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## EXPLANATORY NOTE

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

These Regulations amend the Hallmarking Act 1973 (the “1973 Act”).

Regulation 2(2), exercising the power set out in section 2(2) of the European Communities Act 1972, amends the definition of EEA state. The original definition was inserted as part of the amendments to make the provisions of the 1973 Act consistent with Article 30 of the EC Treaty as explained, in relation to the importation by one Member State of articles made of or comprising precious metals from another Member State, by the European Court of Justice in the case of *Houtwipper* (Case C-293/93) [1994] ECR I – 4249).

Regulation 2(3) amends section 4 of the 1973 Act by imposing a duty on assay offices in relation to an article containing more than one precious metal. An assay office must only hallmark such an article if it is clear which part is made of which precious metal.

Regulation 2(6) substitutes for Parts 2 and 3 of Schedule 2 of the 1973 Act the new parts set out in the Schedule to the Regulations. Part 2 deals with articles of more than one precious metal. The requirement for a particular precious metal to exceed 50% of the weight of the article (previously set out in paragraph 4 of Part 2) has been removed. Articles containing more than one precious metal are eligible for hallmarking if each precious metal is of the minimum fineness. Part 2 sets out the procedure for determining which marks are to be struck and where they are to be struck.

Part 3 sets out the requirements for hallmarking an article of one or more precious metals and one or more other materials. The requirements relating to articles containing base metals have been modified so that an article is eligible for hallmarking if the base metal part is clearly distinguishable from any precious metal part. This requirement can be met either because of the colour of the base metal or by having its name, or the word “metal”, struck on it in a manner that complies with any regulations made by the British Hallmarking Council. Part 3 has also been modified so that it is no longer possible to hallmark an article containing gold, silver or platinum of less than the minimum fineness (prior to these Regulations gold, silver or platinum of less than the minimum fineness was defined as a base metal).

The weight based exemptions in paragraphs 12 and 14A of Part 2 of Schedule 1 apply to articles containing other materials, providing the article complies with the conditions of Part 3 of Schedule 2 to the 1973 Act. Regulations 2(4) and 2(5) provide that, for articles manufactured before 1st January 2008, the conditions of Part 3 of Schedule 2 that apply are the conditions prior to amendment by these Regulations.

These Regulations were notified in draft to the European Commission in accordance with Directive [98/34/EC](#) as amended by Directive [98/48/EC](#).

A full regulatory impact assessment of the effect that these Regulations will have on the costs to business is available from the Consumer and Competition Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website. Copies have also been placed in the libraries of both Houses of Parliament.