

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 147

Issued by the Authority of the Parliamentary Secretary to the Minister for Industry,
Tourism and Resources

National Measurement Act 1960

National Measurement Amendment Regulations 2007 (No. 1)

The principal objects of the *National Measurement Act 1960* (the Act) are:

- to establish a national system of units and standards of measurement of physical quantities;
- to provide for the uniform use of those uniform units and standards of measurement throughout Australia;
- to co-ordinate the operation of the national system of measurement; and
- to provide for a system of verification of utility meters used for trade.

Section 20 of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 20 (1) (1) enables the *National Measurement Regulations 1999* (the Principal Regulations) to prescribe a fee for activities undertaken in respect of the examination and certification of patterns of measuring instruments. Schedule 13 to the Principal Regulations prescribes fees for pattern approval activities. Pattern approval is granted to a design of a measuring instrument which meets the requirements of the national measurement legislation which ensure that it is suitable for use for regulated purposes including trade.

The purpose of the proposed Regulations is to amend the Principal Regulations to vary the rates charged for pattern approval activities to reflect increasing costs. This is the first significant change in fees for pattern approval since 1996 except for minor changes to accommodate the Goods and Services Tax in 2000. New measuring instruments, such as for grain protein, are now subject to pattern approval and a fee schedule is included for the first time.

The proposed Regulations would also amend Schedule 12 to the Principal Regulations. Schedule 12 prescribes the maximum permissible errors for measuring instruments used for trade and regulation. The amendments would extend the coverage of Schedule 12 to encompass new types of measuring instruments. The amendments would also improve the interface with State and Territory trade measurement legislation which calls up the provisions of Schedule 12.

Subsection 19A (6) of the Act provides that before the Governor-General makes a regulation for or in relation to the examination, approval and verification of patterns

of measuring instruments for use for trade and any other legal purpose, the Minister must consult appropriate State authorities. Subsection 3 (4) of the Act defines 'state authority' as a reference to a Department of State or other authority in a State or Territory having responsibility for matters relating to weights and measures. The Minister for Industry, Tourism and Resources gave consent for the draft Amending Regulations to be considered by the Trade Measurement Advisory Committee (TMAC), the body appointed to provide advice on trade measurement matters by the Ministerial Council on Consumer Affairs. TMAC approved the amendments.

The proposed Regulations would also provide for the definition of some additional terms to assist in the interpretation of the Principal Regulations, some minor changes in terminology to bring Australia in line with international practice under its treaty obligations, and some additional Australian legal units of measurement to provide further support for the measurement of sugar concentration used by industry requested by sugar and grape growers.

Details of the proposed Regulations are set out in the Attachment.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulations would commence on 1 July 2007.

ATTACHMENT**Details of the *National Measurement Amendment Regulations 2007 (No. 1)*****Regulation 1 – Name of Regulations**

This specifies the name of the Regulations as the *National Measurement Amendment Regulations 2007 (No. 1)*.

Regulation 2 - Commencement

Regulation 2 provides that the Regulations commence on 1 July 2007.

Regulation 3 – Amendment of *National Measurement Regulations 1999*

This provides that Schedule 1 amends the *National Measurement Regulations 1999* (the Principal Regulations).

Schedule 1 – Amendments

Items 1 to 7 revise some existing definitions and add further definitions to the Principal Regulations

Item 1 - Regulation 3, definition of *certification*

The definition of the term *certification* is revised to further clarify its meaning in the context of both the *National Measurement Act 1960* under which the Principal Regulations are made, and the State and Territory trade measurement legislation which refers to maximum permissible errors prescribed in these Regulations.

Item 2 - Regulation 3, definitions of *Inspectors' Class 1, 2 and 3 Standards*

Definitions of the terms *Inspectors' Class 1, 2 and 3 standards* are added to the Principal Regulations to further assist in their interpretation and to provide further linkages to the State and Territory trade measurement legislation. These standards are the standards of measurement referred to in the State and Territory trade measurement legislation. They are used by State and Territory trade measurement inspectors to administer the State and Territory trade measurement legislation. The State and Territory trade measurement legislation refers to, and calls up the provisions for these standards in the Principal Regulations.

Item 3 - Regulation 3, definition of *maximum permissible error*

The definition of the term *maximum permissible error* is revised to make clear provisions for the interpretation of this term before and after the commencement of the proposed Regulations to ensure a smooth transition from the current provisions to the provisions under the proposed Regulations.

Item 4 - Regulation 3, definition of *recertification* and *reverification*

Definitions of the terms *recertification* and *reverification* as applied to measuring instruments, reference materials and reference standards of measurement under the Principal Regulations are added to further assist in the interpretation of these functions. These terms define the process used to ensure the ongoing calibration and fitness-for-purpose of standards, measuring instruments and reference materials under the Principal Regulations. In doing this they also provide further linkages to the State and Territory trade measurement legislation which refers to the provisions for these activities in the Principal Regulations.

