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STATUTORY INSTRUMENTS

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**1995 No. 1907**

**The Non-automatic Weighing Instruments  
(EEC Requirements) Regulations 1995**

**PART I**

**PRELIMINARY**

**Citation, commencement, revocation and transitional provisions**

**1.—**(1) These Regulations may be cited as the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995 and shall come into force on 1st September 1995.

(2) The Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992<sup>(1)</sup> (“the 1992 Regulations”) are hereby revoked.

(3) Notwithstanding the revocation of the 1992 Regulations, before 1st January 1997—

- (a) in a case where the EC mark of conformity is affixed to an instrument in accordance with the provisions of the 1992 Regulations relating to the procedures for the affixing of that mark, the provisions of these Regulations relating to the procedures for the affixing of the CE marking shall not have effect; and
- (b) nothing in these Regulations shall prohibit the placing on the market and bringing into service of instruments in respect of which the provisions of the 1992 Regulations relating to the procedures for affixing the EC mark of conformity are complied with.

**Interpretation**

**2.—**(1) In these Regulations, unless the context otherwise requires, the following expressions have the following meanings—

“the 1981 Order” means the Weights and Measures (Northern Ireland) Order 1981<sup>(2)</sup>;

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

“approved body” means—

- (i) a body which is designated by the Secretary of State under regulation 9(1) for the purpose of carrying out one or more of the tasks referred to in Article 8 of the Directive; or
- (ii) a body which is designated for that purpose by another member State, and whose name is notified to the Commission and the member States under Article 9 of the Directive;

“approved quality system” means a quality system approved under regulation 13 or under a corresponding provision of the law of another member State;

“approved type” means a type in respect of which an EC type-approval certificate is in force;

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(1) [S.I. 1992/1579](#) as amended by [S.I. 1995/428](#) and extended by section 2(1) of the European Economic Area Act 1993 (c. 51).  
(2) [S.I. 1981/231 \(N.I. 10\)](#) and see [S.I. 1982/846 \(N.I. 11\)](#).

“authorised person” means an inspector, or some other person employed by a local weights and measures authority, who is authorised by the chief inspector of weights and measures of that authority to exercise functions under these Regulations in its area;

“authorised representative”, in relation to a manufacturer, means his authorised representative established in the Community;

“CE marking” has the meaning assigned to it in regulation 18(5) and, where the context so permits, references, in these Regulations to the CE marking include references to the EC mark of conformity affixed under the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1992 and to the CE marking affixed under provisions of the law of another member State corresponding to these Regulations;

“the Commission” means the Commission of the European Communities;

“the Community” means the European Community and the EEA States;

“design documentation” means the documentation referred to in Annex III of the Directive which is set out in Schedule 1;

“the Directive” means Council Directive [90/384/EEC](#) of 20th June 1990 on the harmonisation of the laws of the member States relating to non-automatic weighing instruments<sup>(3)</sup> as amended by Council Directive [93/68/EEC](#)<sup>(4)</sup>;

“disqualification sticker” means—

- (i) a sticker of which the design is published in the United Kingdom by the Secretary of State; or
- (ii) a sticker, symbol or other device of which the design is approved in another member State by the competent authority,

and which indicates that an instrument to which it is affixed does not satisfy the requirements of regulation 5 or of corresponding provisions under the law of another member State;

“EC declaration of type conformity” means the declaration of type conformity referred to in regulation 13(7)

“EC surveillance” means the procedure whereby an approved body ensures that a manufacturer who makes an EC declaration of type conformity in respect of instruments manufactured by him properly fulfils the obligations arising out of the approved quality system specified in paragraph 2 of Annex II of the Directive;

“EC type-approval certificate” means a certificate issued by the Secretary of State under regulation 10 or by an approved body designated by another member State, as the case may be;

“EC type-examination” means the procedure whereby the Secretary of State verifies and certifies that a type conforms with the provisions of the Directive which apply to it;

“EC unit verification” means the procedure whereby the manufacturer or his authorised representative ensures and declares that an instrument generally intended for a specific application, in respect of which a certificate referred to in paragraph 4.2 of Annex II of the Directive has been issued (that is to say, in the case of an instrument subject to these Regulations, in accordance with regulation 12(4) under which the Secretary of State carries out examinations and tests) conforms with the requirements of the Directive which apply to it;

“EC verification” means the procedure whereby the manufacturer or his authorised representative ensures and declares in accordance with paragraph 3 of Annex II of the Directive that an instrument—

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(3) OJNo. L189, 20.7.90, p.1 as corrected by the corrigendum published in OJ No. L258, 22.9.90, p.35.

