



# **National Measurement Amendment Act 2004**

**No. 27, 2004**

**An Act to establish a National Measurement  
Institute, make technical amendments of the  
*National Measurement Act 1960* and associated  
regulations, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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**An Act to establish a National Measurement  
Institute, make technical amendments of the  
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regulations, and for related purposes**

[Assented to 25 March 2004]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *National Measurement Amendment Act 2004*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	25 March 2004
2. Schedule 1, Parts 1, 2 and 3	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 July 2004 ( <i>Gazette</i> 2004, No. GN22)
3. Schedule 1, Part 4	The day on which this Act receives the Royal Assent.	25 March 2004
4. Schedule 2, item 1	Immediately after the commencement of the provision(s) covered by table item 2.	1 July 2004
5. Schedule 2, items 2 and 3	The day on which this Act receives the Royal Assent.	25 March 2004
6. Schedule 2, item 4	Immediately after the commencement of the provision(s) covered by table item 2.	1 July 2004
7. Schedule 2, item 5	The day on which this Act receives the Royal Assent.	25 March 2004
8. Schedule 3	The day on which this Act receives the Royal Assent.	25 March 2004

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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### **3 Schedule(s)**

- (1) Each Act, and each regulation, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment under subsection (1) of any regulation does not prevent the regulation, as so amended, from being amended or repealed.
- (3) To avoid doubt, regulations amended under subsection (1) are taken to still be regulations.

### **4 Crown to be bound**

This Act binds the Crown in each of its capacities.

## **Schedule 1—National Measurement Institute and Chief Metrologist**

### **Part 1—Establishing the National Measurement Institute and the position of Chief Metrologist**

#### *National Measurement Act 1960*

#### **1 Part III**

Repeal the Part, substitute:

### **Part III—National Measurement Institute and Chief Metrologist**

#### **16 Overview of Part**

##### **Overview of Part**

- (1) A National Measurement Institute is established within the Department.
- (2) The Secretary has metrological functions of the Commonwealth, but may delegate within the Department metrological functions and powers.
- (3) The position of Chief Metrologist is established and the functions of the Chief Metrologist identified.

#### **17 National Measurement Institute**

There is to be a National Measurement Institute within the Department.

#### **18 Metrological functions**

- (1) The Secretary has metrological functions of the Commonwealth.
-



- (2) Those functions include, but are not limited to, the following:
- (a) adopting the International System of Units, and developing and adopting additional units of measurement for use in Australia;
  - (b) realising units of measurement through the development and maintenance of standards of measurement, reference materials and reference techniques;
  - (c) assisting industry, scientific organisations and government to develop and utilise measurement techniques, including by technology transfer;
  - (d) promoting best practice in measurement in industry and the scientific and wider community, including by training;
  - (e) providing measurement services to industry, scientific organisations and government, including by:
    - (i) measuring physical, chemical and biological quantities; and
    - (ii) providing calibration services; and
    - (iii) examining and approving patterns for measuring instruments;
  - (f) providing expertise in support of Australia's measurement standards and conformance infrastructure;
  - (g) promoting uniformity in national trade measurement policy and practice, including through work with Commonwealth, State and Territory agencies;
  - (h) facilitating international trade to the extent that it is affected by measurement;
  - (i) fulfilling Australia's international obligations with respect to measurement;
  - (j) conducting research in support of the functions mentioned in paragraphs (a) to (i).
- (3) The fact that the Secretary has the functions mentioned in this section does not limit the power of the Commonwealth to charge fees for things done in performing those functions.

### **18A Chief Metrologist**

- (1) There is to be a Chief Metrologist, who is to be engaged under the *Public Service Act 1999*.

**Schedule 1** National Measurement Institute and Chief Metrologist

**Part 1** Establishing the National Measurement Institute and the position of Chief Metrologist

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- (2) The Chief Metrologist has the functions conferred on him or her under this Act and the regulations.
- (3) The fact that the Chief Metrologist has the functions conferred on him or her under this Act and the regulations does not limit the power of the Commonwealth to charge fees for things done in performing those functions.

**18B Acting Chief Metrologist**

- (1) The Secretary may appoint a person to act as the Chief Metrologist:
  - (a) during a vacancy in the office of Chief Metrologist (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chief Metrologist is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
  - (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in connection with the appointment; or
  - (c) the appointment had ceased to have effect; or
  - (d) the occasion to act had not arisen or had ceased.

