

## Comment

### Meandering Metrication



**Y**ES, it is about time we had another dose of change towards the metric system. After all, it has taken us something like a hundred years to get this far, it is only reasonable that it should take another hundred to complete the cycle. By which time, of course, the number of pints in a gallon might well be the crucial question in the Mastermind Competition for 2095.

Two things are for sure. The media will have a field day by suggesting to the public that here is yet another whittling away of our heritage and control of the nation's destiny by the Eurocrats. We have been happy for all these years with the Imperial system – why change now? Unlike other changes being imposed on trading standards services, there is actually a logic and reason for such a move. When the vast majority of the world already trades in the metric system and international business is conducted in those units to the exclusion of all others, it immediately casts doubt on why we should retain the old style weights and measures units. If we then reflect on the fact that we shall still continue to purchase items by number, such as tomatoes and oranges, goods by size – a large loaf or a small tin of beans, and the vast majority of sales by the packet with hardly a second glance at the declaration of quantity on the pack, the reason to sustain the old system seems not in the least bit viable.

We are of course protected still from the great excesses of change to metric – we shall continue to drive for miles on the road using the dual-gauge speedometer to check our speed. And above all, we shall still be able to get a pint of beer!!! That is something we have not seen the sight of for a considerable number of years unless of course we ask the bartender to get rid of the 2.54 centimetres of froth on the top of the pint by replacing it with liquid.

The other issue that will without doubt hit the headlines is that whenever there is resistance to the change and there will undoubtedly be pockets of the Pound's Last Stand, it will be those who are required to enforce the changes in law that will be in the firing line – not those responsible for bringing the change into legislative effect. The Bookers and Ingrams of the world will be able to continue their field days with accusations of trading standards terrorists using their jack boots to stamp on the last vestiges of the empire as maybe the ultimate demonstration that the British no longer have any control over their affairs of state.

The fact that Trading Standards Officers will act with professionalism, sensitivity and a large degree of realism will be lost against the few issues where it is so difficult to rationally argue a specific point of view. Nevertheless, the truth of the matter is yet again the service will conduct itself with propriety and get the job done despite all the accusations. If nothing else, successive Governments have been able to rely on the service to deliver the goods, remember decimalisation, price controls, the introduction of VAT and so on. What a pity the service has not been able to rely similarly on Governments to have regard to the needs of the service.

Sincerely,  
Alan Street,  
Editor.

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# a fine metric muddle minister

Chris Howell, Head of Trading Standards, Dudley MBC, and the Institute's Lead Officer for Legal Metrology, offers a critical appraisal of the UK's faltering attempts to embrace the Metric System.

IT was invented in 1790, and legalised between consenting adults in the UK in 1897<sup>1</sup>. By the middle of the Swinging Sixties, everyone was in favour of it, and by the end of the decade there was even a Government Quango to promote it. Twenty-five years later it seems to have become something that is no longer discussed in polite circles.

"It" is the metric system. Probably quite uniquely, the UK has now achieved the unenviable status of being a country that actually operates with two systems of measurement, populated by a society that fully understands neither. Presumably not even the members of the Flat Earth Society deny the need for a system of measurement, but who on earth needs *two*?

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## Recent History

The UK joined the Common Market in 1973, at which time there was already an EC Council Directive<sup>2</sup> dating from October 1971 on "the approximation of the laws of the Member States relating to units of measurement". This Directive required the adoption of the metric system throughout the Member States by 31st December 1979.

For the UK, which had established the Metrication Board four years previously in 1969, and with a Government commitment dating from 1965 to "go metric" by 1975, meeting the Directive's requirements hardly appeared likely to create any problems.

But given that a week can be a long time in politics, perhaps one should not be too surprised that the intervening six years wrought some changes to the metrication programme. We shall probably never know the real reasons, but by 1980 the Metrication Board had been disbanded, and the UK had sought a derogation under the 1980 Units of Measurement Directive<sup>3</sup> for a stay of execution until 1989 on its obligation to complete metrication.

