measuring instrument to which it relates in a manner sufficient to identify that instrument;
- (c) specify the risk identified by the market surveillance authority;
- (d) specify the steps that the economic operator must take (including the time period within which they must be taken).

(3) The Secretary of State may impose a monetary penalty on an economic operator who fails to comply with a direction given under regulation 63 or 65.

(4) Schedule 7 has effect in relation to a monetary penalty imposed under paragraph (3).

CHAPTER 2

ENFORCEMENT AUTHORITIES AND PROCEDURES

Enforcement of the Regulations

67.—(1) The Secretary of State—

- (a) must enforce these regulations where required to do so in the capacity of the market surveillance authority; and
- (b) may otherwise than in the capacity of market surveillance authority, enforce these Regulations in Great Britain,

and for the purposes of this paragraph may appoint a person to act on his behalf.

(2) In Great Britain it is the duty of every local weights and measures authority to enforce these Regulations within its area in relation to regulated measuring instruments other than—

- (a) gas meters;
- (b) active electrical energy meters;

- (c) taximeters; and
- (d) exhaust gas analysers.

(3) In Northern Ireland—

- (a) the Department for Infrastructure must enforce these Regulations in relation to regulated measuring instruments of the following kinds—
 - (i) taximeters; and
 - (ii) exhaust gas analysers.
- (b) the Utility Regulator (or the Secretary of State pursuant to arrangements made under paragraph (7)) must enforce the Regulations in relation to regulated measuring instruments of the following kinds—
 - (i) gas meters; and
 - (ii) active electrical energy meters.
- (c) the Department for the Economy must enforce these Regulations (other than Part 6) insofar as they relate to regulated measuring instruments of the following kinds—
 - (i) cold water meters;
 - (ii) automatic weighing instruments;
 - (iii) material measures; and
 - (iv) non-water liquid measuring systems.

(4) No proceedings for an offence under these Regulations may be instituted in England and Wales except by or on behalf of a competent authority.

(5) Nothing in these Regulations shall authorise a competent authority to bring proceedings in Scotland for an offence.

(6) No proceedings shall be instituted in Northern Ireland for an offence under these Regulations in respect of a regulated measuring instrument except—

- (a) by or on behalf of a competent authority which has responsibility for enforcing these Regulations in respect of that regulated measuring instrument; or
- (b) the Director of Public Prosecutions for Northern Ireland.

(7) The Secretary of State and the Utility Regulator may, in relation to the enforcement of these Regulations in Northern Ireland, enter into arrangements for the Secretary of State to act on behalf of the Utility Regulator for, or in connection with, the carrying out of some or all of the functions conferred on the Utility Regulator by these Regulations.

Compliance notice procedure

68.—(1) This regulation applies where a competent authority has reasonable grounds for considering that one or more of the following breaches applies in relation to a regulated measuring instrument that has been placed on the market or put into use—

- (a) the CE marking or the M marking has been affixed in violation of Article 30 of the RAMS regulation or the requirements of these Regulations;
- (b) the CE marking or the M marking has not been affixed;
- (c) the identification number of the notified body, where the notified body is involved in the production control phase has—
 - (i) been affixed otherwise than in accordance with the requirements of these Regulations; or
 - (ii) not been affixed;
- (d) the EU declaration of conformity has not been drawn up correctly;
- (e) the technical documentation is either not available or is not complete;
- (f) the information referred to in regulation 11 or regulation 20 is false or incomplete; or

(g) any other failure—

- (i) by a manufacturer to comply with the requirements of Chapter 1 of Part 2; or
- (ii) by an importer to comply with the requirements of Chapter 2 of Part 2.

(2) The competent authority may serve a notice in writing (“a compliance notice”) on the economic operator it considers is the responsible for the breach which must—

- (a) describe the regulated measuring instrument to which it relates in a manner sufficient to identify that instrument;
- (b) specify which of the circumstances in paragraph (1) applies in relation to the regulated measuring instrument;
- (c) require the economic operator on whom the notice is served to take steps to remedy the matters referred to in paragraph (b);
- (d) specify the date, being not less than 21 days from the date of the notice, by which the steps specified in it must be taken; and
- (e) warn the economic operator that, where the non-conformity continues beyond the date specified in sub-paragraph (d), the competent authority may take further action under regulation 69 (enforcement notices) in respect of that regulated measuring instrument.

(3) Where a compliance notice is served by a competent authority other than the Secretary of State, it must at the same time as it serves that notice, send a copy to the Secretary of State.

Enforcement notices

69.—(1) This regulation applies where a competent authority has reasonable grounds for considering that an economic operator on whom a compliance notice has been served by the competent authority has failed to comply with that notice.

(2) The competent authority may serve a notice (“an enforcement notice”) on the economic operator which must—

- (a) be in writing;
- (b) describe the regulated measuring instrument to which it relates in a manner sufficient to identify that instrument;
- (c) specify, with reasons, the respects in which, in the opinion of the competent authority, the compliance notice has not been complied with; and
- (d) specify the steps that the economic operator must take to comply with the compliance notice; and
- (e) specify the date, being not less than 21 days from the date of the notice, by which the economic operator to whom the notice is given is required to comply with it.

(3) An enforcement notice may impose either or both of the following requirements—

- (a) that the regulated measuring instrument is to be withdrawn from the market unless the steps referred to in paragraph (2)(d) are taken; or
- (b) that the placing on the market or putting into use of the regulated measuring instrument is to be prohibited or restricted unless the steps referred to in paragraph (2)(d) are taken.

(4) Where an enforcement notice is served by a competent authority other than the Secretary of State, it must at the same time as it serves that notice send a copy of the notice to the Secretary of State.

(5) If the Secretary of State is of the opinion that consideration ought to be given as to whether a certificate or notification which is granted by a United Kingdom notified body should be withdrawn, the Secretary of State must inform that notified body of that fact.

(6) If the Secretary of State is of the opinion that consideration ought to be given as to whether a certificate or notification which is granted by a notified body in another EEA state should be withdrawn, the Secretary of State must inform the market surveillance authority in that state of that fact.

Review of enforcement decisions of a competent authority

70.—(1) Where a notice is served under regulation 68 (compliance notice procedure) or 69 (enforcement notices) is by a competent authority other than the Secretary of State, an economic operator who is aggrieved by the decision to serve the notice may, in accordance with paragraphs (2) and (3) apply to the Secretary of State to review the decision; and on such application the Secretary of State may—

- (a) hold an inquiry in connection with the decision; and
- (b) appoint an assessor for the purposes of assisting him with his review or any such inquiry.

(2) An application under paragraph (1) must be made by notice in writing to the Secretary of State, and must be sent to the Secretary of State not later than 21 days after the date of the notice of the decision in respect of which the application for review is sent to the economic operator.

(3) A notice of application for review under this regulation must state the grounds on which the application is made.

(4) The Secretary of State must, within a reasonable time, inform the economic operator and the authority referred to in paragraph (1) in writing of the Secretary of State's decision whether to uphold the decision of that authority and—

- (a) in a case where the Secretary of State upholds that decision, must also state the grounds for the Secretary of State's decision; and
- (b) in a case where the Secretary of State does not uphold that decision, may—
 - (i) where the review relates to regulation 68 give instructions for the withdrawal of the notice given under paragraph (2) of that regulation; or
 - (ii) where the review relates to regulation 69, give instructions for the withdrawal of the notice given under paragraph (1) of that regulation.

Offence of failure to comply with an enforcement notice

71.—(1) This paragraph applies where an enforcement notice has, pursuant regulation 69 (enforcement notices), been served on an economic operator by a competent authority other than the Secretary of State and either—

- (a) the time for making an application by the economic operator for a review pursuant to regulation 70 (review of enforcement decisions of a competent authority) has expired without such application having been made; or
- (b) an application for review has been made by the economic operator and determined without an instruction for the withdrawal of the notice being given and a period of 21 days has elapsed beginning with the day after notice of the outcome of the review has been served on the economic operator.

(2) Where paragraph (1) applies, if the economic operator on whom the compliance notice has been served fails to comply with the requirements of that notice, that economic operator is guilty of an offence.

(3) An economic operator that fails to comply with an enforcement notice served on the economic operator by the Secretary of State is guilty of an offence.

Disqualification

72.—(1) This regulation and regulation 73 (re-qualification) apply only in relation to a regulated measuring instruments of the following kinds—

- (a) cold water meters;
- (b) automatic weighing instruments;
- (c) material measures; and
- (d) non-water liquid measuring systems.

(2) Where the circumstances in paragraph (3) apply, an inspector may affix a disqualification mark to a regulated measuring instrument which bears the—

- (a) CE marking;
- (b) M marking; and
- (c) identification number of the notified body which carried out the conformity assessment procedure in respect of the instrument.

(3) The circumstances referred to in paragraph (2) are that the instrument is used for trade in circumstances where—

- (a) the instrument does not conform to the essential requirements (other than the requirements relating to maximum permissible errors);
- (b) the instrument is not in conformity with any EU-type examination certificate or EU-design examination certificate which applies to it;
- (c) by reason of any adjustment, alteration, addition, repair or replacement, it is likely that the instrument has ceased to conform with the essential requirements (other than the requirements relating to maximum permissible errors); or
- (d) any requirements applicable to the instrument by virtue of Part 6 are not met.

(4) Where one or more of the markings and identification requirements referred to in paragraph (2) is not affixed to a regulated measuring instrument, the inspector may affix a disqualification mark to the instrument.

(5) Where it appears to the inspector that the nature or degree of non-compliance of the regulated measuring instrument under paragraph (2) is not such that a disqualification mark should be immediately affixed to it or to any sealing device on it, the inspector may give to any person in possession of the instrument a notice requiring the person to ensure that the instrument is made to comply with the essential requirements before the expiry of 21 days from the date of the notice or such longer period as may be specified in the notice.

(6) If a notice given under paragraph (5) is not complied with, the inspector must affix a disqualification mark to the regulated measuring instrument or to any sealing device on it.

(7) Any disqualification mark which is affixed to a regulated measuring instrument under this regulation must be affixed in such a position that it is clearly visible when the instrument is in its regular operating position or where it is affixed to any sealing device on the instrument, it must be affixed in such a position that it obliterates as far as possible any inscription on that sealing device.

(8) A person is guilty of an offence if that person uses for trade a regulated measuring instrument to which there is affixed a disqualification mark, unless a re-qualification mark has been affixed to it in accordance with regulation 73 (requalification).

Re-qualification

73.—(1) This regulation applies where—

- (a) a disqualification mark has been affixed to a regulated measuring instrument in accordance with regulation 72 (disqualification);
- (b) a notice has been served under regulation 72(5); or
- (c) a regulated measuring instrument is intended to be used for trade in the circumstances referred to in regulation 72(3)(a) to (iv) or (3) but a disqualification mark has not been affixed to the instrument or to any sealing device on it.

(2) A person requiring a re-qualification mark to be affixed to a regulated measuring instrument must submit it, in such manner as may be directed, to an inspector or approved verifier and provide such assistance as the inspector or approved verifier may reasonably require.

(3) An inspector or approved verifier may affix a re-qualification mark to that regulated measuring instrument or to any sealing device if satisfied that the instrument is compliant with

- (a) the essential requirements;

- (b) any EU-type examination certificate or EU-design examination certificate which applies to it; and
- (c) any requirements applicable to that instrument by virtue of Schedule 6 other than the provisions relating to maximum permissible errors are met.