Note: For more information about acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

**18C Delegation by the Secretary**

- (1) The Secretary may delegate all or any of his or her functions or powers under this Act or the regulations to:
  - (a) an SES employee or acting SES employee in the Department; or
  - (b) the Chief Metrologist; or
  - (c) an APS employee within the National Measurement Institute who has the expertise appropriate to the function or power delegated.
- (2) The delegation must be in writing.

- (3) In exercising functions or powers under a delegation, the delegate must comply with any directions of the Secretary.

### **18D Delegation by the Chief Metrologist**

- (1) The Chief Metrologist may delegate all or any of his or her functions or powers under this Act or the regulations to an APS employee within the National Measurement Institute who has the expertise appropriate to the function or power delegated.
- (2) The delegation must be in writing.
- (3) In exercising functions or powers under a delegation, the delegate must comply with any directions of the Chief Metrologist.

### **2 Parts IV and V**

Repeal the Parts.

## Part 2—Moving functions and powers of the National Standards Commission to the Secretary and the Chief Metrologist

### *National Measurement Act 1960*

#### **3 Subsection 3(1) (definition of *Australian legal unit of measurement*)**

Omit “the Commission” (wherever occurring), substitute “the Chief Metrologist”.

#### **4 Subsection 3(1)**

Insert:

*Chief Metrologist* means the Chief Metrologist mentioned in section 18A.

#### **5 Subsection 3(1)**

Insert:

*Commonwealth authority* means a body corporate established for a public purpose by or under a law of the Commonwealth.

#### **6 Subsection 3(1) (definition of *recognized-value standard of measurement*)**

Omit “the Commission”, substitute “the Chief Metrologist”.

#### **7 Subsection 3(1)**

Insert:

*Secretary* means the Secretary of the Department.

#### **8 Subsection 3(1)**

Insert:

*State or Territory officer* means a person who, whether on a full-time basis or a part-time basis and whether in a permanent capacity or otherwise:

- (a) is in the service or employment of a State or Territory or an authority of a State or Territory; or
- (b) holds or performs the duties of any office or position established by or under a law of a State or Territory.

**9 Subsection 3(1) (definition of *State primary standard of measurement*)**

Omit “the Commission”, substitute “the Chief Metrologist”.

**10 Subsection 3(1) (definition of *the Commission*)**

Repeal the definition.

**11 Subsection 3(1) (definition of *verifying authority*)**

Repeal the definition, substitute:

*verifying authority*, in respect of the verification of utility meters, means the Secretary or a person appointed under section 18ZC or 18ZKA.

**12 Subsection 7B(1)**

Omit “The Commission”, substitute “The Chief Metrologist”.

**13 Subsection 7B(2)**

Omit “the Commission”, substitute “the Chief Metrologist”.

**14 Subsections 8A(1) and (2)**

Omit “The Commission”, substitute “The Chief Metrologist”.

**15 Subsection 18H(1) (definition of *verification mark*)**

Omit “the Commission”, substitute “the Secretary”.

**16 Subsection 18H(1) (definition of *verifier*)**

Omit “the Commission”, substitute “the Secretary”.

**17 Subparagraph 18U(a)(ii)**

Omit “or”, substitute “and”.

**18 Subparagraph 18U(a)(iii)**

Repeal the subparagraph.

## **19 Section 18Z**

Repeal the section, substitute:

### **18Z Overview**

#### **Overview of Division**

- (1) This Division deals with verifiers.
- (2) The Secretary is a verifying authority (see section 18ZA).
- (3) Other persons may apply for appointment as verifying authorities (see section 18ZB).
- (4) The Secretary appoints those verifying authorities subject to conditions (see sections 18ZC and 18ZD).
- (5) The Secretary may take disciplinary action against a verifying authority appointed under section 18ZC that breaches a condition of its appointment (see section 18ZJ).
- (6) A verifying authority appointed under section 18ZC has a right to appeal to the Administrative Appeals Tribunal in certain circumstances (see section 18ZK).
- (7) The Secretary may also appoint Government officials or bodies as verifying authorities (see section 18ZKA). These appointments may be subject to conditions.
- (8) The Secretary allocates verification marks for use by verifiers (see sections 18ZE and 18ZKB) and there is a register of those marks (see section 18ZF).

## **20 Subsections 18ZA(1) and (2)**

Omit “The Commission”, substitute “The Secretary”.