(4) OJ No. L220, 30.8.93, p.1.

- (i) has been checked in accordance with paragraph 3.3 (that is to say, in the case of an instrument subject to these Regulations, in accordance with regulation 11(4) under which the approved body carries out examinations and tests)
- (ii) is, where appropriate, in conformity with the type described in the EC type-approval certificate; and
- (iii) satisfies the requirements of the Directive which apply to it;

“EEA State” means a Contracting Party to the EEA Agreement and in this definition “the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“essential requirements” means the requirements in Annex I of the Directive which is set out in Schedule 2;

“harmonised standard” means a technical specification adopted by one or both of the European Committee for Standardisation and European Committee for Electrotechnical Standardisation upon a remit from the Commission in accordance with Council Directive [83/189/EEC](#) of 28th March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(5)</sup>;

“identification number” means the number assigned by the Commission to the Secretary of State or to the approved body in question, as the case may be; and, where the context so permits, references in these Regulations to the identification number include references to an identification symbol so assigned before these Regulations come into force;

“inscription” means, as the case may require, an inscription referred to in regulation 18(3)(c) or (d) “instrument” means a non-automatic weighing instrument (including ancillary equipment) which—

- (i) requires the intervention of an operator during weighing, and
- (ii) serves to determine the mass or weight of any thing by using the action of gravity on that thing (whether or not it may also determine related matters such as price, quantity or magnitude on the basis of mass or weight);

“load receptor” means a part of an instrument on which loads are placed for the purpose of their being weighed;

“member State” means a member State of the European Community or an EEA State;

“quality system” means all the elements, requirements and provisions adopted by the manufacturer to ensure conformity of instruments with the approved type and the requirements of the Directive which apply to them and includes, in particular—

- (i) the quality objectives and the organisational structure, responsibilities and powers of the managerial staff with regard to product quality,
- (ii) the manufacturing process, the quality control and assurance techniques and the systematic measures that will be used during manufacture,
- (iii) the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out, and
- (iv) the means to monitor the achievement of the required product quality and the effective operation of the quality system;

“relevant national standard” means a standard which is applicable to the instrument in question and of which the reference number is published—

- (i) in the United Kingdom, by the Secretary of State in such manner as he considers appropriate, or

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(5) OJ No. L109, 26.4.83, p.8.

(ii) in another member State, by the competent authority, and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities;

“re-qualification sticker” means a sticker of which the design is published by the Secretary of State and which indicates that an instrument to which it is affixed (being an instrument to which a disqualification sticker has previously been affixed) satisfies the requirements of regulation 5;

“Schedule 3 application”, in relation to an instrument, means an application described in Schedule 3;

“sticker”, except in the definitions of “disqualification sticker” and “re-qualification sticker”, means a green sticker measuring at least 12.5mm by 12.5 mm square bearing a capital letter “M” printed in black and referred to in paragraph 1 of Annex IV of the Directive; and

“type” has the meaning given by regulation 10(1)

and other expressions used in these Regulations have the same meanings as in the 1985 Act or, in Northern Ireland, the 1981 Order.

(2) In these Regulations—

(a) “supply” means supply, whether as principal or agent for another, and includes supply by way of sale, supply under a hire-purchase agreement, conditional sale agreement or credit-sale agreement or supply under an agreement for the hiring of goods;

(b) in references to the supply of an instrument, where a person (“the ostensible supplier”) supplies the instrument to another person (“the customer”) under any such agreement and the ostensible supplier—

(i) carries on the business of financing the provision of goods for others by means of such agreements; and

(ii) in the course of that business acquires his interest in the goods supplied to the customer as a means of financing the provision of them for the customer by a further person (“the effective supplier”),

the effective supplier and not the ostensible supplier shall be treated as supplying the instrument to the customer;

and in this paragraph “conditional sale agreement”, “credit-sale agreement” and “hire-purchase agreement” have the same meanings as in the Consumer Credit Act 1974<sup>(6)</sup>.