(4) For the purposes of being satisfied that a re-qualification mark may be affixed to a regulated measuring instrument or any sealing device on it under this regulation, an inspector or approved verifier may take such steps as the inspector or approved verifier considers appropriate, including testing the instrument by means of such test equipment as the inspector or approved verifier considers appropriate and suitable for the purpose.

(5) There may be charged in respect of any steps taken under paragraph (4) such fees as are reasonable in the circumstances.

(6) The inspector or approved verifier must keep a record of any test carried out under paragraph (4).

(7) Where a re-qualification mark is affixed to a regulated measuring instrument pursuant to paragraph (3), it must be affixed in such a position that it obliterates as far as possible any disqualification mark.

Testing of regulated measuring instruments

74.—(1) Where an inspector considers that a test of a regulated measuring instrument is necessary, otherwise than for the purposes of regulation 73, the inspector may require the controller of the instrument to provide to the inspector such equipment, test liquid, materials, qualified personnel or other assistance as the inspector may reasonably require.

(2) Every regulated measuring instrument submitted for testing by its controller must be in a clean condition.

(3) Paragraphs (4) to (9) of this regulation only apply to regulated measuring instruments that are non-water liquid measuring systems.

(4) No regulated measuring instrument shall be tested until it is installed ready for use and complete with all its parts.

(5) A regulated measuring instrument must be tested by an inspector under practical working conditions with a test liquid which must be—

- (a) the liquid fuel that the instrument is intended to deliver; or
- (b) a liquid having properties which replicate in all respects relevant to testing those of the liquid fuel that the instrument is intended to deliver.

(6) An inspector may open a locked or sealed tank or container for the purpose of testing a regulated measuring instrument or returning any liquid withdrawn during testing.

(7) Any liquid withdrawn during testing must be—

- (a) returned to the tank or container from which it was withdrawn if the inspector is of the opinion that it is reasonable and practicable to do so and the controller agrees; or
- (b) placed in another suitable receptacle reasonably convenient for the purpose that is provided by the controller.

(8) An inspector, if requested to do so by the controller, must give to the controller a signed and dated statement of the quantity of liquid withdrawn during testing.

(9) An inspector must—

- (a) securely re-fasten any tank or container opened under paragraph (6) immediately after the conclusion of any test or after returning any liquid withdrawn during testing; and
- (b) replace any sealing device broken by the inspector.

(10) In this regulation references to the “controller” of a regulated measuring instrument are to the person who has control of the instrument or whom the inspector has reasonable cause to believe has control of the instrument.

PART 8 OFFENCES

Unauthorised application of authorised marks

- 75.**—(1) Subject to paragraph (2), a person is guilty of an offence, if that person—
- (a) affixes an authorised mark to a regulated measuring instrument otherwise than in accordance with these Regulations;
 - (b) alters or defaces an authorised mark affixed to a regulated measuring instrument;
 - (c) removes an authorised mark affixed to a regulated measuring instrument; or
 - (d) affixes any other form of marking to a regulated measuring instrument which is likely to deceive any person as to the meaning or form, or both, of an authorised mark.
- (2) Where the alteration, defacement or removal of an authorised mark is occasioned solely—
- (a) in the course of the adjustment or repair of a regulated measuring instrument by a person engaged in the business of repair of such instruments or by that person’s duly authorised agent; or
 - (b) by an enforcement officer or approved verifier in the carrying out of any of their functions under these Regulations,

that person (or that person’s authorised agent), enforcement officer or approved verifier is not guilty of an offence under paragraph (1)(b) or (1)(c).

(3) A person is guilty of an offence if that person places on the market or puts into use or uses for trade a regulated measuring instrument—

- (a) from which, to that person’s knowledge, an authorised mark has been removed; or
- (b) which to that person’s knowledge bears—
 - (i) an authorised mark affixed otherwise than in accordance with these Regulations;
 - (ii) an authorised mark that has been altered or defaced otherwise than in the circumstances referred to in paragraph (2); or
 - (iii) any mark which is likely to deceive any person as to the meaning or form, or both, of an authorised mark.

(4) A regulated measuring instrument in respect of which an offence under this regulation has been committed and any implement used in the commissioning of the offence is liable to be forfeited.

(5) In this regulation “authorised mark” means—

- (a) the CE marking;
- (b) the M marking;
- (c) the identification number of the notified body which carried out the conformity assessment procedure in respect of the relevant regulated measuring instrument;
- (d) a disqualification mark; or
- (e) a re-qualification mark.

Offences by economic operators etc.

- 76.**—(1) In this regulation “event of default” means—
- (a) the placing on the market or putting into use of a regulated measuring instrument which—
 - (i) does not meet the essential requirements applicable to it;
 - (ii) has not been the subject of an applicable conformity assessment procedure;
 - (iii) does not bear the markings or inscriptions required by these Regulations; or

- (iv) is not accompanied by the documents and information required by these Regulations;
or
- (b) any failure to—
 - (i) create or maintain any records required to be created or maintained under these Regulations; or
 - (ii) provide to a competent authority documents or information pursuant to a requirement imposed by or under these Regulations; or
- (c) any failure to comply with an obligation under regulation 74(1) or 74(2)

(2) Where an event of default mentioned in paragraph (1)(a) or 1(b) occurs as a result of the failure of an economic operator to comply with an obligation imposed on the economic operator by any provision of these Regulations, the economic operator is guilty of an offence.

(3) Where there is an event of default of a kind referred to in paragraph (1)(c), the person on whom the obligation is imposed under section 74(1) or 74(2) is guilty of an offence.

Penalties for offences

77. A person guilty of an offence under any provision of these Regulations is liable, on summary conviction—

- (a) in England and Wales to a fine; and
- (b) in Scotland or Northern Ireland to a fine not exceeding level 5 on the standard scale.

Defence of due diligence

78.—(1) In proceedings against a person for an offence under these Regulations (other than regulation 75(3)), it is a defence for that person to show that that person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where, in proceedings against a person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence, unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), that person has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph must give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time that person serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of reliance on information supplied by another, unless that person shows it was reasonable in all the circumstances for that person to have relied on the information, having regard in particular to—

- (a) the steps which that person took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether that person had any reason to disbelieve the information.

Liability of persons other than the principal offender

79.—(1) Where the commission by a person (“A”) of an offence under these Regulations is due to the act or default of another person (“B”) in the course of any business of A, B is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against A.

(2) Where a body corporate commits an offence under these Regulations and it is proved that the offence was committed—

- (a) with the consent or connivance of an officer of the body corporate,
 - (b) as a result of the negligence of an officer of the body corporate
- the officer as well as the body corporate is guilty of the offence.

(3) In paragraph (2), a reference to an officer of a body corporate includes a reference to—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) a person purporting to act as a director, manager, secretary or other similar officer; and
- (c) if the affairs of the body corporate are managed by its members, a member

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland, and in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

PART 9

MISCELLANEOUS AND SUPPLEMENTAL

Service of documents etc.

80.—(1) Any document required or authorised by these Regulations to be served on a person may be so served—

- (a) by delivering it to that person or by leaving it at that person’s proper address or by sending it by post to that person at that address;
- (b) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with that sub-paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978(a) (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served in accordance with these Regulations is that person’s last known address except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body corporate; and
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Review

81.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other EEA states.

(3) The report must, in particular—

(a) 1978 c.30.

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.
- (4) The first report under this regulation must be published no later than 5 years after the date of the coming into force of these Regulations.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

Margot James
Parliamentary Under Secretary of State
Minister for Small Business, Consumers and Corporate Responsibility
Department for Business, Energy and Industrial Strategy

29th November 2016

SCHEDULE 1 Regulations 2(1) and 39(1)
**ESSENTIAL REQUIREMENTS AND APPLICABLE CONFORMITY
ASSESSMENT PROCEDURES**

Introductory

1. The essential requirements and conformity assessment procedure applicable to measuring instruments are as set out in this Schedule.

Water Meters

2.—(1) The essential requirements relating to water meters intended for the measurement of volumes of clean, cold or heated water in residential, commercial and light industrial use are—

- (a) the requirements set out in Annex I to the Directive; and
- (b) the specific requirements of Annex III to the Directive subject to the modification specified in sub-paragraph (2).

(2) The modification referred to in sub-paragraph (1)(b) is that point 10 of the specific requirements in Annex III is to be read as follows—

“Putting into use

10. The requirements under points 1, 2 and 3 are determined by the utility or the person legally designated for installing the meter, so that the meter is appropriate for the accurate measurement of consumption that is foreseen or foreseeable.”

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to water meters of the kind referred to in sub-paragraph (1) are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

Gas meters

3.—(1) The essential requirements relating to gas meters intended for residential, commercial and light industrial use are—

- (a) the requirements of Annex I to the Directive; and
- (b) the specific requirements set out in Part I of Annex IV to the Directive subject to the modification in sub-paragraph (2).

(2) The modification referred to in sub-paragraph (1)(b) is that point 10 of the specific requirements in Annex IV is to be read as follows—

“Putting into use

10.—(a) The measurement of residential use must be performed by means of any Class 1.5 gas meter, or by Class 1.0 gas meters which have a Q_{\max}/Q_{\min} ratio equal to or greater than 150.

(b) Measurement of commercial or light industrial use must be performed by any Class 1.0 or Class 1.5 gas meter.

(c) The person responsible for installing a gas meter must have regard to the requirements under Points 1.2 and 1.3 of Part I of Annex IV and must ensure that the gas meter is appropriate for the accurate measurement of consumption that is foreseen or foreseeable.”

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to gas meters are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

Volume conversion devices

4.—(1) In this paragraph “conversion device” means a device fitted to a gas meter that automatically converts the quantity measured at metering conditions into a quantity at the specified conditions to which the quantity of fluid is converted.

(2) The essential requirements relating to conversion devices intended for residential, commercial and light industrial use are—

- (a) the requirements of Annex I to the Directive;
- (b) the specific requirements set out in Part II of Annex IV.

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to conversion devices are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

Active electrical energy meters

5.—(1) The essential requirements in relation to active electrical energy meters intended for residential, commercial and light industrial use are—

- (a) the requirements of Annex I of the Directive; and
- (b) the specific requirements in Annex V subject to the modification in sub-paragraph (2).

(2) The modification referred to in sub-paragraph (1)(b) is that point 7 of the specific requirements in Annex V is to be read as follows—

“Putting into use

7.—(a) Subject to sub-paragraph (2), measurement may be performed by means of any active electrical energy meter provided that the temperature range to which an active electrical energy meter is exposed is not wider than the range specified by the manufacturer in relation to that active electrical energy meter in accordance with Point 1.3.1 and Table 1 in Annex 1 to the Directive.

(b) Class A active electrical energy meters may not be used when operating outside the temperature range of an upper temperature limit of 30°C to a lower temperature limit of 5 °C.

(c) The person responsible for installing the active electrical energy meter must determine the correct current range and assess the climatic environment.”

(3) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to active electrical meters are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

Thermal Energy Meters

6.—(1) The essential requirements in relation to thermal energy meters are—

- (a) the requirements of Annex I of the Directive; and
- (b) the requirements of Annex VI.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to thermal energy meters are—

- (a) B and F;
- (b) B and D; or
- (c) H1.

Non-water liquid measuring systems

7.—(1) The essential requirements in relation to non-water liquid measuring systems are—

- (a) the requirements of Annex I of the Directive; and
- (b) the requirements of Annex VII.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to non-water liquid measuring systems are—

- (a) B and F;
- (b) B and D;
- (c) H1; or
- (d) G.

