EXPLANATORY MEMORANDUM TO

THE CALIBRATION OF TANKS OF VESSELS (EEC REQUIREMENTS) (REVOCATION) REGULATIONS 2011

2011 No. 1439

1. This explanatory memorandum has been prepared by the National Measurement Office (NMO), an Executive Agency of the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments (JCSI).

2. Purpose of the instrument

The Calibration of Tanks of Vessels (EEC Requirements) (Revocation) Regulations 2011 implements, in part, Directive 2011/17/EU and repeals Directive 71/349/EEC.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 The Regulations repeal the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975 which implemented Council Directive 71/349/EEC relating to the calibration of the tanks of inland waterway vessels and coastal vessels. The Regulations provided a means by which an application for calibration could be made to the Secretary of State and for the calibration to be carried out in conformity with the Directive and for the issue of a calibration certificate. Legislation to repeal the remaining directives covered by Directive 2011/17/EU - which are due by to be made by 30 November 2015 and come into force on 1 December 2015 - will be brought forward once it is clearer whether any of them will be replaced by new annexes under the Measuring Instruments Directive in the context of the Commission's on-going review of the Measuring Instruments Directive for which the report due by 30 April 2011 is still awaited.

4.2 The instrument implements EU legislation and a Transposition Note is attached.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom, including Northern Ireland. It does not apply to Gibraltar.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Regulations implement the Directive 2011/17/EU of the European Parliament and of the Council of 9 March 2011 repealing Council Directives 71/317/EEC, 71/347/EEC, 71/349/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC regarding metrology. These "Old Approach Directives" relate to various measuring instruments only some of which are regulated in the UK. The repeal is being managed in two stages and this, the first stage, is to repeal a single directive with effect from 1 July 2011. The remaining directives in the package are to be repealed by 1 December 2015. This extended period is to allow those Member States who wish to retain the requirements to seek to have the provisions included as new annexes to the Measuring Instruments Directive 2004/22/EC (MID).

7.2 Other Member States make extensive use of some of these directives and have expressed concerns about their repeal in particular France, Germany and the Netherlands. Indeed this is a principal reason for the delay in agreeing the terms of the Directive which was first proposed in 2008. It is expected that there will be continuing pressure from these Member States to replace them with new annexes to the MID. The Commission has made it clear that it will issue such proposals only in cases where an economic case for doing so has been made. The UK would only support any such extension of the scope of the MID if it was clear that the "optionality" in that Directive was maintained allowing each Member state to decide whether to regulate that instrument for their home market or not.

7.3 'Gold-plating' is not relevant to this revocation.

8. Consultation outcome

8.1 There was no public consultation conducted on the proposed repeal of these regulations because although the regulations were required to implement the original directive there is no evidence that the provisions of the regulations have ever been used. A notification of the repeal has been placed on the NMO website to advise that new regulations to repeal the Calibration of the Tanks of Vessels (EEC Requirements) Regulations 1975 which implemented Directive 71/349/EC relating to the calibration of tanks of inland waterway and coastal vessels will be made on 30 June 2011 with a coming into force date of 1 July 2011.

8.2 The future regulations required to repeal the remaining directives listed will be subject to full consultation at a later date.

9. Guidance

There will be no guidance required because the entire regulations will be withdrawn.

10. Impact

10.1 There will be no impact on UK business either in terms of costs or savings arising from the repeal of The Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975. As a consequence it has been agreed that an Impact Assessment (IA) is not required. This equally applies to micro business and SMEs.

10.2 These regulations provided an opportunity for UK manufacturers to apply to the Secretary of State to have their calibrated tanks verified by a third party so that they could be placed on the market in any EEA market where their use was nationally prescribed. Such tanks are not required to be calibrated and certified in the UK and there is no known evidence that any application has been made to the Secretary of State to request the calibration of a tank of an inland waterway or coastal vessels in the 35+ years since the regulations were first made.

11. Regulating small business

11.1 There is no relevance to small business.

12. Monitoring & review

12.1 Monitoring is not applicable to this repeal.

13. Contact

Sue Billing at the National Measurement Office can answer any queries regarding the instrument.

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TRANSPOSITION NOTE

Directive 2011/17/EU of the European Parliament and Council repealing Council Directives 71/317/EEC, 71/347/EEC, 71/349/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC, and 86/217/EEC regarding metrology.

The Calibration of Tanks of Vessels (EEC Requirements) (Revocation) Regulations 2011 repeals the UK legislation implementing the provisions of Directive 71/349/EEC on the calibration of tanks of inland waterway and coastal vessels and was made on 30 June 2011 in accordance with Article 5.

Article	Objectives	Implementation
Article 1 and 5(1)	Sets implementation date of 1 July 2011	Regulation 1 specifies the coming into force date of 1 July 2011
Article 1	Revokes the Regulations	Regulation 2 repeals the 1975 Regulations (including amendments) which implemented Directive 71/349/EEC