

Final Regulatory Impact Assessment (RIA) on the Regulations implementing the Measuring Instruments Directive (MID)

This RIA is one of ten¹ relating to the implementation of the MID, is relevant to cold-water meters and pertains to the following Statutory Instrument:

- **The Measuring Instruments (Cold-water Meters) Regulations 2006**

The Issue and Objective:

1. Issue: The impact of the transposition of the Measuring Instruments Directive (MID) into UK legislation, on the basis of status quo on regulatory control.

2. Objective: To implement the MID, which aims to harmonise essential requirements on measuring instruments across the member States². The objective of the implementation is to open markets to competition; provide opportunities to innovate and export; improve choice for consumers; remove barriers to trade and reduce the regulatory burden for those instruments, through this deregulatory measure.

Risk assessment

3. The intention is to maintain the status quo; that is to introduce new regulations to replace existing regulations, covering only those instruments that are currently regulated in the UK. The new regulations do not introduce further requirements, which could act as a burden on business. The risks of pursuing this course, and alternative courses of action, are covered under the three options set out below. In the initial consultation document³ we sought information about the level of interest in deregulating some instruments. There was no great impetus for deregulation, but we did receive feedback about the risk to the levels of consumer protection if the number of instruments regulated were reduced.

Identify Options

4. The three original options, and the risks associated with each, are set out below. These options were explored during the initial consultation. This consultation was in relation to the full scope of NWML regulatory provisions. In view of the responses to that consultation, we are proposing to proceed with option 2 below.

Option 1

5. Do nothing.
- a) face infraction proceedings against the UK for not implementing an agreed Directive.
 - b) miss out on the benefits of a harmonised set of requirements

¹ For a full list of all RIAs relating to the implementation of the MID see Annex 1

² A reference to a member State includes Norway, Iceland, and Liechtenstein.

³ Measuring Instrument Directive: Consultation on the approach to implementation can be found on the NWML website

http://www.nwml.gov.uk/Docs/Legislation/MID/MID_consultation_on%20approacht.pdf

- c) goes against the feedback received from the initial consultation document

Option 2

- 6. Implement on the basis of status quo.
 - a) maintains current level of consumer protection
 - b) does not introduce further burdens on business
 - c) is in line with feedback from consultation document

Option 3

- 7. Change the scope of regulation.
 - a) technical expertise and evidence base not in place, in order to support the introduction of further regulations by deadline for implementation
 - b) risks unintended consequences
 - c) risks missing implementation deadline for whole Directive
 - d) goes against feedback from initial consultation document, which did not strongly support an increase or decrease in number of instruments regulated

Results of Consultation

8. An initial consultation document was issued in November 2004. The consultation document was circulated to over five hundred stakeholders and was made available on the NWML website. Forty one responses to the proposals were received, of which seventeen were from the enforcement community (Local Authority Trading Standards Departments, regional Trading Standards groups, the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Trading Standards Institute (TSI)). Responses were also received from the business community, including twelve from individual businesses and four responses from trade associations. Five government organisations responded, along with one consumer organisation, BSi and one individual. In addition, three meetings with stakeholders were carried out during the consultation period.

9. Responses were very positive overall, with a substantial majority of respondents supporting the proposed approach to implementation in principle.

10. 95% of respondents who provided an answer to the question about status quo agreed that this would be the preferable way forward. 86% of those who replied to the question about deregulation did not want any instruments deregulated. Ten respondents said they would like to see Liquid Petroleum Gas (LPG) dispensers regulated, with a further four saying that they would like the situation regarding LPG to be reviewed – together they make up 66% of respondents to this question.

11. 78% of respondents agreed with the proposal to produce a separate Statutory Instrument (SI) for each type of instrument to be regulated.