(3) In these Regulations, references to instruments of the a numbered Class shall be construed in accordance with paragraph 2 of Annex I of the Directive which is set out in Schedule 2.

(4) For the purposes of these Regulations, the expressions “maximum capacity”, “minimum capacity” and “weighing range” shall be construed in accordance with the terminology of the International Organisation for Legal Metrology<sup>(7)</sup>.

(5) The abbreviations of, and symbols for, units of measurement used in these Regulations refer to the relevant units as follows—

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degrees Celsius	°C
gram	g
kilogram	kg

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<sup>(6)</sup> 1974 c. 39.

<sup>(7)</sup> See “Nonautomatic weighing instruments Part 1: Metrological and technical requirements-Tests” OIML R 76 1, Edition 1992 (E) published by the International Organisation for Legal Metrology.

milligram	mg
millimetre	mm
pound	lb.

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(6) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule so numbered in these Regulations.

### Application of Regulations

3.—(1) Subject to paragraph (2) below, these Regulations apply to any instrument.

(2) These Regulations do not apply to—

(a) an instrument—

- (i) in respect of a pattern of which EEC pattern approval was granted or extended before 1st January 1993 under the Measuring Instruments (EEC Requirements) Regulations 1988<sup>(8)</sup> or by any member State other than the United Kingdom and which is in force; and
- (ii) which bears a mark of EEC initial verification or of EEC partial verification which is first affixed before 1st January 2003 under the Regulations mentioned in head (i) above or by any member State other than the United Kingdom; or

(b) an instrument which—

- (i) does not require EEC pattern approval, and
- (ii) bears a mark of EEC initial verification or of EEC partial verification which is first affixed before 1st January 2003 under the Regulations mentioned in sub-paragraph (a)(i) above or by any member State other than the United Kingdom; or

(c) an instrument—

- (i) in respect of a pattern of which pattern approval is granted or extended under section 12 of the 1985 Act and which is in force, and
- (ii) which is first passed as fit for use for trade and stamped before 1st January 2003 under the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988<sup>(9)</sup>; or

(d) an instrument which—

- (i) does not require pattern approval, and
- (ii) is first passed as fit for use for trade and stamped before 4th April 1989 under the Regulations mentioned in sub-paragraph (c)(ii) above; or

(e) an instrument—

- (i) to which none of the foregoing provisions of this paragraph applies, and
- (ii) which does not comply with regulation 5 or with regulation 6, as the case may require, and
- (iii) which is first taken into service before 1st January 2003.

(3) For the avoidance of doubt it is hereby declared that the 1985 Act (save for the purposes of Part III) and the Measuring Instruments (EEC Requirements) Regulations 1988 continue to apply to instruments to which these Regulations do not apply by virtue of paragraph (2) above.

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<sup>(8)</sup> S.I. 1988/186 amended by S.I. 1988/1128

<sup>(9)</sup> S.I. 1988/876 amended by S.I. 1988/2120, 1991/2019, 1992/3037, 1994/1851 and 1995/428.

## **Use and supply of instruments**

4.—(1) No person shall—

- (a) use any instrument for any Schedule 3 application; or
- (b) have any instrument in his possession for such use,

unless the requirements of regulation 5, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, are satisfied.

(2) No person shall supply any instrument for use otherwise than for Schedule 3 applications unless the requirements of regulation 6, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, are satisfied.

(3) Any person who fails to comply with—

- (a) the provisions of paragraph (1) above shall be guilty of an offence and any instrument to which the offence relates shall be liable to be forfeited;
- (b) the provisions of paragraph (2) above shall be guilty of an offence.

(4) Without prejudice to the liability of any instrument to be forfeited, it shall be a defence for any person charged with an offence under paragraph (3)(a) above to show—

- (a) that he used the instrument only in the course of his employment by some other person; and
- (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, that the requirements referred to in paragraph (1) or paragraph (2) above, as the case may be, or the corresponding requirements of the Directive as implemented in the law of a member State other than the United Kingdom, were not satisfied in relation to the instrument.

(5) If any fraud is committed in the using of an instrument for a Schedule 3 application, the person committing the fraud and any other person party to it shall be guilty of an offence and the instrument shall be liable to be forfeited.

