

**EXPLANATORY MEMORANDUM TO  
THE NON-AUTOMATIC WEIGHING INSTRUMENTS (AMENDMENT)  
REGULATIONS 2008**

**2008 No. 738**

1. This explanatory memorandum has been prepared by the National Weights and Measures Laboratory, an Executive Agency of the Department for Innovation, Universities and Skills (DIUS) and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations amend the Non-Automatic Weighing Instruments Regulations 2000 (S.I. 2000/3236) (“the principal Regulations”), which transposed the requirements of Council Directive 90/384/EEC (as amended by Council Directive 93/68/EEC) on the harmonisation of the laws of the Member States relating to non-automatic weighing instruments (“the NAWI Directive”), and provided in Part III, pursuant to section 15 of the Weights and Measures Act 1985, for requirements which must be complied with where instruments are in use for trade.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 These Regulations are being made to meet the request of the trade association for the weighing industry – following the introduction of the approved verifier system by the Deregulation (Weights and Measures) Order 1999, SI 1999/503 – that installers and repairers of instruments, as well as manufacturers, should be permitted to engage in re-qualification work.

4.2 Parts I, II and IV of the principal Regulations are made under section 2(2) of the European Communities Act 1972. Since the affixing of re-qualification stickers denotes compliance with requirements of the Directive, and regulation 4 in particular makes consequential changes to the provisions of Part II of the principal Regulations, these Regulations are also made under the 1972 Act.

4.3 As respects Part III, the principal Regulations are made under sections 15(1), 86(1) and 94(1) of the 1985 Act. These Regulations affect the application of Part III, and are made under the 1985 Act to the extent that—

(a) new regulation 2A provides for the appointment of “authorised persons” by the Secretary of State as well as by chief inspectors of weights and measures, and authorised persons are given functions under Part III;

(b) new regulation 24A of the principal Regulations, inserted by regulation 3 of the amendment, makes provision for a wider range of persons (including inspectors and approved verifiers) to affix re-qualification stickers indicating compliance with the principal Regulations, including Part III, after instruments have been repaired or re-installed.

## **5. Extent**

5.1 These Regulations apply to the United Kingdom (Part III of the principal Regulations does not apply in Northern Ireland).

## **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The principal Regulations set out the “essential requirements” with which a non-automatic weighing instrument, such as those used on a supermarket counter, must comply if it is to be used for commercial transactions and certain other prescribed purposes (Schedule 3 applications). It is an offence to use an instrument for a Schedule 3 application if it does not comply with the essential requirements.

7.2 The compliance of an instrument with the essential requirements must be ascertained in one of a number of prescribed ways and indicated on the instrument itself (e.g. by affixing the C.E. marking) before it is placed on the market. This initial verification is usually done by an “approved (notified) body”, that is a public or private sector body meeting the requisite standards of expertise and impartiality of testing.

7.3 Once an instrument has been placed on the market the responsibility for enforcement of the use for trade provisions in the Weights and Measures Act 1985 and equivalent legislation in Northern Ireland rests with local trading standards authorities in England, Scotland and Wales and with the Department of Enterprise, Trade and Investment in Northern Ireland.

7.4 Where an instrument ceases to comply with the essential requirements, or is otherwise considered unsuitable for use for trade, an “authorised person” (a local weights and measures inspector or some other person appointed for the purpose by a local weights and measures authority) can mark it with a “disqualification sticker”. Once such a “disqualification sticker” has been affixed to an instrument, it is an offence to use it for a Schedule 3 purpose until it has been brought back into compliance with the essential requirements, and the disqualification sticker has been effaced by a “re-qualification sticker”.