12. A second consultation document, on the draft Regulations themselves, was issued in August 2005. Twenty nine responses were

received, of which thirteen were from the enforcement community, fourteen from the business community and two from BSi. In addition, four formal and several informal stakeholder meetings were held during the consultation period. All comments have been considered and changes made to the legislation, where necessary, to accommodate concerns raised

13. We received useful information about the costs and benefits of MID in response to the initial consultation document. Overall, we are satisfied that the costs to manufacturers of implementing the MID are not significant, indeed several respondents explained that there would be benefits in terms of costs and time of getting their products to market, outweighing the costs of compliance.

14. Some of the Trading Standards community expressed views that the implementation of the MID would adversely affect their levels of income. Whilst these comments touch on issues that are, strictly speaking, outside the scope of the MID implementation project, we have noted these comments and will be integrating them into our future strategies for the infrastructure of weights and measures enforcement.

Issue of Equity and Fairness

15. Implementation will be equal across the whole of each industry in relation to the instruments covered, although regulation in each of the member States for each of the instrument types may be different. The optionality clause of the Directive enables member States to choose to regulate instruments for prescribed measurement tasks – as is currently the case, i.e. different member States may regulate different instruments and for different purposes.

16. Existing national certificates of conformity for type approval have a transition period under the Directive, to allow certificates of conformity to remain valid for a period of up to ten years after the date on which the MID Regulations come into force. However, other instruments e.g. capacity serving measures and length measures that do not have to be type approved under current regulations, do not have a transitional period under the MID. This means that such instruments will need to move from crown stamp approval to a CE mark on 30th October 2006. We have received feedback that this may present problems for manufacturers, the majority of which are small businesses. This is, however, the requirement under the MID, which was adopted in March 2004 and does not come into force until 30th October 2006, thus providing a long lead-in period for manufacturers, which should enable them to make plans to adapt for change accordingly. Other possibilities exist in relation to remaining stock, so long as the manufacturers address these before 30th October 2006.

17. Notwithstanding the capacity serving measures issue, the likely burden on small businesses is not considered to be proportionately any greater than for large businesses apart from the requirement to become familiar with the new legislation, which may be a factor where the small business has less administrative capacity.

Identify the Benefits

Option 1

18. The only benefit to UK manufacturers is that they would continue as at present. However, it is a disadvantage to the UK manufacturing base to remain regulated solely by UK legislation, as it is a disincentive to export to the EU marketplace, which will be closed to non-compliant measuring instruments in any member State which has opted to implement the MID. UK manufacturing would then potentially be limited to the UK marketplace alone although the UK would not be able to prevent the placing on its market of instruments complying with the MID.

Option 2

19. The first benefit of implementation will be the removal of technical barriers that currently exist caused by dissimilar national regulation across the EU and the provision of a harmonised set of requirements for each of the instrument categories. However, most member States already comply with the Recommendations of the Organisation Internationale de Métrologie Légale (OIML), which means that, even under current national legislation, the technical requirements are often the same.

20. For instrument types that are subject to approval, the cost of testing and certification will be reduced, as only one type or design approval will be required for the whole of the Community. However, the WELMEC¹ Type Approval Agreement, whereby test results are accepted between test houses reducing the work needed to provide approval, has already reduced costs and time. The MID should provide further reductions in cost and time to market. Exporting should be easier and will become an option for companies that have not already explored that option.

21. Under the MID there are more choices for manufacturers with respect to the routes to obtaining conformity assessment (previously known as type approval and verification). Options now also include self-verification and sample testing of instruments, depending on the category of instrument and the quality systems the manufacturer has employed. This enables the manufacturer to have more control over the conformity assessment of his products and the costs incurred.

22. Not only do manufacturers have choice about how to obtain conformity assessment, they also have a choice about where to obtain that assessment. This will introduce an element of competition into the marketplace and enable manufacturers to shop around for high quality and value for money services. This will have the effect of removing the potential monopoly of the individual member State, in relation to the home market.