Note: The heading to section 18ZA is replaced by the heading “**Secretary is a verifying authority**”.

## **21 Paragraphs 18ZB(2)(a) and (b)**

Omit “the Commission”, substitute “the Secretary”.

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## **22 Subsection 18ZC(1)**

Omit “The Commission”, substitute “The Secretary”.

Note: The heading to section 18ZC is altered by adding at the end “**following application for appointment**”.

## **23 Paragraph 18ZC(3)(b)**

Omit “the Commission”, substitute “the Secretary”.

## **24 Subsection 18ZC(4)**

Omit “The Commission” (wherever occurring), substitute “The Secretary”.

## **25 Subsection 18ZC(5)**

Omit “the Commission”, substitute “the Secretary”.

## **26 Section 18ZD**

After “verifying authority” (first occurring), insert “under section 18ZC”.

## **27 Paragraphs 18ZD(b), (e), (f) and (g)**

Omit “the Commission”, substitute “the Secretary”.

## **28 Subsection 18ZE(1)**

Omit all the words before paragraph (a), substitute:

When the Secretary appoints a verifying authority under section 18ZC, the Secretary must allocate the following verification marks for use by the authority, or its employees (if any), when verifying utility meters:

Note: The heading to section 18ZE is replaced by the heading “**Secretary must allocate verification marks**”.

## **29 Subsection 18ZE(2)**

Repeal the subsection, substitute:

- (2) The Secretary must allocate a separate mark for use by each delegate of the Secretary who verifies utility meters when the delegate undertakes the verification of utility meters.

## **30 Section 18ZF**

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Repeal the section, substitute:

**18ZF Secretary to keep register of verification marks**

The Secretary must keep a register of verification marks allocated under sections 18ZE and 18ZKB.

**31 Section 18ZG**

Repeal the section, substitute:

**18ZG Notice to verifying authority of intention to take disciplinary action**

If the Secretary is of the opinion that there may be grounds for taking disciplinary action under section 18ZJ against a verifying authority appointed under section 18ZC because it is in breach of a condition of its appointment, the Secretary must:

- (a) give the authority written notice of the Secretary's opinion specifying the reasons for the opinion; and
- (b) invite the authority to make a written submission to the Secretary within 28 days.

**32 Section 18ZH**

Omit "The Commission", substitute "The Secretary".

Note: The heading to section 18ZH is replaced by the heading "**Secretary may seek further information**".

**33 Section 18ZH**

Omit "to give to it", substitute "to give to the Secretary".

**34 Section 18ZI**

Omit "the Commission" (wherever occurring), substitute "the Secretary".

Note: The heading to section 18ZI is replaced by the heading "**Secretary must consider authority's submission and information in making a decision under section 18ZJ**".

**35 Subsection 18ZJ(1)**

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Omit “If the Commission is satisfied that a verifying authority has breached a condition of its appointment, the Commission”, substitute “If the Secretary is satisfied that a verifying authority appointed under section 18ZC has breached a condition of its appointment, the Secretary”.

**36 Subsections 18ZJ(2), (3) and (4)**

Omit “the Commission”, substitute “the Secretary”.

**37 Subsection 18ZJ(4)**

Omit “the Commission’s”, substitute “the Secretary’s”.

**38 Section 18ZK**

Omit “the Commission”, substitute “the Secretary”.

**39 At the end of Division 4 of Part VA**

Add:

**18ZKA Appointment of Commonwealth or State officials etc. as verifying authorities**

- (1) The Secretary may, in writing, appoint one or more of the following persons to be a verifying authority to verify utility meters:
  - (a) an APS employee (whether or not in the Department);
  - (b) a Commonwealth authority;
  - (c) an employee (whether or not an APS employee) of a Commonwealth authority;
  - (d) the holder of an office established by or under a law of the Commonwealth;
  - (e) a body corporate established for a public purpose by or under a law of a State or Territory;
  - (f) a State or Territory officer.
- (2) The Secretary may appoint a body or person mentioned in paragraph (1)(e) or (f) only if the State or Territory concerned agrees to the appointment.
- (3) The appointment must specify:

- (a) the class or classes of utility meters that the verifying authority may verify under the appointment; and
  - (b) the period of the appointment.
- (4) An appointment is subject to conditions that the Secretary imposes.
- (5) The Secretary may impose a condition at the time of making the appointment or after the appointment is made.

