



National Measurement Amendment Act 2010

No. 142, 2010

**An Act to amend the law in relation to
measurement, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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National Measurement Amendment Act 2010

No. 142, 2010

An Act to amend the law in relation to measurement, and for related purposes

[Assented to 15 December 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *National Measurement Amendment Act 2010*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	15 December 2010
2. Schedule 1	The day after this Act receives the Royal Assent.	16 December 2010

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

National Measurement Act 1960

1 Subsection 3(1) (paragraph (b) of the definition of *approved pattern*)

Omit “first verified”, substitute “manufactured”.

2 Subsection 3(1) (definition of *AQS sampling procedures*)

Omit “prescribed”, substitute “determined by the Chief Metrologist under section 19Q”.

3 Subsection 3(1) (definition of *AQS test procedures*)

Omit “prescribed”, substitute “determined by the Chief Metrologist under section 19Q”.

4 Subsection 3(1)

Insert:

Australian certified reference material means a reference material that has been certified in accordance with the regulations.

5 Subsection 3(1) (definition of *certified reference material*)

Repeal the definition.

6 Subsection 3(1) (definition of *component*)

Repeal the definition, substitute:

component: a thing is a component of another thing (the *instrument*) by means of which a measurement may be made where:

- (a) the instrument is designed or constructed so as to include the thing, or have the thing associated with it, but the thing need not form part of the instrument; and
- (b) the thing is designed or intended to do any or all of the following:
 - (i) convert the result of a measurement by the instrument;

- (ii) calculate number, tax or price by reference to the result of a measurement by the instrument;
- (iii) correct the result of a measurement by the instrument;
- (iv) provide or repeat information relating to the result of a measurement by the instrument or a result of the conversion or calculation described in subparagraph (i) or (ii);
- (v) control the measurement process carried out by the instrument;
- (vi) convert a physical quantity into another physical quantity.

7 Subsection 3(1) (paragraph (a) of the definition of *measuring instrument*)

Omit “of a physical quantity”.

8 Subsection 3(1) (definition of *national group test procedures*)

Omit “prescribed”, substitute “determined by the Chief Metrologist under section 19Q”.

9 Subsection 3(1) (definition of *national instrument test procedures*)

Omit “by the Minister”, substitute “by the Chief Metrologist”.

10 Subsection 3(1) (definition of *national sampling procedures*)

Omit “prescribed”, substitute “determined by the Chief Metrologist under section 19Q”.

11 Subsection 3(1) (definition of *national single article test procedures*)

Omit “prescribed”, substitute “determined by the Chief Metrologist under section 19Q”.

12 Subsection 4(1A)

Omit “Subsections (2) and (3) do not”, substitute “Subsection (2) does not”.

13 Section 10

Omit “a certified reference material” (wherever occurring), substitute “an Australian certified reference material”.

Note: The heading to section 10 is altered by omitting “**certified reference materials**” and substituting “**Australian certified reference materials**”.

14 Subsection 12A(6)

Repeal the subsection, substitute:

(6) A person who makes or enters into a contract, dealing or other transaction that contravenes subsection (1) commits an offence.

Penalty: 5 penalty units.

15 Paragraph 18GB(1)(c)

Repeal the paragraph, substitute:

(c) the measuring instrument is not of an approved pattern.

Note: The heading to section 18GB is altered by omitting “**unverified measuring instruments**” and substituting “**measuring instruments not of an approved pattern**”.

16 Paragraph 18GB(2)(c)

Repeal the paragraph, substitute:

(c) the measuring instrument is not of an approved pattern.

17 Paragraph 18GC(1)(c)

Repeal the paragraph, substitute:

(c) the measuring instrument is not of an approved pattern.

Note: The heading to section 18GC is altered by omitting “**unverified measuring instruments**” and substituting “**measuring instruments not of an approved pattern**”.

18 Paragraph 18GC(2)(c)

Repeal the paragraph, substitute:

(c) the measuring instrument is not of an approved pattern.

19 After section 18GC

Insert:

18GCA Letting for hire or loaning unverified measuring instruments

Offence requiring fault element

- (1) A person commits an offence if:
- (a) the person lets for hire, or loans, a measuring instrument; and
 - (b) the measuring instrument is let, or loaned, for use for trade; and
 - (c) the measuring instrument is not verified.

Penalty: 200 penalty units.

