
1. Introduction

This assessment estimates the costs and benefits of The Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003 (“the proposed Regulations”).

2. Purpose and intended effect of the measure

(i) The objective: The proposed Regulations remove barriers to trade by harmonising national legislative requirements for automatic catchweighing instruments with the requirements of R51 (for definition of R51 see paragraph 2(ii) below). R51 makes requirements for the principles of construction of these instruments, and for their testing, installation and operation. The proposed Regulations permit these instruments to be imported from another state of the European Economic Area (EEA) without the need for further testing within Great Britain, provided that they have been tested satisfactorily on an equivalent basis to that required by the proposed Regulations. The proposed Regulations make clearer the conditions under which an instrument may be tested at a place other than its intended place of use. The proposed Regulations permit non-metric supplementary indications until 31 December 2009. The proposed Regulations allow instruments to be first passed as fit for use for trade under The Weighing Equipment (Non-automatic Weighing Machines) Regulations 2000 (“the 2000 Regulations”) for ten years from the date on which the proposed Regulations come into force (the “transitional exclusion”).

Devolution: The proposed Regulations will apply to Great Britain only (Northern Ireland has separate Regulations for weighing and measuring instruments).

(ii) The background

The United Kingdom is a member of the International Organisation of Legal Metrology (OIML) and Great Britain has a moral obligation (although not a legal one) to implement International Recommendation R51 on automatic catchweighing instruments into national legislation. These instruments are used for factory and industrial applications. Where these instruments are in use for trade they are currently prescribed under national legislation – the 2000 Regulations. Checkweighing and weight-grading instruments are not currently prescribed by national legislation and, although they are covered by R51, there are no plans to make checkweighers or weight-graders prescribed instruments. The term ‘automatic catchweighing instruments’ within the proposed Regulations means instruments that are not checkweighing or weight-grading instruments, but are instruments which meet specified accuracy classes corresponding approximately with Classes III and IIII of such instruments to which the 2000 Regulations currently apply. Accordingly, subject to the transitional exclusion, the proposal is to replace the 2000 Regulations in as far as they relate to automatic catchweighing instruments which fall within the scope of the proposed Regulations.

Besides implementing R51, the proposed Regulations will also recognise the effect of the European Economic Area Agreement of 1992 (amended 1993) which provides for the free movement of instruments from one EEA state to another without the need for further testing in the importing EEA country, subject to meeting certain requirements.

(iii) Risk assessment

In this case, risk could be said to be to British manufacturers of these instruments who might incur additional construction and testing costs if their instruments were required to meet the requirements of national legislation and the requirements of R51, where those instruments
were also intended for export. However, the additional cost of constructing a single instrument to meet both British and R51 requirements is not likely to be much higher than the cost of meeting just British requirements.

3. Options

Option 1 – continue with the present situation, that is having instruments made and tested for conformity with existing national Regulations and additionally to the requirements of R51 where the manufacturer requires it.

Option 2 – implement the requirements of R51 into national legislation. OIML signatories have a moral obligation to implement OIML recommendations.

4. Benefits

Option 1 – has no quantifiable benefits as it continues with the present situation.

Option 2 – Direct Benefits: This option would enable importing manufacturers to make some small savings on testing costs. Testing for type approval carried out for British national legislation currently costs approximately £5,000 depending on the instrument. If an importing manufacturer already had type approval from another country that had implemented R51 then no further testing would be required and the cost of obtaining a UK type-approval certificate would be reduced to approximately £1000. This would also apply to British manufacturers exporting instruments to another country that had implemented R51, the cost being reduced to an average of about 2000 euros.

Indirect Benefits: This option has the non-quantifiable benefit of helping Great Britain to meet its obligations, both to the EU, and to the wider group of countries which are OIML members, of reducing barriers to trade. It is the policy of the DTI to effect legislation that will help reduce barriers to trade wherever possible.

When the proposed Measuring Instruments Directive is implemented conformity with OIML recommendations may be one way of ensuring that conformity with the essential requirements of the Directive is demonstrated.

Manufacturers in Great Britain who make instruments for export will benefit from not requiring further tests to be carried out in OIML importing countries, once R51 has been implemented there.

Trading Standards Officers should have more time available to devote to other work.