Automatic weighing instruments

8.—(1) The essential requirements in relation to automatic weighing instruments are—

- (a) in relation to automatic catchweighers—
 - (i) the requirements of Annex I of the Directive; and
 - (ii) the specific requirements in Chapter I and II of Annex VIII;
- (b) in relation to automatic gravimetric filling instruments—
 - (i) the requirements of Annex I of the Directive; and

- (ii) the specific requirements in Chapter I and Chapter III of Annex VIII;
 - (c) in relation to discontinuous totalisers—
 - (i) the requirements of Annex I of the Directive; and
 - (ii) the specific requirements in Chapter I and Chapter IV of Annex VIII;
 - (d) The essential requirements in relation to beltweighers are—
 - (i) the requirements of Annex I of the Directive; and
 - (ii) the specific requirements in Chapters I and V of Annex VIII; and
 - (e) The essential requirements in relation to automatic rail weighbridges are—
 - (i) the requirements of Annex I of the Directive; and
 - (ii) the specific requirements in Chapters I and VI in Annex VIII.
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to automatic weighing instruments are—
- (a) for mechanical systems—
 - (i) B and D;
 - (ii) B and E;
 - (iii) B and F;
 - (iv) D1;
 - (v) F1;
 - (vi) G; or
 - (vii) H1;
 - (b) for electromechanical instruments—
 - (i) B and D;
 - (ii) B and E;
 - (iii) B and F;
 - (iv) G; or
 - (v) H1; and
 - (c) for electronic systems or systems containing software—
 - (i) B and D;
 - (ii) B and F;
 - (iii) G; or
 - (iv) H1.

Taximeters

- 9.**—(1) The essential requirements in relation to taximeters are—
- (a) the requirements of Annex 1 of the Directive; and
 - (b) the specific requirements in Annex IX.
- (2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to taximeters are—
- (a) B and F;
 - (b) B and D; or
 - (c) H1.

Material measures of length

- 10.**—(1) The essential requirements in relation to material measures of length are—

- (a) the requirements of Annex I of the Directive; and
- (b) the specific requirements in Chapter I of Annex X.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to material measures of length are—

- (a) F1;
- (b) D1;
- (c) B and D;
- (d) G; or
- (e) H.

Capacity serving measures

11.—(1) The essential requirements in relation to capacity serving measures are—

- (a) the requirements of Annex I of the Directive; and
- (b) the specific requirements in Chapter II of Annex X.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to capacity serving measures are—

- (a) A2;
- (b) D1;
- (c) E1;
- (d) F1;
- (e) B and D;
- (f) B and E; or
- (g) H.

Dimensional measuring instruments

12.—(1) The essential requirements in relation to dimensional measuring instruments are—

- (a) the requirements of Annex I of the Directive; and
- (b) the specific requirements in Annex XI.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to dimensional measuring instruments are—

- (a) for mechanical or electromechanical instruments—
 - (i) D1;
 - (ii) E1;
 - (iii) F1;
 - (iv) H;
 - (v) H1;
 - (vi) G;
 - (vii) B and D;
 - (viii) B and E;
 - (ix) B and F;
- (b) for electronic instruments or instruments containing software—
 - (i) B and D;
 - (ii) B and F;
 - (iii) G; or

- (iv) H1.

Exhaust gas analysers

13.—(1) The essential requirements in relation to exhaust gas analysers are—

- (a) the requirements of Annex I of the Directive; and
- (b) the specific requirements in Annex XII.

(2) The conformity assessment procedures specified in the modules in Annex II to the Directive applicable to exhaust gas analysers are—

- (a) B and D;
- (b) B and F; or
- (c) H1.

SCHEDULE 2

Regulation 3(4)

MEASURING INSTRUMENT WHICH MAY CONTINUE TO BE PUT INTO USE

Cold water meters

1. A cold-water meter—

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which was first passed as fit for trade and stamped before 30th October 2016 under the Measuring Equipment (Cold-water Meter Regulations) 1988(a).

2. A cold-water meter—

- (a) in respect of a pattern of which EEC pattern approval was granted before 30th October 2006 in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988 (or in accordance with the measures in force in another EEA state which implement Council Directive 75/33/EEC(b)); and
- (b) which bears a mark of EEC initial verification or of EEC partial verification, in either case, affixed before 30th October 2016 in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988 (or in accordance with the measures in force in another EEA state which implement Council Directive 71/316/EEC(c) as amended by Council Directives 72/427/EEC(d), 83/575/EEC(e), 87/354/EEC(f) 87/355/EEC(g) and 88/665/EEC(h).

Gas meters

3. A gas meter for use for trade which was—

- (a) stamped under section 17 of the Gas Act 1986(i) and placed on the market before 30th October 2016; or

(a) S.I. 1988/97 as amended by S.I. 2001/1229 and S.I. 2003/214.
(b) OJ No. L14, 20.1.75, p.1. Directive 75/33/EEC was repealed by Directive 2004/22/EC (OJ No. L135, 30.04.04, p.1).
(c) OJ No. L202, 6.9.71, p.1, OJ/SE 1971(II), p.707.
(d) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p.71.
(e) OJ No. L332, 28.11.83, p.43.
(f) OJ No. L192, 11.7.87, p.43.
(g) OJ No. L192, 11.7.87, p.46.
(h) OJ No. L382, 31.12.88, p.42.
(i) 1986 c.44.

- (b) stamped under article 22 of the Gas (Northern Ireland) Order 1996(a) and placed on the market before 30th October 2016;

4. A gas meter for use for trade—

- (a) in respect of which an EEC pattern approval was granted before 30th October 2006—
 - (i) under the Measuring Instruments (EEC Requirements) Regulations 1988(b), as applied to gas meters by the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988(c); or
 - (ii) by any other EEA state in accordance with the relevant provisions of measures in force which implement Council Directive 71/318(d),

and

- (b) which bears a mark of EEC initial verification affixed before 30th October 2016 under those Regulations (as so applied) or by any other EEA state in accordance with those provisions.

Active electrical energy meters

5. An active electrical energy meter for use for trade which was—

- (a) of a pattern or construction approved before 30th October 2006 by or under regulations made under paragraph 2 of Schedule 7 to the Electricity Act 1989(e), where such approval has not been revoked under regulations so made; and
- (b) before 30th October 2016,—
 - (i) certified under paragraph 5 of that Schedule or excepted from the requirement for certification under paragraph 2(2) of that Schedule; and
 - (ii) placed on the market.

6. An active electrical energy meter for use for trade which was—

- (a) of a pattern or construction approved before 30th October 2006 by or under regulations made under paragraph 3 of Schedule 7 to the Electricity (Northern Ireland) Order 1992(f) where such approval has not been revoked under regulations so made; and
- (b) before 30th October 2016—
 - (i) certified under paragraph 6 of that Schedule or excepted from the requirement for certification under paragraph 3(2) of that Schedule; and
 - (ii) placed on the market.

7. An active electricity meter for use for trade—

- (a) in respect of which an EEC pattern approval was granted before 30th October 2006—
 - (i) under the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995(g); or
 - (ii) any other EEA state in accordance with the relevant provisions of measures in force which implement Council Directive 76/891(h); and
- (b) which bears a mark of EEC initial verification affixed before 30th October 2016 under those Regulations or by any other EEA state in accordance with those provisions.

(a) S.I. 1996/275 (N.I. 2).

(b) S.I. 1988/186

(c) S.I. 1988/296, as amended by S.I. 1996/319.

(d) Directive 71/318 on the approximation of the laws of member States relating to gas meters.

(e) 1989 c.29.

(f) S.I. 1992 No 231 (N.I. 1).

(g) S.I. 1995/2607.

(h) Directive 76/891 on the approximation of the laws of member States relating to electrical energy meters.

Automatic Weighing instruments

8. An Automatic gravimetric filing instrument—

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which before 30th October 2016 was first passed as fit for use for trade and stamped under—
 - (i) the Weights and Measures Regulations 1963(a);
 - (ii) the Weighing Equipment (Filing and Discontinuous Totalising Automatic Weighing Machines) Regulations 1986(b); or
 - (iii) the Weighing Equipment (Automatic Gravimetric Filing Instruments) Regulations 2000(c).

Measuring systems for the measurement of liquid fuel and lubricants

9. A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel lubricants or a mixture of liquid fuels and lubricants in a quantity not exceeding 100 litres or 100 kilograms—

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which was before 30th October 2016 first passed as fit for use for trade and stamped under the Measuring Equipment (Liquid Fuel and Lubricants) Regulations 1995(d).

10.—(1) A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel, lubricants or a mixture of liquid fuels and lubricants in a quantity not exceeding 100 litres or 100 kilograms—

- (a) in respect of which an EEC pattern approval was granted before 30th October 2006; and
- (b) which bears a mark of EU initial verification or EU partial verification affixed before 30th October 2016.

(2) For the purposes of paragraph (1)—

- (a) a grant of EEC pattern approval or the affixing of a mark of EEC initial verification must have been in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988(e) or, in the case of any other EEA state, in accordance with the measures in force which implemented—
 - (i) Council Directive 71/319 EEC(f);
 - (ii) Council Directive 71/348/EEC(g) as amended by the Treaty of Accession 1994(h); and
 - (iii) Council Directive 77/313/EEC(i) as amended by Commission Directive 82/625/EEC(j); and
- (b) the affixing of a mark of EEC partial verification must have been in accordance with the 1988 Regulations, or in the case of any other EEA state in accordance with the measures in force which implemented Council Directive 71316/EEC(k) as amended by Council

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- (a) S.I. 1963/1710, as amended by S.I. 1970/1370, S.I. 1972/767, S.I. 1974/1326, S.I. 1977/1932, S.I. 1978/484, S.I. 1979/1612, S.I. 1980/1070, S.I. 1980/1079, S.I. 1983/914, S.I. 1984/1446, S.I. 1985/1532, S.I. 1986/1320, S.I. 1986/1682, S.I. 1988/120, S.I. 1988/876, S.I. 1994/1249, S.I. 1995/735, S.I. 2000/388, S.I. 2001/599, S.I. 2001/1208, S.I. 2003/2454 and S.I. 2003/2761.
 - (b) S.I. 1986/1320, as amended by S.I. 1994/1851, S.I. 1996/797, S.I. 2000/387, S.I. 2001/85 and S.I. 2003/2014.
 - (c) S.I. 2000/388 as amended by S.I. 2003/214 and S.I. 2006/659.
 - (d) S.I. 1995/1014, as amended by S.I. 1998/2218, S.I. 2001/85, S.I. 2003/214 and S.I. 2003/2110.
 - (e) S.I. 1988/186, as amended by S.I. 1988/296 and S.I. 1988/1128.
 - (f) OJ No. L202, 6.9.71, p.32, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1).
 - (g) OJ No. L239, 25.10.71, p.9 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1).
 - (h) The Treaty concerning the accession of Norway, Austria, Finland and Sweden, signed 24.06.94.
 - (i) OJ No. L105, 28.4.77, p. 18, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1).
 - (j) OJ No. L252, 27.8.82, p.10 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1).
 - (k) OJ No. L202, 6.9.71, p.1, OJ/SE 1971 (II), p 707.

Directives 72/427/EEC(a), 83/575/EEC(b), 87/354/EEC(c), 87/355/EEC(d) and 88/665/EEC(e).

