
STATUTORY INSTRUMENTS

2006 No. 1270

The Measuring Instruments (Non-Prescribed Instruments) Regulations 2006

Citation and commencement

1.—(1) These Regulations may be cited as the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006.

(2) This regulation, regulations 2, 4, 6 and 7 and Part 1 of Schedule 2 shall come into force on 30th May 2006.

(3) The remaining regulations shall come into force on 30th October 2006.

Interpretation

2.—(1) In these Regulations—

“area measuring instrument” means an instrument that serves for the determination of the area of irregular shaped objects, e.g. for leather;

“authorised representative” means a person who is established within a member State and authorised by a manufacturer, in writing, to act on his behalf;

“automatic catchweigher” means an automatic weighing instrument that determines the mass of pre-assembled discrete loads (for example pre-packages) or single loads of loose material;

“automatic checkweigher” means an automatic catchweigher that subdivides articles of different mass into two or more subgroups according to the value of the difference of their mass and a nominal set-point;

“automatic gravimetric filling instrument” means an automatic weighing instrument that fills containers with a predetermined and virtually constant mass of product from bulk;

“automatic weighing instrument” means an instrument that determines the mass of a product without the intervention of an operator and follows a predetermined programme of automatic processes characteristic of the instrument intended to determine the mass of a body by using the action of gravity on that body;

“base conditions” in relation to gas meters and volume conversion devices, means the specified conditions to which the measured quantity of fluid is converted;

“CE marking” means the CE marking referred to in regulation 11;

“capacity serving measure” means a capacity measure (such as a drinking glass, jug or thimble measure) designed to determine a specified volume of a liquid (other than a pharmaceutical product) which is sold for immediate consumption;

“the Commission” means the European Commission;

“conformity assessment procedure” means any procedure referred to in regulation 10;

“continuous totaliser” means an automatic weighing instrument that continuously determines the mass of a bulk product on a conveyor belt, without systematic sub-division of the product and without interrupting the movement of the conveyor belt;

“designating authority” means—

- (a) except in relation to designation of notified bodies for the assessment of volume conversion devices, the Secretary of State; and
- (b) in relation to the designation of notified bodies for the assessment of volume conversion devices—
 - (i) in Great Britain, the Gas and Electricity Markets Authority; and
 - (ii) in Northern Ireland, the Northern Ireland Authority for Energy Regulation;

“the Directive” means Directive [2004/22/EC](#) of the European Parliament and of the Council of 31st March 2004 on measuring instruments⁽¹⁾;

“discontinuous totaliser” means an automatic weighing instrument that determines the mass of a bulk product by dividing it into discrete loads. The mass of each discrete load is determined in sequence and summed and each discrete load is then delivered to bulk;

“essential requirements” means, in respect of each measuring instrument, the general requirements of measuring instruments set out in Annex I and the specific requirements applicable to that instrument set out in Annex MI-001, Annex MI-002, Annex MI-004, Annex MI-005, Annex MI-006, Annex MI-008 and Annex MI-009 as set out in Parts A to G in Schedule 1;

“gas meter” means an instrument designed to measure, memorise and display the quantity of fuel gas (volume or mass) that has passed it;

“harmonised standard” means a technical specification (adopted by the European Committee for Standardisation (CEN), the European Communities for Electrotechnical Standardisation (CENELEC) or the European Telecommunications Standards Institute (ETSI) or jointly by two or all of these organisations, at the request of the Commission pursuant to Directive [98/34/EC](#) of the European Parliament and of the Council of 22nd June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services⁽²⁾, as amended by Directive [98/48/EC](#)⁽³⁾, and prepared in accordance with the General Guidelines agreed between the Commission and one or more of CEN, CENELEC and ETSI;

“heat meter” means an instrument designed to measure the heat which, in a heat exchange circuit, is given up by a liquid called the heat-conveying liquid. It is either a complete instrument or a combined instrument consisting of the sub-assemblies, flow sensor, temperature sensor pair, and calculator, or a combination of these;

“in writing” includes text that is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference;

“length measuring instrument” means an instrument that serves for the determination of the length of rope-type materials (e.g. textiles, bands, cables) during feed motion of the product to be measured;

“M marking” means the M marking referred to in regulation 11;

“manufacturer” means a person responsible for the conformity of the measuring instrument with these Regulations with a view to either placing it on the market under his own name or putting it into use for his own purposes, or both;

(1) OJNo. L135, 30.4.04, p.1.

