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## STATUTORY INSTRUMENTS

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# 2006 No. 2647

## The Measuring Instruments (Gas Meters) Regulations 2006

### PART 1

#### PRELIMINARY

##### Citation and commencement

1.—(1) These Regulations may be cited as the Measuring Instruments (Gas Meters) Regulations 2006.

(2) These Regulations shall come into force on 30th October 2006.

##### Commencement Information

II Reg. 1 in force at 30.10.2006, see [reg. 1\(2\)](#)

##### Interpretation

2.—(1) In these Regulations—

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

“CE marking” means the CE marking referred to in regulation 12;

“the Commission” means the European Commission;

“compliance notice” means a notice served in accordance with regulation 16(2);

“conformity assessment procedure” means any procedure referred to in regulation 6;

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

“enforcement authority” means any person who is, pursuant to regulation 14, authorised to enforce these Regulations;

“enforcement notice” means a notice served in accordance with regulation 17(2);

“enforcement officer” means a person appointed by an enforcement authority to act on its behalf to enforce these Regulations;

“essential requirements” means the requirements set out in Part 1 of 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;

“GEMA” means the Gas and Electricity Markets Authority;

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(1) O.J. No. L135, 30.4.2004, p.1.

“harmonised standard” means a technical specification adopted by the European Committee for Standardisation (CEN), the European Committee 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<sup>(2)</sup>, as amended by Directive 98/48/EC<sup>(3)</sup>, and prepared in accordance with the General Guidelines agreed between the Commission and one or more of CEN, CENELEC and ETSI;

“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;

“M marking” means the M marking referred to in regulation 12;

“manufacturer” means a person responsible for the conformity of a relevant instrument with the essential requirements 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;

“NIAER” means the Northern Ireland Authority for Energy Regulation;

“normative document” means a document containing technical specifications adopted by the Organisation Internationale de Métrologie Légale, subject to the procedure stipulated in Article 16.1; the reference of which is 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 United Kingdom notified body; and
- (c) for the purposes of regulations 4(1)(c), 15(6) and 17(1)(b), a person designated by another member State,

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 relevant instrument intended for an end user, whether for reward or free of charge;

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

“relevant instrument” must be construed in accordance with regulation 3;

“relevant national standard” means a standard applicable to a relevant 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 subparagraph of Article 13.1;

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<sup>(2)</sup> O.J. No. L204, 21.7.98, p.37.

<sup>(3)</sup> O.J. No. L217, 5.8.98 p.18.

“relevant normative document” means a normative document applicable to a relevant 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; and

“United Kingdom notified body” means a person designated under regulation 7.

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

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

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#### Commencement Information

**I2** Reg. 2 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Relevant instrument

**3.—**(1) A “relevant instrument” is a gas meter which is for use for trade.

(2) A relevant instrument is not an instrument which is—

- (a) stamped under section 17 of the Gas Act 1986<sup>(5)</sup>; and
- (b) put into use,

before 30th October 2016.

(3) A relevant instrument is not an instrument which is—

- (a) stamped under article 22 of the Gas (Northern Ireland) Order 1996<sup>(6)</sup>; and
- (b) put into use,

before 30th October 2016.

(4) A relevant instrument is not an instrument—

- (a) in respect of a pattern of which EEC pattern approval was granted before 30th October 2006—

- (i) under the Measuring Instruments (EEC Requirements) Regulations 1988<sup>(7)</sup>, as applied to gas meters by the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988<sup>(8)</sup>; or

- (ii) by any other member State in accordance with the relevant provisions of measures in force which implement Council Directive 71/318<sup>(9)</sup>,

and which is in force; and

- (b) which bears a mark of EEC initial verification affixed under those Regulations (as so applied) or by any other member State in accordance with those provisions.

(5) A relevant instrument is not an instrument which is used under an agreement providing for the supply of a quantity of gas at a rate of flow which, if measured at a temperature of 15 °C and a

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<sup>(4)</sup> The application of the Directive [2004/22/EC](#) was extended in 2005 to the European Economic Area by Decision No. 31/205 (O.J. No. L198, 28.7.05, p.20).

<sup>(5)</sup> [1986 c.44](#).