Measuring systems used for deliveries from road tankers

11. A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms, delivered from a road tanker—

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which was first passed as fit before 30th October 2016 for use for trade and stamped under the Measuring Equipment (Liquid Fuel delivered from Road Tankers) Regulations 1983(f).

12.—(1) A measuring system for use for trade in the making of a continuous and dynamic measurement of liquid fuel in a quantity exceeding 100 litres or 100 kilograms, delivered from a road tanker—

- (a) in respect of a which an EEC pattern approval was granted before 30th October 2006; and
- (b) which bears a mark of EU initial verification or EU partial verification affixed before 30th October 2016.

(2) For the purposes of paragraph (1)—

- (a) a grant of EEC pattern approval or the affixing of a mark of EEC initial verification must have been in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988(g) or, in the case of any other EEA state, in accordance with the measures in force which implemented—
 - (i) Council Directive 71/319 EEC(h);
 - (ii) Council Directive 71/348/EEC(i) as amended by the Treaty of Accession 1994(j); and
 - (iii) Council Directive 77/313/EEC(k) as amended by Commission Directive 82/625/EEC(l); and
- (b) the affixing of a mark of EEC partial verification must have been in accordance with the 1988 Regulations, or in the case of any other EEA state in accordance with the measures in force which implemented Council Directive 71316/EEC(m) as amended by Council Directives 72/427/EEC(n), 83/575/EEC(o), 87/354/EEC(p), 87/355/EEC(q) and 88/665/EEC(r).

Taximeters

13. A Taximeter—

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- (a) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p.71.
 - (b) OJ No. L332, 28.11.83, p.43.
 - (c) OJ No. L192, 11.7.87, p.43.
 - (d) OJ No. L192, 11.7.87, p.46.
 - (e) OJ No. L382, 31.12.88, p.42.
 - (f) S.I. 1983/1390, as amended by S.I. 1986/1210, S.I. 1994/1851, S.I. 1995/3117, S.I. 2001/85 and S.I. 2003/214.
 - (g) S.I. 1988/186, as amended by S.I. 1988/296 and S.I. 1988/1128.
 - (h) OJ No. L202, 6.9.71, p.32, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
 - (i) OJ No. L239, 25.10.71, p.9 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
 - (j) The Treaty concerning the accession of Norway, Austria, Finland and Sweden, signed 24.06.94.
 - (k) OJ No. L105, 28.4.77, p. 18, repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
 - (l) OJ No. L252, 27.8.82, p.10 repealed by Directive 2004/22/EC (OJ No. L13, 30.4.04, p.1.
 - (m) OJ No. L202, 6.9.71, p1, OJ/SE 1971 (II), p 707.
 - (n) OJ No. L291, 28.12.72, p.156, OJ/SE 1972, 28-30 Dec., p.71.
 - (o) OJ No. L332, 28.11.83, p.43.
 - (p) OJ No. L192, 11.7.87, p.43.
 - (q) OJ No. L192, 11.7.87, p.46.
 - (r) OJ No. L382, 31.12.88, p.42.

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which was passed as fit for use before 30th October 2016 for the protection of consumers and marked under the Metropolitan Conditions of Fitness(a).

Material measures of length

14. A material measure of length—

- (a) which was first passed as fit for use for trade and stamped before 30th October 2006 under the Measuring Equipment (Measures of Length) Regulations 1986(b); and
- (b) which was placed on the market before 30th October 2016.

15.—(1) A material measure of length—

- (a) in respect of which an EEC pattern approval was granted under the Measuring Instruments (EEC Requirements) Regulations 1988(c)
- (b) which bears a mark of EEC initial verification or of EEC partial verification, which was affixed before 30th October 2016.

(2) For the purposes of paragraph (1)—

- (a) a grant of EEC pattern approval, or the affixing of a mark of EEC initial verification must have been in accordance with the relevant provisions of the Measuring Instruments (EEC Requirements) Regulations 1988 or, in the case of any other member State, in accordance with the relevant provisions of measures in force which implemented Council Directive 73/362/EEC(d) as amended by Council Directive 78/629/EEC(e) and Commission Directive 85/146/EEC(f); and
- (b) the affixing of a mark of EEC partial verification must have been in accordance with the Measuring Instruments (EEC Requirements) Regulations 1988, or in the case of any other member State, in accordance with the measures in force which implemented Council Directive 71/316/EEC(g) as amended by Council Directives 72/427/EEC(h), 83/575/EEC(i), 87/354/EEC(j), 87/355/EEC(k) and 88/665/EEC(l).

Exhaust gas analyser

16. An exhaust gas analyser

- (a) in respect of which a certificate of approval was granted before 30th October 2006; and
- (b) which was first passed as fit for use for the protection of the environment and public health pursuant to the requirements of OIML, R99/ISO 3930(m) before 30th October 2016.

-
- (a) The Public Carriage Office issued the Construction and Licensing of Motor Taxicabs in London: Conditions of Fitness in 2000. (This document is usually referred to as “the Metropolitan Conditions of Fitness.”) The Metropolitan Conditions of Fitness are made under the London Cab Order 1934 (S.I. 1934/1346), article 35. The relevant amending instruments are S.I. 1985/933, 1990/2003 and 2000/1666. S.I. 1934/1346 was made under the Metropolitan Public Carriage Act 1869 (c. 115), section 6. Article 35 of the London Cab Order requires the installation of an approved taximeter. The requirements that must be met by an approved taximeter are set out in the Notice to Owners and Manufacturers of Motor Cabs and Taximeters regarding Taximeters to be used on Taxicabs in the Metropolitan Police District and the City of London, which was issued by the Public Carriage Office in July 1997.
 - (b) S.I. 1986/1682 as amended by S.I. 1986/2139, S.I. 1994/1851, S.I. 1996/2636
 - (c) S.I. 1866/186 as amended by S.I. 1988/296 and S.I.1988/1128
 - (d) OJ No. L335, 5.12.73, p.56 (repealed by Directive 2004/22/EC (OJ No.L135, 30.4.04, p.1).
 - (e) OJNo.L209, 29.7.78, p.8.
 - (f) OJ no.L054, 23.2.85, p29.
 - (g) OJ No. L202, 6.09.71, p.1, OJ/SE 1972 1971 (II) p 707.
 - (h) OJ No. L291, 28.12.72, p156, OJ/SE 1972, 28-30 Dec.,p.71.
 - (i) OJ No. L 332 ,28.11.83, p.43.
 - (j) OJ No. L192, 11.7.87
 - (k) OJ No. L192, 11.7.87, p.46.
 - (l) OJ No L382, 31.12.88, p.42.
 - (m) OIML, the Organisation International de Métrologie Légale, is an intergovernmental body dedicated to the harmonisation of the national metrology regulations of its members. The OIML R99 standard edition 2000E, was developed by the OIML subcommittee TC16/SC 1, Air pollution.

SCHEDULE 3

Regulation 4

REVOCATIONS AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Instruments revoked

1. Subject to paragraph 2, the Regulations listed in the table in this paragraph are revoked.

| <i>Instrument title</i> | <i>Reference</i> |
|--|------------------|
| The Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006 | S.I.2006/1255 |
| The Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006 | S.I. 2006/1256 |
| The Measuring Instruments (Automatic Catchweighers) Regulations 2006 | S.I. 2006/1257 |
| The Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 | S.I. 2006/1258 |
| The Measuring Instruments (Beltweighers) Regulations 2006 | S.I. 2006/1259 |
| The Measuring Instruments (Capacity Serving Measures) Regulations 2006 | S.I. 2006/1264 |
| The Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006 | S.I. 2006/1266 |
| The Measuring Instruments (Material Measures of Length) Regulations 2006 | S.I. 2006/1267 |
| The Measuring Instruments (Cold Water Meters) Regulations 2006 | S.I. 2006/1268 |
| The Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006 | S.I. 2006/1269 |
| The Measuring Instruments (Non-Prescribed Instruments) Regulations 2006 | S.I. 2006/1270 |
| The Measuring Instruments (Active Electrical Energy Meters) Regulations 2006 | S.I. 2006/1679 |
| The Measuring Instruments (Exhaust Gas Analysers) Regulations 2006 | S.I. 2006/2164 |
| The Measuring Instruments (Taximeters) Regulations 2006 | S.I. 2006/2304 |
| The Measuring Instruments (Amendment) Regulations 2006 | S.I. 2006/2625 |
| The Measuring Instruments (Gas Meters) Regulations 2006 | S.I. 2006/2647 |
| The Measuring Instruments (Amendment) Regulations 2010 | S.I. 2010/2881 |

Transitional provisions

2.—(1) In this paragraph, “the former law” means the Regulations referred to in paragraph 1.

(2) This sub-paragraph applies to a regulated measuring instrument placed on the market or put into use before the commencement date which was required by any provision of the former law to meet the essential requirements.

(3) A regulated measuring instrument to which sub-paragraph (2) applies which meets the requirements of the former law applicable to it is treated as meeting the requirements of these Regulations.

(4) Where a regulated measuring instrument to which sub-paragraph (2) applies does not meet the requirements of the former law, these Regulations apply to that instrument as they apply to a regulated measuring instrument placed on the market or put into use after the commencement date which does not comply with the requirements of these Regulations.

(5) Part 6 (Use for trade of regulated measuring instruments) applies to instruments to which sub-paragraph (2) applies as it applies to a regulated measuring instrument placed on the market or put into use after the commencement date.

(6) A certificate granted under any provision of the former law has effect as if granted under the corresponding provision of these Regulations.

(7) An application to be recognised as a notified body which is made before the commencement date is to be treated as having been made under these Regulations if it meets the requirements of these Regulations.

(8) Except in a case where paragraph (7) applies, a requirement of these Regulations (“the relevant requirement”) is to be treated as having been satisfied by anything done on or after 20th April 2016 but before the commencement date where that thing—

- (a) was done for the purposes of complying with a requirement of the Directive; and
- (b) if it had been done on or after the commencement date it would have met the relevant requirement.

(9) Regulation 77 (offences by economic operators etc.) does not apply to the putting into use of—

- (a) an instrument to which paragraph (2) applies; or
- (b) an instrument of a kind which is listed in Schedule 2 (measuring instruments which may continue to be put into use).

Amendments to the Consumer Rights Act 2015

3.—(1) Schedule 5 to the Consumer Rights Act 2015 is amended as follows.

(2) After paragraph 3(1)(g), add—

- “(ga) the Department for Infrastructure in Northern Ireland;
- “(gb) the Utility Regulator in Northern Ireland.”

(3) Omit the following entries from the list in paragraph 10—

- (a) “regulation 17 of the Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006 (SI 2006/1255);”;
- (b) “regulation 18 of the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006 (SI 2006/1256);”;
- (c) “regulation 20 of the Measuring Instruments (Automatic Catchweighers) Regulations 2006 (SI 2006/1257);”;
- (d) “regulation 18 of the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 (SI 2006/1258);”;
- (e) “regulation 18 of the Measuring Instruments (Beltweighers) Regulations 2006 (SI 2006/1259);”;
- (f) “regulation 16 of the Measuring Instruments (Capacity Serving Measures) Regulations 2006 (SI 2006/1264);”
- (g) “regulation 17 of the Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006 (SI 2006/1266);”;
- (h) “regulation 16 of the Measuring Instruments (Material Measures of Length) Regulations 2006 (SI 2006/1267);”;
- (i) “regulation 17 of the Measuring Instruments (Cold-water Meters) Regulations 2006 (SI 2006/1268);”;
- (j) “regulation 18 of the Measuring Instruments (Liquid Fuel delivered from Road Tankers) Regulations 2006 (SI 2006/1269);”.