In 1989, yet a further adjournment was sought via an amendment to the 1980 Directive<sup>4</sup>, this time providing for a two stage implementation. This provided a 31st December, 1994 end date for the use of metric units generally, with a further delay, until 31st December, 1999, to permit the continuing use of the pound and ounce for "goods sold loose from bulk". The UK also won the right to keep, as long as it wishes, the pint for the dispense of draught beer and cider and for milk in returnable containers, the mile, yard, foot and inch for road traffic purposes, the acre for land registration, and the troy ounce for transactions in precious metals.

Quite what was expected to be achieved with a two stage implementation for metric weighing, in particular, is far from clear. What it has achieved is a situation which, far from easing the transition, can only serve to bring the process into disrepute, if not downright ridicule, with Trading Standards Officers no doubt bearing the brunt of the opprobrium whether they dare seek to enforce the legislation or not.

In July, 1992 the DTI published its Consultative Document setting out proposals for implementation of the Directive in UK law<sup>5</sup>, with a request for comments by the end of September in that year. The first implementing legislation emerged some 21 months later in June, 1994!

Eventually, by 6th November, 1994, all the necessary legislation had finally been published, albeit too late to be brought into force to meet the 31st December, 1994 deadline of the Directive. On 1st October, 1995, the UK will start to take its (hopefully) final, reluctant, faltering steps on a journey which it commenced some 98 years earlier.

And at this moment, drafting this article in mid-July, 1995, with just 11 weeks to go before the next 'key date' on the metrication calendar, where is there any information from the Government on the forthcoming changes? Where indeed . . .

### The Directive

In fact the Directive imposes relatively simple requirements. To the non-scientist or engineer some of the references to the more specialised units of measurement may appear somewhat daunting, but then again what need has the "man on the Clapham omnibus" to relate to moles, steradians or teslas!

A sensible starting point for any exploration of the Directive is in fact Article 2(a), which in effect states that the Directive applies to any measurements made for "economic, public health, public safety or administrative purposes". Unfortunately there is no further definition of those terms. Article 2(b) exempts the use, "for air, sea or rail transport purposes", of units used in international conventions, "other than those made compulsory by the Directive".

Article 1 sets out the "legal units of measurement . . . which must be used for expressing quantities". These are:-

1. the recognised SI (m.k.s.) units, and some derivatives of these (see Chapter I of the Annex to the Directive);

2. the mile, yard, foot and inch, for road traffic signs, distance and speed measurement; the pint for the dispense of draught beer and cider, and milk in returnable containers; the acre for land registration purposes, and the troy ounce for transactions in precious metals (until a date to be fixed by the Member State in which the unit was authorised prior to 21st April, 1973); (see Chapter II)
3. imperial units, generally, but only until 31st December, 1994 (see Chapter III), and
4. certain imperial units, but only for specific purposes, and only until 31st December, 1999. These are the fathom for marine navigation, the pint and fluid ounce for beer, cider, waters, lemonades and fruit juices in returnable containers, the gill for spirit drinks, the pound and ounce for the sale of goods loose from bulk, and the therm for gas supply (see Chapter IV).

Article 3 permits the use of "supplementary indications", until 31st December 1999. These are indications in "non metric" units, and which may accompany the "légal" indication of quantity, always provided that the legal unit is dominant. In particular the supplementary indication cannot be in larger characters than the principal indication.

Article 4 provides a saving for "non metric" units in respect of products or equipment already on the market or in service, so it will still be possible to supply a 6 foot garden fence panel, or a 5/8 inch tap washer for example.

### Implementation in the UK

The Directive has been implemented in the UK through no less than six separate Statutory Instruments<sup>6</sup>. This is more a reflection on the complexities of the various UK legislative processes that have been used to implement "weights and measures" law, than on the Directive itself. Amendments have been necessary to not only the 1985 Weights and Measures Act<sup>8</sup>, but also to various Orders and Regulations. These in turn necessitated different Parliamentary procedures, thus leading to the proliferation of amending instruments.