<sup>(6)</sup> [S.I. 1996 No. 275 \(N.I. 2\)](#).

<sup>(7)</sup> [S.I. 1988/186](#).

<sup>(8)</sup> [S.I. 1988/296](#), as amended by [S.I. 1996/319](#).

<sup>(9)</sup> Directive 71/318 on the approximation of the laws of member States relating to gas meters.

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pressure of 1013.25 millibars, would exceed 1600 cubic metres an hour or the equivalent quantity in kilograms.

(6) A relevant instrument is not an instrument which is not compliant with the essential requirements and which is displayed or presented at a trade fair, exhibition or demonstration, if a sign displayed visibly on or near the instrument clearly indicates that the instrument—

- (a) is not compliant with those requirements; and
- (b) cannot be acquired or used until it is made compliant with those requirements by the manufacturer.

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**Commencement Information**

**I3** Reg. 3 in force at 30.10.2006, see [reg. 1\(2\)](#)

## PART 2

### PLACING ON THE MARKET AND PUTTING INTO USE OF GAS METERS

#### Requirements for placing on the market and putting into use

4.—(1) No person shall place on the market or put into use a relevant instrument unless the following requirements, or the corresponding requirements of the Directive as implemented under the law of another member State, are met—

- (a) the instrument is compliant with the essential requirements;
  - (b) the manufacturer has demonstrated its compliance with the essential requirements in accordance with regulation 5;
  - (c) the instrument has affixed to it the CE marking, the M marking and the identification number of the notified body which carried out the conformity assessment procedure in respect of the instrument; and
  - (d) the instrument is put into use in accordance with Part 2 of Schedule 1.
- (2) Where a person fails to comply with the requirements of paragraph (1)(a), (b) or (c)—
- (a) he shall be guilty of an offence; and
  - (b) any relevant instrument—
    - (i) to which the offence relates; and
    - (ii) which has not been put into use,
 shall be liable to be forfeited.

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**Commencement Information**

**I4** Reg. 4 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Compliance with the essential requirements

5.—(1) A manufacturer may demonstrate that a relevant 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 relevant instrument which is compliant with the relevant national standard or relevant normative document shall be presumed to be compliant with the essential requirements.

(3) Where the relevant 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.

**Commencement Information**

**I5** Reg. 5 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Conformity assessment procedures**

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

- (a) B and F;
- (b) B and D; and
- (c) 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) “B” means type examination, set out in Annex B;
- (b) “D” means declaration of conformity to type based on quality assurance of the production process, set out in Annex D;
- (c) “F” means declaration of conformity to type based on product verification, set out in Annex F; and
- (d) “H1” means declaration of conformity based on full quality assurance plus design examination, set out in Annex H1.

**Commencement Information**

**I6** Reg. 6 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Designation of United Kingdom notified bodies**

7.—(1) GEMA, on the application of a person resident, incorporated or carrying on business in Great Britain, and NIAER, on the application of a person resident, incorporated or carrying on business in Northern Ireland, may designate that person to be a United Kingdom notified body.

(2) GEMA (or, as the case may be, NIAER) 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;

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- (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 relevant instrument being assessed; and
  - (iii) limit the description of any relevant instrument for which the person is designated;
- (c) subject to regulation 10, may be 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 11 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), GEMA (or, as the case may be, NIAER) 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) For the purpose 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.

#### Commencement Information

**I7** Reg. 7 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Functions of notified bodies

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

#### Commencement Information

**I8** Reg. 8 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Provisions supplemental to regulation 7

**9.—(1)** GEMA (except in relation to designations made by NIAER) and NIAER (in relation to designations made by it) shall, from time to time, publish a list of notified bodies indicating, in the case of each United Kingdom notified body, the descriptions of any relevant instrument in respect of which that notified body is designated; and such a list may include information concerning any condition to which the designation of any United Kingdom notified body is subject.

(2) GEMA (in relation to designations made by it) and NIAER (in relation to designations made by it) shall, from time to time, carry out an inspection of each United Kingdom notified body with a view to verifying that it—

- (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 that there are circumstances which make it necessary or expedient to do so, shall not carry out an inspection within two years from the date of designation under regulation 7, or of any later inspection under this paragraph.

