Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Non-automatic Weighing Instruments Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2016 No. 1152

WEIGHTS AND MEASURES

The Non-automatic Weighing Instruments Regulations 2016

Made - - - -	*29th November 2016*
Laid before Parliament	*6th December 2016*
Coming into force - -	*28th December 2016*

The Secretary of State is a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to, and for purposes ancillary to, the regulation of specifications, construction, placing on the market and use of articles, instruments, containers or other equipment intended for weighing, measuring or testing.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A [F3] of Schedule 2 to, that Act and, in relation to Part 7 of the Regulations (and any other provisions of these Regulations to the extent that they apply to, or give effect to, Part 7), under powers conferred by sections 15(1) and 86(1) of the Weights and Measures Act 1985 [F4].

F1 S.I. 1975/427.

F2 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)** and the European Union (Amendment) Act 2008 (c.7), **Sch**edule, Part 1.

F3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1.

F4 1985 c.72.

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PART 1

INTRODUCTORY

Citation commencement and extent

1.—(1) These Regulations may be cited as the Non-automatic Weighing Instruments Regulations 2016.

(2) These Regulations come into force on 28th December 2016.

(3) These Regulations extend to Northern Ireland except for Part 7.

Interpretation

2.—(1) In these Regulations—

"accreditation" means accreditation as defined in point 10 of Article 2 of RAMS ;

"accreditation certificate" means a certificate, issued by the United Kingdom Accreditation Service or a national accreditation body as defined in point 11 of Article 2 of RAMS in another EEA state, attesting that a conformity assessment body meets the notified body requirements;

"authorised representative" means any person established within the European Economic Area who has received a written mandate from a manufacturer to act on the manufacturer's behalf in relation to specified tasks;

"CE marking" means a marking which takes the form set out in Annex II of RAMS;

"commencement date" means the date referred to in regulation 1(2);

"Commission" means the Commission of the European Union:

"competent authority" means a person who is, pursuant to regulation 62 (competent authorities and enforcement proceedings), authorised to enforce these Regulations ;

"compliance notice" means a notice served in accordance with regulation 63(2);

"conformity assessment" means the process demonstrating whether the essential requirements relating to a regulated non-automatic weighing instrument have been met;

"conformity assessment body" means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

"the Directive" means Directive 2014/31/EU of the European Parliament and of the Council of 26th February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments [F5] and references to the Directive (or a specific provision of it) are references to the Directive (or that provision) as from time to time amended;

"disqualification mark" means a mark or sticker the design of which is published by the Secretary of State [F6] and which may be affixed to a regulated non-automatic weighing instrument in accordance with regulation 67 (disqualification);

"distributor" means any person in the supply chain, other than a manufacturer or an importer, who makes a non-automatic weighing instrument available on the market;

"economic operator" means a manufacturer, authorised representative, importer or distributor;

"enforcement notice" means a notice served in accordance with regulation 64(2);

"enforcement officer" means—

(a) an inspector; or

(b) a person appointed by the Secretary of State to act on the Secretary of State's behalf to enforce these Regulations;

"essential requirements" means, in relation to a regulated non-automatic weighing instrument (or a class of that instrument), the requirements specified as being applicable in relation to that regulated non-automatic weighing instrument (or that class of instrument) in Annex I to the Directive;

"EU declaration of conformity" means a declaration of conformity required to be drawn up in accordance with Chapter 2 of Part 3;

"EU-type examination certificate" means an EU-type examination certificate issued by a notified body in accordance with Module B of Annex II to the Directive;

"harmonised standard" has the meaning set out in point 1(c) of Article 2 of Regulation (EU) No. 1025/2012 of the European Parliament and of the Council on European standardisation [F7] (as amended from time to time);

"importer" means any person who—

(a) is established within the European Economic Area ; and

(b) places a non-automatic weighing instrument from a third country on the European Economic Area market;

"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 a marking applied to a regulated non-automatic weighing instrument which consists of the capital letter 'M' and the last two digits of the year of its affixing surrounded by a rectangle, the height of which is equal to that of the CE marking applied to that instrument;

"make available on the market" means any supply of a non-automatic weighing instrument for distribution or use on the European Economic Area market in the course of a commercial activity, whether in return for payment or free of charge and related expressions are to be construed accordingly;

"manufacturer" means any person who—

(a) manufactures a non-automatic weighing instrument or has a non-automatic weighing instrument designed or manufactured and markets that instrument under their name or trademark; or

(b) is to be treated as a manufacturer by virtue of regulation 5(2);

"market surveillance authority" means the Secretary of State acting in the capacity of market surveillance authority pursuant to the designation made by regulation 57 (the market surveillance authority), and, where the context requires, a market surveillance authority in another EEA state;

"national accreditation body" means the national accreditation body as defined in point 11 of Article 2 of RAMS;

"non-automatic weighing instrument" means a weighing instrument that—

(a) serves to determine the mass of a body by using the action of gravity on that body and which may also serve to determine other mass-related magnitudes, quantities, parameters and characteristics; and