(2) OJ No. L204, 21.7.98, p.37.

(3) OJ No. L217, 5.8.98, p.18.

“material measure of length” means an instrument comprising scale marks whose distances are given in legal units of length;

“measuring instrument” means any device or system defined in these Regulations;

“multi-dimensional measuring instrument” means a measuring instrument that serves for the determination of the edge length (length, height, width) of the smallest enclosing rectangular parallelepiped of a product;

“normative document” means a document containing technical specifications adopted by the Organisation Internationale de Métrologie Légale (OIML), subject to the procedure stipulated in Article 16.1, the reference of which is for the time being published by the Commission in the Official Journal of the European Union pursuant to Article 16.1(b);

“notified body” means—

- (a) the Secretary of State; or
- (b) a person designated under regulation 4,

and who has been notified to the Commission and the other member States pursuant to Article 11.1;

“notified body criteria” means the criteria set out in Part 1 of Schedule 2;

“place on the market” means making available for the first time in a member State a measuring instrument intended for an end user, whether for reward or free of charge;

“put into use” means the first use of a measuring instrument intended for the end user for the purposes for which it was intended;

“rail-weighbridge” means an automatic weighing instrument having a load receptor inclusive of rails for conveying railway vehicles;

“relevant national standard” means a standard applicable to a measuring instrument—

- (a) implementing a harmonised standard that has been published in the Official Journal of the European Union C series; and
- (b) the reference of which is published—
 - (i) in the United Kingdom by the Secretary of State; or
 - (ii) in another member State by the competent authority pursuant to the third sub-paragraph of Article 13.1;

“relevant normative document” means a normative document applicable to a measuring instrument the reference of which is published—

- (a) in the United Kingdom by the Secretary of State; or
- (b) in another member State by the competent authority pursuant to the third sub-paragraph of Article 13.2;

“sub-assembly” means a hardware device, mentioned as such in the instrument-specific requirements in Part 2 of Schedule 1 that functions independently and together—

- (a) with other sub-assemblies with which it is compatible; or
- (b) with a measuring instrument with which it is compatible;

makes up a measuring instrument;

“volume conversion device” means a device fitted to a gas meter that automatically converts the quantity measured at metering conditions into a quantity at base conditions; and

“water meter” means an instrument designed to measure, memorise and display the volume at metering conditions of water passing through the measurement transducer for the measurement of volumes of clean cold or heated water.

(2) In these Regulations a reference to a member State includes Norway, Iceland and Liechtenstein⁽⁴⁾.

(3) References in these Regulations to an Article, Annex or a part of an Annex are references to an Article, Annex, or a part of an Annex to the Directive.

Application

3.—(1) These Regulations apply to the following measuring instruments—

- (a) automatic weighing instruments other than those to which the Measuring Instruments (Automatic Gravimetric Weighing Instruments) Regulations 2006⁽⁵⁾, the Measuring Instruments (Automatic Catchweighers) Regulations 2006⁽⁶⁾, the Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006⁽⁷⁾, the Measuring Instruments (Beltweighers) Regulations 2006⁽⁸⁾ or the Measuring Instruments (Discontinuous Totalisers) Regulations 2006⁽⁹⁾ apply;
- (b) dimensional measuring instruments including length measuring instruments, area measuring instruments and multi-dimensional measuring instruments;
- (c) heat meters intended for residential, commercial and light industrial use;
- (d) material measures, other than those to which the Measuring Instruments (Material Measures of Length) Regulations 2006⁽¹⁰⁾ or the Measuring Instruments (Capacity Serving Measures) Regulations 2006⁽¹¹⁾ apply;
- (e) measuring systems for the continuous and dynamic measurement of quantities of liquids other than water, other than those to which the Measuring Instruments (Liquid Fuel from Road Tankers) Regulations 2006⁽¹²⁾ or the Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006⁽¹³⁾ apply;
- (f) volume conversion devices intended for residential, commercial and light industrial use; and
- (g) water meters intended for residential, commercial and light industrial use, other than those to which the Measuring Instruments (Cold Water Meter) Regulations 2006⁽¹⁴⁾ apply,