23. A transitional period is provided for up to ten years before the Directive comes fully into force. It would, therefore, be possible for a manufacturer to obtain a national approval up until 29th October 2006 to run for a maximum period of 10 years. This period exceeds normal

¹ The European Cooperation in Legal Metrology

product development times and is comparable with product life etc, so it is likely that, in practice, no significant non-recurring costs will be attributable to the Directive.

24. The Directive will have no impact on existing instruments already placed on the market, which will remain controlled by the national legislation under which they were originally approved.

Option 3

25. There is a possibility that consumers will receive greater benefits since they could enjoy greater protection if the number of instruments regulated increases. However, businesses in the UK market could experience an increase in the burden resulting from compliance with a greater number of regulations. The potential marketplace for UK manufacturers would, however, be opened up to include all member States where a similar level of regulation exists.

26. If the number of instruments controlled through regulation was reduced, there could be a corresponding reduction in the level of consumer protection. Businesses in the UK market would have greater benefits through a reduction in the burdens resulting from compliance with regulations, but would not benefit from free access to the markets in all member States.

Quantifying and Valuing Benefits

Option 1

27. No change - current national position prevails

Option 2

28. In response to the initial consultation document two companies and one trade association said that, post MID, the time to market should be reduced, in some cases significantly so. One company said that they expected time to market and costs to remain almost the same, although they recognised that there would be some reduction in the paperwork relating to compliance. One trade association said that its members did not expect there would be any significant increases in Type Approval costs in the member State where the EU type approval was obtained. One company said that there might be future benefits from the wide range of conformity assessment modules available.

Option 3

29. If the number of instruments regulated increases, then it is likely that the benefits of increased consumer protection would increase proportionally, along with the burdens on business. Conversely, if the number of instruments regulated went down, then benefits to business could increase as, potentially, consumer protection decreased.

Costs

30. One of the costs of getting a new product to market is the time taken to do this. It normally takes one to two years to take a new product from initial concept to the marketplace. Development costs, including tooling, range from £150,000 up to about £2m, depending on the

complexity of the instrument. Approval time in the UK varies from about four weeks, where test results from another body support an application, to between six to twelve weeks. Costs range from £3,500 to £15,000. It was pointed out that, in other parts of the world, e.g. in Canada, approvals can take a lot longer, typically up to nine months.

31. There are costs attached to the exportation of products. Direct Type Approval costs within the EU can amount to £80,000, based on an initial cost of £30,000, plus £2,000 for each additional country. The trade association (mentioned in Para 30) represents companies that export to most EU countries and many outside the EU. They stated that exporting within Europe was fairly straightforward, as a result of the Type Approval Agreement from WELMEC. They also stated that the OIML Certificates of Conformity ease the type approval process in many countries outside the EU.

32. In response to a question in the initial consultation document about costs of gearing up for the MID, three companies said that they were anticipating the gearing up costs to be zero or very small. One trade association did not expect costs to increase significantly. The Trade Association was itself planning to provide training and expected the costs of this training to be reasonable. As part of the second consultation, one business that manufactures cold water meters was specifically consulted regarding the costs of implementation. They confirmed that costs would mainly involve pattern approval and publication changes, which would not outweigh the benefits from implementing the MID.

Opportunities and Threats

33. Two trade associations and one company, who responded to the question in the initial consultation document, saw implementation of the MID as an opportunity. Respondents stated that the opportunities include savings in costs and time to market, based on the advantage that one approval ensures compliance in all EU countries.

34. The ten other respondees to this question saw the implementation of the MID as both a threat and an opportunity. The perceived threat was that countries will regulate different instruments, so there might be the case whereby a manufacturer of an MID compliant product would not be able to compete equally in a country that did not regulate that particular instrument in line with the MID, because it could well be in competition with a non-compliant product which would be cheaper and easier to make. This point was echoed by one of the trade associations, which stated that the lack of uniformity in prescription across the EU was seen as unhelpful and not in the spirit of the internal market. However, where a member State does not regulate in accordance with the MID, it cannot prevent compliant instruments being placed on its market or put into use.