7.5 At present, under the NAWI 2000 Regulations, only approved (notified) bodies, certain manufacturers approved by them, and the Secretary of State can affix re-qualification stickers, after going through the same procedures as are carried out on initial verification. This contrasts with the position under the Regulations which implement the Measuring Instruments Directive (Directive 2004/22/EC) (the “MID Regulations”), whereby re-qualification can also be carried out by either a local weights and measures inspector or a manufacturer, installer or repairer of weights and measures equipment who has been given the status of “approved verifier” by the Secretary of State under the Weights and Measures Act 1985. There is in principle no reason why the enforcement mechanisms for the MID and NAWI 2000 Regulations should differ significantly.

7.6. Ever since the introduction of the approved verifier system by the Deregulation (Weights and Measures) Order 1999, SI 1999/503, the trade association for the weighing industry has requested that installers and repairers of instruments, as well as manufacturers, should be permitted to engage in re-qualification work. The need for re-qualification generally arises after repair or re-installation work has taken place, and it would be more efficient if the repairer or installer could verify the instrument's compliance with the essential requirements without, as now, having to call in an approved (notified) body.

7.7 We therefore propose that the NAWI Regulations should be brought into line with the MID Regulations in this respect. The amending Regulations enable instruments to be re-qualified by inspectors or approved verifiers, consistent with the MID Regulations. Approved (notified) bodies and manufacturers approved by an approved (notified) body will be permitted to continue re-qualification work under the amended Regulations.

7.8 The amendments effected by these Regulations are concerned with—

(a) who can exercise the official functions relating to instruments which are given to “authorised persons” under the principal Regulations; and

(b) the affixing of “re-qualification stickers” in certain circumstances as an indication that instruments which have been “disqualified” (for example, for having become insufficiently accurate) have been brought back into compliance with the requirements of the Directive, any EC type-approval certificate and any applicable requirements of Part III of the principal Regulations.

7.9 These Regulations modify the principal Regulations in the following ways:

(a) From 6th April 2008, an instrument to which a disqualification sticker has been affixed may be submitted for re-qualification by a local weights and measures inspector or an “approved verifier”, as well as by certain manufacturers or approved bodies.

(b) From 6th April 2008, in addition to the current possibility that a chief inspector in a local weights and measures authority may authorise a person who is employed by that authority, but who is not an inspector, to exercise the functions of an authorised person, the Secretary of State will be able to authorise non-inspectors to exercise the functions of an authorised person (other than the functions of disqualification and re-qualification).

7.10 Extensive consultation has taken place in relation to these Regulations. The responses of consultees to the original proposals for these Regulations was broadly favourable, and the original proposals were modified to take account of the consultation response. Details of the consultation exercise and the Government response to that consultation can be found on the DIUS web-site using the link below:

<http://www.nwml.gov.uk/news/newsarticle.aspx?id=81>

7.11 Guidance for small businesses was issued on 9 January 2008 to provide a minimum of 12 weeks' notice of the proposed coming into force date of 6 April 2008

in line with the Government's commitment on implementation periods. The guidance is available via the following link:

<http://www.nwml.gov.uk/news/newsarticle.aspx?id=87>

7.12 The principal Regulations consolidated with amendments the Non-automatic Weighing Instruments (EEC Requirements) Regulations 1995 (S.I. 1995/1907; as amended by S.I. 1997/3035 and 1998/2994). These Regulations are the first amendment to the principal Regulations since then, and therefore the National Weights and Measures Laboratory does not intend to further consolidate the legislation at this time.

## **8. Impact**

8.1 An Impact Assessment in respect of these Regulations is attached to this memorandum.

8.2 The impact on the public sector is detailed in the Impact Assessment attached to this memorandum.

## **9. Contact**

Any queries regarding the instrument should be addressed to Veronica Truscott at the National Weights and Measures Laboratory, Tel: 020 8943 7263 or e-mail: [veronica.truscott@nwml.gov.uk](mailto:veronica.truscott@nwml.gov.uk)