where such measuring instruments must satisfy the essential requirements in relation to legal metrological control in order to be placed on the market or put into use in another member State on or after 30th October 2006.

(2) For the purposes of this regulation “legal metrological control” means the control of the measurement tasks intended for the field of application of a measuring instrument for reasons of public health, public safety, public order, protection of the environment, levying of taxes and duties, protection of consumers and fair trading.

Designation of notified bodies

4.—(1) The designating authority may, on the application of a person, designate that person to be a notified body.

(4) The application of Directive [2004/22/EC](#) (OJ No. L135, 30.4.04, p.1 was extended to the European Economic Area by Decision No. 31/205 (OJ No. L198, 28.7.05, p.20).

(5) [S.I.2006/1258](#)

(6) [S.I.2006/1257](#)

(7) [S.I.2006/1256](#)

(8) [S.I.2006/1259](#)

(9) [S.I.2006/1255](#)

(10) [S.I.2006/1267](#)

(11) [S.I.2006/1264](#)

(12) [S.I.2006/1269](#)

(13) [S.I.2006/1266](#)

(14) [S.I.2006/1268](#)

(2) The designating authority shall not make a designation under paragraph (1) unless it is satisfied that the person meets the notified body criteria.

(3) A person who meets the criteria laid down in a national standard shall be presumed to meet that part of the notified body criteria which corresponds to the criteria in the national standard.

(4) A designation under paragraph (1)—

- (a) shall be in writing;
- (b) may be made subject to such conditions as may be specified in the designation, which may include conditions which—
 - (i) are to apply upon or following termination of the designation;
 - (ii) require the use of test equipment for the purpose of conformity assessment appropriate to the measuring instrument being assessed; and
 - (iii) limit the description of any measuring instrument for which the person is designated;
- (c) subject to regulation 7, may last for such period as may be specified in the designation;
- (d) shall specify the conformity assessment procedures and specific tasks (which may be framed by reference to any circumstances) which the person has been designated to carry out; and
- (e) may include a requirement to publish from time to time the scale of fees which the person charges pursuant to regulation 8 or such information about the basis of calculation of such fees as may be specified.

(5) In exercising the power conferred on it by paragraph (1), the designating authority may (in addition to the matters of which it is required to satisfy itself pursuant to paragraph (2)) have regard to any matter appearing to it to be relevant.

(6) The Gas and Electricity Markets Authority and the Northern Ireland Authority for Energy Regulation shall be entitled—

- (a) to enter into arrangements for the Gas and Electricity Markets Authority to act on behalf of the Northern Ireland Authority for Energy Regulation for, or in connection with, the carrying out of the functions conferred on the Northern Ireland Authority for Energy Regulation by these Regulations; and
- (b) to give effect to those arrangements.

(7) For the purposes of paragraph (3), “national standard” means a standard applicable to the designation of notified bodies—

- (a) implementing a harmonised standard that has been published in the Official Journal of the European Union; and
- (b) the reference of which is published—
 - (i) in the United Kingdom by the Secretary of State; or
 - (ii) in another member State by the competent authority pursuant to Article 11.2.

Functions of notified bodies

5. A notified body shall carry out the functions set out in Part 2 of Schedule 2.

Provisions supplemental to regulation 4

6.—(1) The Secretary of State shall, from time to time, publish a list of notified bodies indicating the description of any measuring instrument in respect of which a notified body other than the Secretary of State is designated; and such a list may include information concerning any condition to which the designation of any notified body other than the Secretary of State is subject.