(b) requires the intervention of an operator during weighing;

"notified body" means a conformity assessment body that has been notified to the Commission in accordance with Part 5 and includes, where the context so requires, a notified body designated as such in another EEA state in accordance with the Directive;

"notified body requirements" means the requirements set out in Schedule 3 (requirements related to notified bodies)

"notifying authority" means the notifying authority within the meaning of regulation 48 (the notifying authority);

"place on the market" means the first making available of a non-automatic weighing instrument on the market in the European Economic Area and related expressions are to be construed accordingly;

"RAMS" means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93[F8] (as amended from time to time);

"recall" means any measure aimed at achieving the return of a regulated non-automatic weighing instrument that has already been made available to the end-user and related expressions are to be construed accordingly;

"regulated non-automatic weighing instrument" means a non-automatic weighing instrument which is intended to be used to perform one of the functions referred to in regulation 3(2);

"relevant economic operator" means, in relation to a non-automatic weighing instrument, an economic operator with obligations in respect of that non-automatic weighing instrument under Part 2;

"re-qualification mark" means a mark or sticker the design of which is published by the Secretary of State [F9] and which is affixed to a regulated non-automatic weighing instrument in accordance with regulation 68 (re-qualification);

"technical documentation" means the documentation which meets the requirements of Annex II to the Directive;

"technical specification" means a document that prescribes technical requirements to be fulfilled by a regulated non-automatic weighing instrument;

"Union harmonisation legislation" means any European Union legislation harmonising the conditions for the marketing of products;

"United Kingdom Accreditation Service" means the company limited by guarantee incorporated in England and Wales under number 3076190;

"weights and measures authority" means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985;

"withdraw" when used in relation to a regulated non-automatic weighing instrument means taking any measure aimed at preventing an instrument in the supply chain from being made available on the market and related expressions are to be construed accordingly.

(2) A non-automatic weighing instrument that meets the requirements of the Directive by virtue of the laws of another EEA state is to be treated as meeting the requirements of these Regulations (except any requirement of these Regulations for anything to be written in English) and references to a non-automatic weighing instruments being in conformity with these Regulations are to be construed accordingly.

(3) Other expressions used in these Regulations have in relation to the application of these Regulations to—

(a) Great Britain, the same meanings as in the Weights and Measures Act 1985 [F10]; and

(b) Northern Ireland, the same meanings as in the Weights and Measures (Northern Ireland) Order 1981 [F11].

F5 OJ L 96, 29.3.2014 p. 107.
F6 The design of the disqualification mark is published on page 66 of "Weights and Measures, the Non-automatic Weighing Instruments Regulations 2000 (S.I. 2000 No. 3236) as amended by the Non-automatic Weighing Instruments (Amendment) Regulations 2008 (S.I. 2008/738, Guidance on Regulation, December 2015, Version 6," published by the Secretary of State which is available on the gov.uk website. Paper copies are available from the Regulatory Delivery Directorate, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.
F7 OJ L 316, 14.11.2012, p. 12.
F8 OJ L 218, 13.8.2008, p. 30.
F9 The design of the disqualification mark is published on page 66 of "Weights and Measures, the Non-automatic Weighing Instruments Regulations 2000 (SI 2000 No.3236) as amended by the Non-automatic Weighing Instruments (Amendment) Regulations 2008 (SI 2008/738, Guidance on Regulation, December 2015, Version 6," published by the Secretary of which is available on the gov.uk website. Paper copies are available from the Regulatory Delivery Directorate, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.
F10 1985 c.72.
F11 S.I. 1981/231 (N.I. 10).

Application of these Regulations

3.—(1) Subject to regulation 4 (revocations and transitional and consequential provisions), these Regulations apply to non-automatic weighing instruments.

(2) These Regulations, except Part 4, apply to an instrument (referred to in these Regulations as a "regulated non-automatic weighing instrument") for use for any of the following purposes—

(a) the determination of mass for commercial transactions;

(b) the determination of mass for the calculation of a toll, tariff, tax, bonus, penalty, remuneration, indemnity or similar type of payment;

(c) the determination of mass for the application of laws or regulations or for an expert opinion given in court proceedings;

(d) the determination of mass in the practice of medicine for weighing patients for the purposes of monitoring, diagnosis and medical treatment;

(e) the determination of mass for making up medicines on prescription in a pharmacy and determination of mass in analyses carried out in medical and pharmaceutical laboratories; and

(f) the determination of price on the basis of mass for the purposes of direct sales to the public and the making up of prepackages.

(3) Part 4 applies to a non-automatic weighing instrument that is not a regulated instrument.

Revocations and transitional and consequential provisions

4.—(1) The Non-automatic Weighing Instruments Regulations 2000 [F12] and the Non-automatic Weighing Instruments (Amendment) Regulations 2008 [F13] are revoked.

(2) In this regulation, "the former law" means the Regulations referred to in paragraph (1).

(3) This paragraph applies to a regulated non-automatic weighing instrument placed on the market before the commencement date which was required by any provision of the former law to meet the essential requirements.