2002 No. 3082

ELECTRICITY

The Measuring Instruments (EC Requirements) (Electrical Energy Meters) (Amendment) Regulations 2002

Made - - - - -	*12th December 2002*
Laid before Parliament	*16th December 2002*
Coming into force - -	*1st February 2003*

The Secretary of State, being a Minister designated(**a**) for the purpose of section 2(2) of the European Communities Act 1972(**b**) in relation to the regulation of specifications, construction, placing on the market and use of equipment intended for weighing, measuring or testing or purposes ancillary thereto, in exercise of the powers conferred by that section hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Measuring Instruments (EC Requirements) (Electrical Energy Meters) (Amendment) Regulations 2002 and shall come into force on 1st February 2003.

Interpretation

2. In these Regulations—

"the 1988 Regulations" means the Measuring Instruments (EEC Requirements) Regulations 1988(**c**);

"the 1995 Regulations" means the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995(**d**);

"application" means an application for EC pattern approval pursuant to regulation [6] of the 1995 Regulations.

Amendment of the 1995 Regulations

3. The 1995 Regulations are amended in accordance with the Schedule to these Regulations.

(**a**) S.I. 1975/427.
(**b**) 1972 c. 68.
(**c**) S.I. 1988/186.
(**d**) S.I. 1995/2607: references in the Regulations to "the Director" are, by section 3 of the Utilities Act 2000 (c. 27), to have effect as if they were references to the Gas and Electricity Marketing Authority established by section 1 of that Act.

Transitional

4. The amendments made by these Regulations shall have effect only in relation to applications made on or after the date on which these Regulations come into effect.

Brian Wilson
Minister of State for Energy and Construction
Department for Trade and Industry

12th December 2002

SCHEDULE

Regulation 3

1. In Regulation 2(1) (interpretation and extent),—

(a) after the definition of "the Act", insert—

"(aa) "the Authority" means the Gas and Markets Authority established by section 1 of the Utilities Act 2000;

(ab) "certified examination report" means a copy certified by a nominated laboratory as a true copy of the full report of the examination carried out by the laboratory for the purpose of establishing whether instruments of the pattern in question satisfy the measurement characteristics and technical design and functioning requirements laid down by the relevant Directive;";

(b) after the definition of "manufacturer", insert—

"(ja) "nominated laboratory" means a laboratory nominated by the Authority for the carrying out inspections in connection with EC pattern approval;".

2. In Regulation 5 (application of provisions of the 1988 Regulations), in paragraph (1)(b), for "paragraph (4)" substitute "paragraphs (1), (2) and (4)".

3. After Regulation 5, insert—

"**5A. EC pattern approval**

(1) Where any pattern of relevant instrument is submitted by the manufacturer or his authorised representative to the Authority for EC pattern approval, the Authority shall not grant that approval unless the application complies with the requirements of Regulation 6 and either—

(a) the application is accompanied by a certified examination report; or

(b) the Authority has conducted or procured the conduct of an examination;

and in either case the Authority is satisfied that the pattern conforms to the requirements of the relevant Directive.

(2) Where EC pattern approval granted under these Regulations is in force in respect of a pattern of relevant instrument, if an application is made by a manufacturer or his authorised representative for approval of modifications or additions to the approved pattern, the Authority shall not grant that approval unless the application complies with the requirements of Regulation 6 and either—

(a) the application is accompanied by a certified examination report; or

(b) the Authority has conducted or procured the conduct of an examination;

and in either case the Authority is satisfied that the pattern with the modifications or additions proposed conforms to the requirements of the relevant Directive.

(3) The Authority shall not, unless requested to do so by the manufacturer or his authorised representative, conduct or procure the conduct of an examination for the purposes of paragraph (1) or (2), as the case may be, if, in that case—

(a) a certified examination report has been submitted in support of the application for approval in accordance with regulation 4(1)(c); and

(b) the Authority is satisfied—

(i) that the report of the nominated laboratory is sufficient and reliable for the purpose of determining whether the pattern or, as the case may be, the pattern with the modifications or additions proposed, conforms to the requirements of the relevant Directive; and

(ii) on the basis of the report that the pattern or, as the case may be, the pattern with the modifications or additions proposed, conforms to the requirements of the relevant Directive.

