



STATUTORY INSTRUMENTS.

S.I. No. 43 of 2018



EUROPEAN COMMUNITIES (MEASURING INSTRUMENTS AND
METROLOGICAL CONTROL) REGULATIONS 2018

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I, HEATHER HUMPHREYS, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009¹, hereby make the following regulations:

Part 1

PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Measuring Instruments and Metrological Control) Regulations 2018.

(2) These Regulations come into operation on 28 February 2018.

Interpretation

2. (1) In these Regulations—

“authorised officer” means a person appointed under Regulation 20;

“Director” means the Director of Legal Metrology;

“EC initial verification” shall be construed in accordance with Regulation 15;

“EC pattern approval” shall be construed in accordance with Regulation 5;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“Metrology Directive” means Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009¹;

(2) A word or expression which is used in these Regulations and is also used in the Metrology Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Metrology Directive.

Application

3. These Regulations apply to—

(a) the placing on the market and putting into service of instruments, and

¹OJ No. L 106, 28.4.2009, p. 7.

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Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 27th February, 2018.

- (b) the harmonisation of methods of measurement and metrological control and, where appropriate, the means required for application of such methods.

Metrology Act 1996 and other laws

4. (1) Subject to paragraph (2), nothing in the Metrology Act 1996 (No. 27 of 1996) or any other enactment or rule of law shall prevent, prohibit or restrict the placing on the market or entry into service of an instrument or of a product described in Regulation 3 where that instrument or product bears EC marks or signs in accordance with—

- (a) these Regulations or the law of another Member State giving effect to the Metrology Directive, and
- (b) the law of the State giving effect to a separate Directive relating to the instrument or product in question or the law of another Member State giving effect to a separate Directive relating to the instrument or product in question.

(2) Where an instrument bears an EC initial verification mark, paragraph (1) shall not apply in respect of that instrument from the end of the year following the year in which that mark was affixed to the instrument or, where the law of the State giving effect to a separate Directive provides for a longer period, from the end of that period.

Part 2

PATTERN APPROVAL

EC pattern approval

5. (1) EC pattern approval, in relation to an instrument, means the admission to EC initial verification of that instrument and, where EC initial verification is not required, the authorisation to place the instrument on the market or to put the instrument into service.

(2) Where the law of the State giving effect to the separate Directive applicable to a category of instruments exempts that category from EC pattern approval, the instruments in that category shall be admitted directly to EC initial verification.

Granting of EC pattern approval

6. (1) The Director shall grant EC pattern approval in accordance with this Part, Part 4, Schedule 1 and the law of the State giving effect to the relevant separate Directive.

(2) Where the inspection equipment of the Legal Metrology Service so permits, the Director shall grant EC pattern approval to an instrument which satisfies the requirements specified in these Regulations and the law of the State giving effect to the relevant separate Directive.

Application for EC pattern approval

7. (1) An application for EC pattern approval shall be made by the manufacturer of an instrument or, where the manufacturer is not established in the Union, the representative of the manufacturer established within the Union.

(2) An application for EC pattern approval shall not be made in the State in respect of an instrument where an application in respect of that instrument has previously been made in another Member State.

(3) An application for EC pattern approval shall be made in accordance with paragraph 1 of Schedule 1.

Modifications and additions

8. (1) Where the Director has granted EC pattern approval in respect of an instrument, the manufacturer of the instrument or, where the manufacturer is not established in the Union, the representative of the manufacturer established within the Union, shall notify the Director, as soon as reasonably practicable, of any modification or addition to the approved pattern.

(2) Where the Director receives a notification in accordance with paragraph (1), the Director shall notify the competent authorities in the other Member States of the modification or addition, as the case may be, to the approved pattern.

(3) Where the Director has granted EC pattern approval in respect of an instrument, the manufacturer of the instrument or, where the manufacturer is not established in the Union, the representative of the manufacturer established within the Union, shall apply for additional pattern approval for a modification or addition to an approved pattern in a case in which that modification or addition, as the case may be, would or may influence measurement results or the prescribed conditions for use of the instrument.

(4) In the case of a modified pattern, a new EC pattern approval shall be granted instead of an addition to the original EC pattern approval certificate where the pattern is modified after the provisions of the Metrology Directive or of the relevant separate Directive have been amended or adapted in such a way that the modified pattern could be approved only pursuant to the new provisions.

Ancillary equipment

9. When EC pattern approval is granted by the Director for ancillary equipment, the approval shall specify—

- (a) the patterns of each instrument to which the ancillary equipment may be attached or in which it may be incorporated, and
- (b) the general conditions for the overall functioning of the instruments for which it is approved.

EC pattern approval certificate

10. (1) Where an instrument in respect of which an application has been made to the Director has successfully completed the EC pattern approval examination in accordance with paragraph 2 of Schedule 1 and the law of the State giving effect to the separate Directive relating to that instrument, the Director shall prepare an EC pattern approval certificate in accordance with paragraph 3.1 of Schedule 1 and issue the certificate to the applicant.

(2) In a case provided for in Regulation 19 or in the law of the State giving effect to a separate Directive relating to the instrument concerned, the applicant must, and in all other cases may, affix or cause to be affixed on each instrument conforming to the approved pattern the EC approval sign shown in the certificate.

Validity of EC pattern approval

11. (1) Subject to paragraph (2), an EC pattern approval shall be valid for 10 years from the date it is granted.

(2) The validity of an EC pattern approval may be extended for successive periods of 10 years.

(3) No limit shall apply to the number of instruments which may be manufactured in accordance with an approved pattern.