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>DIUS/National Weights and Measures Laboratory (BERR Btr</b>	<b>Title:</b> <b>Impact Assessment of the Non-automatic Weighing Instruments (Amendment) Regulations</b>	
<b>Stage:</b> Final	<b>Version:</b> 1	<b>Date:</b> 1 January 2008
<b>Related Publications:</b> Consultation Document on the Non-automatic Weighing Instruments (NAWI) (Amendment) Regulations		

**Available to view or download at:**

<http://www.nwml.gov.uk/documents/nawi%20condoc%20.pdf>

**Contact for enquiries:** Veronica Truscott

**Telephone:** 020 8943 7263

**What is the problem under consideration? Why is government intervention necessary?**

The existing NAWI Regulations 2000 are more restrictive than the analogous Regulations implementing the Measuring Instruments Directive. Under the latter, relevant businesses are permitted to reverify EU-regulated measuring instruments after repair, and the Secretary of State is permitted to appoint non-inspectors as 'authorised persons' to enable market surveillance to be carried out by persons other than the local Inspector of Weights and Measures (LIWM). Making the NAWI Regulations more consistent with the approach taken under the MID Regulations requires amending legislation.

**What are the policy objectives and the intended effects?**

Wider range of organisations to carry out reverification. Non-inspectors (as well as inspectors) could be authorised persons to do market surveillance; non-inspectors not to affix disqualification stickers; no commercial 3rd party inspectors created. Overall this would allow greater flexibility for consumers in choice of repair and reinstallation services for NAWIs and create a level playing field for all parties involved in providing those services.

**What policy options have been considered? Please justify any preferred option.**

Option One - make the proposed NAWI (Amendment) Regulations. This is the preferred option - it would broadly align the reverification activities of the NAWI Regulations 2000 with the MID Regulations and with all other national metrology legislation on weighing and measuring equipment, and thereby update the former Regulations; it would also create a level playing field for all parties involved in subsequent verification.

Option Two - continue with the present situation of limited access under the NAWI Regulations compared to the MID Regulations.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** NWML regularly reviews its legislation, and holds regular discussions: with the weights and measures representatives of LACORS twice a year, and with the weighing industry trade association annually.

**Ministerial Sign-off** For SELECT STAGE Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

Ian Pearson

.....Date: 13<sup>th</sup> March 2008

## Summary: Analysis & Evidence

**Policy Option: Make the proposed Regulations**

**Description: The Non-automatic Weighing Instruments (Amendment) Regulations**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		<p>Description and scale of <b>key monetised costs</b> by 'main affected groups' 1-off costs derive from additional companies deciding to enter the market. They are based on figures and variables outlined in paragraph 6 of the evidence base, grossed up to the relevant 60 of the 90 firm membership of the weighing industry trade association. Annual costs relate to the yearly fees of those additional companies. <b>All these costs therefore are voluntary, based on business decision that the business benefits of becoming an approved verifier outweigh these costs</b></p>	
	<b>One-off</b>	<b>Yrs</b>		
	£ 60,000-	1		
	<b>Average Annual Cost</b> (excluding one-off)			
	£ 60,000-		<b>Total Cost (PV)</b>	£
Other <b>key non-monetised costs</b> by 'main affected groups'				

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		<p>Description and scale of <b>key monetised benefits</b> by 'main affected groups' Businesses able to re-verify equipment themselves will make savings, figures based on 1 respondent's estimated savings, see paragraph 4.7 of evidence base. This is a rough indicative figure based on limited information. Much of this saving will be passed onto customers, who will also benefit from, for example, one supplier repairing and re-verifying instruments eg c.£60 for one hospital scale repaired &amp; re-verified by 1 firm p.a.</p>	
	<b>One-off</b>	<b>Yrs</b>		
	£			
	<b>Average Annual Benefit</b> (excluding one-off)			
	£ 120,000-		<b>Total Benefit (PV)</b>	£
Other <b>key non-monetised benefits</b> by 'main affected groups' There would be benefits in terms of savings in time. Even where the financial saving is marginal, the fact that a manufacturer can become an approved verifier means he can provide a service at his own convenience rather than waiting for the availability of a Trading Standards Officer.				

### Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ See paragraph 4.9		
What is the geographic coverage of the policy/option?		UK			
On what date will the policy be implemented?		6 April 2008			
Which organisation(s) will enforce the policy?		NWML+Inspectors			
What is the total annual cost of enforcement for these		£ cost neutral			
Does enforcement comply with Hampton principles?		Yes			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£ N/A			
What is the value of changes in greenhouse gas emissions?		£ Not applicable			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off)		Micro £1,000	Small £1,000	Medium £1,500	Large £1,500
Are any of these organisations exempt?		No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)				(Increase - Decrease)
Increase	£	Decrease	£	<b>Net</b> £ Nil

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value



## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

# Impact Assessment for the Non-automatic Weighing Instruments (Amendment) Regulations

## 1. Introduction

This assessment estimates the costs and benefits of the Non-automatic Weighing Instruments (Amendment) Regulations (“the proposed Regulations”).

## 2. Purpose and intended effect

### 2.1 Objective

2.1.1 The proposed Regulations are being produced to amend the Non-automatic Weighing Instruments Regulations 2000 (“the NAWI Regulations”) which implement the Non-automatic Weighing Instruments Directive (“the NAWI Directive”)<sup>1</sup>. The proposed amendments are specifically to align the provisions relating to subsequent verification in the NAWI Regulations 2000 with the corresponding provisions of the various sets of Regulations which implemented the Measuring Instruments Directive (MID) in 2006 (“the MID Regulations”)<sup>2</sup>. This would permit related businesses to re-verify NAWIs after repair as they do with other EU-regulated measuring instruments.

2.1.2 In particular, the amendment proposes that:

(a) a wider range of organisations – local weights and measures authority inspectors and “approved verifiers”, in addition to “approved (notified) bodies”, as at present – would be able to engage in re-verification activities and affix re-qualification stickers;

(b) the Secretary of State can appoint non-inspectors as “authorised persons”, but they would not be permitted to affix disqualification stickers. This would enable market surveillance to be carried out by persons other than the local Inspector of Weights and Measures. It does not provide for the creation of commercial third party inspectors.

## 2.2 Background

2.2.1 The NAWI Directive has been implemented in respect of:

- placing on the market, putting into service and use of instruments
- approval and verification of non-automatic weighing Instruments (NAWIs) in terms of examination and supervision, including EC type examination, EC verification, EC unit verification, quality system approval and EC declaration of type conformity
- provisions relating to the in-service use for trade of NAWIs
- enforcement, including disqualification, re-qualification, immediate enforcement action and compliance notice procedures
- general provisions, including powers to inspect

Instruments in the UK are inspected on a risk basis. If they are found to be non-compliant they may be disqualified or a non-compliance notice issued. If a disqualified instrument is repaired or adjusted to bring it back to compliance, the instrument is required to be re-qualified. During its life, an instrument

<sup>1</sup> Council Directive 90/384/EEC of 20 June 1990 on the harmonization of the laws of the Member States relating to non-automatic weighing instruments as amended by Council Directive 93/68/EEC.

<sup>2</sup> Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments was implemented by, amongst others, the Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006 (SI 2006/1258).

might be altered, repaired, parts added or replaced without being disqualified. Where the instrument could have been disqualified prior to repair/modification re-qualification is expected to take place.

2.2.2 The current NAWI Regulations permit both LWMAs and manufacturers (through a quality body) as approved (notified) bodies to carry out subsequent verification and associated activities.

Subsequent verification i.e. re-qualification may be carried out by LWMA Inspectors and approved verifiers in the MID Regulations. Approved verifiers are not included in the NAWI Regulations 2000 because that possibility had not been provided for in the Weights and Measures Act 1985. The NAWI Regulations were made originally in 1992 and therefore predate the Deregulation (Weights and Measures) Order 1999 which first provided for approved verifiers in addition to inspectors to verify instruments. The NAWI Regulations were not amended earlier to introduce the approved verifier system because the new NAWI Regulations 2000 were a consolidation of the NAWI Regulations 1992, as amended, rather than a re-drafting exercise, and in addition it was considered too early at that time to assess the impact of the Deregulation Order.