(4) Where, on an application under paragraph (1) or (2), the Authority grants EC pattern approval, it shall issue a certificate of that approval."

4. For Regulation 10, substitute—

"**10. Fees**

(1) In a case in which EC pattern approval has been given on the basis of the certified examination report of a nominated laboratory alone, the Authority may charge such reasonable fee as it may determine in respect of the cost of satisfying itself that the pattern or, as the case may be, the pattern with the modifications and additions proposed, conforms to the requirements of the relevant Directive.

(2) In a case in which EC pattern approval is given or refused following an examination conducted by or procured by the Authority, the Authority may charge such reasonable fee as it may determine in respect of the costs to the Authority of conducting or procuring the examination and of determining whether the pattern or, as the case may be, the pattern with the modifications and additions proposed, conforms to the requirements of the relevant Directive.

(3) In the case of any relevant instrument submitted for EC initial verification to a meter examiner employed by the Authority, the Authority may charge such reasonable fee as it may determine in respect of the costs to the Authority of carrying out or procuring such examination or enquiry as may be required for the meter examiner to satisfy himself as to the matters in regulation 9(2)."

5. In Schedule 1, after paragraph 5, add—

"**6.** If an examination of the pattern or, as the case may be, the modifications or additions proposed to a pattern in respect of which EC pattern approval is in force, has been conducted by a nominated laboratory, a certified examination report."

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995 ("the 1995 Regulations").

The 1995 Regulations implement the obligations of the United Kingdom under Council Directive No. 76/891/EEC (O.J. No. L336, 4.12.1976, p.30) ("the 1976 Directive"), as now amended by Commission Directive No. 82/621/EEC (O.J. No. L252, 27.8.1982, p.1) and by Protocol 1 and Part IX of Annex II to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm. 2073, European Communities No. 7 (1992) and O.J. No. L1, 3.1.1994, p.1) ("the EEA Agreement"), as itself amended by the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm. 2183, European Communities No. 2 (1993) and O.J. No. LI, 3.1.1994, p.572). The 1976 Directive makes provision in relation to the technical requirements for the design and functioning of electrical energy meters for the purpose of EEC type (pattern) approval and EEC initial verification granted in accordance with Council Directive No. 71/316/EEC (O.J. No. L202, 6.9.1971, p.1) ("the 1971 Directive"), as amended. (Measures amending the 1971 Directive are Council Directives No. 72/427/EEC (O.J. No. L291, 28.12.1972, p.156), No. 83/575/EEC (O.J. No. L332, 28.11.1983, p.43), No. 87/354/EEC (O.J. No. L192, 11.7.1987, p.43), No. 87/355/EEC (O.J. No. L192, p.46) and No. 88/665/EEC (O.J. No. L382, 31.12.1988, p.42); Protocol 1 and Part IX of Annex II to the EEA Agreement; and the successive Acts of Accession to the European Communities referred to in paragraph 1 of Part IX of Annex II to the EEA Agreement).

The 1971 Directive, which makes provision in relation to measuring instruments generally and methods of metrological control, prohibits national restrictions on the placing on the market or entry into service of measuring instruments bearing the mark certifying EEC initial verification or the sign certifying EEC pattern approval, and requires the same value to be attached to EEC pattern approval and EEC initial verification as to the corresponding national measures.

The principal effect of the amendments is to provide that the Gas and Electricity Markets Authority ("the Authority") shall not, unless asked to do so by a person submitting a meter for EC pattern approval, carry out examinations on a meter submitted for approval if the report of a nominated laboratory on the meter enables the Authority to conclude that the pattern conforms to the requirements of the relevant EC Directive. The amendments also enable the Authority to use the services of a nominated laboratory in carrying out its functions under the 1995 Regulations.

The way in which fees are charged for pattern approval and initial verification also changes for submissions made on or after the date on which these Regulations come into force to allow the Authority to recover the costs of using external resources in the carrying out of its functions.

A Regulatory Impact Assessment for this Instrument has been prepared and copies can be obtained from Ofgem, 9 Millbank, London, SWIP 3GE. A copy of the Regulatory Impact Assessment has been placed in the library of both Houses of Parliament.

STATUTORY INSTRUMENTS

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