(4) An EC pattern approval granted under these Regulations and the law of the State giving effect to a separate Directive may not be extended after the date of the entry into force of any amendment to, or adaptation of, the Metrology Directive or that separate Directive, where the EC pattern approval could not have been granted on the basis of the amended or adapted Metrology Directive or the amended or adapted separate Directive, as the case may be.

(5) Where an EC pattern approval in respect of an instrument is not extended, the approval shall continue to apply to such an instrument which is already in service.

Limited EC pattern approval

12. (1) Where techniques, not provided for in the separate Directive relating to an instrument, are used in such an instrument, the Director may grant an EC pattern approval in accordance with this Regulation after consultation with the competent authorities in the other Member States.

(2) An EC pattern approval referred to in paragraph (1) may be subject to the following restrictions:

- (a) a limit on the number of instruments which may be covered by the approval;
- (b) an obligation to notify the competent authorities of the places of installation;
- (c) restrictions on use;

(d) special restrictions concerning the technique used.

(3) An EC pattern approval referred to in paragraph (1) shall not be granted in respect of an instrument unless—

(a) the separate Directive for that category of instrument has come into force, and

(b) no derogation has been made from the maximum permissible errors laid down in the separate Directive.

(4) Subject to paragraph (5), the period of validity of an EC pattern approval referred to in paragraph (1) shall not exceed two years.

(5) The period of validity of an EC pattern approval referred to in paragraph (1) may be extended by up to three years.

Voluntary affixing of sign

13. Where EC pattern approval is not required for a category of instruments which meets the requirements of the law of the State giving effect to a separate Directive, the manufacturer may, at its own risk, affix to the instruments in that category the sign described in paragraph 3.3 of Schedule 1.

Withdrawal of pattern approval

14. (1) The Director may withdraw an EC pattern approval granted by him or her where—

(a) the instruments in respect of which the approval was granted do not conform to the approved pattern or to the law of the State giving effect to the separate Directive relating to those instruments,

(b) the metrological requirements specified in the certificate of approval are not met,

(c) a restriction imposed in accordance with Regulation 12(2) is not complied with, or

(d) the Director ascertains that approval was granted in an improper manner.

(2) The Director shall withdraw an EC pattern approval granted by him or her where the instruments constructed in accordance with the approved pattern reveal in service a defect of a general nature which makes them unsuitable for their intended use.

(3) Where the Director is notified by the competent authority in another Member State that a circumstance referred to in paragraph (1) is affecting or has affected an instrument in respect of which the Director granted an EC pattern approval, the Director may, following consultation with that competent authority, withdraw the EC pattern approval.

(4) Where the Director is notified by the competent authority in another Member State that the circumstance referred to in paragraph (2) is affecting or has affected an instrument in respect of which the Director granted an EC pattern approval, the Director shall, following consultation with that competent authority, withdraw the EC pattern approval.

(5) Where the Director determines that the circumstance referred to in paragraph (2) is affecting or has affected an instrument in respect of which an EC pattern approval has been granted by the competent authority in another Member State and so informs that competent authority, the Director may prohibit the placing on the market and putting into service of the instrument concerned until further notice.

(6) Where the Director prohibits the placing on the market and putting into service of an instrument in accordance with paragraph (5), he or she shall immediately inform the European Commission and the competent authorities in other Member States, stating the reasons on which his or her decision is based.

(7) Where the Director determines that that one or more of the circumstances referred to in paragraph (1) is affecting or has affected an instrument which has been exempted from EC initial verification and in respect of which an EC pattern approval has been granted by the competent authority in another Member State and so informs that competent authority, the Director may prohibit the placing on the market and putting into service of the instrument concerned until further notice if the manufacturer, after due warning, does not bring the instrument into conformity with the approved pattern or with the requirements of the relevant separate Directive.

(8) Where—

- (a) the Director disputes that the circumstance referred to in paragraph (2) is affecting or has affected an instrument in respect of which the Director granted an EC pattern approval after having been so notified by a competent authority in another Member State,
- (b) the competent authority in another Member State disputes that the circumstance referred to in paragraph (2) is affecting or has affected an instrument in respect of which that competent authority granted an EC pattern approval after having been so notified by the Director,
- (c) a competent authority in another Member State disputes that a prohibition declared by the Director under paragraph (5) or (7) is justified, or
- (d) the Director disputes that a prohibition declared by a competent authority in another Member State under the law of that Member State giving effect to Article 7(2) or (4) of the Metrology Directive is justified,

the Director shall endeavour to resolve the dispute with the competent authority concerned and shall keep the European Commission informed of all developments in the resolution of the dispute.

Part 3

INITIAL VERIFICATION

EC initial verification — meaning

15. (1) EC initial verification, in relation to an instrument, means the examination of a new or reconditioned instrument and the confirmation of its conformity to the relevant approved pattern or to the requirements of these Regulations and the law of the State giving effect to the separate Directive relating to the instrument concerned.

(2) EC initial verification is certified by the EC initial verification mark.

Conducting EC initial verification

16. (1) EC initial verification of an instrument may be carried out by a method other than unit checking in a case specified in the law of the State giving effect to the separate Directive relating to the instrument concerned and in accordance with that law.

(2) Where the equipment of the Legal Metrology Service so permits, the Director shall carry out EC initial verification of an instrument submitted as having the measurement characteristics and satisfying the technical construction and functioning requirements specified in the law of the State giving effect to the separate Directive relating to that category of instrument.