A point of immediate interest is that the only statutory requirements relate solely to the prohibition of the use of non-metric units for "use for trade" - *i.e.* as regulated by the 1985 Act. This, of course, represents a much narrower field of activity than the "economic" purpose mentioned in Article 2, and does not even start to address the control of use for "public health, public safety or administrative purposes", by way of any specific prohibition, backed up by criminal sanctions.

Reg. 11 of the amended Units of Measurement Regulations 1986<sup>9</sup>, now cryptically refers to the fact that "the (imperial) units of measurement . . . are not authorised for use in the specified circumstances . . .". (The "specified circumstances" being defined as those set out in Article 2 of the Directive). Since such units were never, at least so far as this writer is aware, "authorised" either generally or specifically for any purpose other than those covered by the Weights and Measures Acts, it is difficult to see what this statement achieves.

It is also worth noting that contrary to its general policy of seeking the maximum use of any and every derogation, so far as the use of the "gill" was concerned, the Government acted with almost indecent haste to seek its removal. It is already a matter of history that the gill became illegal for the sale of spirits on 1st January of this year (a full five years before it need have), thanks to the Weights and Measures (Various Foods) (Amendment) Order of 1990 (SI 1990/1550).

**The use of "Descriptive" Units**

The use of the expression "descriptive unit" is emerging as a means of referring to the use of a unit of measurement in a "non use for trade" situation. References in product specifications will be one such use particularly familiar to TSOs.

The Government appears to be relying upon the argument that the disincentive to any "non use for trade" use of imperial units will lie not in some specific offence, but rather in the possibility that a Court could hold that any activity which relied upon imperial measurements could be invalidated through its use of "unauthorised" units. At best this remains an untested contention at the present time. It also begs the question of uses which would be caught by the "specified circumstances", but which would never be likely to be challenged in a Court of Law – the collection of data for internal ("administrative") purposes by a public body, for example.

The means that have been used to implement the Units of Measurement Directive appear to pose an interesting legal question. Can a Directive such as this be said to have been "implemented" by nothing more than an administrative instruction lacking any sanction for default? Possibly the answer is "Yes", until or unless someone disregards the exhortation.

Irrespective of whether or not the UK has correctly implemented the Directive, the concerns of Trading Standards Officers can only be directed to the legislation "as is". Let us then turn to some of the more immediately obvious issues.

**All change – 1.10.95**

Exactly what will be the practical implications on the first of our two 'M Days'? Firstly, any remaining pre-packaging of goods in imperial units must cease, so the most obvious impact is likely to be on catchweight pre-packs, given that the great majority of pre-determined, constant quantity pre-packs "went metric" long since.

With contract packers there should be few problems. Hopefully their customers are well aware of the changing requirements and will have issued instructions accordingly. For some larger supermarkets, undertaking their own catchweight pre-packing, it may well be the case that they will not wish to operate two systems in tandem (metric for pre-packs, imperial for cross counter sales of the same items). This seems likely to encourage an earlier movement to total metrication for such stores than might otherwise have been the case.

The real problem will lie with the smaller retailer who has traditionally used the same scale to sell "loose", and to pre-pack. The "two-stage" implementation process now requires either an immediate move to a totally metric operation (quite likely to alienate the customer), or the acquisition of a second machine to cover pre-packing. Is there a way round this problem? Can he/she use the old imperial machine with a conversion table for example? Would the reading of the imperial weight for subsequent conversion constitute the use of an illegal unit?

Given that the whole object of having any system of measurement is to ensure accuracy, it is difficult to resist the argument that the seller is indeed using the imperial unit under these circumstances. If the instrument is incorrect, and delivers an incorrect quantity, then the end measurement will also be incorrect, no matter that it has been expressed in legal units. The seller has "used" the imperial indication as a starting point for calculating the metric quantity, and whilst the 'use' may be a momentary one, it has occurred nonetheless.

If you accept the use of an instrument under these circumstances, how can you object to the use of an incorrect instrument (or one calibrated in totally arbitrary units) provided the conversion table has been adjusted to provide the appropriate correction or conversion factor? More significantly, what would stop the use of imperial equipment in perpetuity?