Item 5 - Regulation 3, definition of *State secondary standard* and *State tertiary standard*

Definitions of the terms *State secondary standard* and *State tertiary standard* are added to the Principal Regulations to further assist in their interpretation, and to provide further linkages to the State and Territory trade measurement legislation which refers to provisions relating to these standards in the Principal Regulations. These standards are the standards of measurement referred to in the State and Territory trade measurement legislation. They are precise standards maintained by the States and Territories as part of the standards hierarchy they employ to support the inspectors' standards used by State and Territory trade measurement inspectors to administer the State and Territory trade measurement legislation. The State and Territory trade measurement legislation refers to, and calls up the provisions for these standards in the Principal Regulations.

Item 6 - Regulation 3, definition of *variant*

A definition of the term *variant* is added to the regulations to further assist in their interpretation. A *variant* is an addendum to the approval of the pattern of a measuring instrument that extends the approval to cover additional versions of the approved instrument. These additional versions of the approved instrument are essentially similar to the original instrument but encompass developments such as increases in the range of measurements that may be made by the approved instrument as a result of improvements in the capabilities of later versions of the original instrument.

Item 7 - Regulation 3, definition of *verification*

The definition of the term *verification* is revised to further clarify its meaning in the context of both the *National Measurement Act 1960* under which these Regulations are made, and the State and Territory trade measurement legislation which refers to this function and the associated maximum permissible errors prescribed in these Regulations. The revised term under these Regulations would both define, and differentiate between, the process used to ensure that standards of measurement under the Principal Regulations and the measuring instruments in use for trade and regulated by trade measurement inspectors in the States and Territories under the State and Territory trade measurement legislation, are in calibration and fit-for-purpose. In doing this the revised definition of the term *verification* also provides further linkages to the State and Territory trade measurement legislation which refers to the provisions for these activities in the Principal Regulations.

Items 8 and 9 remove orphaned references to regulation 24 which was previously repealed

Item 8 - Regulation 19, omission of reference to regulation 24

This item removes an orphaned reference to regulation 24 which was repealed previously.

Item 9 - Sub-regulation 77 (2), omission of reference to regulation 24

This item removes an orphaned reference to subregulation 24 (2) which was repealed previously.

Item 10 - Subparagraph 87 (d) (ii), amended reference to Schedule 12

This item amends the reference to Schedule 12 to reflect changes made to Schedule 12 by these proposed Regulations.

Item 11 - Regulation 90B, substitution of a revised regulation

This item revises regulation 90B to further clarify the three fee levels that apply to pattern approval activities relating to measuring instruments undertaken by the National Measurement Institute. These levels are in place to reflect the varying level of complexity of different types and models of measuring instruments and the costs associated with their examination for the purpose of pattern approval. It also extends the provisions of regulation 90B to cover a greater range of measuring instruments based on new technologies.

Items 12 and 13 prescribe additional Australian legal units of measurement for the measurement of sugar concentration

Item 12 - Schedule 2, Part 1, prescription of additional Australian legal units of measurement

This item provides for three additional Australian legal units of measurement to be prescribed for the measurement of concentration. These are 'Degrees Brix', 'Degrees Z' and 'Pol'. These units are used in the sugar and grape industry both within Australian and internationally. They are required to further support the measurement of sugar concentration by industry to underpin trade in this commodity.

Item 13 - Schedule 2, Part 2 purposes for which additional Australian legal units of measurement

This item provides for the purpose of the three additional Australian legal units of measurement of concentration prescribed to be for measurement of sugar concentration.

Item 14 - Schedule 12, substitution of a revised Schedule 12

This item replaces the current Schedule 12 with a revised Schedule 12. The revised Schedule 12 makes provisions for the following:

- further clarification of the interpretation of the terms *verification* and *certification* when applying the maximum permissible errors for measuring instruments prescribed by Schedule 12;
- the consolidation of Parts 1 and 2 of the previous Schedule 12 for further ease of use;
- improved linkages between State and Territory trade measurement legislation and the maximum permissible errors for measuring instruments prescribed by Schedule 12; and
- the prescription of maximum permissible errors for water vending machines and evidential breath analysers.

Item 15 - Schedule 13, substitution of a revised Schedule 13

This item replaces the current Schedule 13 with a revised Schedule 13. The revised Schedule 13 makes provisions for the following:

- the prescription of revised fees for the examination and certification of volume, weighing and dimensional measuring instruments and utility meters by the National Measurement Institute;
- the prescription of revised fees for the examination and certification of patterns of measuring instruments by the National Measurement Institute;
- the prescription of revised additional fees for the use of equipment in examination of instruments by the National Measurement Institute; and
- the prescription of fees for the examination and certification of evidential breath analysers and grain protein measuring instruments by the National Measurement Institute.

The proposed revision of existing fees is the first increase in fees since the year 1996 apart from an adjustment for the Goods and Services Tax and the proposed fees are below the cost recovery figures for these activities.

Item 16 – Further amendments

The terms ‘confidence limits’ and ‘confidence interval’ are replaced by the term ‘level of confidence’. This aligns the terminology used in these regulations with the terminology of the International Organisation for Standardisation Guide to the Expression of Uncertainty in Measurement in line with Australia’s international treaty obligations.