EC initial verification — examination

17. (1) Where an instrument is submitted to the Director for EC initial verification, an authorised officer shall determine—

- (a) whether the instrument belongs to a category exempt from EC pattern approval and, if so, whether it satisfies the technical construction and functioning requirements laid down by the law of the State giving effect to the separate Directive relating to that instrument, and
- (b) whether the instrument has received EC pattern approval and, if so, whether it conforms to the approved pattern, and to the law of the State giving effect to the separate Directive relating to that instrument, in force on the date of issue of that EC pattern approval.

(2) The examination carried out in EC initial verification relates in particular, in accordance with the separate Directives, to—

- (a) the metrological characteristics,
- (b) the maximum permissible errors,

- (c) the construction, in so far as this guarantees that the measurement characteristics are not likely to deteriorate to any great extent under normal conditions of use, and
- (d) the presence of prescribed inscriptions and stamp plates or provisions for EC initial verification marking.

Affixing of mark

18. Where an instrument has successfully undergone EC initial verification, in accordance with the requirements of this Part, Part 4, Schedule 2 and of the law of the State giving effect to the separate Directives, the EC partial or final verification marks described in paragraph 3 of Schedule 2, shall be affixed to that instrument by an authorised officer in accordance with the rules laid down in that paragraph.

Voluntary affixing of mark

19. Where EC initial verification is not required for a category of instruments which meets the requirements of the law of the State giving effect to a separate Directive, the manufacturer shall, at its own risk, affix to the instruments in that category the special symbol described in paragraph 3.4 of Schedule 1.

Part 4

COMMON PROVISIONS

Authorised officers

20. (1) The Director may appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations.

(2) An authorised officer shall be furnished with a warrant of his or her appointment and when exercising any power conferred on him or her under these Regulations an authorised officer shall, if requested by any person thereby affected, produce the warrant or a copy of it to that person for inspection.

(3) Subject to paragraph (7), an authorised officer may for the purpose of ensuring that these Regulations are being complied with—

- (a) at all reasonable times enter any premises or a place, at which there are reasonable grounds to believe that instruments to which these Regulations apply, are or are likely to be found, placed on the market or put into service, or that books, documents or records relating to such an instrument are kept, and search and inspect the premises or place and any instrument or books, documents or records found therein,
- (b) secure for later inspection any premises or place or part of it in which such instruments or books, documents or records are kept or there are reasonable grounds for believing that such instruments or books, documents or records are kept,

- (c) require any person in charge of or employed in such premises or place to produce to the officer such books, documents or records (and in the case of such information in a non-legible form to reproduce it in a permanent legible form) that are in the person's power or control or to give to the officer such information as the officer may reasonably require in relation to any entries in such records,
 - (d) inspect, and take copies of or extracts from, any such books, documents or records (including in the case of information in non-legible form a copy of or extract from such information in a permanent legible form),
 - (e) remove and detain, where the officer has reasonable cause to suspect that there has been a contravention of these Regulations, the instrument, device, part or component or books, documents or records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings,
 - (f) in or at the premises, seize any equipment or part thereof or any books, records or other documents relating to equipment that the officer may reasonably require,
 - (g) as regards any instrument or any article or device, part or component used in the manufacture of an instrument the officer finds at or in a premises, require any person in charge of the premises, or any person who appears to the officer to be in possession of the instrument or the article or device, part or component, to supply without payment, for test, examination or analysis sufficient samples thereof,
 - (h) require any person to afford the officer such facilities and assistance within the person's control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation,
 - (i) examine any procedure connected with the manufacture, import or distribution of an instrument, and
 - (j) request the person in charge of a vehicle or vessel to bring that vehicle or vessel to the nearest appropriate test facility at which an inspection may be carried out.
- (4) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (7) authorising such entry.
- (5) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises, an application may be made to the District Court under paragraph (7) for a warrant authorising such entry.

(6) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation.

(7) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on any premises or any part of any premises or there is an instrument or article, device, part or component of an instrument which an authorised officer requires to inspect for the purposes of these Regulations or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied by either or both authorised officers and members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(8) An application under paragraph (7) shall be made to the judge of the District Court in whose District Court district the premises is situated.

(9) A person shall not—

- (a) obstruct or interfere with an authorised officer in the exercise of the officer's powers under this Regulation,
- (b) without reasonable excuse, fail to comply with a request or a requirement of an authorised officer under this Regulation, or
- (c) make a statement to such officer which the person knows is false or misleading.

(10) In this Regulation, premises or a place includes a vehicle or vessel.

Decisions under these Regulations

21. (1) The Director shall notify the affected person of a decision under these Regulations or the law of the State giving effect to a separate Directive—

- (a) to refuse to grant or extend EC pattern approval,
- (b) to withdraw an EC pattern approval,
- (c) to refuse to carry out EC initial verification, or
- (d) to prohibit the placing on the market or entry into service of an instrument.

(2) A notification under paragraph (1) shall—

- (a) state the reasons for the decision concerned,
- (b) inform the recipient of—

- (i) the right to make a submission under paragraph (3),
- (ii) the right of appeal under Regulation 22, and
- (iii) the time limits associated with the exercise of the rights referred to in clauses (i) and (ii),

(c) the date on which the decision concerned shall take effect, and

(d) where applicable, the period for which the decision shall take effect.

(3) Subject to paragraph (4), an affected person may make a submission to the Director prior to a decision referred to in paragraph (1) taking effect.