**18ZKB Secretary must allocate verification marks to verifying authorities appointed under section 18ZKA**

When the Secretary appoints a verifying authority under section 18ZKA, the Secretary must allocate the following verification marks for use by the authority, or its employees (if any), when verifying utility meters:

- (a) if the authority will be personally undertaking the verification—a mark for use by the authority; and
- (b) if the authority will be employing persons to undertake the verification—a separate mark for use by each employee.

**40 Subsection 18ZM(1)**

Repeal the subsection, substitute:

- (1) The Secretary may, in writing, appoint one or more of the following persons to be an authorised officer for the purposes of exercising the powers of an authorised officer under this Part:
- (a) an APS employee in the Department;
  - (b) an employee (whether or not an APS employee) of a Commonwealth authority;
  - (c) the holder of an office established by or under a law of the Commonwealth;
  - (d) a State or Territory officer.
- (1A) The Secretary may appoint a person mentioned in paragraph (1)(d) only if the State or Territory concerned agrees to the appointment.

**41 Subsection 18ZM(2)**

Omit “the Commission”, substitute “the Secretary”.

**42 Subsection 18ZN(1)**

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Omit “The Commission”, substitute “The Secretary”.

#### **43 Paragraph 18ZN(2)(c)**

Omit “the Commission”, substitute “the Secretary”.

#### **44 Section 18ZW**

Repeal the section, substitute:

#### **18ZW Compensation for damage to electronic equipment**

- (1) This section applies if:
  - (a) as a result of equipment being operated as mentioned in section 18ZP:
    - (i) damage is caused to the equipment; or
    - (ii) the data recorded on the equipment is damaged; or
    - (iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and
  - (b) the damage or corruption occurs because:
    - (i) insufficient care was exercised in selecting the person who was to operate the equipment; or
    - (ii) insufficient care was exercised by the person operating the equipment.
- (2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.
- (3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.
- (4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier’s employees or agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.
- (5) For the purposes of subsection (1):

*damage*, in relation to data, includes damage by erasure of data or addition of other data.

**45 Subsection 18ZZ(3)**

Omit “the Commission”, substitute “the Secretary”.

**46 Subsection 19A(2)**

Omit “by the Commission or, on behalf of the Commission, by a department of State of the Commonwealth, a body corporate established by an Act or any other person”, substitute “by the Chief Metrologist, a delegate of the Chief Metrologist or another person on behalf of the Chief Metrologist”.

**47 Subsection 19A(3)**

Repeal the subsection.

**48 Subsection 19A(4)**

Omit “the Commission”, substitute “the Chief Metrologist”.

**49 Subsections 19A(6), (6A) and (7)**

Repeal the subsections, substitute:

- (6) Before the Governor-General makes a regulation for the purposes of subsection (1), the Minister must consult appropriate State authorities.
- (7) Before the Governor-General makes a regulation for the purposes of subsection (1), the Minister must also either:
  - (a) be satisfied that the regulation is not inconsistent with a specification published by the International Organisation of Legal Metrology regarding the examination and approval of patterns of measuring instrument; or
  - (b) if the regulation is inconsistent with a specification—be satisfied that:
    - (i) the inconsistency is in the national interest; or
    - (ii) it is not practicable to comply with the specification because of particular circumstances applying in Australia.

**50 Transitional—section 19A of the *National Measurement Act 1960***

- (1) This item applies to a regulation if:
  - (a) the regulation was made for the purposes of section 19A of the *National Measurement Act 1960*; and
  - (b) the regulation was in force immediately before the commencement of this item.
- (2) The regulation has effect, after the commencement of this item, as if it had been made for the purposes of section 19A of the *National Measurement Act 1960* as amended by this Act.
- (3) This item does not prevent the amendment or repeal of the regulation.

**51 Paragraph 19AAB(2)(a)**

Omit “the Commission”, substitute “the Chief Metrologist”.

**52 Paragraph 19AAB(2)(b)**

Repeal the paragraph, substitute:

- (b) by a delegate of the Chief Metrologist; or
- (c) by another person on behalf of the Chief Metrologist.

**53 Subsections 19AAB(3) and (4)**

Repeal the subsections, substitute:

- (3) Before the Governor-General makes a regulation for the purposes of subsection (1), the Minister must consult appropriate State authorities.

