



Weights and Measures (Amendment) Act (Northern Ireland) 2000

CHAPTER 5

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Weights and Measures (Amendment) Act (Northern Ireland) 2000

2000 CHAPTER 5

An Act to amend the Weights and Measures (Northern Ireland) Order 1981 to allow self-verification of weighing or measuring equipment, testing by official EEA testers and pre-test stamping. [20th December 2000]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Self-verification of weighing or measuring equipment

1. The Schedule (which amends the 1981 Order to allow self-verification of weighing or measuring equipment) shall have effect.

Testing by official EEA testers

2. After Article 9A of the 1981 Order (inserted by this Act) there shall be inserted the following Article—

“Testing by official EEA testers

9B.—(1) This Article applies where—

- (a) any equipment which has been tested by an official EEA tester is at any time submitted to an inspector under Article 9(3);
- (b) the test report of the official EEA tester is submitted to the inspector at that time; and
- (c) that report states which tests have been applied to the equipment and sets out the results of those tests.

(2) Article 9 shall have effect as if—

- (a) sub-paragraph (a) of paragraph (3) required the inspector not to test the equipment in the manner mentioned in that sub-paragraph; and
- (b) sub-paragraphs (b) and (c) of that paragraph required him to rely, for the purposes of those sub-paragraphs, on the test report of the official EEA tester.

(3) In this Article “official EEA tester”, in relation to the testing of equipment of any description, means a person who, at the time when the tests were applied—

- (a) had responsibility in an EEA State for the metrological control of equipment of that description; or
- (b) was accredited in an EEA State as a person operating a laboratory, in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description.

(4) In paragraph (3) “EEA State” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.”.

Pre-test stamping

3.—(1) After Article 13 of the 1981 Order there shall be inserted the following Article—

“Pre-test stamping by certain manufacturers

13A.—(1) Subject to paragraph (2), an approved verifier who is the manufacturer of any equipment to which Article 9 applies may apply the prescribed stamp to the equipment, notwithstanding that it has not been passed as fit for use for trade, if he is satisfied on reasonable grounds that it will not be used (whether for trade or otherwise) unless either—

- (a) the equipment has been passed as fit for use for trade; or
- (b) the stamp has been destroyed, obliterated or defaced.

(2) A prescribed stamp shall not be applied under paragraph (1) unless the stamp includes the approved verifier’s number.

(3) If any person contravenes paragraph (2), he shall be guilty of an offence and any equipment in respect of which the offence was committed shall be liable to be forfeited.

(4) A prescribed stamp which has been duly applied to any equipment under paragraph (1) shall have effect as follows—

- (a) at any time before the equipment is passed as fit for use for trade, as an indication that, at the time when the stamp was applied, the approved verifier was satisfied as mentioned in paragraph (1); and
- (b) at any time after the equipment is so passed, as evidence of the passing of the equipment as fit for such use.

(5) Where equipment to which a prescribed stamp has been duly applied under paragraph (1) is passed as fit for use for trade, nothing in

Article 9(3)(b) or (3A)(b) shall require another such stamp to be applied to it.

(6) Where the approved verifier fails to pass as fit for use for trade equipment to which a prescribed stamp has been applied under paragraph (1), he may destroy, obliterate or deface the stamp—

- (a) in any case where there is a prescribed manner of doing so, in that manner; and
- (b) in any other case, in such reasonable manner as will leave no doubt that the stamp has been intentionally destroyed, obliterated or defaced.

(7) References in paragraphs (4) to (6) to prescribed stamps which have been applied do not include references to such stamps which have subsequently been destroyed, obliterated or defaced.”.

(2) In Article 2(2) of the 1981 Order (interpretation), in the definition of “stamp”, after the word “means” there shall be inserted the words “, subject to Article 13A(4),”.

(3) In Article 47(1) of the 1981 Order (penalties), after “13(4),” there shall be inserted “13A(3),”.

Interpretation

4. In this Act “the 1981 Order” means the Weights and Measures (Northern Ireland) Order 1981 (NI 10).

Short title

5. This Act may be cited as the Weights and Measures (Amendment) Act (Northern Ireland) 2000.

Section 1.