35. Another comment made was that, unless appropriately implemented, the MID could become a threat to consumer protection. In general, the trading standards organisations were concerned about how the implementation would affect the viability of their services and whether or not there would be sufficient demand to justify Local Authorities

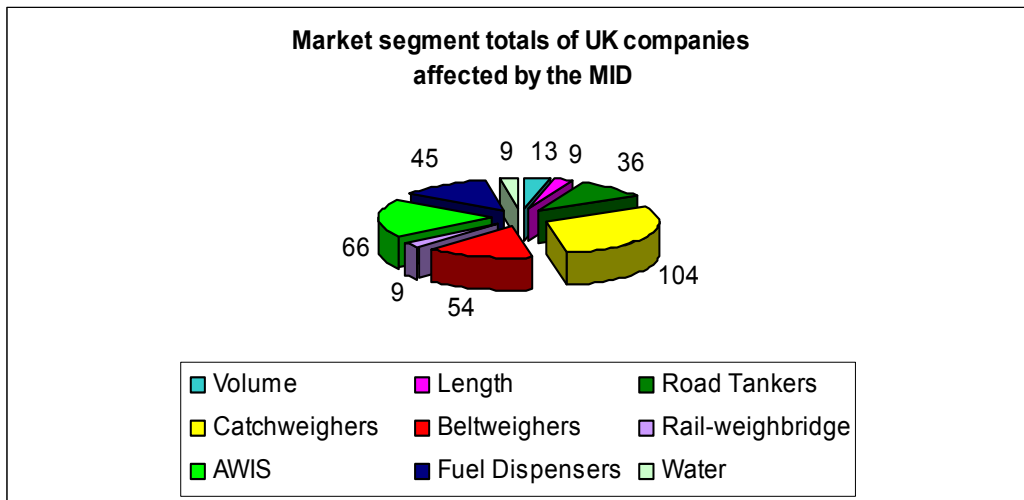
becoming Notified Bodies. Some comments concerned the possibility of Local Authorities working in partnership with others to provide a regional service.

Conclusion on costs and benefits

36. The comments received on the initial consultation were mixed as to whether the MID presented an opportunity or a threat. However, it was clear that there would be benefits to business of reduced regulatory burden, which would result in reduced time and costs of getting new products to the EU market. The Government accepts that prescription may not be the same across all member States, since the optionality clause enables member States to decide which instruments to regulate and for what purposes. However, where instruments are prescribed, the requirements will be identical. Where member States do not prescribe them no national regulation will be permitted, allowing MID compliant products to circulate freely alongside non-MID compliant products. There was, nevertheless, a concern expressed that non-compliant instruments would be cheaper to make and therefore would ultimately cost less, so that they undercut the cost of compliant instruments.

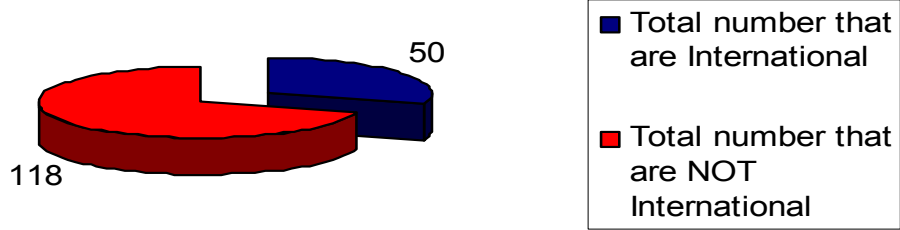
Business sectors affected

37. Research into the number of UK companies affected by the MID has concluded there are in excess of 260 companies affected. The following graph illustrates how the impact is spread across the MID market segments:

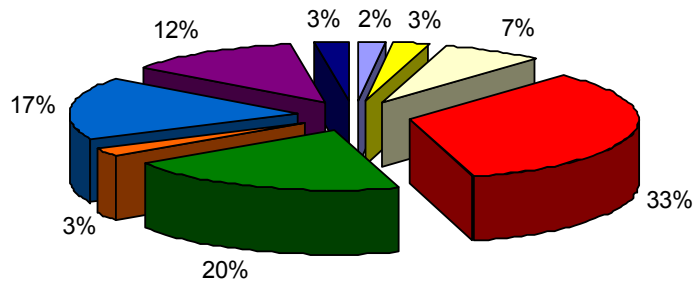


38. Following the initial research, NWML took a snap shot involving 148 of these companies to find out more about the impact the MID was expected to have on them. We were able to establish that the combined turnover of the UK market is in excess of £450 million and more than 28,000 staff will be affected. A further enquiry established whether the UK companies were international, in which of the MID market segments they operated and the EU countries to which they exported. The results are listed below:

Are the UK Companies International?

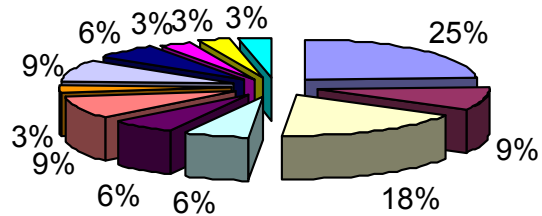


UK Companies that are International by MID market segments



- Volume
 Length
 Road tankers
 Catchweighers
 Beltweighers
- Rail weighbridge
 AWIS
 Fuel Dispensers
 Water

Where the UK companies export to in Europe



- All Other EU Members
 Holland
 Germany
 Greece
- Ireland
 Norway
 Denmark
 France
- Belgium
 Sweden
 Austria
 Italy

Small Firms Impact Test

39. After having conducted 2 consultations and held 4 stakeholder meetings, (on the advice of the Small Business Service) NWML tried to contact at least one small firm manufacturing each specific instrument in the draft Regulations. During the course of this research, NWML was unable to identify any disproportionate impact on the small firms polled as a result of the implementation of the Directive.

40. A small number of firms may incur a slight cost at the initial stages of the Regulations coming into force, but only in the very short term. The consensus view was that the advantages gained would outweigh these initial costs. Therefore, NWML does not anticipate that this implementation will have any significant or complex impact on small firms, within the sectors affected by the proposed changes.

Identify any other costs

Option 1

41. None

Options 2 and 3

42. No additional costs for the manufacturer, although, for the member State as the designating authority, there would be the additional costs, estimated at around £40,000, for setting up a designation and auditing programme for Notified Body (NB) activities. The costs of the actual designation and audit would be met directly by the NB themselves. The costs of setting up a market surveillance programme would need to be met by the member State, as well as the on-going operation of programme. The on-going cost is likely to be in the order of £100,000 per year for those instruments currently regulated by NWML.

43. Individual Trading Standards Departments, along with Trading Standards organisations, have raised the issue of impact of the MID on their operations. They have identified a number of costs associated with gearing up for the MID. Costs fell into the following categories:

- Staff training - estimated to be about £140,000 in total, to cover 200 TSOs;
- Becoming an NB - which includes maintaining competences, estimated at about £70,000 overall, and the costs of implementing, managing and auditing a quality system though this should only entail a broadening of existing quality procedures;
- Actual designation and audit in order to become an NB - costs are yet to be determined;
- Acquiring the documentary information (Type Approval Certificates) - which currently stands at about £2,000 per Local Authority, for membership of EMeTAS¹;
- Third Party Insurance - estimated to be about £1,000 per Local Authority;

¹ EMeTAS is the current EU information system, applicable to Non-Automatic Weighing Instruments under Directive 90/384/EEC, though the future system is still the subject of debate.

- Loss of income due to reduced verification revenue - as a result of the increase in self-verification expected, post MID.