## **Instruments used for Schedule 3 applications to satisfy the essential requirements**

5.—(1) Instruments to which these Regulations apply which are used for any Schedule 3 application shall satisfy the essential requirements:

Provided that this obligation shall not apply to device—

- (i) which are included in, or connected to, an instrument and which are not used for any Schedule 3 applications; or
- (ii) to which the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive has been affixed in accordance with regulation I 8(7).

(2) An instrument shall not be taken to satisfy the essential requirement—

- (a) unless—
  - (i) save in the case of an instrument which does not use electronic devices and of which the load measuring device does not use one or more springs to balance the load, an EC type-approval certificate has been issued in respect of the relevant type and is in force; and
  - (ii) one of the conditions set out in paragraph (3) below is satisfied in relation to it; or
- (b) unless EC unit verification has been carried out and the instrument bears the CE marking, inscriptions, sticker and identification number which have been affixed under regulations 12 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom.

(3) The conditions referred to in paragraph (2)(a)(ii) above are—

- (a) a condition that an EC declaration of type conformity has been made, and an EC conformity marking, inscriptions, sticker and identification number have been affixed to the instrument by the manufacturer under regulations 13 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom;
  - (b) a condition that an EC verification has been carried out and the instrument bears the CE marking, inscriptions, sticker and identification number which have been affixed under regulations 11 and 18 or under corresponding provisions of the law of a member State other than the United Kingdom.
- (4) Neither of the conditions mentioned in sub-paragraph (a)(ii), nor the requirements of sub-paragraph (b), of paragraph (2) shall be satisfied in relation to an instrument at any time when—
- (a) any conformity marking, inscription, sticker, re-qualification sticker or identification number affixed to the instrument has been defaced, destroyed or removed otherwise than by fair wear and tear; or
  - (b) a disqualification sticker has been affixed to the instrument, the effect of which has not been cancelled by a re-qualification sticker affixed to it.
- (5) The documents relating to procedures, and any connected correspondence, relating to EC type-examination, EC declaration of type conformity, EC verification and EC unit verification shall be drafted in an official language of the member State where those procedures are to be carried out or in a language accepted by the Secretary of State or approved body, as the case may require.

**Information to be borne by instruments not subject to EC verification, EC unit verification or EC declaration of type conformity**

- 6.—(1) An instrument to which these Regulations apply which has not been subject to EC verification, EC unit verification or EC declaration of type conformity shall bear the following inscriptions affixed in a clearly visible, easily legible and indelible form—
- (a) the manufacturer’s mark or name; and
  - (b) the maximum capacity of the instrument in the form “Max . . .”.
- (2) The instruments referred to in paragraph (1) above may not bear the stickers provided for in paragraph 1(1)(b) of Annex IV of the Directive.

**Instruments conforming with relevant national standards**

7. An instrument to which these Regulations apply and which bears the CE marking and complies with the relevant national standards applicable to the instrument shall be taken to satisfy the requirement in regulation 5(1), unless there are reasonable grounds for suspecting that the instrument does not satisfy that requirement.

**Appropriate equipment for tests**

8.—(1) Subject to paragraph (2) below, for the purposes of regulations 11(4), 12(3), 13(7) and 38(1) an instrument shall be tested by the use of weights as set out in the following Table.

**TABLE**

Accuracy Classification of Instruments	Weights to be used
Class I	Weights conforming to the requirements of the 1974 directive (other than class F1, F2 and M1 weights therein referred to)