**54 Transitional—section 19AAB of the *National Measurement Act 1960***

- (1) This item applies to a regulation if:
    - (a) the regulation was made for the purposes of section 19AAB of the *National Measurement Act 1960*; and
    - (b) the regulation was in force immediately before the commencement of this item.
  - (2) The regulation has effect, after the commencement of this item, as if it had been made for the purposes of section 19AAB of the *National Measurement Act 1960* as amended by this Act.
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- (3) This item does not prevent the amendment or repeal of the regulation.

**55 Section 19AA**

Repeal the section.

**56 Paragraph 19B(a)**

Omit “by or on behalf of the Commission”, substitute “under the regulations”.

**57 Paragraph 20(1)(I)**

Repeal the paragraph, substitute:

- (l) prescribing a fee for activities undertaken in respect of:
  - (i) the examination and certification of patterns of measuring instruments; and
  - (ii) the verification of utility meters used for trade.

**58 Subsection 20(3)**

Repeal the subsection, substitute:

- (3) A fee mentioned in subsection (1) must be reasonably related to the expenses incurred or to be incurred for the activities undertaken and must not be such as to amount to taxation.

## **Part 3—Moving the metrological functions of CSIRO to the Chief Metrologist**

### ***National Measurement Act 1960***

**59 Subsection 3(1) (definition of *Australian primary standard of measurement*)**

Omit “the Organisation”, substitute “the Chief Metrologist”.

**60 Subsection 3(1) (definition of *Australian secondary standard of measurement*)**

Omit “the Organisation”, substitute “the Chief Metrologist”.

**61 Subsection 3(1) (definition of *the Organisation*)**

Repeal the definition.

**62 Subsections 8(1) and (2)**

Omit “The Organisation”, substitute “The Chief Metrologist”.

**63 Subsection 8(2)**

Omit “as it considers”, substitute “as the Chief Metrologist considers”.

**64 Section 8AA**

Omit “The Organisation”, substitute “The Chief Metrologist”.

**65 Subsections 9(1) and (3)**

Omit “the Organisation” (wherever occurring), substitute “the Chief Metrologist”.

### ***Science and Industry Research Act 1949***

**66 Paragraph 9(1)(g)**

Repeal the paragraph.

## Part 4—Transitional provisions

### 67 Definitions

In this Part, unless the contrary intention appears:

**asset** means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

**assets official** means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

**Chief Metrologist** means the Chief Metrologist mentioned in section 18A of the *National Measurement Act 1960*, as in force on the proclamation day.

**Commission** means the National Standards Commission that existed under the *National Measurement Act 1960* prior to the proclamation day.

**contract** includes:

- (a) a deed; and
- (b) a deed poll.

**Finance Minister** means the Minister administering the *Financial Management and Accountability Act 1997*.

**Industry Minister** means the Minister administering the *National Measurement Act 1960*.

**instrument** includes a document.

**land registration official**, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

**liability** means any liability, duty or obligation, whether actual, contingent or prospective.



**metrological function**, in relation to the Organisation, means a function performed by the Organisation, or that the Organisation caused to be performed, under the *National Measurement Act 1960* or paragraph 9(1)(g) of the *Science and Industry Research Act 1949*, as in force immediately before the proclamation day.

**obligation** means any obligation whether actual, contingent or prospective.

**Organisation** means the Commonwealth Scientific and Industrial Research Organisation established under the *Science and Industry Research Act 1949*.

**proclamation day** means the day on which Parts 1, 2 and 3 of this Schedule commence.

**Science Minister** means the Minister administering the *Science and Industry Research Act 1949*.

## **68 Guidelines for combining Australian legal units of measurement**

- (1) Guidelines issued by the Commission under section 7B of the *National Measurement Act 1960* that were in force immediately before the proclamation day continue to have effect on and after that day as if they had been made by the Chief Metrologist under that section.
- (2) This item does not prevent the amendment or revocation of the guidelines.

## **69 Australian standards of measurement**

Standards of measurement that were maintained, or were caused to be maintained, by the Organisation under section 8 of the *National Measurement Act 1960* immediately before the proclamation day are not affected merely because they are maintained, or caused to be maintained, on or after the proclamation day by the Chief Metrologist.

## **70 Co-ordinated Universal Time**

Co-ordinated Universal Time is not affected merely because it is, on and after the proclamation day, maintained, or caused to be maintained, by the Chief Metrologist rather than the Organisation.