44. The main concern, raised by several bodies, was the impact of the self-verification conformity assessment routes on the operations of Local Weights and Measures Authorities (LWMAs). Manufacturers will be able to carry out self verification (initial verification) of their equipment and, under existing national provisions, approved verifiers will be able to carry out subsequent verifications of instruments in use for trade, thus reducing demand for this service from LWMAs. The result will be a significant loss of revenue for the LWMAs.

45. A further concern, voiced by a number of organisations, was the decision by LWMAs about whether to become a NB, which was essential in order to permit LWMAs to continue to be able to carry out third party conformity assessment (initial verification) under the MID. Because of the uncertainty surrounding the level of uptake of self-verification, it is difficult for LWMAs to be able to decide now whether or not to become a NB. The risk is that if LWMAs decide it is not economically viable to become a NB and there is no provision of this service in a region, the costs to manufacturers of obtaining independent third party conformity assessment (initial verification) may rise steeply because they will need to pay more for a NB to travel to undertake the verification. Manufacturers will always have the possibility of self assessment as an option. Subsequent third party verification remains a duty of the LWMA.

Competition Assessment

46. It is anticipated that manufacturers would not incur any significant additional costs as a result of the proposed Directive. It is probable that manufacturers already comply with the technical requirements of the International Recommendations of the OIML, on which the essential requirements of the Directive are based. The Directive will reduce barriers to trade by harmonising national legislative requirements at European level. It is not likely that implementation of the proposed Directive would result in any disproportionate costs or other effects between manufacturers of the same type/categories of instruments.

47. For manufacturers of products that require type approval, there is a 10-year transitional period from the date on which the proposed Directive comes into force, during which instruments may continue to be first passed as fit for use for trade under current national legislation, which will permit manufacturers to make full use of any type approval certificates that have been issued before 30th October 2006.

48. In the light of the above comments, it is not anticipated that implementation of the proposed Directive will have significant impact on competition within any affected markets.

Rural Proofing

49. Please see Annex 2.

Summary and recommendation

50. Evidence, provided in response to the consultation document, suggests that the time and costs of getting new products to market will be reduced as a result of implementing the MID. However, there will be some costs for Government in providing the infrastructure for Notified Bodies; for Trading Standards Departments through potential loss of income; and for capacity serving measures manufacturers as a result of switching overnight to a new system of instrument assessment.

51. Notwithstanding these identified costs, the responses received to the initial consultation document were very positive overall, with a substantial majority supporting the proposed approach to implementation.

52. The recommendation is, therefore, to proceed with implementation along the lines set out in the initial consultation document:

- Implementation on the basis of status quo of regulatory control
- Produce an individual SI for each category of instrument
- Include the in-service provisions in each SI.

Enforcement, Sanctions, Monitoring and Review

53. These activities are already carried out on similar instruments currently controlled under national legislation and will equally be applied to the same instruments regulated under the MID, by the respective regulatory authorities within the UK. There will be no effect on the compliance regime, as a result of the Hampton Review.

Declaration:

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

Signed by the responsible Minister

Date.....

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Annex 1

List of RIAs relating to the implementation of the MID

1. Weighing Instruments, which covers:
 - Automatic Beltweighers
 - Automatic Catchweighers
 - Automatic Gravimetric Filling Instruments
 - Automatic Rail-weighbridges
 - Automatic Discontinuous Totalisers
2. Liquid Fuel delivered from Road Tankers
3. Liquid Fuel and Lubricants
4. Material Measures, which covers:
 - Capacity Serving Measures
 - Material Measures of Length
5. Cold-water Meters
6. Non-Prescribed Instruments
7. Exhaust Gas Analysers
8. Gas Meters¹
9. Electricity Meters²
10. Taximeters³

¹ The Regulations and associated RIA for these instruments are the responsibility of DTI Energy Group, working with Ofgem, who are working to a different timetable.

² As footnote 1 above.

³ The Regulations and associated RIA for these instruments are the responsibility of Department for Transport, who are working to a different timetable.

Annex 2

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? *No*
6. Is the policy to be delivered by the private sector or through a public-private partnership? *No*
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*