

## 1975 No. 2125

## WEIGHTS AND MEASURES

## The Calibration of Tanks of Vessels (EEC Requirements)

## Regulations 1975

<i>Made - - - -</i>	<i>12th December 1975</i>
<i>Laid before Parliament</i>	<i>23rd December 1975</i>
<i>Coming into Operation</i>	<i>19th January 1976</i>

The Secretary of State, being a Minister designated (a) for the purposes 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 for purposes ancillary thereto, in exercise of the powers conferred by that section, hereby makes the following regulations:—

1. These regulations may be cited as the Calibration of Tanks of Vessels (EEC Requirements) Regulations 1975 and shall come into operation on 19th January 1976.

2.—(1) In these regulations:—

“the Directive” means Council Directive No. 71/349/EEC(c);

“inspector” means a person authorised in writing by the Secretary of State to be an inspector for the purposes of these regulations;

“vessel” means an inland waterway vessel or a coastal vessel.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) These regulations extend to Northern Ireland.

3. An application for EEC calibration of any tank of a vessel shall be made to the Secretary of State in such manner as he may direct, and shall be accompanied by such fee as may be prescribed by, or determined under, regulations made under section 56 of the Finance Act 1973(e).

4.—(1) The Secretary of State shall cause to be carried out a calibration of the tank, in respect of which the application has been made, in accordance with the provisions of the Directive and, subject to the provisions of paragraph (2) of this regulation, shall—

(a) issue a calibration certificate;

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(a) The European Communities (Designation) Order 1975, S.I. 1975/427 (1975 I, p. 1345).

(b) 1972 c. 68.

(c) O.J. No. L239, 25.10.1971, p. 15 (O.J./SE 1971 (III), p. 865).

(d) 1889 c. 63.

(e) 1973 c. 51.

(b) cause to be affixed on the calibrated tank, in the vicinity of the measure orifice, a calibration plate of durable material bearing the information and the lead plugs required by the Directive.

(2) A calibration certificate shall not be issued, except where the Secretary of State is satisfied that there are reasonable grounds for making an exception, unless the construction and arrangement of the tank and connecting pipes are such that under normal operating conditions of the vessel, the tank and connecting pipes can, without difficulty, be totally emptied or totally filled without pockets of air becoming trapped above or in the liquid being measured, below the level at which the tank is considered full.

(3) The calibration certificate shall be in such form, contain such particulars, and have annexed thereto such documents in such form as is required by the Directive.

5. The Secretary of State shall cause to be affixed to the calibration plate a sealing mark in such manner that the plate cannot be removed without damaging the mark. The sealing mark shall be the mark of EEC partial verification described in paragraph 6 of Schedule 1 to the Measuring Instruments (EEC Requirements) Regulations 1975(a), and the constituent parts of which are illustrated in drawing A of the Annex to that Schedule.

6. A calibration certificate and documents annexed thereto and a sealing mark shall cease to be valid—

(a) if the tank has become deformed, has been altered or repaired or has been reconstructed in a way likely to alter its measurement characteristics, immediately on the occurrence of that event;

(b) in any event, at the expiry of 12 years from the date of issue of the certificate.

7.—(1) An inspector may obliterate a sealing mark if he is satisfied that the sealing mark has ceased to be valid by virtue of regulation 6.

(2) The obliteration of sealing marks shall be carried out in such manner as the Secretary of State may direct.

8.—(1) Subject to paragraph (2) below, any person who, in the case of any tank—

(a) not being an inspector or a person acting under the authority of an inspector, marks in any manner any plug, seal or plate used or designed for use for the reception of the sealing mark; or

(b) forges, counterfeits or except in accordance with regulation 7, in any way alters or defaces the sealing mark; or

(c) removes any sealing mark and inserts it into another tank; or

(d) makes any alteration in the tank after the sealing mark has been affixed to it in accordance with these regulations so that it no longer complies with the particulars included in the certificate and any documents annexed thereto;

shall be guilty of an offence.