## **71 Determinations of recognized-value standards of measurement**

- (1) Determinations made by the Commission under section 8A of the *National Measurement Act 1960* that were in force immediately before the proclamation day continue to have effect on and after that day as if they had been made by the Chief Metrologist under that section.
- (2) This item does not prevent the variation or revocation of the determinations.

## **72 Verification of State primary standards of measurement**

Where:

- (a) a State primary standard of measurement has been verified under section 9 of the *National Measurement Act 1960* by the Organisation, or on behalf of the Organisation; and
- (b) the period specified under subsection 9(3) of that Act within which the standard is to be verified again has not expired before the proclamation day;

the standard continues to be verified on and after the proclamation day until the end of that period.

## **73 Judicial notice of the common seal of the Commission**

On and after the proclamation day, all courts, judges and persons acting judicially are to take judicial notice of the common seal of the Commission affixed to a document and presume that it is duly affixed.

## **74 Transfer of contractual rights and obligations of the Commission**

- (1) The Industry Minister may, in writing, declare that the Commission's rights and obligations under a specified contract to which the Commission is a party:
  - (a) cease to be rights and obligations of the Commission on the proclamation day; and
  - (b) become rights and obligations of the Commonwealth on that day.
- (2) The Industry Minister may, in writing, declare that a specified contract continues to have effect on and after the proclamation day as if a reference in the contract to the Commission were a reference to the Commonwealth.

- (3) The Industry Minister may, in writing, declare that a specified instrument relating to a specified contract continues to have effect after the Commission's rights and obligations under the contract become rights and obligations of the Commonwealth, as if a reference in the instrument to the Commission were a reference to the Commonwealth.
- (4) The Industry Minister may, in writing, declare that the Commonwealth becomes the Commission's successor in law, in relation to the Commission's rights and obligations under a specified contract, immediately after the Commission's rights and obligations under the contract become rights and obligations of the Commonwealth.
- (5) A declaration under this item has effect accordingly.
- (6) A copy of a declaration under this item is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.
- (7) This item does not, by implication, limit item 76 or 78.

Note: A contract or instrument may be specified by name, by inclusion in a specified class or in any other way.

## **75 Transfer of contractual rights and obligations of the Organisation**

- (1) The Science Minister may, in writing, declare that the Organisation's rights and obligations under a specified contract to which the Organisation is a party and that is connected with the Organisation's metrological functions:
  - (a) cease to be rights and obligations of the Organisation on the proclamation day; and
  - (b) become rights and obligations of the Commonwealth on that day.
- (2) The Science Minister may, in writing, declare that a specified contract that is connected with the Organisation's metrological functions continues to have effect on and after the proclamation day as if a reference in the contract to the Organisation were a reference to the Commonwealth.
- (3) The Science Minister may, in writing, declare that a specified instrument relating to a specified contract continues to have effect after the Organisation's rights and obligations under the contract become

rights and obligations of the Commonwealth, as if a reference in the instrument to the Organisation were a reference to the Commonwealth.

- (4) The Science Minister may, in writing, declare that the Commonwealth becomes the Organisation's successor in law, in relation to the Organisation's rights and obligations under a specified contract, immediately after the Organisation's rights and obligations under the contract become rights and obligations of the Commonwealth.
- (5) A declaration under this item has effect accordingly.
- (6) A copy of a declaration under this item is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.
- (7) This item does not, by implication, limit item 77 or 79.

Note: A contract or instrument may be specified by name, by inclusion in a specified class or in any other way.

## **76 Transfer of assets of the Commission**

- (1) The Industry Minister may, in writing, make any or all of the following declarations in relation to an asset of the Commission:
  - (a) a declaration that the asset vests in the Commonwealth on the proclamation day without any conveyance, transfer or assignment;
  - (b) a declaration that a specified instrument relating to the asset continues to have effect on and after the proclamation day as if a reference in the instrument to the Commission were a reference to the Commonwealth;
  - (c) a declaration that the Commonwealth becomes the Commission's successor in law in relation to the asset at the beginning of the proclamation day.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.
- (3) A copy of the declaration is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.