**Commencement Information**

**I9** Reg. 9 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Variation and termination of designation**

**10.**—(1) GEMA (in relation to designations made by it) or NIAER (in relation to designations made by it) may vary a designation made under regulation 7 if—

- (a) the United Kingdom notified body so requests; or
- (b) it appears to GEMA (or, as the case may be, NIAER) necessary or expedient to do so.

(2) GEMA (in relation to designations made by it) or NIAER (in relation to designations made by it) may terminate a designation made under regulation 7—

- (a) on the expiry of 90 days' notice in writing at the request of the United Kingdom notified body;
- (b) if it appears to GEMA (or, as the case may be, NIAER) that any condition of the designation is not complied with; or
- (c) if in the opinion of GEMA (or, as the case may be, NIAER) the United Kingdom notified body ceases to satisfy the notified body criteria.

(3) Where GEMA (or, as the case may be, NIAER) 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 United Kingdom 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), GEMA (or, as the case may be, NIAER) may—

- (a) give such directions (either to the United Kingdom notified body the subject of the termination or to another United Kingdom 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 United Kingdom notified body to take over the functions of the United Kingdom notified body the subject of the termination in respect of such cases as GEMA (or, as the case may be, NIAER) may specify.

**Commencement Information**

**I10** Reg. 10 in force at 30.10.2006, see [reg. 1\(2\)](#)

## Fees

**11.**—(1) A United Kingdom notified body may charge such fees in connection with, or incidental to, the carrying out of 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 United Kingdom 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 United Kingdom 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, the 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 will be suspended until payment of the fees has been received.

(5) GEMA or NIAER may charge any person fees to recover the full costs reasonably incurred by it in—

- (a) making a designation under regulation 7; or
- (b) carrying out an inspection under regulation 9.

(6) Where, in accordance with regulation 25, GEMA, acting on behalf of NIAER, makes a designation under regulation 7 or carries out an inspection under regulation 9, GEMA may charge any person fees to recover the full costs reasonably incurred by it in making the designation or carrying out the inspection.

### Commencement Information

**111** Reg. 11 in force at 30.10.2006, see [reg. 1\(2\)](#)

## Marking and identification requirements

**12.**—(1) Where a relevant instrument is compliant with the essential requirements—

- (a) the manufacturer shall affix the CE mark and the M mark 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 relevant 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.

**Commencement Information**

**I12** Reg. 12 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Conformity with other directives**

**13.**—(1) Where a relevant 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 relevant instrument.

**Commencement Information**

**I13** Reg. 13 in force at 30.10.2006, see [reg. 1\(2\)](#)

## PART 3

### ENFORCEMENT

**Enforcement authority**

**14.**—(1) The following authorities shall enforce these Regulations—

- (a) GEMA, in relation to England, Wales and Scotland;
- (b) NIAER, in relation to Northern Ireland;
- (c) GEMA, in relation to Northern Ireland, to the extent that any arrangements entered into in accordance with regulation 25 provide that GEMA is to act on behalf of NIAER for, or in connection with, the carrying out of the functions conferred on NIAER under this Part;
- (d) any other third party designated to act on behalf of GEMA or (in relation to Northern Ireland) NIAER.

(2) No proceedings for an offence under these Regulations may be instituted in England and Wales, except by or on behalf of an enforcement authority.

(3) Nothing in this regulation shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

**Commencement Information**

**I14** Reg. 14 in force at 30.10.2006, see [reg. 1\(2\)](#)

### Unauthorised application of authorised marks

**15.**—(1) Subject to paragraphs (2) and (3), a person shall be guilty of an offence if, in the case of an relevant instrument, he—

- (a) affixes an authorised mark to the instrument otherwise than in accordance with these Regulations;
- (b) alters or defaces an authorised mark affixed to the instrument;
- (c) removes an authorised mark affixed to the instrument; or
- (d) affixes any other marking to the instrument which is likely to deceive any person as to the meaning or form, or both, of an authorised mark.

(2) Where the alteration or defacement of an authorised mark is occasioned solely in the course of the adjustment or repair of a relevant instrument by a person regularly engaged in the business of repair of such instruments, or by his authorised agent, that person or his authorised agent, shall not be guilty of an offence under paragraph (1)(b).