SCHEDULE

AMENDMENT OF 1981 ORDER TO ALLOW SELF-VERIFICATION

1. The 1981 Order shall be amended as follows.

2. In Article 2(2) (interpretation), after the definition of “the Act of 1985” there shall be inserted the following definition—

““approved verifier” has the meaning given by Article 9(3B);”.

3. In Article 9 (weighing or measuring equipment for use for trade)—

(a) in paragraph (2) after the word “inspector” there shall be inserted the words “or approved verifier”;

(b) in paragraph (3) after the word “passed”, in the first place where it occurs, there shall be inserted the words “by an inspector” and for the words “an inspector” there shall be substituted the words “the inspector”;

(c) after paragraph (3) there shall be inserted the following paragraphs—

“(3A) An approved verifier may (subject to the provisions of this Order, to any regulations under Article 13 and to any conditions included in his approval)—

(a) test any equipment to which this Article applies by means of other equipment which has already been tested and which the verifier considers suitable for the purpose;

(b) if the equipment being tested falls within such limits of error as may be prescribed, except as otherwise expressly provided by or under this Order, stamp it with the prescribed stamp; and

(c) if the equipment being tested falls within such limits of error as may be prescribed, and by virtue of paragraph (7) is not required to be stamped as mentioned in sub-paragraph (b), make a statement in writing to the effect that it is passed fit for use for trade.

(3B) In this Order “approved verifier”, in relation to weighing or measuring equipment of any class or description, means a person who-

(a) is for the time being approved under Article 9A in relation to the testing, passing and stamping of weighing or measuring equipment of that class or description; or

(b) is for the time being approved under the corresponding provisions of the law of Great Britain in relation to the testing, passing and stamping of weighing or measuring equipment of a similar class or description.”;

(d) in paragraph (4), for the words “paragraph (3)(b)(ii)” there shall be substituted the words “paragraph (3)(b) or (3A)(b)”.

4. After Article 9 there shall be inserted the following Article—

“Approval of persons to verify equipment manufactured etc. by them

9A.—(1) Paragraph (2) applies where, as regards a person who carries on business (whether in Northern Ireland or elsewhere) as a manufacturer, installer or repairer of equipment to which Article 9 applies, the Department—

- (a) is satisfied that the person would, if approved under this Article, satisfy the requirements set out in Part II of Schedule 2A; and
- (b) considers the person a fit and proper person to be so approved.

(2) The Department may approve the person for the purpose of—

- (a) testing any equipment to which Article 9 applies and which is manufactured, installed or repaired by him;
- (b) passing any such equipment as fit for use for trade; and
- (c) stamping any such equipment with the prescribed stamp.

(3) Before granting an approval under this Article, the Department may carry out such audits and inspections of the person’s systems and procedures as it considers necessary to establish that the conditions of the approval would be observed.

(4) Schedule 2A (which relates to approvals under this Article and matters connected with such approvals) shall have effect.

(5) In that Schedule “approval” means an approval under this Article and “the verifier”, in relation to such an approval, shall be construed accordingly.”.

5. In Article 12(1) (general specifications of equipment for use for trade), after the words “an inspector” there shall be inserted the words “or approved verifier”.

6. In Article 14 (offences in connection with stamping of equipment), in paragraph (1)(a) after the word “inspector”, in both places where it occurs, there shall be inserted the words “or approved verifier”.

7. In Article 41(1) (general powers of inspection and entry), at the end of subparagraph (a) there shall be added the words “or which has been, or which he has reasonable cause to believe to have been, passed by an approved verifier, or by a person purporting to act as such a verifier, as fit for such use”.

8. For paragraph (2) of Article 45 (offences in connection with office of inspector) there shall be substituted the following paragraphs—

“(1A) Any approved verifier who—

- (a) stamps any weighing or measuring equipment in contravention of any provision of this Order or of any instrument made under it, or without duly testing it; or
- (b) commits any breach of any duty imposed on him by or under this Order,

shall be guilty of an offence.

(2) If any person who is not an inspector, or is not an approved verifier, acts or purports to act as such, he shall be guilty of an offence.

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(3) Articles 24(1) and 25(1) shall apply in relation to proceedings for an offence under paragraph (1A)(b) as they apply in relation to proceedings for an offence under Part V.”.