(2) The designating authority shall, from time to time, carry out an inspection of notified bodies which it has designated under regulation 4 with a view to verifying that the notified body—

- (a) meets the notified body criteria;
- (b) complies with any condition to which its designation is subject; and
- (c) complies with these Regulations,

but, unless it appears to it that there are circumstances which make it necessary or expedient to do so, it shall not carry out an inspection within two years from the date of designation under regulation 4, or of any later inspection under this paragraph.

Variation and termination of designations

7.—(1) The designating authority may vary a designation made by it under regulation 4 if—

- (a) the notified body so requests; or
- (b) it appears to it necessary or expedient to do so.

(2) The designating authority may terminate a designation made by it under regulation 4—

- (a) on the expiry of 90 days' notice in writing at the request of the notified body;
- (b) if it appears to it that any condition of the designation is not complied with; or
- (c) if in its opinion the notified body ceases to satisfy the notified body criteria.

(3) Where the designating authority is minded to—

- (a) vary a designation pursuant to paragraph (1)(b); or
- (b) terminate a designation pursuant to paragraph (2)(b) or (c),

it shall—

- (i) give notice in writing to the notified body of its reasons; and
- (ii) give that notified body the opportunity to make representations within a period of 21 days from the date of that notice and consider any representations made to it within that period.

(4) If a designation is terminated under paragraph (2), the designating authority may—

- (a) give such directions (either to the notified body the subject of the termination or to another notified body) for the purposes of making arrangements for the determination of outstanding applications as it considers appropriate; and
- (b) notwithstanding sub-paragraph (a), authorise another notified body to take over the functions of the notified body the subject of the termination in respect of such cases as it may specify.

Fees

8.—(1) A notified body other than the Secretary of State may charge such fees in connection with, or incidental to, the carrying out of the conformity assessment procedures or specific tasks as it may determine.

(2) The fees referred to in paragraph (1) shall not exceed the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done or to be done by that notified body on behalf of the applicant; and

(ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

(4) Where any fees payable to a notified body pursuant to this regulation remain unpaid 28 days after either the work has been completed or payment of the fees has been requested in writing, whichever is the later, that notified body may by 14 days' notice in writing provide that, unless the fees are paid before the expiry of the notice, the certificate or notification appropriate to the relevant conformity assessment procedure may be suspended until payment of the fees has been received.

Compliance with the essential requirements

9.—(1) Where a measuring instrument must be compliant with the essential requirements in order to be placed on the market or put into use in another member State, the manufacturer may demonstrate that the measuring instrument is compliant with the essential requirements by—

- (a) using any technical solution that is compliant with the essential requirements;
- (b) correctly applying solutions set out in the relevant national standard; or
- (c) correctly applying solutions set out in the relevant normative document,

and selecting and following one of the conformity assessment procedures.

(2) A measuring instrument which is compliant with the relevant national standard or the relevant normative document shall be presumed to be compliant with the essential requirements.

(3) Where the instrument is compliant only in part with the relevant national standard or relevant normative document, it shall be presumed to be compliant only with that part of the essential requirements which corresponds to the element of the relevant national standard or relevant normative document with which the instrument is compliant.

Conformity assessment procedures

10.—(1) The conformity assessment procedures are the procedures as follows—

(a) for automatic weighing instruments—

(i) for mechanical systems—

- (aa) B and D;
- (bb) B and E;
- (cc) B and F;
- (dd) D1;
- (ee) F1;
- (ff) G; or
- (gg) H1;

(ii) for electromechanical instruments—

- (aa) B and D;
- (bb) B and E;
- (cc) B and F;
- (dd) G; or
- (ee) H1;