(3) Where the alteration or defacement of an authorised mark is occasioned solely in the course of a duty imposed by regulation 4 of the Gas (Meters) Regulations 1983<sup>(10)</sup> by a meter examiner (within the meaning of those Regulations), that person shall not be guilty of an offence under paragraph (1)(b).

(4) A person shall be guilty of an offence if he places on the market or puts into use a relevant instrument—

- (a) which, to his knowledge, bears—
  - (i) an authorised mark affixed otherwise than in accordance with these Regulations;
  - (ii) an authorised mark that has been altered or defaced otherwise than in the circumstances referred to in paragraph (2) or (3); or
  - (iii) any marking which is likely to deceive any person as to the meaning or form, or both, of an authorised mark; or
- (b) from which, to his knowledge, an authorised mark has been removed.

(5) Where an offence under this regulation has been committed in respect of a relevant instrument which has not been put into use, the instrument, and any implement used in the commissioning of the offence, shall be liable to be forfeited.

(6) A reference in this regulation to other provisions of these Regulations includes a reference to corresponding provisions under the laws of other member States.

(7) In this regulation, “authorised mark” means the CE marking, the M marking or the identification number of the notified body which carried out the conformity assessment procedure in respect of the relevant instrument.

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#### Commencement Information

**I15** Reg. 15 in force at 30.10.2006, see [reg. 1\(2\)](#)

### Compliance notice procedures

**16.**—(1) Where an enforcement authority establishes that, in the case of a relevant instrument that has been placed on the market or put into use, the CE marking or the M marking has, or both have, been affixed unduly, the following provisions of this regulation shall have effect.

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<sup>(10)</sup> S.I. 1983/684.

(2) The enforcement authority shall serve a compliance notice on the manufacturer or his authorised representative which shall—

- (a) be in writing;
- (b) describe the relevant instrument to which it relates in a manner sufficient to identify that instrument;
- (c) state that the enforcement authority is of the opinion that the CE marking or the M marking has, or both have, been affixed unduly to the relevant instrument and give reasons for its opinion;
- (d) require the person on whom the notice is served to end the infringement under conditions specified in the notice;
- (e) specify the date, being not less than 21 days from the date of the notice, by which the infringement must be ended; and
- (f) warn that person that, where the non-conformity continues beyond the date specified in sub-paragraph (e), the enforcement authority may take further action under regulation 17 in respect of that relevant instrument.

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

- (a) the CE marking shall be considered to have been affixed unduly if it is not compliant with the requirements of regulation 12(3)(a); and
- (b) the M marking shall be considered to have been affixed unduly if it is not compliant with the requirements of regulation 12(3)(b).

(4) Where an enforcement authority other than GEMA or NIAER serves a compliance notice, it shall at the same time send a copy of the notice to GEMA (or to NIAER, if it is acting on its behalf).

(5) Where GEMA, acting in accordance with regulation 25, serves a compliance notice, it shall at the same time send a copy of the notice to NIAER.

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**Commencement Information**

**I16** Reg. 16 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Immediate enforcement action**

**17.—(1)** Where an enforcement authority has reasonable grounds for considering that—

- (a) the manufacturer or his authorised representative has failed to comply with a compliance notice;
- (b) a relevant instrument, which is placed on the market or put into use, does not bear one or more of the CE marking, the M marking and the identification number of the notified body which carried out the conformity assessment procedure in respect of that instrument; or
- (c) a relevant instrument which bears the marking and identification requirements referred to in sub-paragraph (b) does not meet the essential requirements when placed on the market, or properly installed and put into use in accordance with the manufacturer’s instructions,

the following provisions of this regulation shall have effect.