Strict liability offence

- (2) A person commits an offence if:
- (a) the person lets for hire, or loans, a measuring instrument; and
 - (b) the measuring instrument is let, or loaned, for use for trade; and
 - (c) the measuring instrument is not verified.

Penalty: 40 penalty units.

- (3) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

20 Paragraph 18GE(5)(a)

Repeal the paragraph, substitute:

- (a) the person lets for hire, or loans, a measuring instrument; and
- (aa) the measuring instrument is let, or loaned, for use for trade; and

21 Paragraph 18GE(6)(a)

Repeal the paragraph, substitute:

- (a) the person lets for hire, or loans, a measuring instrument; and
- (aa) the measuring instrument is let, or loaned, for use for trade; and

22 Subsection 18GG(2)

Repeal the subsection, substitute:

- (2) The Chief Metrologist may determine, in writing, the national instrument test procedures. The determination is not a legislative instrument.

23 Subsection 18MA(2)

Omit “holds the prescribed qualifications”, substitute “has the prescribed qualifications, knowledge or experience”.

24 After subsection 18RA(2)

Insert:

- (2A) The Secretary must not specify a class of utility meter that the utility meter verifier may verify unless the Secretary is satisfied that the verifier, or an employee of the verifier, is competent to test that class of utility meter.

25 Paragraph 18RB(a)

Repeal the paragraph, substitute:

- (a) if the verifier is an individual—that the verifier must not personally verify a utility meter unless he or she is competent to test that class of utility meter;
- (aa) that the verifier must not employ a person to verify a utility meter unless that person is competent to test that class utility meter;

26 After section 18RC

Insert:

18RCA NATA accredited verifiers

For the purposes of subsection 18RA(2A), and for the purposes of the conditions set out in paragraphs 18RB(a) and (aa), a person who is accredited by the National Association of Testing Authorities to test a class of utility meter is taken to be competent to test that class of utility meter.

27 Paragraph 19B(a)

Omit “as a pattern of a measuring instrument suitable for use for trade”.

28 Section 19B (penalty)

Omit “\$6,000”, substitute “60 penalty units”.

29 After section 19P

Insert:

19Q Chief Metrologist may determine matters

- (1) The Chief Metrologist may determine, in writing:
 - (a) AQS sampling procedures for the purposes of Subdivision 3-C of Division 3 of Part VI; and
 - (b) AQS test procedures for the purposes of Subdivision 3-C of Division 3 of Part VI; and
 - (c) national group test procedures for the purposes of Subdivision 4-B of Division 4 of Part VI; and
 - (d) national sampling procedures for the purposes of Subdivision 4-B of Division 4 of Part VI; and
 - (e) national single article test procedures for the purposes of Subdivision 4-B of Division 4 of Part VI.
- (2) A determination under subsection (1) is not a legislative instrument.

30 After paragraph 20(1)(e)

Insert:

- (ea) providing for or in relation to the issuing of certificates in respect of measurements of an article, for reception in evidence of a document purporting to be such a certificate and for such a certificate to be prima facie evidence of the matters stated in it; and

31 Subparagraph 20(1)(l)(ii)

Omit “trade; and;”, substitute “trade;”.

32 Paragraphs 20(1)(r), (s), (u), (v) and (w)

Repeal the paragraphs.

33 Application provisions

- (1) The amendment made by item 1 applies to measuring instruments manufactured on or after the commencement of that item.

- (2) The amendment made by item 14 applies to contracts, dealings or other transactions made or entered into after the commencement of that item.
 - (3) The amendments made by items 15 and 16 apply in relation to the installation of measuring instruments on or after the commencement of those items.
 - (4) The amendments made by items 17 and 18 apply in relation to the sale or supply of measuring instruments on or after the commencement of those items.
 - (5) The amendment made by item 19 applies in relation to the letting for hire, or loaning, of measuring instruments on or after the commencement of that item.
 - (6) The amendments made by item 20 and 21 apply to measuring instruments that are let for hire, loaned, sold or otherwise supplied on or after the commencement of those items.
 - (7) The amendments made by items 24, 25 and 26 apply to appointments of utility meter verifiers made on or after the commencement of those items.
 - (8) The amendments made by items 27 and 28 apply to representations made on or after the commencement of those items.
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*[Minister's second reading speech made in—
Senate on 29 September 2010
House of Representatives on 24 November 2010]*

(162/10)