Such arguments are unlikely to cut much ice with the Euro-sceptics. Pity the poor inspector who requests the replacement of the offending machine. "England, Home and Beauty" will be under attack from the Euro-Bureaucrat, and what will matter the wider implications of the alternative scenario, which might best be described as "legislative control by consent"?

What, too, of the law abiding majority who will have incurred some expense to comply with these new requirements? Do they not have some reasonable expectation of a level playing field? If they have incurred costs, no matter how unwillingly, why should their competitors escape their equivalent responsibilities?

**"And so shall it be with measures"**

It is worth reminding the reader at this point that the permitted continuing use of imperial units for sales of goods "loose from bulk" until the end of 1999 relates only to sales by weight. On and after 1st October the use of imperial units of length or capacity measurement must cease (other than as "supplementary indications").

Fortunately the prohibition of sales based upon imperial linear measurement seems less likely to create problems, if only because of the relatively insignificant cost of replacing the equipment concerned.

On the other hand, particularly in rural areas, there will still remain an imperial kerbside flowmeter or two. The TSO will again be left with the unenviable choice of either ignoring the law, or standing accused of placing an essential local service "at risk". (No matter that "Evans the Pump" was looking for an excuse to retire anyway, and even less that he was only managing to keep open by charging 45p a gallon more for his fuel than the "multiple" in the nearest shopping centre!)

There is a certain irony in the fact that so far as the old gallon paraffin dispenser is concerned, there appears to be nothing to prohibit its continued use, provided it is marked 4.54 litres, and any reference to the gallon is "less prominent" than the metric indication. It seems likely that NWML will issue an appropriate amendment to the relevant pattern approval notices to remove any argument of "non-compliance" based upon the absence of any reference to metric units in the original publications. (Whilst it is clearly impracticable to "convert" a flowmeter to show a supplementary indication for any particular quantity dispensed, the situation is different with an instrument that delivers a fixed quantity.)

An interesting side issue is whether, if at all, an inspector will have power to reject an imperial flowmeter post 1.10.95 simply because it only indicates in imperial units. The grounds for rejection could only be for "failing to comply with an appropriate requirement of the Regulations"<sup>10</sup>. Somewhat more significantly, the relevant working standards needed to test the instrument will no longer be 'legal' with the removal of their associated imperial units and error allowances!<sup>11</sup>

The flowmeter would be calibrated in terms of a unit not listed in Schedule 1 to the Act, and there will be no reference to "gallons" in the Regulations after 1.10.95. However it is not immediately apparent exactly what "appropriate requirement" the instrument would not comply with unless NWML intend to amend all pattern approvals to delete references to gallons, in which case one could presumably argue non-compliance with Reg. 4(1) (instruments to be made in accordance with an approved pattern)!

#### **"Goods sold loose from bulk"**

As already stated, the Directive has provided for the continuing use of the ounce and pound for "goods sold loose in bulk" until 31st December 1999. This provision has been implemented in UK law by an appropriate amendment<sup>12</sup> to Section 8(2) of the 1985 Act. This amendment will cease to have effect at the turn of the century, on which date the blanket prohibition on the use of units not included in Parts I to V of Schedule 1 will come into effect.

The expression "loose from bulk" is not further defined either in the Directive, or in the UK implementing legislation. There are no interpretational precedents in UK law known to the writer, and any interpretation based upon the expression itself appears problematic. There would be two elements; "loose", and "from bulk".

"Loose" would appear to mean without any form of packaging, whereas "from bulk" seems to imply the selection of some specific quantity from a larger whole. A strict interpretation of "loose" would conflict with the recently agreed position that goods wrapped solely for hygiene purposes, and which still await weighing and pricing are not "pre-packed"<sup>13</sup>. By way of example, loose broccoli florets could be sold in imperial

quantities, whereas those wrapped in clingfilm would have to be sold in metric units!

"From bulk" creates even greater difficulties. Clearly a sale of loose sweets is a sale from bulk; conversely, the sale of a single fresh Xmas turkey would not be. In between these extremes lie a range of possibilities: the sale of a "pound of sausages" would be "loose from bulk", but the sale of a single speciality sausage (such as a Cumberland sausage) probably would not. Apples sold from a box would be "loose from bulk", but what happens if there is only one item left?