Re-qualification includes the testing of instruments already in use in the market place to re-confirm that they are compliant with the requirements of the NAWI Directive having ceased to comply with the essential requirements.

Activities relating to re-qualification are disqualification, and enforcement and inspection activities such as immediate enforcement action and compliance notice procedures, known as safeguard clause actions under the MID. It is not proposed to amend provisions for the latter two activities in the NAWI Regulations because they already align with the equivalent provisions in the MID Regulations.

The MID Regulations provide for these tasks to be performed by an inspector or, other than for disqualification, a person appointed by the Secretary of State i.e. an “approved verifier”.

2.2.3 Unlike the MID Regulations, there is no provision in the NAWI Regulations 2000 for subsequent verification activities to be carried out in the same way by either of the following groups:

(a) All 200+ LWMAs

Currently, only about 105 LWMAs are designated for this purpose as an approved (notified) body, whereas all 200+ LWMAs would have the duty to re-qualify under the proposed amendment. In addition, the NAWI Regulations 2000 provide for “authorised persons” i.e. an inspector or some other person employed by a local weights and measures authority, who is authorised to exercise functions under the NAWI Regulations in its area. This term is currently used in relation to disqualification, enforcement and safeguard clause actions. From the coming into force date of the proposed Regulations, other than for the purposes of disqualification, the role of ‘authorised person’ would be opened up to include any suitable person appointed by the Secretary of State.

(b) “Approved verifiers”

Currently, only manufacturers are approved under the responsibility of an approved (notified) body, whereas approved verifiers can be installers or repairers, in addition to manufacturers, who are approved by the Secretary of State for the testing and verifying of weighing or measuring equipment under section 11 of the Weights and Measures Act 1985 and, in this case, would be approved for the purpose of subsequent verification under the proposed Regulations.

**2.3** The amendment to the Regulations now opens up the NAWI market to provide a level playing field for all parties involved with re-qualification in relation to both of the New Approach directives in the field of metrology i.e. the NAWI Directive and the MID, whilst retaining for the most part the benefits of the existing regime.

### **3. Options**

#### **3.1 Option One – make the proposed Regulations**

Making the proposed Regulations would broadly align:

3.1.1 the subsequent verification activities of the NAWI Regulations 2000 with the MID Regulations and thereby bring the former Regulations up to date

3.1.2 the UK implementation of the NAWI Directive with the MID and create a level playing field for all parties involved in subsequent verification

3.1.3 the subsequent verification actions of the NAWI Regulations 2000 with the verification of all other national metrology legislation on weighing and measuring equipment.

### 3.2 Option Two – do nothing

Doing nothing would mean continuing with the present situation whereby the current NAWI Regulations only provide for approved (notified) bodies or approved verifiers to carry out subsequent verification, whereas the MID Regulations provide for all LWMA's and "approved verifiers", not only as manufacturers but also as installers and repairers, to carry out subsequent verification activities. This option would allow a situation of limited access to continue under the UK implementation of the NAWI Regulations compared with the broader provisions under the MID Regulations.

## 4. Costs and benefits

### Sectors and groups affected

4.1 LWMA's, approved (notified) bodies and approved verifiers i.e. manufacturers, installers and repairers and the Secretary of State.

