
 STATUTORY INSTRUMENTS

1977 No. 932

WEIGHTS AND MEASURES

**The Measuring Container Bottles (EEC Requirements)
Regulations 1977**

<i>Made - - - -</i>	<i>26th May 1977</i>
<i>Laid before Parliament</i>	<i>8th June 1977</i>
<i>Coming into Operation</i>	<i>29th June 1977</i>

The Secretary of State, being a Minister designated (a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation of specifications, construction, placing on the market and use of equipment intended for weighing, measuring or testing or for purposes ancillary thereto, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Measuring Container Bottles (EEC Requirements) Regulations 1977 and shall come into operation on 29th June 1977.

Interpretation and extent

2.—(1) In these Regulations:—

“batch”, in relation to measuring container bottles, means a batch of such bottles ascertained in the manner specified in paragraph 1 of Annex II of the Directive for the purposes of checking that the requirements of the Directive have been complied with;

“credentials”, for the purposes of Regulations 7 and 8, means authority in writing from a person who is for the time being a justice of the peace for the exercise by the inspector of the powers conferred by the said Regulation 7 or, as the case may be, the said Regulation 8;

“the Directive” means Council Directive No. 75/107/EEC(c);

“EEC sign” means the stylized letter ϵ (epsilon) reversed symmetrically about a vertical axis of which the following is a representation:



“importer” means any person importing otherwise than from a Member State measuring container bottles marked with the EEC sign;

(a) S.I. 1975/427 (1975 I, p. 1345).
(c) O.J. L.42/14 15.2.1975, p. 14.

(b) 1972 c. 68.

“inspector” means, in Great Britain, an inspector of weights and measures appointed or deemed to have been appointed under section 41 of the Weights and Measures Act 1963(a) and means, in Northern Ireland, an inspector of weights and measures appointed under section 27 of the Weights and Measures Act (Northern Ireland) 1967(b);

“justice of the peace” includes, in Scotland, a sheriff;

“local weights and measures authority”, in relation to any functions under these Regulations of any such authority which are for the time being the subject of any arrangements made by such authority for the discharge of any of its functions by another local authority, includes the authority by whom those functions fall to be exercised under the arrangements;

“manufacturer” means the manufacturer of measuring container bottles marked or to be marked with the EEC sign;

“production control records” means records of measurement of capacity of measuring container bottles carried out by the manufacturer after completion of the manufacturing process.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) Subject to the provisions set out in the Schedule hereto, these Regulations shall extend to Northern Ireland.

Application

3. These Regulations apply only to bottles or other containers described in Article 1 of the Directive and therein called measuring container bottles.

Weights and Measures Acts

4. The definition of “weighing or measuring equipment” in section 58(1) of the Weights and Measures Act 1963 and in section 41 of the Weights and Measures Act (Northern Ireland) 1967 shall not include measuring container bottles bearing the EEC sign.

General

5.—(1) Only measuring container bottles—

(a) complying with the requirements of section 3 of Annex I of the Directive,

(b) the actual capacity of which has been checked in accordance with section 4 of that Annex, and

(c) marked in accordance with section 8.1.1. and 8.1.2. of that Annex, shall be marked with the EEC sign.

(2) The EEC sign marked on a measuring container bottle shall be at least 3mm high and shall be indelible, easily legible and visible.

Manufacturer's Identification Mark

6.—(1) A manufacturer shall submit to the Secretary of State for approval a mark identifying the manufacturer.

(2) If the Secretary of State approves the mark submitted to him, he shall notify the manufacturer of that approval within one month of the date thereof.

(a) 1963 c. 31.

(b) 1967 c. 6 (N.I.).

(c) 1889 c. 63.

(3) The approved mark is the mark referred to in section 8.1.2. of Annex I of the Directive.

Duties of manufacturers to keep records

7.—(1) Every manufacturer shall—

(a) keep production control records and

(b) preserve the records for a period of six months after their making.

(2) Subject to the production if so requested of his credentials, an inspector may, within the area for which he was appointed inspector, at all reasonable times require the manufacturer to produce, and permit the inspector to inspect and copy, any production control records preserved in accordance with paragraph (1) above.

Powers of inspection and entry

8.—(1) Subject to the production if so requested of his credentials, an inspector may, within the area for which he was appointed inspector, at all reasonable times—

(a) for the purpose of ascertaining whether any offence under these Regulations has been committed, inspect any measuring container bottle or any article which he has reasonable cause to believe to be such a bottle;

(b) enter any premises on which he has reasonable cause to believe measuring container bottles are being made and are being marked with the EEC sign, or on which such bottles so marked are being stored with a view to sale, not being premises used only as a private dwelling;

(c) for the purpose of ascertaining whether measuring container bottles marked with the EEC sign comply with these Regulations, select batches of such bottles in accordance with the procedures set out in Annex II to the Directive and test samples from those batches in accordance with such procedures, or by means of an equivalent procedure;

(d) require the manufacturer, owner or importer of such bottles to provide such reasonable facilities as appear to the inspector to be necessary for the purpose of ascertaining whether such bottles comply with these Regulations.

(2) An inspector, if he finds that a batch so selected fails to comply with the requirements of these Regulations when tested as aforesaid, shall give directions to the manufacturer or importer that no measuring container bottles in that batch may be sold marked with the EEC sign.