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Accuracy Classification of Instruments	Weights to be used
Class II	<p>Local standard weights, working standard weights which fall within the prescribed limits of error relating to the equivalent local standard weights, test weights not greater than 56 lb or 20 kg which fall within the prescribed limits of error relating to the equivalent local standard weights or test weights greater than 56 lb or 20 kg which fall within 0.15 of the prescribed limits of error for the test weights in question</p> <p>Northern Ireland local standard weights, Northern Ireland working standard weights which fall within the limits of error relating to the equivalent local standard weights, Northern Ireland test weights not greater than 56 lb or 20 kg which fall within the limits of error relating to the equivalent local standard weights or test weights greater than 56 lb or 20 kg which fall within 0.15 of the limits of error for the test weights in question</p> <p>Weights conforming to the requirements of the 1974 directive (other than class M1 weights therein referred to)</p>
Class III and having more than 5,000 scale intervals	<p>Local standard weights, working standard weights, test weights not greater than 56 lb or 20 kg or test weights greater than 56 lb or 20 kg which fall within half the prescribed limits of error for the test weights in question</p> <p>Northern Ireland local standard weights, Northern Ireland working standard weights, Northern Ireland test weights not greater than 56 lb or 20 kg or test weights greater than 56 lb or 20 kg which fall within half the limits of error for the test weights in question</p> <p>Weights conforming to the requirements of the 1974 directive</p>
Class III and having no more than 5,000 scale intervals and Class IIII	<p>Local standard weights, working standard weights or test weights</p> <p>Northern Ireland local standard weights, Northern Ireland working standard weights or Northern Ireland test weights</p> <p>Weights conforming to the requirements of the 1974 directive</p>

- (2) For the purposes of paragraph (1) above—
- (a) the error in the weights to be used in any particular case shall not exceed the amount specified in the relevant national standard; and



- (b) the quantities of weights to be used in any particular case shall be ascertained in accordance with the relevant national standard.
- (3) In this regulation—
  - (a) “local standard weights”, “working standard weights” and “test weights” shall be construed in accordance with the Weights and Measures (Local and Working Standard Weights and Testing Equipment) Regulations 1986<sup>(10)</sup>;
  - (b) “Northern Ireland local standard weights”, “Northern Ireland working standard weights” and “Northern Ireland test weights” shall be construed in accordance with the 1981 Order; and
  - (c) “the 1974 directive” means Council Directive 741148/EEC<sup>(11)</sup> on the approximation of laws of the member States relating to weights of from 1 mg to 50 kg of above-medium accuracy.
- (4) On and after 1st January 2000, in the Table set out in paragraph (1) above, the words “56 lb or” shall be omitted in each place where they occur.

#### **Designation of bodies to exercise functions under the Regulations**

- 9.—(1) On application made by the body, the Secretary of State may, for the purposes of Article 8 of the Directive, designate one or more bodies of persons (“approved bodies”) which appear to him to satisfy the criteria set out in Annex V of the Directive to carry out in respect of instruments all or any of the functions to be carried out by approved bodies—
- (a) under regulations 11 and 14 relating to EC verification; and
  - (b) under regulations 13, 15 and 17 relating to quality systems and EC surveillance.
- (2) Any such approval—
- (a) may be given for an unlimited period, or for a specified period, or for specified purposes; and
  - (b) may be given subject to conditions (including conditions which are to apply upon or following withdrawal of the approval).
- (3) The Secretary of State may withdraw an approval if—
- (a) the body so requests; or
  - (b) the body ceases to satisfy the criteria specified in the said Annex V of the Directive; or
  - (c) the body ceases to comply with any such condition.
- (4) The Secretary of State may vary or amend an approval if—
- (a) the body so requests; or
  - (b) having regard to these Regulations and to the Directive, it appears to him necessary or expedient.
- (5) The Secretary of State may from time to time carry out inspections of the functions of an approved body with a view to verifying that it complies with any conditions subject to which the approval is granted and with the provisions of these Regulations and the Directive but, unless it appears to him that there are circumstances which make it necessary or expedient to do so, he shall not carry out such an inspection within two years from the date of approval of the body or, if later, of his last inspection under this paragraph.
- (6) In a case where the Secretary of State—

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<sup>(10)</sup> S.I. 1986/1685 as amended by S.I. 1991/1775 and 1994/1851.

<sup>(11)</sup> OJ No. L84, 28.3.1974, p.3.

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- (a) refuses an application for designation under paragraph (1) above or imposes any condition more onerous than those proposed by the body;
- (b) withdraws an approval under paragraph (3)(b) or (c) above; or
- (c) varies or amends an approval pursuant to paragraph (4)(b) above;

he shall inform the body of the grounds for the decision.

(7) If for any reason an approved body ceases to be an approved body under this regulation, the Secretary of State may designate another approved body to take over its functions in respect of such cases as he may specify.

(8) All local weights and measures authorities are hereby designated to do all such things as may be required or permitted to be done under these Regulations by an authorised person.