The Price Marking Order 1991<sup>14</sup> provides a definition of "goods sold from bulk". However the definition is for the purposes of that Order (and EC Directive 79/581/EEC), and so has only 'persuasive' value.

The definition (in Reg. 1(2)) refers to "goods which are not pre-packed or are not weighed or otherwise measured or counted for sale except in the presence of the buyer". The Regulation concludes by "calling up" the definition of "pre-packed" used in the Weights and Measures Act 1985, namely "made up in advance ready for retail sale in or on a container".

Any interpretation based upon this definition suffers from two problems when compared with what may have been intended by the expression "loose from bulk". Firstly it introduces the element of "ready for retail sale" that is not a consideration in the expression "loose from bulk". This could lead to different applications of the derogation as between retail and non-retail sales. Secondly, the definition excludes sales which, though not pre-packed, do not take place in the presence of the purchaser. This would lead to the farcical position whereby a pound of sausages sold across the counter to a customer can be sold in imperial units, whereas an identical sale made in response to a telephoned order would have to be in metric units.

In the interest of uniformity, it is essential that we arrive at a practical, and clearly understood meaning for the expression. It is also surely desirable to avoid situations whereby ostensibly identical sales, which have hitherto taken place across a single imperial machine, could until 1.1.2000 to be treated in different ways depending upon whether or not they can benefit from the derogation.

An interpretation based upon the original definition of "pre-packed" in the Weights and Measures Act overcomes the problem of the telephoned order, but still leaves the introduction of what must be an unintended division between retail and non-retail sales. Hence a wholesale greengrocer making up sacks of potatoes would not be "pre-packing" (as the packs are not intended for retail sale), and so could continue to sell in imperial quantities. On the other hand, a retailer packing smaller quantities of potatoes will have to sell in metric quantities.

However it is becoming apparent that wholesalers are seeking in many instances to retain the ability to pack in imperial quantities. This is particularly the case where they are supplying retailers who in turn will sell from bulk, and who apparently wish to be able to easily reconcile what they receive with what they sell. ▶<sup>29</sup>

27 In this connection it may be worth considering the separate matter of Section 89 of the Weights and Measures Act 1985, which provides a "saving" whereby non-retail sales, by agreement between the parties, can be conducted in units "customarily in use" . . . before 31st July 1963, and which are "not inconsistent with anything . . . in Schedule 1 to the Act". Until such time as the pound and ounce are removed from Parts V and VI of that Schedule, (on 1.1.2000), there does appear to be an argument that wholesalers could agree sales in terms of pounds with their customers in any event, under cover of that provision, whatever the Directive may say . . .

This proposition may well be contrary to what was intended by the Directive. In addition, Section 8(2)(f) and Section 89 of the Act can be argued to be in conflict, with the former clearly stating that the pound and ounce can only be used in specific circumstances, and the latter offering a 'saving' - "provided . . . the use . . . is not inconsistent with anything . . . contained in Schedule 1". Until 1.1.2000 the pound and ounce remain in Part V of Schedule 1, when they are removed by virtue of Reg. 7(3)(b)(ii) of the Units of Measurement Regulations 1994. At least until that time it does not appear possible to argue against a Section 89 'saving' on any grounds of "inconsistency" with the Schedule. And since the only relevant basis on which Section 89(2) might disapply Section 89(1) is on the grounds of there being a "contrary effect by or under Part IV of the Act", this equally offers no assistance since Section 8 is under Part II, not Part IV!

In summary, no single interpretation is perfect. The writer favours an interpretation based on the concept of "not pre-packed" as it is well understood, and so will attract uniform interpretation. It also has the advantage that it does not suffer from the "not weighed in the presence of the purchaser" complication of the Price Marking Order definition.

It must be acknowledged that such an interpretation will almost certainly result in the derogation being applied to some non-retail packaged sales for which it was not intended, but this is hardly likely to attract criticism from the present Government, and in any event, as argued above, it may not be possible to object to such practices in view of the wording of Section 89.