Business sectors affected

Manufacturers of automatic catchweighing instruments, whether made in Great Britain for the internal or external markets, or whether being imported into Great Britain, will be affected. There are at least 5 British firms manufacturing these instruments, which, between them, employ approximately 1600 staff (not all devoted entirely to the manufacture of these instruments). Total employment for the instrument’s manufacture is estimated to be approximately 600 people.

The retail value of all automatic catchweighing instruments purchased within Great Britain is estimated to be £12m per annum. It is estimated that 600 instruments are supplied by British manufacturers to British users annually. The estimated average retail value for each instrument is £20,000, depending on the type of instrument.
Issues of equity and fairness

It may be unfair to make the requirements of R51 mandatory for British manufacturers who wish to make automatic catch weighing instruments for the British market only, and who currently have customers who are content to purchase and use instruments which meet the current national regulations, thereby involving them in additional costs. However, compliance with R51 might allow exports to markets in other countries where R51 has been implemented, without further additional costs being incurred.

5. Costs

(i) Compliance Costs

The total recurring cost to businesses in the UK under option 2 would be £60,000 collectively per annum. A similar cost is incurred currently under option 1 by businesses collectively when complying with the 2000 Regulations.

Total non-recurring costs – there are 20-25 current pattern approval certificates for automatic catchweighing instruments, with approximately 45 variants to the base approvals, any of which may still be manufactured. If a quarter of manufacturers (it is unlikely to be more, due to the fact that most of these instruments are manufactured for the British market) decided to replace existing patterns with a pattern corresponding with the requirements of the proposed Regulations, this may imply a possible non-recurring cost to business of up to £225,000.

(ii) Other costs

Option 1 – None

Option 2 – Any costs that fall to manufacturers are ultimately likely to be passed on indirectly to the consumers of the products that are weighed by automatic catchweighing instruments.

Trading Standards Departments may experience some slight loss of income from testing for initial verification, although it is thought that only about 50 imported instruments are submitted for initial verification per year. A Trading Standards Department carrying out an initial verification may lose about £100 per instrument, the potential loss of income for all Trading Standards Departments in total may be £5,000, which gives an average of £25 per Trading Standards Department per annum.

Enforcement of the proposed Regulations by Trading Standards Departments will not result in increased costs over existing enforcement arrangements.

Some Trading Standards Departments may incur training costs. On the basis that approximately half of the 207 local authorities in the UK may need the services of at least one trained Trading Standards Officer, and that training is estimated to take about half a day per officer, total training costs associated with the proposed Regulations would be either:

(a) about £21,000 for self-training, as an officer’s time costs about £55 per hour (based on figures for the year 2003 – 2004); or

(b) between about £22,000 and £38,000 for a formal training course, as fees would cost £60 - £100 per officer.

Ongoing training costs to keep Trading Standards Officers up to date with current legislation are met out of existing local authority funding.
For NWML’s Measuring Instrument Certification Unit (MICU) there may be some slight loss of income from type approving imported instruments (about 3 per year), perhaps of about £6000 per annum.

(iii) Costs for a typical business

Option 1 – The cost of initial verification testing is about £100 per instrument.

Option 2 – Recurring: It is estimated that the cost of initial verification testing may double from £100 to £200 per instrument, due to the more extensive testing that is required by R51, although this will not necessarily be the case.

Non-recurring: Manufacturers may initially need to make changes to the way in which automatic catchweighing instruments are manufactured. The one-off cost per manufacturer is likely to be in the order of £20,000. However, because of the transitional exclusion period which has been included in the proposed Regulations, nothing within them forces a manufacturer to change from manufacturing instruments to existing patterns, for the life of that pattern.

6. Consultation with small business: the Small Firms’ Impact Test

Small firms manufacturing automatic catchweighing instruments were invited to come forward to take part in the impact test. There were no volunteers identified in the consultation. Three small firms were interviewed.

Small Firms Impact Test 1

The company manufacture weigh price labellers. They employ between 150 and 200 people. About 9 or 10 of these work on the shop floor, and another dozen are involved at the design stage. The company manufacture more than 50 instruments per year for the UK, plus exports. They export equipment to southern Ireland, France and Belgium and, at the time of the interview, were discussing whether to obtain type approval for their equipment in Germany and the Netherlands with a view to exports to those countries. The company also export to America where the equipment is tested again, because the US does not accept R51; the company would therefore welcome a mutual recognition agreement with the US. They sell weigh price labellers to the food preparation industry (for packaging bacon, chicken and beef, for example).