(2) The enforcement authority shall serve an enforcement notice on the manufacturer or his authorised representative which shall—

- (a) be in writing;
- (b) describe the relevant instrument to which it relates in a manner sufficient to identify that instrument;

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- (c) specify, with reasons, the respects in which, in the opinion of the enforcement authority, the requirements of these Regulations have not been complied with;
  - (d) specify the date, being not less than 21 days from the date of the notice, by which the person to whom the notice is given is required to comply with it; and
  - (e) inform that person of the judicial remedies available to him and of the time limits to which those remedies are subject.
- (3) A notice under paragraph (2) may—
- (a) require the relevant instrument to be withdrawn from the market; or
  - (b) prohibit or restrict the placing on the market or putting into use of the relevant instrument; and
  - (c) specify that unless steps are taken which ensure—
    - (i) that the relevant instrument is compliant with the requirements of these Regulations; or
    - (ii) that the manufacturer or his authorised representative acts as required under subparagraph (a) or (b),
 any certificate or notification, issued by a notified body in accordance with the relevant conformity assessment procedure applicable to the relevant instrument that the instrument satisfies the essential requirements, may be withdrawn by that notified body.
- (4) Where an enforcement authority other than GEMA or NIAER serves an enforcement notice, it shall at the same time send a copy of the notice to GEMA (or to NIAER, if it is acting on its behalf).
- (5) Where GEMA, acting in accordance with regulation 25, serves an enforcement notice, it shall at the same time send a copy of the notice to NIAER.
- (6) If, in the case of a certificate or notification granted by a United Kingdom notified body, GEMA (in relation to a notified body which it has designated) or NIAER (in relation to a notified body which it has designated) is of the opinion that consideration ought to be given to whether the certificate or notification should be withdrawn, GEMA (or, as the case may be, NIAER) shall inform that notified body of that fact.
- (7) If, in the case of a certificate or notification granted under the law of another member State, GEMA or NIAER is of the opinion that consideration ought to be given to whether the certificate or notification should be withdrawn, it shall inform the relevant competent authority of that fact.

#### Commencement Information

**I17** Reg. 17 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Powers of entry and inspection

- 18.**—(1) Subject to the production if so requested of his credentials, an enforcement officer may for the purpose of these Regulations, at all reasonable times—
- (a) inspect and test, or remove for testing, any relevant instrument which has not been put into use in such manner as he considers appropriate;
  - (b) inspect and take copies of any document relating to such a relevant instrument; and
  - (c) enter any premises at which he has reasonable cause to believe there to be such a relevant instrument, not being premises used only as a private dwelling house.
- (2) Subject to the production if so requested of his credentials, an enforcement officer may, at any time, seize and detain—

- (a) a relevant instrument which he has reasonable cause to believe is liable to be forfeited under these Regulations; and
  - (b) any document or goods which he has reason to believe may be required as evidence in proceedings for an offence under these Regulations.
- (3) If a justice of the peace, on written information on oath—
- (a) is satisfied that there are reasonable grounds to believe that any such relevant instrument or document as is mentioned in paragraph (1) or (2) is on any premises, or that an offence under these Regulations has been, is being or is about to be committed on any premises; and
  - (b) is also satisfied either that—
    - (i) 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) an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise the enforcement officer to enter the premises, if need be by force.

(4) In the application of paragraph (3) to Scotland, “justice of the peace” includes a sheriff and references to written information on oath shall be construed as references to evidence on oath.

(5) An enforcement officer entering any premises by virtue of this regulation may take such other persons and such equipment as may appear to him necessary, and on leaving such premises which he has entered by virtue of a warrant under paragraph (3), being premises which are unoccupied or the occupier of which is temporarily absent, he shall leave them as effectively secured against a trespasser as he found them.

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

(7) It shall not be an offence under paragraph (6) for a person to disclose information in circumstances where—

- (a) the person from whom the information was received has consented to its disclosure; or
- (b) the information is disclosed more than 50 years after it was received.

(8) Nothing in this regulation shall authorise any person to stop any vehicle on a highway.

(9) In this regulation, “credentials” means evidence of appointment or designation as an enforcement officer.

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**Commencement Information**

**I18** Reg. 18 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Obstruction of enforcement officer**

19.—(1) A person shall be guilty of an offence if he—

- (a) wilfully obstructs an enforcement officer in the execution of any of his functions under these Regulations; or

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(b) without reasonable cause fails to give that officer any assistance or information which the officer has reasonably required of him for the purpose of the performance by the enforcement authority of its functions under these Regulations.