(4) Where, due to the urgency of a decision referred to in paragraph (1) taking effect, it is not possible to give the affected person concerned the opportunity to make a submission to the Director prior to the decision taking effect, the Director shall give such opportunity, as soon as may be after the decision takes effect.

(5) The Director may, where he or she considers it appropriate to do so, withdraw or substitute a decision referred to in paragraph (1).

(6) An affected person shall comply with a decision referred to in paragraph (1), unless and until the decision is withdrawn under paragraph (5) or annulled under Regulation 22.

(7) Subject to paragraph (8), a notification under paragraph (1) shall be addressed to the affected person by name and may be given to the person in one of the following ways—

(a) by delivering it to the affected person,

(b) by leaving it at the address at which the affected person carries on business or ordinarily resides or, in the case in which an address for service has been furnished, at that address, or

(c) by sending it by post in a prepaid registered letter to the address at which the affected person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(8) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 (No. 38 of 2014) shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(9) In this Regulation and Regulation 22, “affected person” means the manufacturer of the instrument to which a decision referred to in paragraph (1)

relates or, where the manufacturer is not established in the Union, the representative of the manufacturer established within the Union.

Appeal of decision

22. (1) An affected person aggrieved by a decision referred to in paragraph (1) of Regulation 21 may appeal the decision to the appropriate court.

(2) An appeal under this Regulation shall state the grounds on which the appeal is made and be made by written notice, which shall be lodged with the office of the appropriate court by the appellant not later than 14 days from the date upon which the decision was issued to him or her.

(3) Where an affected person appeals a decision referred to in paragraph (1) of Regulation 21 he or she shall—

(a) give the Director a copy of the notice of appeal at the same time he or she lodges the notice of appeal in accordance with paragraph (2), and

(b) notify the Director in writing of the grounds of the appeal.

(4) The Director shall be entitled to appear, be heard and adduce evidence at the hearing of the appeal.

(5) Where an appeal is made under paragraph (1) the decision shall remain in force until the appeal is determined or withdrawn, subject to any decision to the contrary by the High Court.

(6) On the hearing of an appeal under this Regulation the appropriate court may, as it thinks fit, confirm the decision concerned or annul the decision and make any other such order as it considers appropriate.

(7) In this Regulation “appropriate court” means—

(a) where the estimated value of the instrument concerned does not exceed €15,000, or such other amount as may stand specified for the time being by law as that Court’s jurisdiction in tort, the District Court,

(b) where the estimated value of the instrument concerned does not exceed €75,000, or such other amount as may stand specified for the time being by law as that Court’s jurisdiction in tort, the Circuit Court, and

(c) in any case, the High Court.

(8) If, in relation to an appeal under this Regulation to the District Court, that court becomes of opinion during the hearing of the appeal that the value of the instrument, the subject of the appeal, exceeds that court’s jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the Circuit Court or the

High Court, whichever it considers appropriate having regard to its opinion of the value of the instrument.

(9) If, in relation to an appeal under this Regulation to the Circuit Court, that court becomes of opinion during the hearing of the appeal that the value of the instrument, the subject of the appeal, exceeds that courts' jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the High Court.

(10) Paragraphs (8) and (9) are without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an appeal under this Regulation in relation to which it was, at the time of the hearing of the appeal, the appropriate court.

(11) An appeal under this Regulation to the District Court shall be determined by the judge of the District Court for the District Court district in which the instrument concerned was placed on the market or put into service or the appellant ordinarily resides.

(12) An appeal under this Regulation to the Circuit Court shall be determined by the judge of the Circuit Court for the circuit in which the instrument concerned was placed on the market or put into service or the appellant ordinarily resides.

Offences

23. (1) A person who knowingly affixes or causes to be affixed—

- (a) an EC approval sign to an instrument that does not conform to the EC pattern approval to which the sign relates,
- (b) the sign described in paragraph 3.3 of Schedule 1 to an instrument which does not meet the requirements of the law of the State giving effect to a separate Directive relating to that category of instrument where EC pattern approval is not required for that category of instrument,
- (c) an EC partial or final verification mark described in paragraph 3 of Schedule 2 to an instrument that has not successfully undergone EC initial verification, in accordance with the requirements of these Regulations and of the law of the State giving effect to the separate Directives, or
- (d) the special symbol described in paragraph 3.4 of Schedule 1 to an instrument which does not meet the requirements of the law of the State giving effect to a separate Directive relating to that category of instrument where EC pattern approval is not required for that category of instrument,

shall be guilty of an offence.

(2) A person who affixes a mark or inscription to an instrument that is likely to confuse, mislead or deceive a third party as to the meaning or form of a mark or sign referred to in paragraph (1), shall be guilty of an offence.

(3) A person who forges or counterfeits any stamp used for stamping or device used to affix a mark or sign referred to in paragraph (1) or wilfully alters an instrument so as to affect its accuracy, shall be guilty of an offence.

(4) A person who knowingly uses, sells, utters, disposes or exposes for sale—

- (a) an instrument with a forged or counterfeit mark or sign referred to in paragraph (1),
- (b) an instrument altered so as to affect its accuracy, or
- (c) an instrument bearing a mark liable to be confused with a mark or sign referred to in paragraph (1),

shall be guilty of an offence.

(5) A person who fails to comply with a decision to prohibit the placing on the market or entry into service of an instrument, notified to that person in accordance with Regulation 21(2), after the decision has come into effect and prior to the date, if any, that the decision ceases to have effect, is withdrawn or is annulled, shall be guilty of an offence.

