STATUTORY RULES OF NORTHERN IRELAND

2001 No. 202

WEIGHTS AND MEASURES

Non-automatic Weighing Instruments (Use for Trade) Regulations (Northern Ireland) 2001

Made - - - -	*10th May 2001*
Coming into operation	*15th June 2001*

The Department of Enterprise, Trade and Investment, in exercise of the powers conferred by Article 13(1) of the Weights and Measures (Northern Ireland) Order 1981(**1**) and now vested in it(**2**) and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Non-automatic Weighing Instruments (Use for Trade) Regulations (Northern Ireland) 2001 and shall come into operation on 15th June 2001.

(2) The Regulations set out in the Schedule are hereby revoked to the extent shown in column 3 thereof.

Interpretation

2.—(1) In these Regulations—

"the 1981 Order" means the Weights and Measures (Northern Ireland) Order 1981;

"the 2000 Regulations" means the Non-automatic Weighing Instruments Regulations 2000(**3**);

"approved body" means—

(a) a body which is designated by the Secretary of State under regulation 9(1) of the 2000 Regulations for the purpose of carrying out one or more tasks referred to in Article 8 of the Directive; or

(b) a body which is designated for that purpose by another member State,

and whose name is notified to the Commission and the member States under Article 9 of the Directive;

"approved type" means a type in respect of which an EC type-approval certificate is in force;

(**1**) S.I. 1981/231 (N.I. 10)
(**2**) By S.I. 1982/846 N.I. 11)Art. 4; *see* also S.I. 1999/283 (N.I. 1) Art. 3(5)
(**3**) S.I. 2000/3236

"the Directive" means Council Directive 90/384/EEC of 20th June 1990 on the harmonisation of the laws of the member States relating to non-automatic weighing instruments(**4**) as amended by Council Directive 93/68/EEC(**5**);

"EC type-approval certificate" means a certificate issued by the Secretary of State under regulation 10 of the 2000 Regulations or by an approved body designated by another member State, as the case may be;

"instrument" means a non-automatic weighing instrument (including ancillary equipment) which—

(i) requires the intervention of an operator during weighing, and

(ii) serves to determine the mass or weight of any thing by using the action of gravity on that thing (whether or not it may also determine related matters such as price, quantity or magnitude on the basis of mass or weight); and

"load receptor" means a part of an instrument on which loads are placed for the purpose of their being weighed.

(2) In these Regulations, references to instruments of a numbered Class shall be construed in accordance with paragraph 2 of Annex 1 of the Directive which is set out in Schedule 2 to the 2000 Regulations.

Application

3. These Regulations apply to any instrument, in use for trade, to which regulation 3 of the 2000 Regulations(**6**) applies.

Restrictions on use of instruments for trade

4.—(1) Save in accordance with paragraph (2), a person shall not use for trade an instrument marked with a weighing range for determining a weight outside that range in relation—

(a) to, or to articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;

(b) to precious stones or pearls; or

(c) to drugs or other pharmaceutical products.

(2) An instrument marked with a weighing range may be used for trade for determining the weight of any item by ascertaining the difference between two weights (both of which fall within the weighing range), that is to say, the weight of that item and another item or items and the weight of that other or those other items only.

(3) A person shall not use for trade any instrument other than an instrument of accuracy classification as Class I or Class II in any transaction—

(a) in, or in articles made from, gold, silver or other precious metals, including gold or silver thread or fringe;

(b) in precious stones or pearls.

(4) A person shall not use for trade an instrument carrying a marking in accordance with the EC type-approval certificate, or to which the restrictive use symbol referred to in paragraph 3 of Annex IV of the Directive applies, for a purpose which does not accord with the marking or the symbol.

(5) A person shall not use a Class IIII instrument for trade for any purpose other than for weighing —

(**4**) O.J. No. L189, 20.7.90, p. 1 as corrected by the corrigendum published in O.J. No. L258, 22.9.90, p. 35
(**5**) O.J. No. L220, 30.8.93, p. 1
(**6**) As modified by regulation 43 of, and Part I of Schedule 5 to, the 2000 Regulations

(a) any of the materials to which the expression "ballast" applies in Schedule 4 to the 1981 Order;

(b) any material the disposal of which constitutes a landfill disposal as defined in subsection (2) of section 70 of the Finance Act 1996(**7**), whether or not the disposal amounts to a taxable disposal as defined in section 40 of that Act; or

(c) commercial, household or industrial waste.

(6) A person shall not use for trade any instrument for the purpose of multiple weighing, that is to say, determining the mass of a load by totalling the results of more than one static weighing operation during each of which the load is only partially supported by the load receptor.

(7) For the purposes of this regulation, the terms "commercial waste", "household waste" and "industrial waste" shall be construed in accordance with paragraph (2) of Article 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997(**8**), provided that "waste" shall include any waste disposed of for reprocessing or recycling purposes, but shall not include any radioactive waste as defined in section 2 of the Radioactive Substances Act 1993(**9**).

Manner of erection of instruments

5. Where an instrument is fitted with one or more level-indicating devices, a person shall not use the instrument for trade unless each such device indicates that it has been set to its reference position.

Instruments marked with temperature range

6. Where an instrument is marked with a temperature range, a person shall not use the instrument for trade at temperatures outside that range.

Instruments marked with manner of use

7. Where an instrument is marked with the manner of use, a person shall not use the instrument for trade in a manner which does not accord with the marking.

Instruments fitted with printing devices

8. Where an instrument is fitted with a weight or any other printing device, a person shall not use the instrument for trade unless it is so erected and used that the printing device, when used, produces a legible and durable printout.

Load receptors

9.—(1) A person shall not use any instrument for trade unless it is erected and used in such a manner that, during a weighing operation, the load being weighed is stationary relative to the load receptor and supported only by the load receptor.

(2) A person shall not use for trade an instrument for the purpose of sales by retail—

(a) unless—

(i) the load receptor is not less than 10 millimetres above any adjacent surface; or

(ii) where the load receptor is less than 10 millimetres above any adjacent surface, the boundary of the top surface of all adjacent surfaces is durably marked in a distinctive and contrasting manner with a band at least 15 millimetres in width; or

(**7**) 1996 c. 8
(**8**) S.I. 1997/2778 (N.I. 19)
(**9**) 1993 c. 12