(3) If a justice of the peace, on sworn information in writing—

(a) is satisfied that there is reasonable ground to believe either—

(i) that any measuring container bottles which a person has power by virtue of this Regulation to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under Regulation 10, or

(ii) that any offence under Regulation 10 has been, is being or is about to be committed on any premises, and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant has been given to the occupier, or

- (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for one month, authorise an officer of the local weights and measures authority to enter the premises, if need be by force.

(4) A person entering any premises by virtue of this Regulation may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under paragraph (3) above, being premises which are unoccupied or the occupier of which is temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(5) If a person who enters any work-place by virtue of this Regulation discloses to any other person any information obtained by him in the work-place with regard to any manufacturing process or trade secret he shall, unless the disclosure was made in performance of his duty, be guilty of an offence.

Individual measuring container bottles

9. An inspector, if he finds that any person is in possession in the course of a business of any individual measuring container bottle which does not comply with these Regulations but which is marked with the EEC sign, shall give directions to that person that the bottle may not be sold or supplied marked with the EEC sign.

Offences

10.—(1) Any manufacturer or importer who—

- (a) sells or has in his possession for sale a batch of measuring container bottles marked with the EEC sign but not complying with these Regulations; or
- (b) sells or has in his possession for sale measuring container bottles marked with the EEC sign which is less than 3mm high;
- (c) systematically exploits the maximum permissible limits of error set out in the table in section 3 of Annex I of the Directive;

shall be guilty of an offence.

(2) Any manufacturer who—

- (a) without reasonable cause fails to keep production control records or to preserve such records in accordance with Regulation 7(1); or
- (b) without reasonable cause fails to produce production control records required by an inspector under Regulation 7(2);
- (c) makes any production control record which he knows to be false, or with intent to deceive alters or causes to be altered such records;

shall be guilty of an offence.

(3) Any manufacturer, owner or importer who without reasonable cause fails to comply with a requirement imposed on him by virtue of Regulation 8(1)(d) shall be guilty of an offence.

(4) Any person who without reasonable cause fails to comply with directions given in accordance with Regulation 8(2) or Regulation 9 shall be guilty of an offence.

(5) Any person who—

- (a) wilfully obstructs an inspector acting in the execution of any provision of these Regulations; or
- (b) without reasonable cause fails to give any inspector acting as aforesaid any assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under these Regulations;

shall be guilty of an offence.

(6) If any person, in giving to an inspector any such information as is mentioned in paragraph (5) above, gives any information which he knows to be false, he shall be guilty of an offence.

(7) Any person other than a manufacturer or a person marking it to the order of a manufacturer, who marks a measuring container bottle with the EEC sign shall be guilty of an offence.

Offences by corporations

11.—(1) Where an offence under any provision of these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Defences

12. Where an offence under Regulation 10(1)(a) or 10(1)(b) is alleged to have been committed it shall be a defence for any person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Enforcement

13. In England or Wales, proceedings for an offence under these Regulations shall not be instituted except by or on behalf of a local weights and measures authority or the chief officer of police for a police area.

Penalties

14.—(1) A person guilty of an offence under Regulation 10(1)(b), 10(2)(b), 10(4) (insofar as it relates to directions given in accordance with Regulation 9) and 10(5) shall be liable on summary conviction to a fine not exceeding £50.

(2) A person guilty of any other offence under these Regulations shall be liable on summary conviction to a fine not exceeding £200.

John Fraser,
Minister of State,
Department of Prices and Consumer
Protection.

26th May 1977.

Regulation 2(3)

SCHEDULE

ADAPTATION FOR NORTHERN IRELAND

1. In Regulation 2,—

(a) for the definition of “credentials” there shall be substituted the following:

““credentials”, in relation to an inspector, means some duly authenticated document showing that he is authorised to act as an inspector;” and

(b) the definition of “local weights and measures authority” shall be omitted.

2. In Regulation 6, the references to the Secretary of State shall be references to the Department of Commerce for Northern Ireland.

3. In Regulation 7(2) and 8(1) the words “within the area for which he was appointed inspector” shall be omitted.

4. For Regulation 12 there shall be substituted the following:—

“No proceedings for an offence under these Regulations may be instituted except by or on behalf of the Department of Commerce for Northern Ireland.”.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations implement Council Directive No. 75/107/EEC (O.J. L.42/14 15.2.1975, p. 14) relating to bottles used as measuring containers. The Regulations define the EEC sign for such bottles, and provide that any bottle marked with the EEC sign shall comply with the relevant requirements of the Directive. These requirements relate to nominal capacity, for which maximum and minimum permissible limits of error are laid down, and the marking of the bottle with the nominal capacity, the manufacturer’s identifying mark and the EEC sign.

The Regulations require manufacturers to obtain approval for their identifying marks, and to keep production control records. They enable inspectors to check batches of bottles at the manufacturers or importers premises in accordance with procedures laid down in Annex II to the Directive, and also to forbid the sale of batches of bottles which do not comply.

The Regulations include provisions for offences and penalties in connection with the sale by manufacturers and importers of bottles which are marked with the EEC sign but which do not comply with the Regulations. The Regulations also provide for offences and penalties for systematically exploiting the permissible limits of error and for failing to comply with the direction of an inspector relating to bottles not complying with the Regulations.

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