## **77 Transfer of assets of the Organisation**

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- (1) The Science Minister may, in writing, make any or all of the following declarations in relation to an asset of the Organisation that is connected with the Organisation's metrological functions:
- (a) a declaration that the asset vests in the Commonwealth on the proclamation day without any conveyance, transfer or assignment;
  - (b) a declaration that a specified instrument relating to the asset continues to have effect on and after the proclamation day as if a reference in the instrument to the Organisation were a reference to the Commonwealth;
  - (c) a declaration that the Commonwealth becomes the Organisation's successor in law in relation to the asset at the beginning of the proclamation day.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.
- (3) A copy of the declaration is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.

## **78 Transfer of liabilities of the Commission**

- (1) The Industry Minister may, in writing, make any or all of the following declarations in relation to a liability of the Commission:
- (a) a declaration that the liability vests in the Commonwealth on the proclamation day without any conveyance, transfer or assignment;
  - (b) a declaration that a specified instrument relating to the liability continues to have effect on and after the proclamation day as if a reference in the instrument to the Commission were a reference to the Commonwealth;
  - (c) a declaration that the Commonwealth becomes the Commission's successor in law in relation to the liability at the beginning of the proclamation day.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.

- (3) A copy of the declaration is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.

## **79 Transfer of liabilities of the Organisation**

- (1) The Science Minister may, in writing, make any or all of the following declarations in relation to a liability of the Organisation that is connected with the Organisation's metrological functions:
- (a) a declaration that the liability vests in the Commonwealth on the proclamation day without any conveyance, transfer or assignment;
  - (b) a declaration that a specified instrument relating to the liability continues to have effect on and after the proclamation day as if a reference in the instrument to the Organisation were a reference to the Commonwealth;
  - (c) a declaration that the Commonwealth becomes the Organisation's successor in law in relation to the liability at the beginning of the proclamation day.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (2) The declaration has effect accordingly.
- (3) A copy of the declaration is to be published in the *Gazette* within 14 days after either the making of the declaration or the proclamation day, whichever is later.

## **80 Registration of land transfers**

- (1) This item applies if:
- (a) any right, title or interest in particular land vests in the Commonwealth under this Part; and
  - (b) there is lodged with a land registration official a certificate that:
    - (i) is signed by the Industry Minister or the Science Minister; and
    - (ii) identifies the land, whether by reference to a map or otherwise; and
    - (iii) states that the right, title or interest has become vested in the Commonwealth under this Part.

- (2) The land registration official may:
  - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
  - (b) deal with, and give effect to, the certificate.
- (3) The *Lands Acquisition Act 1989* does not apply in relation to anything done under this item.

## **81 Certificates in relation to assets other than land**

- (1) This item applies if:
  - (a) an asset other than land vests in the Commonwealth under this Part; and
  - (b) there is lodged with an assets official a certificate that:
    - (i) is signed by the Industry Minister or the Science Minister; and
    - (ii) identifies the asset; and
    - (iii) states that the asset has become vested in the Commonwealth under this Part.
- (2) The assets official may:
  - (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
  - (b) make such entries in the register as are necessary having regard to the effect of this Part.

## **82 Exemption from stamp duty and other State/Territory taxes**

- (1) No stamp duty or other tax is payable under a law of a State or a Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) The Industry Minister or the Science Minister may certify in writing:
  - (a) that a specified matter is an exempt matter; or
  - (b) that a specified thing was done in connection with a specified exempt matter.
- (3) In all courts, and for all purposes, a certificate under subitem (2) is evidence of the matters stated in the certificate.

- (4) In this item:  
*exempt matter* means any of the following:
- (a) the transfer of an asset under item 76 or 77;
  - (b) the transfer of a liability under item 78 or 79;
  - (c) the operation of this Part in any other respect.

### **83 Final annual report for the Commission**

- (1) For each transitional reporting period, the final directors of the Commission must, in relation to the Commission, prepare the report referred to in section 9 of the *Commonwealth Authorities and Companies Act 1997*.
- (2) If the proclamation day is 1 July 2004, the 2003-04 financial year is a *transitional reporting period*.
- (3) If the proclamation day is after 1 July 2004 but is or is before 1 October 2004, the period that:
- (a) starts at the beginning of 1 July 2003; and
  - (b) ends immediately before the proclamation day;
- is a *transitional reporting period*.
- (4) If the proclamation day is after 1 October 2004:
- (a) the 2003-04 financial year is a *transitional reporting period*; and
  - (b) the period that:
    - (i) starts at the beginning of 1 July 2004; and
    - (ii) ends immediately before the proclamation day;is a *transitional reporting period*.
- (5) For the purposes of this item, a transitional reporting period mentioned in subitem (3) or paragraph (4)(b) is to be treated as a financial year.
- (6) For the purposes only of preparing the report, the final directors are to be treated as continuing to be directors, and are entitled to receive the remuneration and allowances they would have been entitled to receive if the Commission had not ceased to exist.
- (7) The expenses (including remuneration and allowances) of preparation of the report are to be paid or discharged by the Commonwealth.
- (8) In this item:
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*director* has the same meaning as in the *Commonwealth Authorities and Companies Act 1997*.