(4) In the list in paragraph 10 at the appropriate place insert—

- “regulations 70 of the Measuring Instruments Regulations 2016 (SI 2016/1153);”.

Modifications to the application of the Gas Act 1986

4.—(1) Section 17 of the Gas Act 1986(a) (meter testing and stamping) has effect in its application to a meter which is a regulated measuring instrument under regulation 3(2)(b) subject to paragraphs (2) to (4) below.

(a) 1986 c.44. Section 17 was substituted by paragraph 13 of Schedule 3 to the Gas Act 1995 (c.45).

(2) If the meter is put into use within the meaning of and in accordance with these Regulations (or, prior to commencement date, the Measuring Instruments (Gas Meters) Regulations 2006^(a)), it is to be deemed for the purposes of section 17(1) and (11) to have been stamped.

(3) Subsections (2)(b) and (3) to (5) must be disregarded.

(4) Sub-paragraphs (2) and (3) do not apply if the error of measurement of the meter exceeds—

- (a) in relation to a Class 1.5 gas meter within the meaning of Annex IV to the Directive, twice the maximum permissible error as set out in relation to that class, in Table 1 in paragraph 2.1 of Annex IV to the Directive;
- (b) in relation to a Class 1.0 gas meter within the meaning of Annex IV to the Directive, the maximum permissible error as set out, in relation to that class, in Table 1 in paragraph 2.1 of Annex IV;

(5) The Gas (Meters) Regulations 1983^(b) do not apply to a meter which is a regulated measuring instrument except for regulation 4 and (so far as is necessary for the interpretation of that regulation) regulation 2.

(6) In regulation 4 of those Regulations—

- (a) references, however expressed, to a meter stamped under section 30 of the Gas Act 1972^(c) (which provision is re-enacted in section 17 of the Gas Act 1986) shall be construed as references to a meter bearing the CE marking and M marking;
- (b) references to a stamp shall be construed as including references to those markings; and
- (c) references to the standard or standards prescribed by regulation 3 of those Regulations shall be construed as—
 - (i) in relation to a class 1.5 gas meter within the meaning of Annex IV to the Directive, twice the maximum permissible error as set out, in relation to that class, in Table 1 in paragraph 2.1 of Annex IV;
 - (ii) in relation to a Class 1.0 gas meter within the meaning of Annex IV to the Directive, the maximum permissible error as set out, in relation to that class, in Table 1 in paragraph 2.1 of Annex IV.

Modifications to the application of the Gas (Northern Ireland) Order 1996

5.—(1) Article 22 of the Gas (Northern Ireland) Order 1996^(d) (meter testing and stamping) has effect in its application to a meter which is a regulated measuring instrument subject to paragraphs (2) to (4) below.

(2) If the meter is put into use within the meaning of and in accordance with these Regulations (or prior to the commencement date, the Measuring Instruments (Gas Meters) Regulations 2006), it shall for the purposes of article 22(1) and (10), be deemed to have been stamped.

(3) Article 22(2) (insofar as it relates to the duty of a meter examiner to stamp, or authorise the stamping, of a meter) and (3) to (5) must be disregarded.

(4) Paragraphs (2) and (3) do not apply if the error of measurement of the meter exceeds—

- (a) in relation to a Class 1.5 gas meter within the meaning of Annex IV to the Directive, twice the maximum permissible error as set out, in relation to that class, in Table 1 in paragraph 2.1 of Annex IV;
- (b) in relation to a Class 1.0 relevant instrument within the meaning of Annex IV to the Directive, the maximum permissible error as set out, in relation to that class, in Table 1 in paragraph 2.1 of Annex IV.

(a) S.I. 2006/2647.

(b) S.I.1983/684.

(c) 1972 c.60.

(d) S.I. 1996 No. 275 (N.I. 2).

Modifications to the application of the Electricity Act 1989

6.—(1) Schedule 7 to the Electricity Act 1989(a) (use etc. of electricity meters) has effect in its application to a meter which is a regulated measuring instrument under regulation 3(2)(c) subject to paragraphs (2) to (4) below.

(2) If the meter is put into use within the meaning of and in accordance with these Regulations (or, prior to the commencement date was put into use within the meaning of and in accordance with the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006(b)), it shall, for the purpose of paragraphs 2(1)(a), 3(1)(a) and 9(3) of the Schedule, be deemed to be of an approved pattern or construction and installed in an approved manner; and the following rules apply—

- (a) for the purposes of paragraphs 2(1)(b) and 3(1)(b) of the Schedule, the meter shall be deemed to be certified under paragraph 5;
- (b) for the purpose of the application of paragraphs 7(1)(c) and (2) and 9(3) and (4) of the Schedule, “prescribed margins of error” shall mean the maximum permissible error as set out in paragraph 3 of Annex V to the Directive.

(3) Paragraphs 5(2)(a) and 7(1)(b) of Schedule 7 must be disregarded.

(4) Sub-paragraph (2)(a) above does not apply if the error of measurement of the meter exceeds the maximum permissible error as set out in paragraph 3 of Annex V to the Directive.

(5) If a meter which is a regulated measuring instrument is put into use within the meaning of and in accordance with these Regulations—

- (a) regulation 10 of the Meters (Certification) Regulations 1998(c); and
- (b) regulation 3 of the Meters (Approval of Pattern or Construction and Manner of Installation) Regulations 1998(d),

do not apply to the meter.

Modifications to the application of the Electricity (Northern Ireland) Order 1992

7.—(1) Schedule 7 to the Electricity (Northern Ireland) Order 1992(e) (use etc. of electricity meters) has effect in its application to a meter which is a regulated measuring instrument subject to paragraphs (2) to (4) below.

(2) If the meter is put into use within the meaning of and in accordance with these Regulations (or, prior to the commencement date was put into use under the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006), it shall, for the purpose of paragraphs 3(1)(a), 4(1)(a) and 10(3) of the Schedule, be deemed to be of an approved pattern or construction and installed in an approved manner; and the following rules shall apply—

- (a) for the purposes of paragraphs 3(1)(b) and 4(1)(b), the meter shall be deemed to be certified under paragraph 6; and
- (b) for the purpose of the application of paragraphs 8(1)(c) and (2) and 10(3) and (4), “prescribed margins of error” shall mean the maximum permissible error as set out in paragraph 3 of Annex V to the Directive.

(3) Paragraphs 6(2)(a) and 8(1)(b) of Schedule 7 must be disregarded.

(4) Paragraph (2)(a) above does not apply if the error of measurement of the meter exceeds the maximum permissible error as set out in paragraph 3 of Annex V to the Directive.

(5) If a meter which is a regulated measuring instrument is put into use within the meaning of and in accordance with these Regulations—

(a) 1989 c.30
(b) S.I. 2006/1679.
(c) S.I. 1998/1566.
(d) S.I. 1998/1565.
(e) S.I. 1992 No 231(N.I. 1).

- (a) regulation 10 of the Meters (Certification) Regulations (Northern Ireland) 1998(a); and
 - (b) regulation 3 of the Meters (Approval of Pattern or Construction and Manner of Installation) Regulations (Northern Ireland) 1998(b),
- do not apply to the meter.

SCHEDULE 4

Regulation 39(2)

OPERATIONAL OBLIGATIONS OF NOTIFIED BODIES

1. Conformity assessment must be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators.

2. Conformity assessment bodies must perform their activities taking due account of—

- (a) the size of an undertaking;
- (b) the sector in which it operates,
- (c) its structure;
- (d) the degree of complexity of the of the measuring instrument technology in question; and
- (e) the mass or serial nature of the production process,

but respecting the degree of rigour and the level of protection required for compliance of the measuring instrument with these Regulations.

3. Where a notified body finds that the essential requirements have not been met by a manufacturer—

- (a) it must require that manufacturer to take appropriate corrective measures; and
- (b) it must not issue a certificate of conformity.

4. Where in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a measuring instrument no longer complies, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body must restrict, suspend or withdraw any certificates, as appropriate.

6. Where a person is aggrieved at a decision taken by a notified body in relation to the conformity assessment of a measuring instrument, the notified body must have appropriate arrangements for the review of that decision by a person who was not involved in the taking of that decision.

7. Notified bodies must inform the notifying authority of the following—

- (a) any refusal, restriction, suspension or withdrawal of a certificate;
- (b) any circumstances affecting the scope of or conditions for notification;
- (c) any request for information which they have received from market surveillance authorities regarding conformity assessment; and
- (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

(a) S.R.N.I. 1998 No. 444.

(b) S.R.N.I. 1998 No. 443.

8. Notified bodies must provide other bodies notified under this Directive carrying out similar conformity assessment activities covering the same measuring instruments with relevant information on issues relating to negative and, on request positive conformity assessment results.

9. Notified bodies must—

- (a) when requested by the Secretary of State, nominate a representative to attend a group convened by the Commission pursuant to Article 40 of the Directive; and
- (b) ensure attendance of that representative at meetings of the group.

SCHEDULE 5

Regulation 55(4)

REQUIREMENTS RELATED TO NOTIFIED BODIES

1. A conformity assessment body must be established under the national law of an EEA state and have legal personality.

2. A conformity assessment body must be independent of the organisation or the measuring instrument it assess. A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of measuring instruments which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

3.—(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not be—

- (a) the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the measuring instruments they assess; or
- (b) the representative of any of the parties referred to in paragraph (a).

(2) Sub-paragraph (1) does not preclude the use of assessed measuring instruments that are necessary for the operations of the conformity assessment body or the use of such instruments for personal purposes.

(3) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not—

- (a) be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of the measuring instruments they assess;
- (b) represent the parties engaged in the activities referred to in paragraph (a); or
- (c) engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified, in particular consultancy services.

(4) Paragraph (3) does not preclude the possibility of exchanges of technical information between the manufacturer and the body for the purposes of conformity assessment.

(5) Conformity assessment bodies must ensure that the activities of their subsidiaries or sub-contractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

4. Conformity assessment bodies and their personnel must—

- (a) carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field; and
- (b) be free from all pressures and inducements, particularly financial, which might influence—
 - (i) their judgement or
 - (ii) the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in those activities.

5.—(1) A conformity assessment body must be capable of carrying out all the conformity assessment tasks assigned to it by Schedule 1 and in relation to which it has been notified, whether those tasks are carried out by—

- (a) the conformity assessment body itself; or
- (b) on its behalf and under its responsibility.

(2) At all times and for each conformity assessment procedure and each kind or category of measuring instruments in relation to which it has been notified, a conformity assessment body must have at its disposal the necessary—

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedure in accordance with which conformity assessment is carried out, ensuring, the transparency and the ability of reproduction of those procedures;
- (c) appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities; and
- (d) procedure for the performance of activities which take due account of the size of and undertaking, the sector in which it operates, its structure, the degree of complexity of the measuring instrument technology in question and the mass or serial nature of the production process.

(3) A conformity assessment body must have—

- (a) the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner; and
- (b) access to all necessary equipment or facilities.

6. The personnel responsible for carrying out conformity assessment tasks must have the following—

- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of—
 - (i) the essential requirements;
 - (ii) the applicable harmonised standards and normative documents; and
 - (iii) the relevant provisions of Union harmonisation legislation and of national legislation; and
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

7.—(1) The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks must be guaranteed.

(2) The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body must not depend on the number of assessments carried out or the results of those assessments.

