

Directive 2009/23/EC of the European Parliament and of the
Council of 23 April 2009 on non-automatic weighing instruments
(Codified version) (Text with EEA relevance) (repealed)

CHAPTER 1

SCOPE, PLACING ON THE MARKET AND FREE MOVEMENT

Article 8

1 Where a Member State considers that instruments bearing the ‘CE’ conformity marking referred to in Annex II, points 2, 3 and 4, do not meet the requirements of this Directive when properly installed and used for the purposes for which they are intended, it shall take all appropriate measures to withdraw those instruments from the market or to prohibit or restrict their being put into service and/or placed on the market.

The Member State concerned shall immediately inform the Commission of any such measure, indicating the reasons for its decision, and in particular whether non-compliance is due to:

- a failure to meet the essential requirements set out in Annex I, where instruments do not meet the harmonised standards referred to in Article 6(1);
- b incorrect application of the harmonised standards referred to in Article 6(1);
- c shortcomings in the harmonised standards referred to in Article 6(1) themselves.

2 The Commission shall enter into consultation with the parties concerned as soon as possible.

After such consultation the Commission shall immediately inform the Member State which took the action of the result. Should it find that the measure is justified it shall immediately inform the other Member States.

If the decision is attributed to shortcomings in the standards, the Commission, after consulting the parties concerned, shall bring the matter before the Committee within two months if the Member State which has taken the measures intends to maintain them, and shall subsequently initiate the procedures referred to in Article 7.

3 Where an instrument which does not comply bears the ‘CE’ conformity marking, the competent Member State shall take appropriate action against whomsoever has affixed the marking and shall inform the Commission and the other Member States thereof.

4 The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.