(2) A person shall be guilty of an offence if, in giving an enforcement officer such information as is mentioned in paragraph (1)(b), that person gives any information he knows to be false.

#### Commencement Information

**I19** Reg. 19 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Review of decisions of enforcement authority

**20.**—(1) Where a person is aggrieved by a compliance notice or an enforcement notice served by an enforcement authority other than GEMA or NIAER, that person may apply to GEMA (or to NIAER, where the enforcement authority is acting on NIAER's behalf) to review such notice.

(2) An application under paragraph (1) shall—

- (a) be in writing;
- (b) state the grounds on which the application is made;
- (c) be sent to GEMA (or, as the case may be, NIAER) within 21 days from the date of the notice referred to in paragraph (1).

(3) GEMA (or, as the case may be, NIAER) may—

- (a) hold an inquiry in connection with the notice which is the subject of its review; and
- (b) appoint an assessor for the purposes of assisting it with its review.

(4) GEMA (or, as the case may be, NIAER) shall, within a reasonable time, inform the aggrieved person and the enforcement authority referred to in paragraph (1) in writing of its decision whether to uphold the decision of that authority, together with reasons for its decision.

(5) Where GEMA (or, as the case may be, NIAER) does not uphold any notice referred to in paragraph (1), it shall give reasons for the withdrawal of that notice.

#### Commencement Information

**I20** Reg. 20 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Penalties for offences

**21.** A person guilty of an offence under these Regulations shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I21** Reg. 21 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Defence of due diligence

**22.**—(1) Subject to the following provisions of this regulation, in proceedings against a person for an offence under these Regulations, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where, in proceedings against a person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence, unless, not less than 7 clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice in accordance with paragraph (3) on the person bringing the proceedings.

(3) A notice under this regulation shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to—

- (a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

**Commencement Information**

**I22** Reg. 22 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Liability of persons other than the principal offender**

**23.**—(1) Where the commission by a person of an offence under these Regulations is due to the act or default of another person in the course of any business of his, that other person shall be guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against the first person.

(2) Where a body corporate commits an offence and it is proved that the offence was committed—

- (a) with the consent or connivance of an officer of the body corporate; or
- (b) as a result of the negligence of an officer of the body corporate,

the officer, as well as the body corporate, shall be guilty of the offence.

(3) In paragraph (2) a reference to an officer of a body corporate includes a reference to—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) a person purporting to act as a director, manager, secretary or other similar officer; and
- (c) if the affairs of the body corporate are arranged by its members, a member.

(4) In this regulation references to a “body corporate” include references to a partnership in Scotland, and in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

**Commencement Information**

**I23** Reg. 23 in force at 30.10.2006, see [reg. 1\(2\)](#)

## PART 4

### MISCELLANEOUS AND SUPPLEMENTAL

#### Adaptation for Northern Ireland

**24.** In their application to Northern Ireland, these Regulations shall have effect subject to Schedule 5.

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#### Commencement Information

**I24** Reg. 24 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### GEMA's power to act on behalf of Northern Ireland Regulator

**25.** GEMA and NIAER shall be entitled—

- (a) to enter into arrangements for GEMA to act on behalf of NIAER for, or in connection with, the carrying out of some or all of the functions conferred on NIAER by these Regulations; and
- (b) to give effect to those arrangements.

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#### Commencement Information

**I25** Reg. 25 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Service of documents

**26.—(1)** Any document required or authorised by these Regulations to be served on a person may be so served—

- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
- (b) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body corporate; or
- (c) if the person is a partnership, by serving it in accordance with that sub-paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978<sup>(11)</sup> (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate; and
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

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(11) 1978 c.30.



#### Commencement Information

**I26** Reg. 26 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Savings for certain privileges

**27.—(1)** Nothing in these Regulations shall be taken as requiring a person to produce any documents or records if he would be entitled to refuse to produce those documents or records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, that they contain a confidential communication made by or to an advocate or solicitor in that capacity, or as authorising a person to take possession of any documents or records which are in the possession of a person who would be so entitled.

(2) Nothing in these Regulations shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse or civil partner.