8.—(1) Conformity assessment bodies must take out liability insurance.

(2) Sub-paragraph (1) does not apply to the Secretary of State or a body where liability for conformity assessment activities is assumed by the Crown.

9.—(1) The personnel of a conformity assessment body must observe professional secrecy with regard to all information obtained in the carrying out their tasks under these Regulations except in relation to competent authorities of the EEA states in which its activities are carried out.

(2) Proprietary rights must be protected.

10. Conformity assessment bodies must participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and the activities of the notified body co-ordination group established under the relevant Union harmonisation legislation and must apply as general guidance, the administrative decisions and documents produced as a result of the work of that group.

SCHEDULE 6

Regulation 61

IN SERVICE REQUIREMENTS FOR CERTAIN REGULATED MEASURING INSTRUMENTS IN GREAT BRITAIN

PART 1

INTRODUCTORY

1.—(1) This Schedule applies to the use for trade of regulated measuring instruments as follows—

- (a) Part 2 applies to water meters used for trade for the supply of potable water in the temperature range from 0.1°C to and including 30°C;
- (b) Part 3 applies to measuring systems which are used for the continuous and dynamic measurement in a quantity not exceeding 100 litres or 100 kilograms of a liquid fuel, lubricant or a mixture of fuel and lubricant other than—
 - (i) liquefied petroleum gas; or
 - (ii) liquefied natural gas;
- (c) Part 4 applies to measuring systems (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which are used for the continuous and dynamic measurement in a quantity exceeding 100 litres or 100 kilograms of liquid fuels delivered from a road tanker other than—
 - (i) liquefied gases;
 - (ii) lubricating oils;
 - (iii) liquid fuels of a temperature below -153°C; or
 - (iv) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C;
- (d) Part 5 applies to automatic catchweighers;
- (e) Part 6 applies to automatic gravimetric filling instruments;
- (f) Part 7 applies to automatic discontinuous totalisers;
- (g) Part 8 applies to automatic rail weighbridges;
- (h) Part 9 applies to beltweighers;
- (i) Part 10 applies to material measures of length; and
- (j) Part 11 applies to capacity serving measures.

(2) In this Schedule, “minimum measured quantity” means, in relation to a measuring system, the smallest quantity of liquid fuel for which the measurement is metrologically acceptable for the measuring system.

PART 2

COLD WATER METERS

Requirements for use for trade

2. No person may use for trade a water meter for the supply of potable water to domestic premises in the temperature range from 0.1°C to and including 30°C (“a cold water meter”) unless—

- (a) it is compliant with the essential requirements applicable to cold water meters (other than the provisions relating to maximum permissible errors);
- (b) it operates within the maximum permissible errors set out in paragraph 3; and
- (c) the requirements of paragraph 4 are complied with.

Maximum permissible error

3.—(1) Where a cold-water meter is used for trade within a flowrate range set out in column 1 of the following Table, it must operate within the maximum permissible error specified for that flowrate range set out in column 2 of that Table.

| <i>Column 1</i> | <i>Column 2</i> |
|--|---|
| Flowrate range | Maximum permissible error as a percentage of quantity delivered |
| Q ₁ to < Q ₂ | ± 6% |
| Q ₂ to and including Q ₄ | ± 2.5% |

(2) For the purposes of that Table—

- (a) “Q₁” is the lowest flowrate at which the cold-water meter provides indications that satisfy the requirements concerning the maximum permissible errors;
- (b) “Q₂” is the flowrate value occurring between the permanent and minimum flowrates, at which the flowrate range is divided into two zones, the upper zone and the lower zone, each zone having a characteristic maximum permissible error;
- (c) “Q₃” is the permanent flowrate; and
- (d) “Q₄” is the highest flowrate at which the cold-water meter operates in a satisfactory manner.

4.—(1) Where a cold water meter is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range; or
- (b) a flowrate range, it must not be used at a flowrate outside that range.

(2) Where a cold-water meter bears a mark which signifies the manner and purposes of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) A cold water meter must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

(4) A cold-water meter must not be used for trade unless, when adjusted, the calibration of the instrument is set as close to zero as practicable.

PART 3

LIQUID FUEL AND LUBRICANTS

Requirements for use for trade

5. In this Part of this Schedule, “measuring system” means a measuring system which is used for the continuous and dynamic measurement in a quantity not exceeding 100 litres or 100 kilograms of a liquid fuel, lubricant or a mixture of fuel and lubricant other than—

- (a) liquefied petroleum gas; or
- (b) liquefied natural gas.

6. No person may use for trade a measuring system unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is so positioned as to facilitate testing;
- (c) it operates within the maximum permissible errors in paragraph 7; and
- (d) the requirements of paragraph 8 are complied with.

Maximum permissible error

7.—(1) In the case of a measuring system used to measure a quantity of liquid fuel—

- (a) above the minimum measured quantity of the measuring system, the maximum permissible error shall be determined in accordance with the following Table.

| | <i>Accuracy class of measuring system</i> | | | | |
|---------------------|---|-----------------|-----------------|-----------------|-----------------|
| | 0.3 | 0.5 | 1.0 | 1.5 | 2.5 |
| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> | <i>Column 5</i> | <i>Column 6</i> |
| <i>Quantity</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> |
| Less than 0.1L | + 4.8mL -2.4mL | +8mL -4mL | +16mL -8mL | +24mL -12mL | +40mL -20mL |
| From 0.1L to < 0.2L | + 4.8% -2.4% | + 8% -4% | +16% -8% | + 24% -12% | + 40% -20% |
| From 0.2L to < 0.4L | + 4.8mL -2.4mL | + 8mL -4mL | + 16mL -8mL | + 24mL -12mL | + 40mL -20mL |
| From 0.4L to < 1L | + 1.2% -0.6% | + 2% -1% | + 4% -2% | + 6% -3% | + 10% -5% |
| From 1L to < 2L | +12mL -6mL | +20mL -10mL | +40mL -20mL | +60mL -30mL | +100mL -50mL |
| 2L or more | +0.6% -0.3% | +1% -0.5% | +2% -1% | +3% -1.5% | +5% -2.5% |

- (b) equal to the minimum measured quantity of the measuring system, the maximum permissible error shall be determined in accordance with the following Table.

| | <i>Accuracy class of measuring system</i> | | | | |
|-----------------|---|-----------------|-----------------|-----------------|-----------------|
| | 0.3 | 0.5 | 1.0 | 1.5 | 2.5 |
| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> | <i>Column 5</i> | <i>Column 6</i> |
| <i>Quantity</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> | <i>MPE</i> |
| Less than 0.1L | +4.8mL -2.4mL | +8mL -4mL | +16mL -8mL | +24mL -12mL | +40mL -20mL |
| From 0.1L to | + 4.8% | +8% | + 16% | +24% | +40% |

| | | | | | |
|------------------------|-------------------|----------------|-----------------|-----------------|------------------|
| < 0.2L | -2.4% | -4% | -8% | -12% | -20% |
| From 0.2L to < 0.4L | + 9.6mL -4.8mL | + 16mL -8mL | + 32mL -16mL | + 48mL -24mL | + 80mL -40mL |
| From 0.4L to < 1L | + 2.4% -1.2% | + 4% -2% | +8% -4% | + 12% -6% | + 20% -10% |
| From 1L to < 2L | +24mL -12mL | +40mL -20mL | +80mL -40mL | +120mL -60mL | +200mL -100mL |
| 2L or more | +1.2% -0.6% | +2% -1% | +4% -2% | +6% -3% | +10% -5% |

(2) But the maximum permissible error for a quantity above the minimum measured quantity of the measuring system shall not be less than the maximum permissible error for a quantity equal to the minimum measured quantity.

(3) Where the measuring system falls within an accuracy class of 0.3, 0.5, 1.0, 1.5 or 2.5, it shall, for a quantity set out in column 1 of the relevant Table, operate within the maximum permissible error set out in column 2, 3, 4, 5 or 6 of that Table for that class and that quantity.

Manner of use

8.—(1) Where a measuring system is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range; and
- (b) a flowrate range, it must not be used for trade at a flowrate outside that range.

(2) A measuring system must not be used for trade unless it is marked in a manner which is sufficiently clear to enable the buyer to identify the product which that measuring system delivers but this paragraph does not apply where the measuring system is used in the absence of the buyer.

(3) A measuring system must not be used for trade in circumstances which are likely prematurely to degrade its metrological characteristics.

(4) A measuring system must not be used for trade unless the sales indicator—

- (a) is set to zero before measurement of the liquid fuel commences;
- (b) remains at zero until that fuel starts to emerge from the system;
- (c) is not reset to zero during measurement of that fuel; and
- (d) cannot be advanced by any means other than by the discharge of that fuel from the system and the proper operation of the system.

(5) If a measuring system is adjusted, it must not be used for trade unless the calibration of the system is set as close to zero error as is practicable.

(6) Where a measuring system used for trade bears a mark (other than a mark referred to in paragraph (1)) which signifies the manner and purpose of use, that system must not be used in a manner or for a purpose which does not accord with that marking.

(7) A measuring system must not be used in circumstances in which it may be prevented from operating consistently or accurately.

(8) Nothing in paragraphs (6) or (7) shall prevent the use for trade of a measuring system where a buyer chooses to take a delivery which is less than the minimum measured quantity.

PART 4

LIQUID FUEL DELIVERED FROM ROAD TANKERS

Requirements for use for trade

9. In this Part of this Schedule, “measuring system” means a measuring system (other than one used in connection with the refuelling of aircraft, ships or hovercraft) which is used for the continuous and dynamic measurement in a quantity exceeding 100 litres or 100 kilograms of liquid fuel delivered from a road tanker other than—

- (a) liquefied gases;
- (b) lubricating oils;
- (c) liquid fuels of a temperature below -153°C; or
- (d) liquid fuels of a dynamic viscosity exceeding 100 millipascal seconds at 15°C.

10. No person shall use for trade a measuring system unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is erected and installed so as to facilitate testing;
- (c) it operates within the maximum permissible errors in paragraph 11; and
- (d) the requirements of paragraphs 12 and 13 are complied with.

Maximum permissible error

11.—(1) A measuring system which falls within an accuracy class of 0.3, 0.5 or 1.0 must, when used to measure a quantity set out in column 1 of the following Table, operate within the maximum permissible error as set out in column 2, 3 or 4 of that Table for that class and that quantity.

| | <i>Accuracy class</i> | | |
|------------------------------|--|--|--|
| | 0.3 | 0.5 | 1.0 |
| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> |
| <i>Quantity delivered</i> | <i>Maximum permissible error</i> | <i>Maximum permissible error</i> | <i>Maximum permissible error</i> |
| MMQ to and including MMQ x 2 | $\pm 0.6\% \times \text{MMQ}$ | $\pm 1\% \times \text{MMQ}$ | $\pm 2\% \times \text{MMQ}$ |
| >MMQ x 2 | $\pm 0.3\% \times \text{quantity delivered}$ | $\pm 0.5\% \times \text{quantity delivered}$ | $\pm 1.0\% \times \text{quantity delivered}$ |

(2) In the Table, “MMQ” means minimum measured quantity.

Manner of use

12.—(1) Where a measuring system is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range; or
- (b) a flowrate range, it must not be used for trade at a flowrate outside that range.

(2) A measuring system which bears a mark which signifies the manner and purpose of use must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) If a measuring system is adjusted, it must not be used for trade unless the calibration of the system is set as close to zero error as is practicable.