(2) A person shall not be guilty of an offence under paragraph (1) above by

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(a) S.I. 1975/1173 (1975 I, p. 4045).

reason solely of the destruction or obliteration of any sealing mark, plug, seal or plate in the course of the adjustment or repair of a tank by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, tanks.

(3) Any person who uses, sells or exposes or offers for sale any vessel in which there is a tank which to his knowledge—

(a) bears a sealing mark which is a forgery or counterfeit, or which has been transferred from another tank, or which has been altered or defaced otherwise than under regulation 7 or as permitted by virtue of paragraph (2) above; or

(b) does not comply with the requirements of the Directive by reason of any alteration made in it after the sealing mark was applied to it in accordance with these regulations;

shall be guilty of an offence.

9.—(1) Subject to the production if so requested of his authority, an inspector may, at all reasonable times—

(a) inspect and test any calibrated tank;

(b) board any vessel in which he has reasonable cause to believe there to be a calibrated tank, and enter any premises (other than premises used only as a private dwelling house) which it is reasonable for him to enter to gain access to the vessel.

(2) If a justice of the peace, by information on oath—

(a) is satisfied that there is reasonable ground to believe that any calibrated tank is in any vessel or that any offence under these regulations has been, is being or is about to be committed on any vessel; and

(b) is also satisfied either—

(i) that admission to the vessel or to the premises referred to in paragraph (1)(b) above has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the boarding or entry, or that the case is one of urgency, or that the vessel or premises are unoccupied or the occupier temporarily absent;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an inspector to board the vessel or enter the premises, if need be by force.

In the application of this paragraph to Scotland, the expression “a justice of the peace” shall be construed as including the sheriff.

(3) An inspector boarding any vessel or entering any premises by virtue of this regulation may take with him such other persons and such equipment as may appear to him necessary; and on leaving any vessel or premises which he has boarded or entered by virtue of a warrant under paragraph (2) above, being a vessel or premises which are unoccupied or the occupier of which is temporarily absent, he shall leave it or them as effectively secured against trespassers as he found it or them.

(4) If any inspector or other person who boards any vessel or enters any premises by virtue of this regulation discloses to any person any information

obtained by him on the vessel or premises with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(5) In this regulation "occupier" in relation to any vessel means the person for the time being in charge of the vessel.

**10.—**(1) Any person who—

- (a) wilfully obstructs an inspector acting in the execution of any provision of these regulations; or
- (b) without reasonable cause fails to give any inspector acting as aforesaid any other assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under these regulations;

shall be guilty of an offence.

(2) If any person, in giving an inspector any such information as is mentioned in paragraph (1) above, gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in this regulation shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

**11.—**(1) Where an offence under any provision of these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

**12.** Proceedings for any offence under these regulations shall not—

- (a) in England and Wales, be instituted except by or on behalf of the Secretary of State or the chief officer of police for a police area;
- (b) in Northern Ireland, be instituted except by the Department of Commerce for Northern Ireland or the Attorney General for Northern Ireland.

**13.** Any person guilty of an offence under regulation 8, 9 or 10(2) above shall be liable on summary conviction to a fine not exceeding £200, and any person guilty of an offence under regulation 10(1) shall be liable on summary conviction to a fine not exceeding £50.

*Alan Williams,*  
Minister of State,  
Department of  
Prices and Consumer Protection.

12th December 1975.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations implement Council Directive No. 71/349/EEC relating to the calibration of the tanks of inland waterway vessels and coastal vessels.

They provide for the application for calibration to be made to the Secretary of State and for the calibration to be carried out in accordance with the Directive and for the issue of a calibration certificate (regulations 3 and 4). They also provide for the fixing of a calibration plate to the tank and for the application to that plate of a sealing mark in the form of the mark of EEC partial verification described in the Measuring Instruments (EEC Requirements) Regulations 1975 (regulation 4).

These Regulations also provide for offences and penalties in connection with the misuse of the sealing mark (regulations 8 and 13), and include powers of inspection of tanks and entry of vessels and premises for the enforcement of the regulations (regulation 9).

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