(6) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of a function, or does not comply with a requirement made by an authorised officer in carrying out a function under these Regulations,
- (b) fails without reasonable cause to give an authorised officer any such assistance or information which the authorised officer may reasonably request for the purpose of the performance by the authorised officer of a function under these Regulations, or
- (c) knowingly or recklessly makes a false or misleading statement, either verbally or in writing, to an authorised officer who is engaged in carrying out a function under these Regulations,

shall be guilty of an offence.

Penalties and prosecution

24. (1) A person convicted of an offence under these Regulations is liable—

- (a) on summary conviction to a class B fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment to a fine not exceeding €500,000 or imprisonment for a term not exceeding 2 years or both.

(2) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Director.

(3) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under these Regulations may be instituted at any time within 12 months from the date of the offence or, if later, 12 months from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings comes to that person's knowledge.

Offences by bodies corporate

25. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Fees

26. (1) The Director may charge a fee for carrying out or causing to be carried out any function or service under these Regulations.

(2) A fee charged pursuant to paragraph (1) shall—

- (a) be reasonable, proportionate and commensurate with the costs incurred by the Director in respect of the particular function or service,
- (b) not exceed the real cost of the function or service provided, and
- (c) in the case of a flat-rate fee, be justified by reference to the average cost of the function or service provided.

Language

27. Where an inscription is required to be affixed to an instrument in accordance with these Regulations or the law of the State giving effect to a separate Directive, that inscription shall be in English.

Part 5

AMENDMENT AND REVOCATION

Amendment of European Communities (Measuring Container Bottles) Regulations 1977

28. Regulation 2 of the European Communities (Measuring Container Bottles) Regulations 1977 (S.I. No. 237 of 1977) is amended in Regulation 2 by the substitution of the following definition for the definition of “the EEC sign”:

“ ‘the EEC sign’ means a sign, at least 3 millimetres in height which is in the form of sign 3 (reversed epsilon) referred to in Article 6 of, and described in point 3.3 of Annex 1 to, Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009¹;”.

Amendment of Legal Metrology (Type Approval) Regulations 2006

29. The Legal Metrology (Type Approval) Regulations 2006 (S.I. No. 207 of 2006) are amended—

(a) in Regulation 2—

(i) by the insertion of the following definitions:

“ ‘EC initial verification mark’ means the mark referred to in Regulation 15(2) of the European Communities (Measuring Instruments and Metrological Control) Regulations 2018 (S.I. No. 43 of 2018);

‘EC pattern approval symbol’ means the sign described in paragraph 3.3 of Schedule 1 to the European Communities (Measuring Instruments and Metrological Control) Regulations 2018 (S.I. No. 43 of 2018);”, and

(ii) by the deletion of the definitions of “EEC initial verification marks” and “EEC pattern approval symbol”, and

(b) in Regulation 3(2), by the substitution of “that bear an EC pattern approval symbol or an EC initial verification mark” for “that bear an EEC pattern approval symbol or an EEC initial verification mark”.

Amendment of the Legal Metrology (Marks) Regulations 2008

30. The Legal Metrology (Marks) Regulations 2008 (S.I. No. 296 of 2008) are amended—

(a) in Regulation 2(1),

(i) by the insertion of the following definitions:

“ ‘EC initial verification’ means the procedure leading to affixation of the EC initial verification mark on any measuring instrument;

‘EC initial verification mark’ means the mark referred to in Regulation 15(2) of the European Communities (Measuring Instruments and Metrological Control) Regulations 2018 (S.I. No. 43 of 2018);”, and

(ii) by the deletion of the definitions of “EEC initial verification”, “EEC initial verification mark” and “1973 Regulations”, and

(b) in Regulation 3(1)(a), by the substitution of “EC initial verification” for “EEC initial verification”.

Amendment of the Legal Metrology (General) Regulations 2008

31. The Legal Metrology (General) Regulations 2008 (S.I. No. 323 of 2008) are amended—

(a) in Regulation 2—

(i) in paragraph (1)—

(I) by the insertion of the following definitions:

“ ‘EC initial verification mark’ means the mark referred to in Regulation 15(2) of the European Communities (Measuring Instruments and Metrological Control) Regulations 2018 (S.I. No. 43 of 2018);

‘EC pattern approval certificate’ means a certificate of approval, granted by the competent authority of a Member State, in respect of the pattern of a measuring instrument which certificate allows for and governs the application of any EC pattern approval symbol to any measuring instrument;

‘EC pattern approval symbol’ means the sign described in paragraph 3.3 of Schedule 1 to the European Communities (Measuring Instruments and Metrological Control) Regulations 2018 (S.I. No. 43 of 2018);”, and

(II) by the deletion of the definitions of “EEC initial verification mark”, “EEC pattern approval certificate”, “EEC pattern approval symbol” and “1973 Regulations”, and

(ii) in paragraph (2), by the substitution of “EC initial verification mark” for “EEC initial verification mark”,

(b) in Regulation 3(5)(c), by the substitution of “EC initial verification mark” for “EEC initial verification mark”,

(c) in Regulation 8—

- (i) in paragraph (1)(a), by the substitution of “EC initial verification mark” for “EEC initial verification mark”, and
 - (ii) in paragraph (2)(b)ii, by the substitution of “EC pattern approval certificate” for “EEC pattern approval certificate”, and
- (d) in Regulation 9(a)ii, by the substitution of “EC pattern approval certificate” for “EEC pattern approval certificate”.

Revocation

32. The European Communities (Measuring Instruments) Regulations 1973 (S.I. No. 67 of 1973) are, to the extent that they are not revoked by the Metrology Act 1996 (No. 27 of 1996) and the European Union (Measuring Instruments) (Revocation) Regulations (S.I. No. 44 of 2018), revoked.