### Benefits

4.2 The benefit of Option One is that the new provisions would be broadly consistent with current provisions under the MID Regulations. As stated above, the NAWI re-qualification market would be opened up to provide a level playing field both for all parties involved, and such that the two "New Approach" directives in the field of metrology (NAWI and MID) would be implemented in the UK on a consistent basis. Approved verifiers appointed by the Secretary of State, as well as inspectors, would be able to carry out re-qualification activities, and approved (notified) bodies could continue carrying out re-qualification work. Authorised persons for enforcement type activities ie disqualification, inspection and safeguard clause actions who are currently not inspectors can continue in that role while they remain in post and employed with the same local authority, or until they decide to relinquish it themselves. The proposed amendment would help LWMA's that currently are not approved bodies to regain some of the revenue in re-verifications which has been lost over a period of about the past 15 years since the NAWI Directive was implemented. See the Small Firms Impact Test and the Competition Assessment below for more about the efficiency savings for industry from the proposed new arrangements.<sup>3</sup>

4.3 Option Two overall has no perceived benefits. It would leave those installers or repairers who would wish to engage in re-qualification activities and affix re-qualification stickers at a disadvantage compared with those organisations under the MID Regulations.

### Costs

4.4 Less than half the respondents either did not answer the question or expected no change in costs because they already had the resource and/or the infrastructure to support the change. A small number of respondents to the consultation document expected that costs would not be significant in overall terms as a result of the proposed amendment, provided that the price of applying for re-qualification status was kept minimal or reasonable for small installation companies and repairers. For those wishing to become an approved verifier, there would be a balance between the initial start-up costs of setting up and maintaining the required quality system, and the cost and time of having equipment verified by a LWMA Inspector or a LWMA Notified Body. See the Small Firms Impact Test and the Competition Assessment below for more about the costs to industry from the proposed new arrangements.

4.5 NWML recognises the concerns of LWMA's about the effect the changes would have on loss of income for notified bodies due to additional competition in the market place but considers that implementation on this basis would be cost neutral because any loss of fee income would be balanced by the removal of the need to carry out the task. This view was not supported by the Local Authority Co-ordinators of Regulatory Services (LACORS), although neither they nor the weighing industry trade association were able to quantify the cost without asking each LWMA individually because, for example,

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<sup>3</sup> Whilst NWML does not propose to revoke any legislation as an offsetting measure, the changes proposed to the NAWI Regulations 2000 provide greater choice for business and should be viewed as a deregulatory measure.

an authority that has a large scale manufacturer in their area will obviously do much more verification work than one that does not. Only one LWMA provided an estimate of the potential further reduction in income from re-verification fees, at £6,500 per annum (but no estimate of corresponding resource savings), whilst the majority of local authorities in the United Kingdom did not have concerns of any kind about such costs. It is for LWMAs to ensure that the fees per re-verification visit reflect the true costs of their re-verification activities irrespective of the number of visits undertaken. NWML would therefore consider the net effect of any such costs as very minimal.

4.6 The additional competition referred to in the preceding paragraph potentially comes from installers and repairers being appointed as approved verifiers and LWMAs who are not notified bodies. For the latter it will be an opportunity to regain some revenue in re-verifications which has not been possible over a period of about the past 15 years since the NAWI Directive was implemented.

## **Analysis and Evidence**

4.7 There is good evidence in paragraph 6 (below) of resource cost savings for business. However, only one respondent provided an indication of the amount of such savings at the firm level. Grossing up the single respondent's estimate of £2,000 - £4,000 per annum to 60 of the 90 firm membership of the weighing industry trade association gives us an indicative figure for savings of £120,000 - £240,000 per annum recognising the limitations in this data. (About 30 of the weighing industry trade association's 90 firm membership already have self-verifier status granted by an approved (notified) body, and are therefore able to engage in re-verification activities and affix re-qualification stickers.) These annual savings might be in part balanced by losses of income to the current suppliers of the services, but there should be gains in efficiency and responsiveness of the system as the level playing field enables users to make the best arrangements for their own needs. It is also worth mentioning that much of the resource saving will accrue to customers, for example, about £60 for each hospital scale repaired by one small firm. To acquire the necessary accreditations, range from £1000-£5000 plus annual fees and these have been included in the indicative cost – benefit calculations.

