
STATUTORY INSTRUMENTS

2016 No. 1153

The Measuring Instruments Regulations 2016

PART 7

MARKET SURVEILLANCE AND ENFORCEMENT

CHAPTER 1

MARKET SURVEILLANCE

Regulated measuring instruments presenting a risk **E+W+S**

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 cooperate 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 [^{F1}approved] 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.

^{F2}(6)

(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 [^{F3}in the United Kingdom].

(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

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or restrict the regulated measuring instrument being made available on the market, to withdraw the instrument from the market or to recall it.

F⁴(9)

F⁵(10)

Extent Information

E1 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F1** Word in reg. 63(5) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 27 para. 39(a)** (with Sch. 27 para. 50(a)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 63(6) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 27 para. 39(b)** (with Sch. 27 para. 50(a)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 63(7) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 27 para. 39(c)** (with Sch. 27 para. 50(a)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 63(9) omitted (E.W.S.) (31.12.2020) by virtue of [S.I. 2019/696](#), Sch. 17 para. 39(d) (as substituted by [The Product Safety, Metrology and Mutual Recognition Agreement \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1246\)](#), regs. 1(3), **15(a)**; 2020 c. 1, Sch. 5 para. 1(1))
- F5** Reg. 63(10) omitted (E.W.S.) (31.12.2020) by virtue of [S.I. 2019/696](#), Sch. 17 para. 39(e) (as substituted by [The Product Safety, Metrology and Mutual Recognition Agreement \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1246\)](#), regs. 1(3), **15(b)**; 2020 c. 1, Sch. 5 para. 1(1))

Regulated measuring instruments presenting a risk **N.I.**

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 cooperate 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—

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extents. **Skip to:** E+W+S - England, Wales and Scotland extent N.I. - Northern Ireland extent

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Measuring Instruments Regulations 2016, Section 63. (See end of Document for details)

(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) [^{F6}Subject to paragraph (6A),] where the market surveillance authority considers that non-compliance is not restricted to [^{F7}Northern Ireland], it must inform the Commission and the other [^{F8}relevant] states of the results of the evaluation and of the actions which they have required the economic operator to take.

[^{F9}(6A) Paragraph (6) does not require the Secretary of State to inform the Commission or the other relevant states where the non-compliance extends only to any of England or Wales or Scotland.]

(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 [^{F10}Northern Ireland].

(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 [^{F11}in Northern Ireland], to withdraw the instrument from the market [^{F12}in Northern Ireland] 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 [^{F13}relevant 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).

Extent Information

E2 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

F6 Words in reg. 63(6) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), [Sch. 14 para. 6\(1\)\(a\)\(i\)](#)

F7 Words in reg. 63(6) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), [Sch. 14 para. 6\(1\)\(a\)\(ii\)](#)

F8 Word in reg. 63(6) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), [Sch. 14 para. 6\(1\)\(a\)\(iii\)](#)

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Changes to legislation: There are currently no known outstanding effects for the The Measuring Instruments Regulations 2016, Section 63. (See end of Document for details)

- F9** Reg. 63(6A) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 14 para. 6(1)(b)**
- F10** Words in reg. 63(7) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 14 para. 6(1)(c)**
- F11** Words in reg. 63(8) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 14 para. 6(1)(d)(i)**
- F12** Words in reg. 63(8) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 14 para. 6(1)(d)(ii)**
- F13** Words in reg. 63(9) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 14 para. 6(1)(e)**

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Changes to legislation:

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