
STATUTORY INSTRUMENTS

1995 No. 1907

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

PART II

**APPROVAL AND CERTIFICATION OF NON-
AUTOMATIC WEIGHING INSTRUMENTS**

Enforcement

Unauthorised application of CE marking etc

- 23.**—(1) Subject to paragraph (2) below, any person who, in the case of any instrument—
- (a) save under regulation 11, 12 or 13, affixes any CE marking, inscription, identification number or sticker referred to in the regulation in question to any instrument; or
 - (b) affixes a CE marking in contravention of regulation 18; or
 - (c) forges or counterfeits or in any manner alters or defaces any such mark, inscription, identification number, sticker, disqualification sticker or re-qualification sticker; or
 - (d) removes any such mark, inscription, identification number or sticker affixed to an instrument under regulation 11, 12 or 13 or re-qualification sticker and affixes it to any other instrument; or
 - (e) makes any alteration to the instrument after any such mark, inscription, identification number, sticker or re-qualification sticker has been affixed to it in accordance with these Regulations so that the instrument no longer complies with the requirements of the Directive which apply to it,

shall be guilty of an offence.

(2) A person shall not be guilty of an offence under paragraph (1) above by reason solely of the alteration, defacement or removal of any mark, inscription, identification number, sticker, disqualification sticker or re-qualification sticker in the course of the adjustment or repair of any instrument by, or by the duly authorised agent of, a person who is a manufacturer of instruments or is regularly engaged in the business of the repair of instruments.

(3) Any person who supplies, uses for any Schedule 3 application or exposes or offers for supply any instrument which to his knowledge—

- (a) bears any CE marking, inscription, identification number, sticker or re-qualification sticker which is a forgery or counterfeit, or which has been transferred from another instrument, or which has been altered or defaced otherwise than in accordance with these Regulations; or
- (b) does not comply with the essential requirements by reason of any alteration made to it after any CE marking, inscription, identification number, sticker, disqualification sticker or re-qualification sticker was affixed to it in accordance with these Regulations,

shall be guilty of an offence.

(4) Any instrument in respect of which an offence under this regulation has been committed, and any implement used in the commission of the offence, shall be liable to be forfeited.

(5) References in this regulation to other provisions of these Regulations include references to corresponding provisions under the laws of a member State other than the United Kingdom.

Disqualification stickers (instruments not complying with these Regulations etc)

24.—(1) Subject to paragraph (2) below, an authorised person may affix a disqualification sticker to an instrument if he is satisfied that the instrument—

- (a) falls outside the limits of error referred to in paragraph 4.2 of Annex I of the Directive which is set out in Schedule 2; or
- (b) otherwise does not fully comply with the requirements which apply to it,

and a disqualification sticker shall be so affixed as to be clearly visible when the instrument is in its regular operating position.

(2) Save in a case where regulation 25 has effect, where an instrument does not fully satisfy the requirements of regulation 5 which apply to it but it appears to the authorised person that the nature or degree of non-compliance is not such that a disqualification sticker should be immediately affixed to it, he may give to any person in possession of the instrument a notice requiring him to ensure that the instrument is brought within the limits of error mentioned in paragraph (1)(a) above, or made to comply with the requirements which apply to it, before the expiry of twenty-eight days or such shorter period as may be specified in the notice.

(3) If a notice given under paragraph (2) above is not complied with, the authorised person shall affix a disqualification sticker to the instrument in such a position that the sticker is clearly visible when the instrument is in its regular operating position.

Disqualification stickers and re-qualification stickers (instruments which have been altered etc)

25.—(1) If it appears to an authorised person that, since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) to an instrument, the instrument has been subject to any alteration or addition by reason of which a re-qualification sticker could not be affixed to it in accordance with this Part, an authorised person shall affix a disqualification sticker to it.

(2) Subject to paragraph (3) below, if it appears to an authorised person—

- (a) in the case of any instrument, that since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) to an instrument, the instrument has been subject to any adjustment, alteration, addition, repair or replacement, which could affect its accuracy or functioning; or
- (b) in the case of an instrument whose performance is sensitive to differences in gravity, that since the sticker was affixed (or, where the re-qualification sticker has been affixed, since that sticker was last affixed) the instrument has been moved to a different location,

the authorised person shall affix a disqualification sticker to it.

(3) Where—

- (a) an instrument has been subjected to any of the occurrences mentioned in paragraph (2) above, and
- (b) the chief inspector of weights and measures for the area where the instrument is located has been furnished in writing with details of the occurrence,

an authorised person may affix a disqualification sticker to it.

(4) A disqualification sticker shall be so affixed as to be clearly visible when the instrument is in its regular operating position.

Withdrawal from use etc of unsatisfactory instruments

26.—(1) If it appears to any authorised person that, when properly installed and used for the purpose for which they are intended, two or more instruments which bear the CE marking and the sticker do not meet the requirements of these regulations, he shall notify the Secretary of State.

(2) Following receipt of a notification under paragraph (1) above, the Secretary of State—

- (a) shall consider the matter; and
- (b) unless he considers it not practicable to do so or that urgent action is required in the public interest, after giving any person appearing to him to be interested in the instrument in question the opportunity of making representations, may give a notice under this regulation in accordance with paragraph (4) below.

(3) A notice under this regulation—

- (a) shall sufficiently describe the instruments to which it applies;
- (b) may—
 - (i) require instruments of the type in question to be withdrawn from supply;
 - (ii) prohibit or restrict the use of such instruments for any Schedule 3 application;
 - (iii) prohibit or restrict the supply of such instruments, and
- (c) may be expressed to impose obligations on named or identified persons or persons generally; and
- (d) may be varied or withdrawn by a further notice under this regulation.

(4) A notice under this regulation (including a notice varying or withdrawing a previous notice)—

- (a) if any person is named in the notice as a person upon whom an obligation is imposed (or upon whom an obligation was imposed by such a previous notice)—
 - (i) shall be given to any such person, and
 - (ii) may be published in such manner as the Secretary of State may think fit; and
- (b) in any other case, shall be published in such manner as the Secretary of State may think fit.

(5) Any person who fails to comply with an obligation imposed on him by a notice under this regulation shall be guilty of an offence.

(6) References in this regulation to other provisions of these Regulations include references to corresponding provisions under the laws of a member state other than the United Kingdom.

Unsuitable use of instrument used for trade

27. If it appears to an authorised person that an instrument is used for trade—

- (a) for a purpose for which it is unsuitable; or
- (b) in circumstances where it is subject to any extraordinary environmental or operating conditions which—
 - (i) may prevent it operating consistently or accurately, or
 - (ii) are likely prematurely to degrade its metrological characteristics,

the authorised person may affix a disqualification sticker to the instrument; and any such sticker shall be affixed in such a position that it is clearly visible when the instrument is in its regular operating position.