### The Use of Supplementary Units

We have already noted the admissibility of the so called "supplementary indications". It will be recalled that they must be less prominent than the metric indication and, in particular, must not be in larger characters. (Section 8(5A) of the 1985 Act, by virtue of Reg. 5 of the Units of Measurement Regulations 1994).

Neither the Directive nor the implementing UK legislation offers guidance on either the appropriate units to be used for supplementary indications, or upon the accuracy of the indication in absolute terms. This can lead to a range of problematic issues that are well exemplified by questioning how to express 25 or 35 ml (quantities used for the sale of spirits) in suitable supplementary imperial equivalents. (The fact that one

company is already advertising the "new, larger, metric measure of spirits" mitigates against any suggestion that 1/6th gill might be a suitable equivalent to 25ml!)

The permitted units of measurement for expressing capacity measurement will be set out, post 1.10.95, in Part VI of Schedule 1 to the 1985 Act. They comprise the bushel, peck, gallon, quart, gill, fluid ounce, fluid drachm and minim. (The pint can also be used, as it remains in Part IV to permit the continued use of that unit for the dispense of beer, etc.).

The first issue to address is the suitability of the chosen unit. In this case (and this will be the exception rather than the rule), there are two "sensible" choices. Discarding the possibility (albeit a legal one) of the use of the unsuitably large or small units, the obvious choices for expressing the supplementary indication in this case are in terms of gills or fluid ounces. An exact conversion to gills could be variously expressed as 0.176 gill, 1.056/6th gill, or 100/568 gill. In fluid ounces it would be 0.88 fl oz.

If one argues in favour of the use of the gill as being the "traditional" unit, the problems are self evident, particularly if an attempt is made to present the supplementary indication in the familiar fractional form (cf. 1/6 gill). The 0.88 fl oz indication appears to be the simplest expression, but, in common with 0.176 gill, affords no obvious comparison with 1/6 gill without recourse to detailed calculation. It must be concluded that in this instance (and this is possibly the "worse case scenario") no one solution is self evidently the best.

So far as absolute accuracy is concerned it appears sensible that any supplementary indication should be sufficiently accurate as to render the possibility of challenge on the basis of accuracy inconceivable. A conversion rounded to three significant figures should achieve this.

On suitability of units, some guidance can be obtained from the OIML proposals for a revised Recommendation 79 "Information on Pre-packaged Product Labels". Although only covering metric units, the draft makes the following proposals for the suitability of particular units for various net quantities of product. These are as follows:-

	Net Quantity	Metric Unit(s)
<b>Volume</b>	< 1000 ml	ml
	≥ 1000 ml	l
<b>Mass</b>	< 1000 g	g or decimal kg (e.g. 100g or 0.1kg)
	≥ 1000 g	kg or t
<b>Length</b>	< 100 cm	cm or mm
	≥ 100 cm	m

The proposal appears to be seeking to avoid the use of either unsuitably large, or unsuitably small units.

Adopting a similar approach for imperial units, the writer tentatively suggests the following "three rules" to decide upon a suitable "supplementary indication":-

- ▶ (i) the unit should be limited to one of those in common current use, namely the ton, pound and ounce for mass, the gallon, pint and fluid ounce for capacity, and the yard, foot and inch for linear measurement;
- (ii) (a) the unit should not be so large that the quantity is expressed as  $< 0.25$  of the chosen unit (unless that is the smallest unit available). Hence quantities less than 0.25 lb. or 1/4 lb. would be expressed in ounces rather than decimal parts of a pound, and  
(b) the unit should not be so small that the quantity is expressed as a value that is  $\geq$  the next largest available unit (unless that is the largest unit available). Hence a quantity of 9 pints or more should be expressed in terms of either decimal gallons, or gallons and pints, and
- (iii) the indication should be accurate to three significant places, rounded conventionally.

It must be noted that these rules can only be for guidance. There is no statutory provision to control the form of the supplementary indication, other than its prominence in relation to the primary metric indication.