SCHEDULE 1

EC PATTERN APPROVAL

1. Application for EC approval

- 1.1. The application, the correspondence relating to it and the annexed documents shall be drawn up in English. The applicant shall send simultaneously to all Member States a copy of his or her application.
- 1.2. The application shall contain the following information:
 - (a) the name and address of the manufacturer or the firm, or of his or its authorised representative or of the applicant;
 - (b) the category of instrument;
 - (c) the intended use;
 - (d) the measurement characteristics;
 - (e) the commercial designation, if any, or the type.
- 1.3. The application shall be accompanied by the documents necessary for its evaluation, in duplicate, and in particular:
 - 1.3.1. a description in particular of:
 - (a) the construction and operation of the instrument;
 - (b) the protecting arrangements ensuring correct working;
 - (c) the devices for regulation and adjustment;
 - (d) the intended locations for:
 - verification marks,
 - seals (where applicable);
 - 1.3.2. general arrangement drawings and, where necessary, detailed drawings of important components;
 - 1.3.3. a schematic drawing illustrating the principles of operation and, where necessary, a photograph.
- 1.4. The application shall be accompanied, where appropriate, by documents relevant to the national approvals already granted.

2. Examination for EC approval

- 2.1. The examination shall comprise:
 - 2.1.1. a study of the documents and an examination of the measurement characteristics of the pattern in the laboratories of the Director,

in approved laboratories or at the place of manufacture, delivery or installation;

- 2.1.2. if the measurement characteristics of the pattern are known in detail, only an examination of the documents submitted.
 - 2.2. The examination shall cover the entire performance of the instrument under normal conditions of use. Under such conditions, that instrument must maintain the measurement characteristics required.
 - 2.3. The nature and scope of the examination mentioned in paragraph 2.1 may be specified by separate Directives.
 - 2.4. The Director may require the applicant to put at its disposal the standards and the appropriate means in terms of material and assisting personnel for the performance of the approval tests.
3. EC certificate and sign of approval
- 3.1. The certificate shall give the results of the examination of the pattern and shall specify the other requirements which must be complied with. It shall be accompanied by descriptions, drawings and diagrams necessary to identify the pattern and to explain its functioning. The sign of approval provided for in Regulation 10 shall be a stylised letter ϵ containing:
 - in the upper part, IRL and the last two digits of the year of approval,
 - in the lower part, a designation to be determined by the Director (an identification number).

An example of this approval sign is shown in paragraph 6.1.
 - 3.2. In the case of EC limited approval, the letter P, having the same dimensions as the stylised letter ϵ , shall be placed before this letter.

An example of this limited approval sign is shown in paragraph 6.2.
 - 3.3. The sign mentioned in Regulation 13 is the same as the EC approval sign, except that the stylised letter ϵ is reversed symmetrically about a vertical axis and bears no other indication unless the separate Directives stipulate otherwise.

An example of this sign is shown in paragraph 6.3.
 - 3.4. The sign mentioned in Regulation 19 is the same as the EC approval sign in a hexagon.

An example of this sign is shown in paragraph 6.4.
 - 3.5. The signs mentioned in paragraphs 3.1 to 3.4 and affixed by the manufacturer in accordance with the provisions of these Regulations must be

affixed at a visible point of each instrument and all ancillary equipment submitted for verification, and must be legible and indelible. If their affixation presents technical difficulties, exceptions may be made in separate Directives or accepted after agreement among the metrological services of Member States has been reached.

4. Depositing of a sample instrument

In the cases mentioned by separate Directives, the Director may, if he or she considers this necessary, request the deposition of the sample instrument for which approval has been granted. Instead of that sample instrument, the Director may authorise the depositing of parts of the instrument, of scale models or of drawings, and will mention this on the EC certificate of approval.

5. Announcement of approval

5.1. At the same time as the party concerned is notified, copies of the EC certificate of approval shall be sent to the Commission and to the other Member States; the latter can also obtain copies of the reports of the metrological examinations if they wish.

5.2. Withdrawal of EC pattern approval and other communications concerning the extent and validity of EC pattern approval shall also be subject to the announcement procedure mentioned in paragraph 5.1.

5.3. Where the Director refuses to grant EC pattern approval, he or she shall inform the other Member States and the Commission of its decision.

6. Signs relative to EC pattern approval

6.1. Sign of EC pattern approval

Example:



EC pattern approval granted by the Metrological Service of Germany in 1971 (see paragraph 3.1, first indent).

Identification number of the EC pattern approval (see paragraph 3.1, second indent).

6.2. Sign of EC limited pattern approval (see paragraph 3.2)

Example:



EC limited pattern approval granted by the Metrological Service of Germany in 1971.

Identification number of the EC limited pattern approval.

6.3. Sign of exemption from EC pattern approval (see paragraph 3.3)

Example:



6.4. Sign of EC pattern approval for instruments exempt from EC initial verification (see paragraph 3.4)

Example:



EC pattern approval granted by the Metrological Service of Germany in 1971.

Identification number of the EC pattern approval.