4.8 A more accurate estimate of the overall resource costs savings from the measure could only be made with fuller unit cost information. But with the arguments from principle, and the indication of some cost savings from the small number of responses, the implication is that there will be significant net savings in resource costs including a more efficient and responsive system for carrying out the re-verifications; and with no voices raised against the proposed amendment there is a reasonable economic case for it.

4.9 Bearing in mind the very limited amount of evidence, calculating present values (PVs) and net present values (NPVs) for the Analysis and Evidence Summary sheet is not plausible. The evidence indicates modest net benefits but that these cannot be reliably quantified.

4.10 For a summary of the costs and benefits of this proposal compared to the current situation, see the table below at paragraph 11.

## **5. Statutory Specific Impact Tests**

After initial screening as to the potential impact of these Regulations on race, disability and gender equality, it has been decided that there will not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both. The Regulations are not expected to have any impact on the Convention Rights of any person or class of persons.

## **6. Small Firms Impact Test (SFIT)**

The consultation with the UK Weighing Federation (UKWF) indicated that the proposal is welcome. It would be beneficial for installers and repairers of non-automatic weighing instruments because it would enable them to compete with larger businesses undertaking re-qualification activities. Four small businesses were interviewed - one installer; one installer, repairer and service agent; and two distributors/service agents who carry out repairs and/or service activities. These firms represent a mixture of members and non-members of the weighing industry trade association. They all gave positive responses which, in sum, were that there would be benefits in terms of savings, both financial and in time (even where the financial saving is marginal, the fact that a manufacturer can become an approved verifier means he can provide a service at his own convenience rather than waiting for the availability of a Trading Standards Officer), and increased income; customers (from industry and the medical sector) would benefit from a more complete service and more affordable pricing. An example is that the current

cost of over £100 per scale to a hospital (requiring more than one visit) would be reduced to £35 - £40 in a single visit when the proposed amendment takes effect. One of the small firms which participated in the test said that the British Standards Institution was charging them a one-off cost of £4,000 to £5,000 for assessment to become an approved verifier. These figures relate to firms without a formal quality system already in place; for firms with a formal quality system in place, the one-off cost charged by NWML ACB would be c.£1,000 - £2,000. For less complex and/or smaller firms wishing to become approved verifiers, NWML ACB's one-off assessment fees are c.£2,000 - £2,500. The SFIT also revealed that there is a yearly fee to maintain a firm's quality management system - NWML ACB's annual audit fee for a firm to keep its approval is c.£1,000 - £1,500. One small firm would save £2,000 to £4,000 per annum which it could pass on to its customers, and its costs would be lower once it was permitted to reverify equipment.

## **7. Competition Assessment**

The Competition Assessment was undertaken with regard to the re-qualification market, which is equally divided between two to four large international companies and a majority of small businesses which are mainly local to the companies they serve.

### **Option One**

The proposal would provide firms with the ability to choose the price, quality, range and location of their product i.e. their repair and re-installation services would be enhanced. (Most of the answers to the competition filter test were negative, indicating that the proposal is likely to have little or no effect on competition overall.) The proposal does not have an impact on the administrative burdens baseline of £4,483 in total for the NAWI Regulations 2000, but it would introduce extra competition into the market place from installers and repairers being appointed as approved verifiers (and from LWMA's which are not approved (notified) bodies) to bring it in line with the Deregulation (Weights and Measures) Order 1999, SI 1999/503).

### **Option Two**

Option Two is a continuation of existing policy which is restrictive in nature and, although it does not give rise to any issues based on the filter test, it does not provide a wider range of opportunities for business as set out in Option One.

## **8. Rural proofing**

The proposed Regulations have been scrutinised with the Countryside Agency's rural proofing checklist in mind. No instance of the proposed Regulations impacting upon rural communities or areas has been identified. These Regulations are therefore considered to be rural proofed.