9. After Schedule 2 there shall be inserted the following Schedule—

“SCHEDULE 2A

APPROVALS UNDER ARTICLE 9A

PART I

APPROVALS: GENERAL

Fees

1. Where—

- (a) any person makes an application for an approval, or
- (b) an approval is to be, or has been, granted to any person,

the Department may require that person to pay, in respect of any work carried out by or on behalf of the Department in relation to the application or the approval, such reasonable fee as the Department may determine with the approval of the Department of Finance and Personnel.

Form, effect and conditions of approvals

2.—(1) An approval shall be in writing and, unless previously withdrawn in accordance with any term in that behalf contained in the approval and subject to the following provisions of this Part, shall continue in force for such period (not exceeding five years) as may be specified in the approval.

(2) An approval—

- (a) shall specify the classes or descriptions of weighing or measuring equipment for the testing, passing as fit for use for trade and stamping of which the verifier is approved;
- (b) may include such conditions as appear to the Department to be requisite or expedient having regard to the need to ensure that only such equipment as is fit for use for trade is passed as fit for such use; and
- (c) shall contain conditions requiring the verifier to satisfy the requirements set out in Part II.

(3) Without prejudice to the generality of sub-paragraph (2), conditions included in an approval by virtue of that sub-paragraph may—

- (a) require the verifier to comply with any direction given by the Department as to such matters as are specified in the approval or are of a description so specified;
- (b) require the verifier to ensure that his procedures for the testing of weighing or measuring equipment conform with such quality

standards as are specified in the approval or are of a description so specified.

Suspension of approvals

3.—(1) If it appears to an inspector that, otherwise than in accordance with Article 13A, the prescribed stamp has been, or is being, applied by an approved verifier to equipment which had not, or has not, been duly tested and passed as fit for use for trade, he may give to the verifier a notice (a “suspension notice”) suspending the verifier’s approval (either generally or in relation to particular areas or places) for a period not exceeding 28 days.

(2) Where an inspector gives a suspension notice, he shall forthwith send a copy of the notice to the chief inspector and inform the approved verifier in writing of—

- (a) the circumstances which have led to the giving of the notice;
- (b) the date on which the notice takes effect; and
- (c) the effect of the following provisions of this paragraph.

(3) An approved verifier who has taken steps to prevent a recurrence of the circumstances which led to the giving of a suspension notice may apply to the inspector for the suspension to be withdrawn before the expiry of the specified period; and an application under this sub-paragraph—

- (a) shall be made by notice to the inspector given not later than 21 days after the date of the suspension notice; and
- (b) shall state the steps taken to prevent such a recurrence.

(4) An inspector shall consider any application made to him under sub-paragraph (3) and, having done so, shall notify the approved verifier of his decision.

(5) An approved verifier who is aggrieved by a suspension notice may apply to the chief inspector to review the suspension; and an application under this sub-paragraph—

- (a) shall be made by notice to the chief inspector given not later than 21 days after the date of the suspension notice; and
- (b) shall state the grounds on which the application is made.

(6) The chief inspector shall consider any application under sub-paragraph (5) and, having done so, shall notify the approved verifier and the inspector of his decision.

(7) Where the chief inspector decides under sub-paragraph (6) to uphold the suspension, he shall also notify the approved verifier and the inspector of the grounds for his decision.

(8) Where the chief inspector decides under sub-paragraph (6) not to uphold the suspension, he shall instruct the inspector to withdraw the suspension.

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Withdrawal of approvals

4.—(1) Subject to sub-paragraph (2), the Department may by written notice withdraw an approval if at any time during the continuance of the approval—

- (a) the Department is of the opinion that if the approval had expired at that time it would have been minded not to grant a further approval;
- (b) it appears to the Department on reasonable grounds that the verifier is, or has been, in breach of any condition contained in the approval; or
- (c) any fee due to the Department by virtue of a requirement made by it under paragraph 1 has not been paid.

(2) Except where the Department considers in the circumstances of any particular case that it is necessary for it to withdraw an approval without delay, it shall not withdraw an approval unless it has given the verifier at least 28 days written notice of its intention to do so and of the grounds for withdrawal.

(3) Where the Department withdraws an approval without giving the notice required by sub-paragraph (2), it shall, at or before the time when the withdrawal takes effect, give the verifier written notice of the grounds for withdrawal and of its reasons for considering it necessary to withdraw the approval without delay.

(4) Where a verifier receives notice under sub-paragraph (2) or (3), he may within 21 days of receipt of the notice make representations in writing to the Department.