SCHEDULE 2

EC INITIAL VERIFICATION

1. General points

- 1.1. The EC initial verification may be carried out in one or more stages (usually two).
- 1.2. Subject to the provisions of the separate Directives:
 - 1.2.1. the EC initial verification shall be carried out in one stage on instruments which constitute a whole on leaving the factory, that is to say instruments which, theoretically, can be transferred to their place of installation without first having to be dismantled;
 - 1.2.2. the EC initial verification shall be carried out in two or more stages for instruments the correct functioning of which depends on the conditions in which they are installed or used;
 - 1.2.3. the first stage of the verification procedure must ensure, in particular, that the instrument conforms to the approved EC pattern or, in the case of instruments exempt from pattern approval, that they conform to the relevant provisions.

2. Place of the EC initial verification

- 2.1. If the separate Directives do not specify the place where verification is to be carried out, instruments which have to be verified in only one stage shall be verified at the place chosen by the Director.
- 2.2. Instruments which have to be verified in two or more stages shall be verified by the Director where it is the metrological service territorially competent.
 - 2.2.1. The last stage of verification must be carried out at the place of installation.
 - 2.2.2. The other stages of verification shall be carried out as laid down in paragraph 2.1.
- 2.3. In particular, when the verification takes place outside the office of verification the Director may require the applicant:
 - to put at its disposal the standards and the appropriate means in terms of material and assisting personnel for the performance of the verification,
 - to provide a copy of the EC certificate of approval.

3. EC initial verification marks

- 3.1. Description of EC initial verification marks

3.1.1. Subject to the provisions of separate Directives, EC initial verification marks which are affixed in accordance with paragraph 3.3 shall be as follows:

3.1.1.1. the final EC verification mark shall be composed of two stamps:

- (a) the first consists of a lower-case letter 'e' containing:
- in the upper half, the distinguishing capital letter(s) of the Member State where the original check is carried out (B for Belgium, BG for Bulgaria, CZ for the Czech Republic, DK for Denmark, D for Germany, EST for Estonia, IRL for Ireland, EL for Greece, E for Spain, F for France, I for Italy, CY for Cyprus, LV for Latvia, LT for Lithuania, L for Luxembourg, H for Hungary, M for Malta, NL for Netherlands, A for Austria, PL for Poland, P for Portugal, RO for Romania, SI for Slovenia, SK for Slovakia, FI for Finland, S for Sweden, UK for the United Kingdom) together, where necessary, with one or two figures identifying a territorial or administrative subdivision,
 - in the lower half, the identification number of the verifying agent or office;

- (b) the second stamp shall consist of the last two digits of the year of the verification, in a hexagon;

3.1.1.2. the mark of EC partial verification shall consist solely of the first stamp. It shall also serve as a seal.

3.2. Shape and dimensions of marks

3.2.1. The attached drawings show the shape, dimensions and outline of the letters and numbers for the EC initial verification marks as laid down in paragraph 3.1; the first two drawings show the various parts of the stamp and the third is an example of a stamp. The dimensions given in the drawings are relative values; they are a function of the diameter of the circle described about the lower-case letter 'e' and about the field of the hexagon.

The actual diameters of the circles described about the marks are 1,6 mm, 3,2 mm, 6,3 mm, 12,5 mm.

3.2.2. The metrological services of Member States shall mutually exchange the original drawings of the EC initial verification marks, conforming to the models in the annexed drawings.

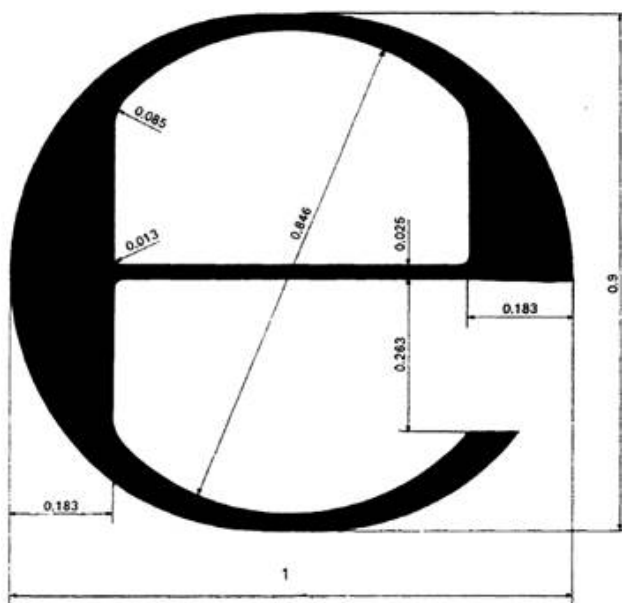
3.3. Affixing the marks

3.3.1. The final EC verification mark shall be affixed at the appointed location on the instrument when the latter has been completely verified and is recognised to conform to EC requirements.

