Non-automatic weighing instruments: making available on the market. Recast. 'Goods package'

2011/0352(COD) - 05/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 646 votes to 12, with 12 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to making available on the market of non-automatic weighing instruments (recast).

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement reached between the European Parliament and the Council. They amended the proposal as follows:

Further align the Directive to the "new legislative framework" and ensure legal certainty: the amendments made by the Parliament seek to ensure that the proposed Directive is more consistent with the terms used by Decision No 768/2008/EC and to eliminate any inconsistencies in the text which could otherwise create legal uncertainty.

Purpose and scope: it is stated that Directive covers non-automatic weighing instruments which are **new to the Union market** when they are placed on the market; that is to say they are either new non-automatic weighing instruments made by a manufacturer established in the Union or non-automatic weighing instruments, whether new or second-hand, imported from a third country.

This Directive should apply to all forms of supply, including **distance selling**.

Obligations of economic operators: manufacturers should draw up an EU declaration of conformity. Where compliance of an instrument has been demonstrated by the conformity assessment procedure, manufacturers shall draw up an **EU declaration of conformity and affix the CE marking and the supplementary metrology marking.**

Manufacturers and importers should indicate on the instrument their **name, registered trade name or registered trade mark and the postal address** at which they can be contacted. Where this would require the packaging to be opened, those indications may be given on the packaging and in a document accompanying the instrument.

In order to facilitate communication between economic operators, market surveillance authorities and end-users, Member States should encourage economic operators to include a **website address** in addition to the postal address.

Instructions and information, as well as any labelling, shall be **clear, understandable and intelligible**.

EU declaration of conformity: the EU declaration of conformity should contain the elements specified in the relevant modules set out in Annexes II and III and should be continuously updated.

EU declaration of conformity: in order to **reduce the administrative burden** on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

CE marking: the conformity of an instrument should be indicated by the presence, on the instrument, of the CE marking and the **supplementary metrology marking**. The supplementary metrology marking shall consist of the capital letter 'M' and the last two digits of the year of its affixing, surrounded by a rectangle. The height of the rectangle shall be equal to the height of the CE marking.

Parliament called on the Member States to build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Notified bodies: a conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities. The **impartiality** of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

Market surveillance: Member States should take all appropriate measures to ensure that non-automatic weighing instruments may be placed on the market only if, when properly stored and used for their intended purpose, they do not endanger the health and safety of persons.

Restrictive measures in case of non-compliance: Member States should ensure that appropriate restrictive measures, such as withdrawal of the instrument from the market, are taken in respect of the weighing instrument concerned without delay.

Rules on **penalties** applicable to infringements by economic operators may include criminal penalties for serious infringements. These penalties should be effective, proportionate and dissuasive.

Stock: distributors should therefore be able to supply non-automatic weighing instruments that have been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.

Implementing measures: in order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission.

The amended text stated that the examination procedure should be used for the adoption of implementing acts with respect to compliant non-automatic weighing instruments which present a risk to the health or safety of persons or to other aspects of public interest protection.

When matters relating to this Directive, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the European **Parliament should receive full information** and documentation and, where appropriate, an invitation to attend such meetings.