(4) A measuring system must not be used for trade unless it is fitted with a ticket printing mechanism which provides an individual printed ticket.

(5) A measuring system must not be used for trade in circumstances which are likely prematurely to degrade its metrological characteristics.

(6) A measuring system must not be used for trade unless the sales indicator—

- (a) is set to zero before measurement of the liquid fuel commences;
- (b) remains at zero until that fuel starts to emerge from the instrument;
- (c) is not reset to zero during measurement of that fuel; and
- (d) cannot be advanced by any means other than by the discharge of that fuel from the instrument and the proper operation of instrument.

(7) A measuring system must not be used in circumstances—

- (a) which are likely prematurely to degrade its metrological characteristics; or
- (b) in which it may be prevented from operating consistently or accurately.

Minimum measured quantity

13.—(1) A measuring system must not be used to measure quantities of liquid fuel delivered from a road tanker that are less than the minimum measured quantity but this paragraph does not apply where—

- (a) a measurement is made to determine payments in respect of any customs or excise duty; or
- (b) a frustrated delivery has taken place and all reasonable precautions have been taken and all due diligence has been exercised to avoid a frustrated delivery.

(2) In sub-paragraph (1)(b), “frustrated delivery” means a delivery of liquid fuel from a road tanker which cannot be completed because—

- (a) there is insufficient space in the buyer’s storage tank;
- (b) continuing the delivery would result in contamination of the liquid fuel or the mixing of different types of liquid fuel; or
- (c) a component of the meter measuring system breaks down.

PART 5

AUTOMATIC CATCHWEIGHERS

Interpretation of Part

14. In this Part references to an automatic catchweigher are to accuracy classes Y(I), Y(II), Y(a) and Y(b) as defined in the Directive.

Requirements for use for trade of automatic catchweighers

15.—(1) No person shall use for trade an automatic catchweigher unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) in the case of an automatic catchweigher of accuracy class Y(I), Y(II), Y(a) or Y(b) it operates within the maximum permissible errors in paragraph 16;
- (c) the requirements of paragraphs 17 to 20 are complied with; and
- (d) it has been erected and installed in accordance with the requirements of paragraph 21.

Maximum permissible error

16.—(1) The maximum permissible error for an automatic catchweigher in automatic operation is to be determined in accordance with the following table—

| <i>Net Load (m) in verification scale intervals (e)</i> | | | | <i>Maximum permissible error</i> |
|---|----------------------|--------------------|------------------|----------------------------------|
| <i>Y(I)</i> | <i>Y(II)</i> | <i>Y(a)</i> | <i>Y(b)</i> | |
| 0 < m ≤ 50 000 | 0 < m ≤ 5 000 | 0 < m ≤ 500 | 0 < m ≤ 50 | ±2e |
| 50 000 < m ≤ 200 000 | 5 000 < m ≤ 20 000 | 500 < m ≤ 20 000 | 50 < m ≤ 200 | ±3e |
| 200 000 < m | 20 000 < m ≤ 100 000 | 2 000 < m ≤ 10 000 | 200 < m ≤ 20 000 | ±4e |

(2) The maximum permissible error for an automatic catchweigher in non-automatic operation is to be determined in accordance with the following table—

| <i>Net Load (m) in verification scale intervals (e)</i> | | | | <i>Maximum permissible error</i> |
|---|----------------------|--------------------|------------------|----------------------------------|
| <i>Y(I)</i> | <i>Y(II)</i> | <i>Y(a)</i> | <i>Y(b)</i> | |
| 0 < m ≤ 50 000 | 0 < m ≤ 5 000 | 0 < m ≤ 500 | 0 < m ≤ 50 | ±1e |
| 50 000 < m ≤ 200 000 | 5 000 < m ≤ 20 000 | 500 < m ≤ 20 000 | 50 < m ≤ 200 | ±2e |
| 200 000 < m | 20 000 < m ≤ 100 000 | 2 000 < m ≤ 10 000 | 200 < m ≤ 20 000 | ±3e |

Manner of use

17. An automatic catchweigher marked with a measurement range may be used for trade for determining the difference between two weights where both items fall within the measurement range.

18. Where an automatic catchweigher is marked with a measurement range, no person may use the catchweigher for trade for determining a weight outside that range in relation—

- (a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;
- (b) to precious stones or pearls; or
- (c) to drugs or other pharmaceutical products.

19. No person may use for trade an automatic catchweigher other than catchweigher of accuracy class Y(I) or Y(II) in any transaction—

- (a) in, or in articles made from gold silver or other precious metals, including gold or silver thread or fringe; or
- (b) in precious stones or pearls.

20.—(1) Where an automatic catchweigher is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where an automatic catchweigher bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic catchweigher of accuracy class Y(b) must only be used for weighing ballast or waste.

(4) An automatic catchweigher must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

(5) For the purposes of paragraph (3), “waste” means any substance that its holder discards, or intends or is required to discard, including any waste disposed of for reprocessing or recycling purposes.

Manner of erection and installation

21.—(1) Every automatic catchweigher must be positioned so as to facilitate cleaning and testing.

(2) The installation of an automatic catchweigher must be so designed that an automatic weighing operation will be the same for testing as for use for a transaction.

(3) If an automatic catchweigher has any special equipment for its control which is not a permanent fixture of the catchweigher, it must be kept in the vicinity of the catchweigher.

PART 6

AUTOMATIC GRAVIMETRIC FILLING INSTRUMENTS

22.—(1) No person may use for trade an automatic gravimetric filling instrument unless—

- (a) it is compliant with the essential requirements other than the provisions relating to permissible errors;
- (b) the instrument operates within the limits of the maximum permissible error determined in accordance with paragraph 23;
- (c) the requirements of paragraphs 24 and 25 are complied with;
- (d) it has been erected and installed in accordance with the requirements of paragraph 26;
- (e) subject to paragraph (f), where test fills are required these limits are determined on the basis of consecutive fills; and
- (f) in the case of an instrument of the description and maximum capacity set out respectively, in columns 1 and 2 of the Table set out in this paragraph, it is within the accuracy class specified for that instrument in column 3 or within an accuracy class of a higher level of precision than the specified class.

Accuracy classes for automatic gravimetric filling instruments used for trade

| <i>Description of use of filling instrument</i> | <i>Maximum capacity of filling instruments</i> | <i>Accuracy Class</i> |
|--|--|-----------------------|
| (1) | (2) | (3) |
| For use for weighing potato crisps and other snack foods | Any capacity | X(2) |
| For use for weighing solid fuel | 110 kg or less | X(1) |
| For use for weighing vegetable produce | 55 kg or less | X(1) |
| For weighing waste | Any capacity | X(1) |
| For use for weighing materials not described in any of the above | Less than 5 kg | X(1) |
| | 5 kg or more | X(0.5) |

Maximum permissible error

23.—(1) A automatic gravimetric filling instrument shall have a specified accuracy class X(x) for which the maximum permissible error value of each fill from the average shall be equal to the limits specified in the following table, multiplied by the class designation factor (x) calculated in accordance with sub-paragraph (2)—

| <i>Value of the mass of the fills (m) in grams</i> | <i>Maximum permissible deviation of each fill from the average for class X(1)</i> |
|--|---|
| | In use |
| $m \leq 50$ | 9% |
| $50 < m \leq 100$ | 4.5 grams |
| $100 < m \leq 200$ | 4.5% |
| $200 < m \leq 300$ | 9 grams |
| $300 < m \leq 500$ | 3% |
| $500 < m \leq 1000$ | 15 grams |
| $1\ 000 < m \leq 10\ 000$ | 1.5% |
| $10\ 000 < m \leq 15\ 000$ | 150 grams |
| $15\ 000 < m$ | 1% |

(2) In sub-paragraph (1), (x) shall be 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or zero.

(3) For in-service testing, when the reference particle mass exceeds 0.1 of the maximum permissible in-service deviation, the values derived from the table in sub-paragraph (1) shall be increased by 1.5 times the value of the reference particle mass. However the maximum value of the maximum permissible deviation shall not exceed (x) by 9%.

(4) Particle mass correction is not applicable to limits which are derived from the table in sub-paragraph (1) including influence quality tests and zero setting.

(5) The table in sub-paragraph (1) is illustrative of the maximum permissible deviation where the class designation factor is 1.

Manner of use

24.—(1) Where an automatic gravimetric filling instrument is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where an automatic gravimetric filling instrument bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic gravimetric filling instrument must only be used for trade for the purpose of weighing material the value of which, expressed in units of measurement of mass, is neither less than the value of the minimum capacity nor more than the value of the maximum capacity.

(4) An automatic gravimetric filling instrument must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) which are likely prematurely to degrade its metrological characteristics.

Automatic gravimetric filling instruments to be set to zero

25.—(1) Subject to sub-paragraph (2), a person must not use an automatic gravimetric filling instrument for trade unless it is properly balanced or set to zero immediately prior to use.

(2) Paragraph (1) does not apply in the case of an instrument if it is designed so as not to balance when unloaded.

Manner of erection and installation

26.—(1) Every automatic gravimetric filling instrument must be so positioned as to facilitate cleaning and testing.

(2) Any special equipment for the control of measuring tasks performed by an automatic gravimetric filling instrument which is not a permanent fixture of the instrument must be kept in the vicinity of the instrument.

PART 7

AUTOMATIC DISCONTINUOUS TOTALISERS

Requirements for use for trade

27. No person shall use for trade an automatic discontinuous totaliser unless—

- (a) it is compliant with—
 - (i) the essential requirements other than the provisions relating to maximum permissible errors;
 - (ii) the requirements of paragraph 28;
- (b) it has been erected and installed in accordance with the requirements of paragraph 29; and
- (c) in the case of a totaliser falling within an accuracy class set out in column 1 of the following Table, it falls within the maximum permissible error for that class set out in column 2 of that Table.

| <i>(1)</i> <i>Accuracy class</i> | <i>(2)</i> <i>Maximum permissible error of totalised load</i> |
|-------------------------------------|--|
| 0.2 | ± 0.2% |
| 0.5 | ± 0.5% |
| 1 | ± 1.0% |
| 2 | ± 2.0% |

Manner of use

28.—(1) Where an automatic discontinuous totaliser is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where an automatic discontinuous totaliser bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic discontinuous totaliser shall only be used for trade for the purpose of weighing material the value of which, expressed in units of measurement of mass, is not—

- (a) less than the minimum totalised load;
- (b) less than the value of the minimum capacity unless processed as the last discrete load of a trade transaction; or
- (c) more than the value of the maximum capacity.

(4) An automatic discontinuous totaliser must not be used for trade in such a manner as to cause—

- (a) spillage of material from the load receptor; or
- (b) loading of the weighing unit above its maximum capacity.

(5) An automatic discontinuous totaliser must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or

- (b) which are likely prematurely to degrade its metrological characteristics.

Manner of erection and installation

29.—(1) An automatic discontinuous totaliser must be so positioned as to facilitate cleaning and testing.

(2) If any special equipment for an automatic discontinuous totaliser is not a permanent fixture of the instrument, it must be kept in the vicinity of the instrument.

(3) In this paragraph “special equipment” means equipment to allow the control of the measuring tasks.

(4) An automatic discontinuous totaliser which has either a non-automatic zero-setting device or semi-automatic zero setting device must be erected in such a manner that the operator can readily take up a position from which he can check the zero and operate the zero setting controls.