(3) Subsection (1) of section 14 of the Civil Evidence Act 1968(**12**) (which relates to the privilege against self-incrimination) shall apply to the right conferred by paragraph (2) as it applies to the right described in subsection (1) of that section; but this paragraph does not extend to Scotland.

#### Commencement Information

**I27** Reg. 27 in force at 30.10.2006, see [reg. 1\(2\)](#)

#### Consequential modifications of enactments: Great Britain

**28.—(1)** Section 17 of the Gas Act 1986(**13**) (meter testing and stamping) shall have effect in its application to a meter which is a relevant instrument subject to paragraphs (2) to (4) below.

(2) If the meter is put into use within the meaning of and in accordance with these Regulations, it shall, for the purpose of section 17(1) and (11), be deemed to have been stamped.

(3) Subsections (2)(b) and (3) to (5) must be disregarded.

(4) Paragraphs (2) and (3) do not apply if the error of measurement of the meter exceeds—

- (a) in relation to a Class 1.5 relevant instrument within the meaning of Schedule 1 to these Regulations, twice the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule;
- (b) in relation to a Class 1.0 relevant instrument within the meaning of that Schedule, the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule.

(5) The Gas (Meters) Regulations 1983(**14**) shall not apply to a meter which is a relevant instrument except for regulation 4 and (so far as is necessary for the interpretation of that regulation) regulation 2.

(6) In regulation 4 of those Regulations—

- (a) references, however expressed, to a meter stamped under section 30 of the Gas Act 1972(**15**) (which provision is re-enacted in section 17 of the Gas Act 1986) shall be construed as including references to a meter bearing the CE marking and M marking;

(12) 1968 c.64.

(13) Section 17 was substituted by paragraph 13 of Schedule 3 to the Gas Act 1995 (c.45).

(14) S.I. 1983/684.

(15) 1972 c.60.

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- (b) references to a stamp shall be construed as including references to those markings; and
- (c) references to the standard or standards prescribed by regulation 3 of those Regulations shall be construed—
  - (i) in relation to a Class 1.5 relevant instrument within the meaning of Schedule 1 to these Regulations, twice the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule;
  - (ii) in relation to a Class 1.0 relevant instrument within the meaning of that Schedule, the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule.

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**Commencement Information**

**I28** Reg. 28 in force at 30.10.2006, see [reg. 1\(2\)](#)

**Consequential modifications of enactments: Northern Ireland**

**29.**—(1) Article 22 of the Gas (Northern Ireland) Order 1996(**16**) (meter testing and stamping) shall have effect in its application to a meter which is a relevant instrument subject to paragraphs (2) to (4) below.

(2) If the meter is put into use within the meaning of and in accordance with these Regulations, it shall, for the purpose of article 22(1) and (10), be deemed to have been stamped.

(3) Article 22(2) (in so far as it relates to the duty of a meter examiner to stamp, or authorise the stamping, of a meter) and (3) to (5) must be disregarded.

(4) Paragraphs (2) and (3) do not apply if the error of measurement of the meter exceeds—

- (a) in relation to a Class 1.5 relevant instrument within the meaning of Schedule 1 to these Regulations, twice the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule;
- (b) in relation to a Class 1.0 relevant instrument within the meaning of that Schedule, the maximum permissible error as set out, in relation to that class, in Table 3 in paragraph 13 of that Schedule.

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**Commencement Information**

**I29** Reg. 29 in force at 30.10.2006, see [reg. 1\(2\)](#)

1st October 2006

*Malcolm Wicks*  
Minister of State for Energy  
Department of Trade and Industry

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 1 para. 2 word inserted by [S.I. 2010/2881 reg. 7\(a\)\(ii\)](#)
- Sch. 1 para. 12 heading word substituted by [S.I. 2010/2881 reg. 7\(b\)](#)
- Sch. 1 para. 2 words inserted by [S.I. 2010/2881 reg. 7\(a\)\(i\)](#)
- Sch. 1 para. 13(3) words omitted by [S.I. 2010/2881 reg. 7\(c\)\(i\)](#)
- Regulations revoked by [S.I. 2016/1153 Sch. 3 para. 1 table](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 13(5) inserted by [S.I. 2010/2881 reg. 7\(c\)\(ii\)](#)