*final director* means a person who was a director immediately before the proclamation day.

#### **84 Certificates, declarations etc. taken to be authentic etc.**

A document that appears to be a certificate, declaration or other document made or issued under this Part:

- (a) is taken to be such a certificate, declaration or other document; and
- (b) is taken to have been properly given;

unless the contrary is established.

#### **85 Compensation—constitutional safety net**

(1) If:

- (a) a provision of this Act would result in an acquisition of property; and
- (b) the provision would not be valid, apart from this item, because a particular person has not been compensated;

the Commonwealth must pay that person:

- (c) a reasonable amount of compensation agreed on between the person and the Commonwealth; or
- (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.

(2) Any damages or compensation recovered, or other remedy given, in a proceeding begun otherwise than under this item must be taken into account in assessing compensation payable in a proceeding begun under this item and arising out of the same event or transaction.

(3) In this item:

*acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

#### **86 Commonwealth records**

(1) This Part does not authorise a Commonwealth record (within the meaning of the *Archives Act 1983*) to be transferred or otherwise dealt with except in accordance with the provisions of that Act.

- (2) A Commonwealth record (within the meaning of the *Archives Act 1983*) must not be transferred to a person under this Part unless the National Archives of Australia has given permission under paragraph 24(2)(b) of the *Archives Act 1983*.

### **87 Transfer of pending proceedings**

- (1) This item applies if, as a result of a declaration made under this Part, the Commonwealth becomes the successor in law of either the Commission or the Organisation (the *original entity*) on and after the proclamation day in relation to a particular asset or liability.
- (2) If any proceedings to which the original entity was a party:
- (a) were pending in any court or tribunal immediately on the proclamation day; and
  - (b) related, in whole or in part, to the asset or liability;
- then the Commonwealth is, by force of this subitem, substituted for the original entity as a party to the proceedings to the extent to which the proceedings relate to the asset or liability.

### **88 Regulations**

The Governor-General may make regulations providing for any other matters of a transitional nature (including any saving or application provision) arising out of the enactment of the amendments or repeals made by this Act.

## **Schedule 2—Technical amendments**

### *National Measurement Act 1960*

#### **1 Subsection 3(1) (paragraphs (b), (c) and (d) of the definition of Australian legal unit of measurement)**

Repeal the paragraphs, substitute:

- (b) a unit of measurement derived by the application of guidelines issued by the Chief Metrologist under subsection 7B(1), or 2 or more successive applications of those guidelines.

#### **2 Subsection 3(1) (at the end of the definition of reference standard of measurement)**

Add “and for which the period for which a certificate of verification is given under the regulations has not expired”.

#### **3 Application of item 2**

The amendment made by item 2 of this Schedule applies to a reference standard of measurement that is verified in accordance with the regulations on or after the commencement of that item.

#### **4 Subsection 7B(1)**

Repeal the subsection, substitute:

- (1) The Chief Metrologist may issue written guidelines governing:
  - (a) the way in which an Australian legal unit of measurement may be combined with itself, or one or more other Australian legal units of measurement, to produce an Australian legal unit of measurement; and
  - (b) the way in which an Australian legal unit of measurement may be combined with a prefix prescribed for the purposes of subsection 7A(3) to produce an Australian legal unit of measurement.

#### **5 Section 19**

Omit subsection “7(1)”, substitute “section 7A”.

## Schedule 3—Amendment of regulations

### *National Measurement Regulations 1999*

#### **1 Regulation 2**

Repeal the regulation, substitute:

#### **2 Commencement**

These regulations commence on 1 October 1999, immediately after the commencement of Schedule 1 to the *National Measurement Amendment (Utility Meters) Act 1999*.

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[*Minister's second reading speech made in—  
House of Representatives on 3 December 2003  
Senate on 12 February 2004*]

(179/03)

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