PART 8

AUTOMATIC RAIL WEIGHBRIDGES

Requirements for use for trade

30. No person shall use for trade an automatic rail-weighbridge unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) it is erected and installed in accordance with paragraph 31;
- (c) it operates within the maximum permissible errors in paragraph 32;
- (d) the requirements of paragraph 33 are complied with.

Manner of erection and installation

31.—(1) Every automatic rail-weighbridge must be—

- (a) so positioned as to facilitate cleaning and testing; and
- (b) installed so that the weighing operation is the same for testing as it is for a transaction.

(2) If the weighing mechanism of the automatic rail-weighbridge is contained in a pit, there must be provision for drainage to ensure that no portion of the rail-weighbridge becomes submerged or partially submerged in any liquid.

Maximum permissible error and accuracy class

32.—(1) Where an automatic rail-weighbridge falls within an accuracy class in column 1 of the following Table, the rail-weighbridge must operate within the maximum permissible error specified for that class in column 2 of that Table—

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------------|---|
| <i>Accuracy class</i> | <i>Maximum permissible error as a percentage of the mass of a single wagon or total train</i> |
| 0.2 | ± 0.2% |
| 0.5 | ± 0.5% |
| 1 | ± 1.0% |
| 2 | ± 2.0% |

(2) Where an automatic rail-weighbridge falls within an accuracy class 2, it shall only be used for trade for the weighing of a wagon loaded with—

- (a) any of the materials to which the expression “ballast” applies in Schedule 4 of the 1985 Act;
- (b) any material the disposal of which constitutes a landfill disposal as defined in section 70(2) of the Finance Act 1996^(a), whether or not the disposal amounts to a taxable disposal as defined in section 40 of that Act; or
- (c) waste.

(3) For the purposes of paragraph (2)(c), “waste” means any substance that its holder discards, or intends or is required to discard, including any waste disposed of for reprocessing or recycling purposes.

Manner of use

33.—(1) Where an automatic rail-weighbridge is marked with—

- (a) a temperature range, it must not be used for trade in temperatures outside that range;
- (b) a weight measurement range, it must not be used for trade in a manner or for a purpose that does not accord with that marking.

(2) Where an automatic rail-weighbridge bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) An automatic rail-weighbridge must not be used for trade—

- (a) unless it is properly balanced or set to zero immediately prior to use; or
- (b) in circumstances—
 - (i) in which it may be prevented from operating consistently or accurately; or
 - (ii) which are likely prematurely to degrade its metrological characteristics.

(4) Where an automatic rail-weighbridge is fitted with a printing device, the rail-weighbridge must not be used for trade unless the printing device produces a printout which—

- (a) indicates the weight of each wagon weighed or, in the case of a total train, the weight of that total train;
- (b) indicates which wagon, if any, has travelled over the load receptor at a speed outside the range of operating speeds; and
- (c) is not altered due to any wagon travelling over the load receptor more than once.

PART 9

BELTWEIGHERS

Requirements for use for trade

34. No person shall use for trade a beltweigher unless—

- (a) it is compliant with the essential requirements other than the provisions relating to maximum permissible errors;
- (b) the requirements of paragraphs 35 and 36 are complied with;
- (c) it has been erected and installed in accordance with the requirements of paragraph 37; and
- (d) in the case of a beltweigher which is stated to be of an accuracy class set out in column 1 of the Table set out in this paragraph it is within the maximum permissible error for that accuracy class as set out in column 2 of that Table.

(a) 1996 c.8.

| <i>Column (1)</i> | <i>Column 2</i> |
|-------------------|--|
| Accuracy Class | Maximum permissible error for totalised load |
| 0.5 | ± 0.5% |
| 1 | ± 1.0% |
| 2 | ± 2.0% |

Manner of use

35.—(1) Where a beltweigher is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where a beltweigher bears a mark which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that marking.

(3) A beltweigher of accuracy class 2 must only be used for trade for weighing any of the materials to which the term “ballast” applies in Schedule 4 of the 1985 Act.

(4) A beltweigher must not be used for trade in such a manner as to cause—

- (a) spillage of material from the belt; or
- (b) loading of the weighing unit above its maximum capacity.

(5) A beltweigher must not be used for trade in circumstances—

- (a) in which it may be prevented from operating consistently or accurately; or
- (b) in which are likely prematurely to degrade its metrological characteristics.

Position of the operator

36. Every beltweigher must be erected in such a manner that the operator can readily take up a position from which he can—

- (a) read any indication of zero totalisation;
- (b) operate any zero-setting control; and
- (c) see whether the belt passing over the weighing unit is empty.

Manner of erection and installation

37.—(1) Every beltweigher must be positioned so as to facilitate cleaning and testing.

(2) The installation of a beltweigher must be so designed that an automatic weighing operation will be the same for testing as for a transaction.

(3) Every beltweigher must be erected in such a way that it is possible to carry out a material test in a place where it is to be used, including in particular the depositing on, or removal from, the belt of material test loads in a reliable and easy manner, without disrupting the normal operation of the beltweigher.

(4) Any special equipment for the control of the measuring tasks of a beltweigher which is not a permanent fixture of the beltweigher, must be kept in the vicinity of the beltweigher.

PART 10

MATERIAL MEASURES OF LENGTH

Requirements for use for trade

38. No person shall use for trade a material measure of length unless—

- (a) it is compliant with the essential requirements other than the provisions relating to limits of maximum permissible errors;

- (b) it operates within twice the limits of maximum permissible error referred to in the essential requirements; and
- (c) the requirements of paragraph 39 are complied with.

Manner of use

39.—(1) Where a material measure of length is marked with a temperature range, it must not be used for trade in temperatures outside that range.

(2) Where a measure bears an inscription which signifies the manner and purpose of use, it must not be used for trade in a manner or for a purpose which does not accord with that inscription.

(3) No person shall use a material measure of length for trade in such manner as to expose it to environmental or other influences which may adversely affect its accuracy or function

PART 11

CAPACITY SERVING MEASURES

Requirements for use for trade

40. No person shall use for trade a capacity serving measure unless—

- (a) it is compliant with the essential requirements;
- (b) the requirements of 41 are complied with; and
- (c) it does not bear any decorations or designs which may cause confusion in use.

Manner of use

41. No person shall use for trade a capacity serving measure for the measurement of intoxicating liquor before its transfer to a container in which the buyer is to receive it, unless the buyer has a clear and unobstructed view of the measurement and transfer.

SCHEDULE 7 Regulations 33(4), 60(8) and 66(4)

MONETARY PENALTIES

Introduction

1. This Schedule applies in relation to the imposition by the Secretary of State of a monetary penalty under these Regulations.

Procedure

2.—(1) Before imposing a monetary penalty under these Regulations, the Secretary of State must notify the economic operator of the Secretary of State's intention to do so.

(2) The notice must—

- (a) specify the proposed amount of the penalty which must not exceed £50,000;
- (b) specify the Secretary of State's reasons for proposing to impose the penalty;
- (c) specify the period during which the [economic operator] may make representations about the proposal ("the specified period"), and
- (d) specify the way those representations may be made.

(3) The specified period must not be less than 28 days beginning with the date on which the notice is received.

(4) The Secretary of State must have regard to any representations made by the economic operator during the specified period in deciding whether to impose a monetary penalty on it.

(5) Having decided whether or not to impose a monetary penalty, the Secretary of State must notify the economic operator of its decision.

(6) Where the decision is to impose a monetary penalty, the notice must specify—

- (a) the amount of the penalty, and
- (b) the period within which the penalty must be paid

(7) The notice must also contain information as to—

- (a) the grounds for imposing the penalty,
- (b) how payment may be made,
- (c) rights of appeal,
- (d) the period within which an appeal may be made, and
- (e) the consequences of non-payment.

(8) The requirement to pay the penalty is suspended at any time when an appeal could be brought in respect of the penalty or such an appeal is pending.

(9) But that does not prevent the requirement to pay taking effect if the economic operator on whom the penalty is imposed notifies the Secretary of State that it does not intend to appeal.

Appeals

3.—(1) An economic operator on whom a penalty is imposed may appeal to the First-tier Tribunal against—

- (a) a decision under any provision of these Regulations to impose a penalty;
- (b) a decision as to the amount of the penalty.

(2) An appeal may be made under this paragraph may be made on the grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable.

(3) On an appeal under this paragraph, the Tribunal may—

- (a) withdraw the requirement to pay the penalty;
- (b) confirm the requirement;
- (c) vary that requirement;
- (d) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision to that decision, to the Secretary of State

Interest and recovery

4.—(1) This paragraph applies if all or part of a monetary penalty imposed under these Regulations is unpaid by the time when it is required to be paid.

(2) The unpaid amount of a penalty for the time being—

- (a) carries interest at a rate for the time being specified in section 17 of the Judgments Act 1838(a), and
- (b) does not also carry interest as a judgment debt under that section.

(a) 1838 c.110.

(3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the penalty.

(4) The Secretary of State may recover from the economic operator on whom it is imposed as a civil debt, the unpaid amount of the penalty and any unpaid interest.

(5) Any sums received by the Secretary of State by way of a penalty imposed under these Regulations or interest under this paragraph must be paid into the Consolidated Fund.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2014/32/EU of the European Parliament and of the Council of 26th February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments. These Regulations revoke and replace the instruments listed in Schedule 3, paragraph 1. The Regulations draw a distinction between “regulated measuring” instruments and “non-prescribed measuring instruments”. The former (which are listed in regulation 3(2)) are required to meet the technical specifications (referred to as “essential requirements”) which are set out in the Directive and referred to in Schedule 1 to the Regulations. On the other hand, “non-prescribed measuring instruments” (any measuring instrument referred to in Regulation 3(1) but which is not a regulated measuring instrument) are not regulated in the United Kingdom but provision is made to allow them to meet the applicable essential requirements where the instrument is for export to a EEA state which requires compliance with the essential requirements.

Part 1 of the Regulations contains definitions, revocations and transitional provisions and an exemption from the requirements of the Regulations in relation to trade fairs, exhibitions and demonstrations.

Part 2 of the Regulations sets out the obligations of economic operators (manufacturers, importers and distributors) in relation to the marketing of regulated measuring instruments in the United Kingdom and in particular to ensure that they meet the essential requirements applicable to those instruments. Part 3 of the Regulations makes provision for the establishment of compliance with the essential requirements of non-prescribed measuring instruments.

Part 4 of the Regulations contains provisions as to how compliance with the essential requirements is to be achieved and the application of conformity assessment procedures to establish compliance with the essential requirements by bodies designated by EEA states (which are referred to in the Regulations as “notified bodies”) and related matters.

Part 5 of the Regulations makes provision for the designation of notified bodies and their notification to the European Commission. Part 6 of the Regulations contains provisions that regulate the use for trade of the measuring instruments referred to in regulation 61.

Part 7 of the Regulations makes provision for market surveillance in relation to regulated measuring instruments and enforcement of the Regulations. Part 8 of the Regulations makes provision in relation to the unauthorised application of marks and provision in relation to penalties for offences, defences and the criminal liability of persons other than a principal offender. Part 9 of the Regulations contains miscellaneous and supplemental provisions.

A draft of these Regulations was notified to the European Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p.37) as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p.18).

A transposition not and an impact assessment of the effect that this instrument will have on the costs of business, the public sector and voluntary sector is available from the Regulatory Delivery Directorate 1 Victoria Street, London SW1 0ET. They are available with the explanatory memorandum on www.legislation.gov.uk.

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