A benefit to the company would be the consolidation of a common approach in Europe. The company were already having instruments type approved to the requirements of R51 for sale to other countries. As the Mutual Recognition Agreement with Australia had not been extended to R51, the company have their equipment re-tested in that country.

The company had accommodated a change to the slightly tighter tolerances used for testing dynamic instruments as set out in R51 and, at the time of the interview, they had submitted a machine for NWML to approve. However, the implementation of R51 would not make any overall difference to the company in terms of costs. They were happy to make the change because Belgium, France, Holland and southern Ireland already conformed to R51.

Small Firms Impact Test 2

The company manufacture weigh-price labellers, checkweighers, label applicators, stretch wrapping machines, conveyor systems and grading systems. They employ 120 people, and manufacture between 50 and 100 weigh price labellers per annum. These instruments are
sold to the food preparation industry (for packaging cheese, fish, poultry, red meat, and fruit and vegetables).

The proposed Regulations would have no impact on the company in terms of either costs or benefits because they already approve their equipment to R51 in order to export to countries such as France, the Netherlands and Belgium. They also export to the US, where their equipment is re-tested because the US do not recognise R51.

**Small Firms Impact Test 3**

The interview for this test was carried out in November 2001, and it has not been possible to update it.

The company is owned by a parent company based in another EU member State, which manufacture automatic (and non-automatic) weigh-price labellers. The UK company employ 14 people on sales and service. All of the company’s manufacturing is carried out by the parent company, but national approvals are obtained in the UK. The UK company import modules from their parent company and applies different printers to instruments, making a total of about 60/70 per annum for sale in the UK only, mainly to the food packaging industry. The proposed Regulations would present no problem to the company as their equipment already conforms to R51.

The UK company would benefit from the proposal to permit initial verification testing at premises other than the intended place of use, which would mean its equipment could be stamped at its own premises instead of on the customer’s site. The parent company is already having instruments type approved to the requirements of R51 in its own country. The proposed Regulations would assist the parent company with sales to Great Britain.

The company would not incur any costs if the proposed Regulations were implemented.

7. **Competition Assessment**

It is anticipated that manufacturers of automatic catchweighing instruments (catchweighers) would not incur any significant additional costs as a result of the implementation of the proposed Regulations. It is probable that manufacturers already comply with the requirements of International Recommendation 51 of the Organisation of International Legal Metrology (R51), on which the proposed Regulations are based. The introduction of the proposed Regulations would not create any barriers to new entrants wishing to enter the market, but would help to reduce barriers to trade by harmonising national legislative requirements for catchweighers with the requirements of R51. It is not likely that implementation of the proposed Regulations would result in any disproportionate costs or other effects between manufacturers of catchweighers. There is a 10-year transitional period from the date on which the proposed Regulations come into force during which catchweighers may continue to be first passed as fit for use for trade under current legislation, thereby allowing manufacturers to make full use of any type approval certificates that have already been issued. It is proposed that the coming into force date of the proposed Regulations will be delayed by four months, so that manufacturers will have this period in which to continue with applications for planned type approvals under current legislation. The proposed Regulations will not apply to catchweighers put into use for trade before the proposed Regulations come into force.

In the light of the above comments prepared by NWML and cleared by OFT, it is not anticipated that implementation of the proposed Regulations will have any (or any significant) impact on competition within any affected markets.
8. Rural Proofing

Please see Annex 1.

9. Enforcement and sanctions

The proposed Regulations will be enforced by local authority Trading Standards Departments as part of their existing weights and measures work, and no additional costs to them (other than, possibly, for training) are expected. Inspectors of weights and measures (otherwise known as Trading Standards Officers) who come across automatic catchweighing instruments which no longer comply with the Regulations may decide to issue a written notice to the person in control of the instrument giving them up to twenty-eight days to have the instrument corrected. However, in some extreme cases, the inspector has the authority to obliterate the prescribed stamp immediately, thereby taking the instrument out of trade use.

10. Monitoring and review

It is intended to monitor the proposed Regulations, and this will be done in conjunction with Trading Standards Officers. Following the making of the proposed Regulations, Trading Standards Departments and industry will be requested to identify any areas on which they would like elaboration for inclusion in the Notes for Guidance on The Weighing Equipment (Automatic Catchweighing Instruments) Regulations. It is planned that the Notes for Guidance will be drafted and published as a follow-on project by NWML by the autumn of 2004. In addition, NWML consults members of various bodies e.g. trade associations and local authorities regularly, reviews Regulations on a periodic basis, and publishes amending statutory instruments if necessary.