(iii) for electronic systems or systems containing software—

- (aa) B and D;
 - (bb) B and F;
 - (cc) G; or
 - (dd) H1;
- (b) for capacity serving measures—
 - (i) A1;
 - (ii) B and D;
 - (iii) B and E;
 - (iv) D1;
 - (v) E1;
 - (vi) F1; or
 - (vii) H;
- (c) for dimensional measuring instruments—
 - (i) for mechanical or electromechanical instruments—
 - (aa) D1;
 - (bb) E1;
 - (cc) F1;
 - (dd) B and D;
 - (ee) B and E;
 - (ff) B and F;
 - (gg) H;
 - (hh) H1; or
 - (ii) G;
 - (ii) for electronic instruments or instruments containing software—
 - (aa) B and D;
 - (bb) B and F;
 - (cc) G; or
 - (dd) H1;
- (d) for heat meters—
 - (i) B and D;
 - (ii) B and F; or
 - (iii) H1;
- (e) for material measures of length—
 - (i) B and D;
 - (ii) D1;
 - (iii) F1;
 - (iv) G; or
 - (v) H;
- (f) for measuring systems of the continuous and dynamic measurement of quantities of liquid other than water—

- (i) B and D;
 - (ii) B and F;
 - (iii) G; or
 - (iv) H1;
 - (g) for volume conversion devices—
 - (i) B and D;
 - (ii) B and F; or
 - (iii) H1;
 - (h) for water meters—
 - (i) B and D;
 - (ii) B and F; or
 - (iii) H1,
- (2) The manufacturer or his authorised representative shall provide to the notified body carrying out the relevant conformity assessment procedure the technical documentation set out in Schedule 3.
- (3) In this regulation—
- (a) “A1” means declaration of conformity based on internal production control plus product testing by a notified body, as set out in Annex A1;
 - (b) “B” means type examination, as set out in Annex B;
 - (c) “D” means declaration of conformity to type based on quality assurance of the production process, as set out in Annex D;
 - (d) “D1” means declaration of conformity based on quality assurance of the production process, as set out in Annex D1;
 - (e) “E” means declaration of conformity to type based on quality assurance of final product inspection and testing, as set out in Annex E;
 - (f) “E1” means declaration of conformity based on quality assurance of final product inspection and testing, as set out in Annex E1;
 - (g) “F” means declaration of conformity to type based on product verification, as set out in Annex F;
 - (h) “F1” means declaration of conformity based on product verification, as set out in Annex F1;
 - (i) “G” means declaration of conformity based on unit verification, as set out in Annex G;
 - (j) “H” means declaration of conformity based on full quality assurance, as set out in Annex H; and
 - (k) “H1” means declaration of conformity based on full quality assurance plus design examination, as set out in Annex H1.

Marking and identification requirements

- 11.**—(1) Where a measuring instrument is compliant with the essential requirements—
- (a) the manufacturer shall affix the CE marking and the M marking to the instrument; and
 - (b) the notified body which carries out the conformity assessment procedure in respect of that instrument shall affix its identification number to the instrument, or may agree that the manufacturer shall do so on its behalf.

(2) Any other marking may be affixed to the measuring instrument provided that the visibility and legibility of the CE marking, the M marking and the identification number of the notified body are not reduced.

(3) For the purposes of paragraph (1)—

- (a) the CE marking means the symbol “CE”, which shall be compliant with the requirements of paragraphs 1, 4 and 5 of Schedule 4;
- (b) the M marking means the capital letter “M” which shall be compliant with the requirements of paragraphs 2, 4 and 5 of Schedule 4; and
- (c) the identification number of the notified body shall be compliant with the requirements of paragraphs 3, 4 and 5 of Schedule 4.

Conformity with other directives

12.—(1) Where a measuring instrument falls within the scope of other directives which provide for the affixing of the CE marking, the affixing of the CE marking under these Regulations shall indicate that the instrument is also presumed to be compliant with the requirements of those other directives.

(2) Where paragraph (1) applies, the publication reference of such other directives in the Official Journal of the European Union must be given in the documents, notices or instructions required to accompany the instrument.

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28th April 2006