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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive [2004/22/EC](#) of the European Parliament and of the Council on measuring instruments (OJ No. L 135, 30.4.04, p1) “the Directive” in relation to capacity serving measures covered by the Directive in so far as they are prescribed.

Part I provides that these Regulations apply, with certain exceptions, to capacity serving measures for use for trade set out in Schedule 3 which are first placed on the market or put into use on or after the 30th October 2006.

Part II deals with the requirements for placing on the market and putting into use. These are that capacity serving measures are compliant with the essential requirements, that the manufacturer has demonstrated such compliance with the essential requirements and that the measures have the CE marking, the M marking and the identification number of the relevant notified body affixed to them (regulation 4(1)). It is an offence under regulation 4(2) to place on the market and put into use a capacity serving measure without first complying with the requirements of regulation 4(1). The essential requirements are set out in Schedule 1. Compliance with the essential requirements can be demonstrated in accordance with the provisions in regulation 5. Regulation 6 sets out the different conformity assessment procedures available to a manufacturer to demonstrate compliance. The technical documentation required is set out in Schedule 4.

Regulations 7 to 11 and Schedule 2 contain provisions relating to the eligibility and designation of persons to be notified bodies and with the administrative procedures relating to their appointment, functions and fees. Requirements relating to the marking of capacity serving measures are set out in regulation 12 and Schedule 5. Regulation 13 provides for a presumption of conformity with other applicable directives conferred by the CE marking.

Part III of these Regulations deals with requirements relating to the use for trade of capacity serving measures (regulations 14 and 15) pursuant to section 15(1) of the Weights and Measures Act 1985. Failure to comply with these requirements is an offence under section 15(3) of that Act. Part IV deals with enforcement of these Regulations. Regulation 16 provides that the Regulations shall be enforced by every local weights and measures authority within its area: the Secretary of State may act as an enforcement authority in relation to Part II and may for that purpose appoint any person to act on his behalf. Regulation 17 (compliance notice procedure) and regulation 18 (immediate enforcement action) confer powers on the enforcement authorities to take action in respect of non-compliant capacity serving measures. Regulation 19 permits a review by the Secretary of State of notices issued by other enforcement authorities under regulations 17 and 18. Regulation 20 provides for disqualification of capacity serving measures and it is an offence to use a capacity serving measure which has been disqualified unless it has been re-qualified in accordance with regulation 21.

Regulations 22 details the offences in relation to unauthorised application of authorised marks. Regulation 23 provides powers of entry and inspection for enforcement officers. Regulation 24 provides for offences relating to the obstruction of an enforcement officer. A person guilty of an offence under Part II or Part IV is liable on summary conviction to a fine not exceeding level 5 on the standard scale (which is currently £5,000) (regulation 25). A defence of due diligence in relation to any offence under the Regulations is provided for in regulation 26 and the liability of persons other than the principal offender is set out in regulation 27.

Part V (regulations 28 to 30) deals with miscellaneous matters including the application of the Regulations to Northern Ireland to the extent set out in Schedule 6 (regulation 30).

These Regulations have been notified to the European Commission and the other member States in accordance with Directive [98/34/EC](#) of the European Parliament and of the Council (OJ

**Status:** Point in time view as at 30/05/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Measuring Instruments (Capacity Serving Measures) Regulations 2006 (revoked). (See end of Document for details)

No. L204, 21.7.98, p.37), as amended by Directive [98/48/EC](#) of the European Parliament and of the Council (OJ No. L217, 5.8.98, p.18).

A Regulatory Impact Assessment (RIA) in respect of these Regulations is available and a copy can be obtained from the National Weights and Measures Laboratory (NWML), Stanton Avenue, Teddington, Middlesex TW11 OJZ or from its website at [www.nwml.gov.uk](http://www.nwml.gov.uk). As these Regulations transpose the Directive, a transposition note (TN) setting out how the Government has transposed the Directive in the United Kingdom has been prepared. Copies of the RIA and TN are available from NWML as above. Copies of these documents have been placed in the libraries of both Houses of Parliament.

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