11. Consultation

(i) Within government

The Department of Enterprise, Trade and Investment in Northern Ireland, the Department of Trade and Industry (Legal, and Communications and Information Industries divisions), Guernsey Department of Consumer Affairs, Jersey Trading Standards Department, Manx Weights and Measures Office Trading Standards Department, Ministry of Agriculture, Fisheries and Food (now Department for Environment, Food and Rural Affairs), Welsh Assembly.

(ii) Public consultation results

Nine individuals and organisations responded to the consultation document. Two of these offered no substantive comments on the content of the consultation. The responses informed of requirement for mutual recognition clause, and of costs which would be incurred; suggested additional requirements, textual corrections, a drafting change, and relocating a definition; raised questions of interpretation, application, clarification and practicality; and requested inclusion of all relevant text from OIML R51 within Regulations.
12. Summary and Recommendation

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<thead>
<tr>
<th>Option</th>
<th>Total cost to business per annum</th>
<th>Total benefit to business per annum</th>
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<tbody>
<tr>
<td>1</td>
<td>£ 60,000¹ – Year ¹²</td>
<td>None</td>
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<tr>
<td></td>
<td>£ 60,000¹ – in each subsequent year</td>
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<tr>
<td>2</td>
<td>£285,000³ – Year 1</td>
<td>As paragraph 4 above. The figure of £285,000 takes into account the reduction in certification costs on imported instruments.⁴</td>
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<tr>
<td></td>
<td>£ 60,000¹ – in each subsequent year</td>
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¹ This figure has been calculated by multiplying the 600 instruments that businesses collectively in the UK supply annually by the cost of initial verification testing per instrument of about £100.

² Manufacturers have already incurred set-up costs in previous years to comply with the 2000 Regulations.

³ This figure represents the set-up costs to comply with the proposed Regulations. It comprises the possible non-recurring total cost to businesses collectively of up to £225,000 (i.e. a quarter of 45 variants to pattern approval certificates multiplied by an estimated average retail value per instrument of £20,000), plus the figure given in note ¹ above.

⁴ Based on the figures set out in paragraph 4 for testing for type approval and assuming 3 instrument types are submitted per annum by a manufacturer already having an approval from another country, a saving of £12,000 would be made.

It is recommended that Option 2 be followed. This will result in a reduction in costs for the manufacturer by providing a route to compliance with international requirements. It is DTI policy to effect legislation that will help to reduce barriers to trade wherever possible.

13. Guidance

Guidance on the proposed Regulations will be issued not less than 12 weeks before the proposed Regulations come into force.

14. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs/balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister: .................................

Date: .................................

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Annex 1

Rural Proofing

1. Will the policy affect the availability of public and private services?
   No

2. Is the policy to be delivered through existing service outlets, such as schools, banks and GP surgeries?
   No

3. Will the cost of delivery be higher in rural areas where clients are more widely dispersed or economies of scale are harder to achieve?
   No

4. Will the policy affect travel needs or the ease and cost of travel?
   No

5. Does the policy rely on communicating information to clients?
   Manufacturers and trade associations have been consulted. They will be informed that the Regulations have been made and 12-week guidance leaflets will be issued to them as soon as the Regulations have been made.

6. Is the policy to be delivered by the private sector or through a public-private partnership?
   By the private sector.

7. Does the policy rely on infrastructure (e.g. broadband ICT, main roads, utilities) for delivery?
   No

8. Will the policy impact on rural businesses, including the self-employed?
   There has been no indication of significant costs.

9. Will the policy have a particular impact on land-based industries and, therefore, on rural economies and environments?
   No

10. Will the policy affect those on low wages or in part-time or seasonal employment?
    No

11. Is the policy to be targeted at the disadvantaged?
    No

12. Will the policy rely on local institutions for delivery?
    No

13. Does the policy depend on new buildings or development sites?
    No

14. Is the policy likely to impact on the quality and character of the natural and built rural landscape?
    No

15. Will the policy impact on people wishing to reach and use the countryside as a place for recreation and enjoyment?
    No