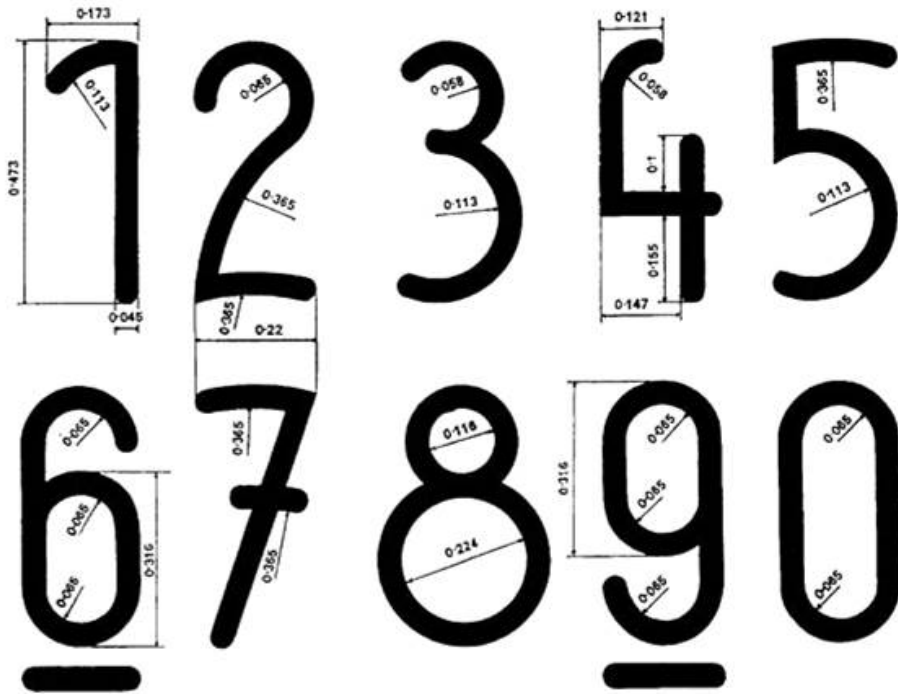
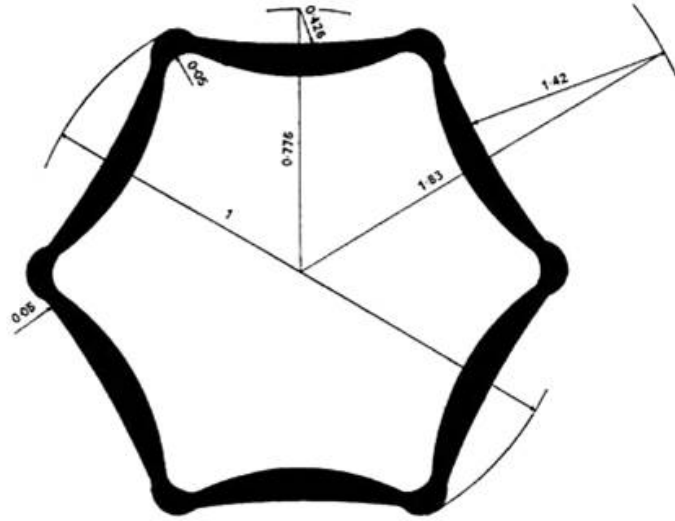
3.3.2. The partial EC verification mark shall be affixed:

3.3.2.1. when verification is made in several stages, on the instrument or part of an instrument which fulfils the conditions laid down for operations other than those at the place of installation, at the place where the stamp-date is affixed or in any other place specified in the separate Directives;

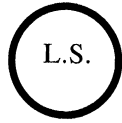
3.3.2.2. in all cases as a seal, in the places specified in the separate Directives.











GIVEN under my Official Seal,
22 February 2018.

HEATHER HUMPHREYS,
Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give effect to Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009.

PART 1 of the Regulations deals with Preliminary issues such as Citation and Commencement of the Regulations; Interpretation (Regulations 1 and 2);

Regulation 3 provides that these Regulations apply to:

- (a) the placing on the market and putting into service of instruments, and
- (b) the harmonisation of methods of measurement and metrological control and, where appropriate, the means required for application of such methods.

Regulation 4 deals with the relationship of the Metrology Act 1996 and other laws with these Regulations.

PART 2 (Regulations 5 to 14), deals with: Pattern Approval; the definition of EC Pattern Approval, and the granting of EC Pattern Approval; Applications for EC Pattern Approval; Modifications and Additions to instruments by manufacturers or their representative(s); Ancillary Equipment; the provision of EC pattern approval certificate by the Director of Legal Metrology; the validity of EC pattern approval; Limited EC pattern approval; Voluntary affixing of sign by the manufacturer(at its own risk); the Withdrawal of pattern approval certificate by the Director of Legal Metrology;

PART 3 — (Regulations 15 to 19) deals with Initial Verification and sets out the procedures for conducting such EC initial verification or an examination of an instrument, by the Director of Legal Metrology; Affixing of Mark by an Authorised Officer appointed by the Director of Legal Metrology.

PART 4 (Regulations 20 to 27) deals with Common Provisions such as the appointment of Authorised Officers by the Director of Legal Metrology, for the purpose of ensuring compliance with these Regulations; Decisions made under these Regulations shall be notified to affected persons. The procedures involved in the Appeal of Decisions made by the Director of Legal Metrology are set out in Regulation 22. Offences are set out in Regulation 23. Penalties and prosecution are set out in Regulation 24. Offences by bodies corporate are set out in Regulation 25. Under Regulation 26, the Director of Legal Metrology may charge a fee for carrying out or causing to be carried out, any function or service under these Regulations. Under Regulation 27, where an inscription is required to be affixed to an instrument in accordance with these Regulations, it shall be in English.

PART 5 of these Regulations, deals with four Amendments and one Revocation as follows:

Amendments

- (a) Amendment of Regulation 2 of the European Communities (Measuring Container Bottles) Regulations 1977 (S.I. No. 237 of 1977). (Regulation 28)
- (b) Amendment of Regulation 2 and 3(2) of the Legal Metrology (Type Approval) Regulations 2006 (S.I. No. 207 of 2006). (Regulation 29)
- (c) The Legal Metrology (Marks) Regulations 2008 (S.I. No. 296 of 2008). (Regulation 30)
- (d) The Legal Metrology (General) Regulations 2008 (S.I. No. 323 of 2008). (Regulation 31)

Revocation

The European Communities (Measuring Instruments) Regulations 1973 (S.I. No. 67 of 1973) are revoked. (Regulation 32)

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