## **9. Enforcement, sanctions and monitoring**

9.1 Enforcement of the NAWI Regulations 2000 would continue to be carried out on the basis of risk-based inspection by the 200+ LWMA's which currently undertake this activity. The proposed amendment would not change the enforcement regime but would mean that all inspectors as well as approved verifiers i.e. not only manufacturers but also installers and repairers approved by the Secretary of State would carry out the subsequent verification activities of testing and re-qualification of NAWI's. Approved verifiers will be required to be appointed in relation to each type/model of instrument. Authorised persons who come across instruments which no longer comply with the proposed Regulations may, after considering any representations made, decide to carry out compliance notice procedures or to take immediate enforcement action whereby the use of an instrument would be restricted or, in extreme cases, prohibited.

9.2 It is intended to monitor the proposed Regulations, and this would be done in conjunction with industry and the Inspectorate. The National Weights and Measures Laboratory holds regular discussions with the weights and measures representatives of the LACORS twice a year, and with the UKWF annually.

## **10. Implementation and delivery plan**

- The proposed Regulations have been updated as set out in paragraph 3 above in the light of the consultation response.
- The Regulations will enter into force on 6 April 2008.

- NWML issued guidance to businesses on the proposed amendment to the NAWI Regulations 2000 in January 2008 to allow at least 12 weeks before it comes into force to prepare for the implementation of this new legislation.

## 11. Summary and recommendation

	Option 1 Make proposal		Option 2 Do nothing	
	Per Firm £	Total <sup>4</sup> £	Per Firm £	Total £
<b>Costs – One-off First Year only</b>	1,000 – 5,000 <sup>5</sup>	c.60,000 – c.300,000	N/A	2,000,000 <sup>6</sup>
<b>Costs – Annual</b>	1,000 - 1,500 <sup>7</sup>	c.60,000 – c. 90,000	N/A	2,000,000
<b>Benefits - Annual</b>	2,000 - 4,000 <sup>8</sup>	c.120,000 – c.240,000	N/A	0

11.1 Changes made as a result of the consultation indicate a high level of support for the principle of aligning the NAWI Regulations 2000 with the Regulations implementing the MID with respect to re-verification activities whilst retaining in most part the benefits of the existing regime.

11.2 Notwithstanding the view of LACORS that implementation of the proposed Regulations would not be cost neutral, they were supportive of the proposal. Support from the trade association for the weighing industry for the revised proposal was also received. The main substantive point raised in response to the consultation on the proposal has been dealt with by amending our original proposals as set out in paragraph 2 above, and other points will be addressed as matters for clarification in the Notes for Guidance on the proposed Regulations.

11.3 It is recommended that Option One be followed. This will result in resource cost savings for business by permitting installers and repairers to become approved verifiers and therefore to carry out re-qualification activities, and much of the resource saving will accrue to customers. This is in line with government policy to reduce barriers to trade wherever possible.

### Contact point for enquiries and comments:

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<sup>4</sup> The total is obtained by multiplying the figures in the first column by circa(c.)60 of the c.90 UKWF firms who could become self-verifiers as a result of the proposal.

<sup>5</sup> For assessment to become an approved verifier (i.e. installers and repairers), British Standards Institution charges £4,000 to £5,000 to firms without a formal quality system already in place, and NWML ACB charges c.£2,000 - £2,500 to less complex and/or smaller firms; the latter charges c.£1,000 - £2,000 to firms with a formal quality system already in place.

<sup>6</sup> This figure has been calculated by multiplying the c.20,000 instruments that are re-verified annually by the cost of re-verification by a local weights and measures authority inspector of about £100 including VAT per instrument.

<sup>7</sup> NWML ACB charges an annual audit fee of c.£1,000 - £1,500 to maintain a firm's quality management system/ for a firm to keep its approval.

<sup>8</sup> One small firm would save £2,000 to £4,000 per annum which it could pass on to its customers; customers in the medical sector would also benefit e.g. from a minimum of £60.00 per hospital scale repaired by another small firm.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

## Annexes



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