#### Conversion of Equipment

One of the most frequent tasks that TSOs will face will be connected with the conversion of existing imperial weighing instruments to indicate in metric quantities. The Institute has worked with NWML, LACOTS and the UK Weighing federation to develop a suitable 'protocol' under which such conversions can be undertaken, bearing in mind the provision of, e.g., Reg. 41(3) of the Weighing Equipment (Non-automatic Weighing Machines Regulations 1988<sup>15</sup>.

Details of the procedures were set out in a supplement to WM 496, under which individual patterns of instruments were placed into one of three categories, A, B, or C. Category C machines are acknowledged as requiring re-verification under all circumstances due to the nature of the work required to convert them to indicate in metric units. For these instruments, the scalemaker or owner is recommended to make advance arrangements for re-stamping (either on site, or at the workshop) to minimise the time a machine would be out of use.

At the other extreme, Category A machines required minimal modification of a sort that is considered unlikely to affect their accuracy, and no specific action is recommended to TSOs.

In between come the bulk of instruments, which fall within Category B. Here it is suggested that TSOs should build up confidence in the conversion work being undertaken by initially inspecting those machines for which they receive notification. If problems are encountered, they may well wish to insist on restampings in all instances (as indeed they are entitled to); conversely, if no problems are experienced, it will become difficult to argue on any logical grounds that the machine requires restamping on the basis that it has been subject to an "... alteration ... which could, in the opinion of the inspector, have affected its accuracy" (Reg. 41(2)).

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***“One of the most frequent tasks that TSOs will face will be connected with the conversion of existing imperial weighing instruments to indicate in metric quantities.”***

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The very opposite will in fact be the case, as experience will have shown that accuracy is not being affected. Such an approach to the application Reg. 41(3) seems both reasonable, and consistent with current de-regulatory thinking. Increasingly, we must be able to demonstrate reasonable grounds for justifying our actions.

Although not set out in the WM Memorandum, agreement was also reached on the form of notification to be used (at least by Members of the UK Weighing Federation). This will be familiar to many TSOs by the time this appears in print, but it is worth recording that it provides details of the location of the scale, its Category, and the name of the engineer responsible. Provision of the latter information will assist TSOs in differentiating (if necessary) metrication problems that are machine specific, or operative specific!

The Regulations do not set out any period of grace for notifications to TSOs, and concerns have been expressed as to what may happen if an inspector visits after a conversion but before receipt of notification. The legal position is, of course, quite clear – there is no period of grace, but on the other hand any demand for “instantaneous” notification is clearly impracticable.

It is suggested that a “same day” notification by post need not be burdensome, and is not in any sense impracticable, and in reality the likelihood of the inspector “crossing” such a notification will be remote. Should this occur one hopes that common sense would prevail.

**Unit Pricing**

The amendment to the Price Marking Order 1991<sup>16</sup>, now allows two alternative methods of unit pricing foodstuffs sold in metric quantities. Either the metric unit price must be accompanied "in close proximity" by the equivalent imperial unit price, or a conversion chart must be displayed "clearly legible in a conspicuous position in at least one place on that part of the premises where food . . . is displayed and sold".

These provisions are a somewhat watered down version of the original proposals, and also suffer from a 'fixed life' provision. Once the 1.10.95 or 1.1.2000 deadlines have passed there will be no obligation to display imperial equivalent unit prices, which means that in many instances (if not the great majority), customers are likely to be denied a period of dual information to help them adjust to the new system.

**The 'Non-trade' Use Situation**

Apart from the "descriptive" use of metric measurements, there are of course a very great number of instances where imperial units of measurement are used for all sorts of purposes – even legal ones – which will not be controlled by the legislation we have been considering here. Planning applications, tender documents, and local byelaws are all examples of uses in the public domain that are likely to rely on the expression of measurements or quantities.

What will be the position with regard to existing documents which have a continuing legal effect? It has clearly been impossible to trawl all legislation (and particularly local legislation) to identify and amend each and every reference to imperial measurements. What is understood will happen is that a piece of 'generic' legislation (possibly in the form of a further "Units of Measurement Regulations") will simply "deem" existing 'official' references to imperial units to be taken as their metric equivalent, thus removing any uncertainty regarding the continuing enforceability or validity of the documents. At the time of writing, this legislation is still awaited.