(5) The Department shall consider any representations so made and, having done so, shall notify the verifier of its decision.

Grant of new approval following withdrawal

5.—(1) Where the Department decides, whether in the light of representations or otherwise, that an approval which has been withdrawn should not have been withdrawn, it shall as soon as reasonably practicable grant a new approval to the former verifier.

(2) The new approval shall expire on the date on which the withdrawn approval would have expired and (except as may otherwise be agreed with the former verifier) shall be subject to the same terms and conditions as the withdrawn approval.

(3) Where the Department grants a new approval under sub-paragraph (1), the verifier shall be deemed to have remained approved for the period beginning on the date on which the original approval was withdrawn and ending on the date on which the new approval took effect.

Application for further approval

6.—(1) This paragraph applies where, not less than three months before the end of the period specified in an approval as the period for which the approval is to continue in force, the verifier applies to the Department for

the grant of a further approval in the same, or substantially the same, terms as those of the existing approval.

(2) The existing approval shall remain in force until the Department gives the verifier notice of its decision with respect to the application.

PART II

REQUIREMENTS TO BE MET BY APPROVED VERIFIERS

Maintenance of quality system

7.—(1) An approved verifier shall maintain in force such systems and procedures (in this Part referred to as his quality system) as will ensure that—

- (a) any weighing or measuring equipment passed by the verifier as fit for use for trade satisfies any requirements relating to it imposed by or under this Order; and
- (b) adequate testing procedures are undertaken by the verifier having regard to the nature of weighing or measuring equipment with which the verifier is concerned and, in particular, to whether any such equipment is electronic.

(2) An approved verifier shall give the Department written notice, within five working days of their occurrence, of any modifications to the verifier's quality system which are liable to affect its appropriateness or effectiveness.

(3) An approved verifier shall permit the Department, at any reasonable time after giving written notice, to carry out such audits and inspections of the verifier's quality system as the Department considers necessary to establish that the conditions of the approval have been, and will continue to be, observed.

Preparation etc. of quality system manual

8.—(1) An approved verifier shall prepare and keep up-to-date a quality system manual, that is to say, a document—

- (a) showing how his quality system satisfies the requirements of paragraph 7(1);
- (b) setting out the objectives of that system;
- (c) containing details of his organisational structure, including details of—
 - (i) the persons who have management responsibility for that system, including their names and individual responsibilities;
 - (ii) the persons who are authorised to test, pass or stamp weighing or measuring equipment with which the verifier is concerned, including their names and qualifications;
- (d) containing details of the equipment and other items required for the testing of weighing or measuring equipment with which the verifier is concerned;

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- (e) containing a description of the regulations made under this Order and certificates of approval issued under Article 10, which are applicable to the testing, passing or stamping of weighing or measuring equipment with which the verifier is concerned;
- (f) containing a description of the verifier's procedures—
 - (i) for the testing of weighing or measuring equipment;
 - (ii) for ensuring that weighing or measuring equipment passed as fit for use for trade conforms with any such regulations and (where applicable) any such certificates of approval;
 - (iii) for ensuring that weighing or measuring equipment which does not conform with any such regulations, or (where applicable) any such certificates of approval, is prevented from being passed as fit for use for trade;
 - (iv) for ensuring that any persons conducting tests of weighing or measuring equipment have the necessary skills and qualifications to do so;
 - (v) for ensuring that the verifier exercises control over and retains responsibility for the actions of any sub-contractor of his in relation to the testing of weighing or measuring equipment;
 - (vi) for enabling identification of individual items or batches of weighing or measuring equipment;
 - (vii) for the control of the equipment used for the testing of weighing or measuring equipment;
 - (viii) for the control and use of the prescribed stamp;
 - (ix) for the control of documents and data;
 - (x) for undertaking internal reviews and audits of the verifier's quality system; and
- (g) containing a description of the verifier's system of records for showing that any weighing or measuring equipment passed as fit for use for trade conforms with any such regulations and (where applicable) any such certificates of approval.

(2) An approved verifier shall, on demand by the Department, provide it with such copies of or extracts from the verifier's quality system manual as may be specified or of a description specified in the demand.

Keeping of records

9. An approved verifier shall keep a record of every test carried out by him of equipment to which Article 9 applies.”.

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