**The "Metrication Monitoring Group"**

The Group was established in the Autumn of 1994, and comprises representatives of the DTI, NWML, LACOTS, ITSA, the British Retail Consortium and the UK Weighing Federation.

Its remit has been to generally "oversee" the transition, providing agreed advice and guidance, and in particular trying to foresee and thus avoid any obvious 'problem areas'.

Much hard work was undertaken by the Group (and in particular the DTI staff) on the content and design of informative leaflets for the trade and consumers. It has been particularly frustrating to find the circulation of these delayed. Bearing in mind some of the recent, inflammatory press articles on legislation emanating from Brussels, one can only presume that the delay has been occasioned due to a wait for a clean bill of Eurosceptic Health from somewhere within the depths of Whitehall. It is to be hoped that by the time this

article appears copies will have been circulated to Local Authorities; in the interim, many opportunities have been lost to provide early advice to traders on the future changes.

**And Finally . . .**

(With an acknowledgement to Mike Sharpe of St. Helens MBC) There are to be found in Trafalgar Square and at the Royal Observatory (amongst other places), mural standards of some of the imperial measures of length placed there in times past by a munificent Government. As these are made available for use by the public, they are in use for trade by virtue of Section 7(4) of the 1985 Act. And by virtue of Section 8(1)(b) "no person shall have in his possession for use for trade any linear . . . measure which is not included in Schedule 3 to the Act". After 1st October references to imperial linear measures are removed from Schedule 3. Subsection (4) makes a contravention of subsection (2) an offence . . . Now what's the address for serving a summons on the President of the Board of Trade . . .

**References**

- 1 The Weights and Measures (Metric System) Act 1989 (60 and 61 Vict., c.46)
- 2 Council Directive 71/354 EEC of 18th October 1971 on the Approximation of the Laws of the Member States relating to Units of Measurement. (OJ L243, 29.10.71)
- 3 Council Directive 80/181 EEC of 20th December 1979 on the Approximation of the Laws of the Member States relating to Units of Measurement. (OJ L259, 15.10.79)
- 4 Council Directive 89/617 EEC of 27th November 1989, amending Directive 80/181/EEC on the Approximation of the Laws of the Member States relating to Units of Measurement (OJ L357, 7.12.89)
- 5 "Metrication – Implementation of the Units of Measurement Directive 89/617/EEC – Proposals for Amending Weights and Measures, Units of Measurement and Price Marking Legislation – A Consultative Document" (DTI, July 1992)
- 6 The 'mole' is the unit of "amount of substance", the 'steradian' the unit of "solid angle", and the 'tesla' is the unit of "magnetic flux density".
- 7 The Weights and Measures (Metrication Amendments) Regulations 1994 (SI 1994/1851)  
The Weights and Measures (Packaged Goods and Quantity Marking and Abbreviations of Units) (Amendment) Regulations, 1994 (SI 1994/1852)  
The Price Marking (Amendment) Order 1994 (SI 1994/1853)  
The Weights and Measures Act 1985 (Metrication) (Amendment) Order 1994 (SI 1994/2866)  
The Units of Measurement Regulations 1994 (SI 1994/2867)  
The Weights and Measures (Metrication) (Miscellaneous Goods) (Amendment) Order 1994 (SI 1994/2868)
- 8 The Weights and Measures Act 1985 (1985, c.72)
- 9 The Units of Measurement Regulations 1986 (SI 1986/1082)
- 10 Reg. 22(1)(b) of the Measuring Equipment (Liquid Fuel and Lubricants) Regulations, 1988 (SI 1988/128)
- 11 Schedule 3 to the Weights and Measures (Local and Working Standard Capacity Measures and Testing Equipment) Regulations 1990 (SI 1990/2626, as amended by SI 1994/1851 *op cit*)
- 12 Articles 3(2) and 4(2) of SI 1994/2866 (*op cit*)
- 13 LACOTS CO Circular 9/95/8
- 14 SI 1991/1382
- 15 SI 1988/876
- 16 SI 1994/1853 (*op cit*)