



National Trade Measurement Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 180

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *National Measurement Act 1960*.

Dated 29 June 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

KIM CARR
Minister for Innovation, Industry, Science and Research

	Page
Contents	
1 Name of Regulations	2
2 Commencement	2
3 Amendment of <i>National Trade Measurement Regulations 2009</i>	2
4 Amendment of <i>National Trade Measurement Regulations 2009</i>	2
Schedule 1 Amendments commencing on day after registration	3
Schedule 2 Amendments commencing on commencement of Schedule 1 to <i>National Measurement Amendment Act 2010</i>	16

1 Name of Regulations

These Regulations are the *National Trade Measurement Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence as follows:

- (a) on the day after they are registered — regulations 1 to 3 and Schedule 1;
- (b) on the commencement of Schedule 1 to the *National Measurement Amendment Act 2010* — regulation 4 and Schedule 2.

3 Amendment of *National Trade Measurement Regulations 2009*

Schedule 1 amends the *National Trade Measurement Regulations 2009*.

4 Amendment of *National Trade Measurement Regulations 2009*

Schedule 2 amends the *National Trade Measurement Regulations 2009*.

Schedule 1 Amendments commencing on day after registration

(regulation 3)

[1] Regulation 1.4, definition of *glass measure*

substitute

glass measure, in relation to batch testing, means any of the following:

- (a) a container that is:
 - (i) made wholly or principally of glass; and
 - (ii) intended to be used to sell lubricating oil by volume of the quantity otherwise than as a prepacked article;
- (b) a measure that is:
 - (i) made of glass or another rigid or semi-rigid substance; and
 - (ii) intended to be used to sell beer, ale, stout or spirits by quantity otherwise than as a prepacked article;
- (c) a measure that is:
 - (i) made wholly or principally of glass; and
 - (ii) cylindrical or conical; and
 - (iii) used for pharmaceutical purposes.

[2] Regulation 1.4, definition of *maximum permissible error*, paragraph (b), including the note

substitute

- (b) otherwise — the maximum limit of error for a measuring instrument of that kind prescribed in Schedule 1.

[3] Regulation 1.4, definition of *meat*

omit

1.4.

insert

1.5.

[4] Regulation 1.4, definition of *public weighing*, second occurring

omit

[5] After regulation 1.5

insert

1.6 Meat for sale — marking requirements

- (1) If a person offers or exposes for sale a quantity of meat at a marked price, the person must ensure that:
- (a) the mass of the meat is marked on the meat or in another statement that clearly refers to the meat in a way that:
 - (i) uses the same colour for the mass of the meat and the price of the meat; and
 - (ii) ensures that the mass of the meat and the price of the meat are equally conspicuous; and
 - (b) the price per kilogram of the meat is marked on the meat or in another statement that clearly refers to the meat in a way that:
 - (i) uses a combination of letters and numbers in which each letter and number is at least 10 mm high; and
 - (ii) uses the same colour for the mass of the meat and the price of the meat; and
 - (iii) ensures that the price per kilogram is in close proximity to the marked price of the meat.
- (2) A person who engages in conduct that contravenes subregulation (1) commits an offence.
- Penalty: 20 penalty units.
- (3) The offence mentioned in subregulation (2) is an offence of strict liability.

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

[6] After regulation 2.36

insert

2.36A Prescribed particulars for register

For section 18GJ of the Act, each of the following particulars relating to verification marks is prescribed:

- (a) for each servicing licensee that uses the verification mark — a unique identifying code, consisting of 3 letters in upper case;
- (b) for each verifier employed by a servicing licensee — a unique identifying code, consisting of a combination of letters in upper case and numbers;
- (c) a representation of the date on which a verifier verifies and marks the measuring instrument, consisting of:
 - (i) a letter representing the month (where “A” represents January, “B” represents February and the remaining months are represented in a continuation of that sequence); and
 - (ii) a number representing the year (where “0” represents a year ending in 0, “1” represents a year ending in 1 and the remaining years are represented in a continuation of that sequence).

2.36B Prescribed circumstances — utility meters taken to be marked with verification mark

For paragraph 18GG (4) (c) of the Act, each of the following circumstances is prescribed:

- (a) the utility meter is part of an imported batch of utility meters;
- (b) the verifier of the utility meter issues a batch verification certificate in the form provided in the relevant National Instrument Test Procedure;
- (c) the verifier of the utility meter provides a copy of the certificate to the Secretary;
- (d) the verifier of the utility meter provides a copy of the certificate to the importer of the utility meter.

[7] Paragraph 2.38 (3) (c)

omit

2.38

insert

2.39

[8] Paragraph 2.42 (f)

omit

licence.

insert

licence;

[9] After paragraph 2.42 (f)

insert

(g) a unique identifying code for each licensee, in the form of 3 letters in upper case.

[10] After regulation 2.46

insert

2.47 Prescribed fee — verifying etc measuring equipment

For subsection 18MK (2) of the Act, the prescribed fee is the sum of an hourly rate of \$212 plus any costs incurred in verifying or re-verifying the measuring instrument.

2.48 Prescribed period

For paragraph 18QA (1) (c) of the Act, the prescribed period is 90 days.

[11] Paragraph 3.12 (a)

omit

\$850;

insert

\$500;

[12] Paragraph 3.12 (b)

omit

after the first year

[13] Subregulation 3.25 (1)

substitute

- (1) A public weighbridge licensee must take all reasonable steps to ensure that the operator of the public weighbridge receives sufficient training to enable the operator:
- (a) to take the appropriate degree of care in determining a measurement using the weighbridge; and
 - (b) to competently determine a measurement using the weighbridge.

[14] Subregulation 3.27 (1)

after

must

insert

take all reasonable steps to

[15] Regulation 3.38, heading

substitute

3.38 Public weighbridge licensee must not permit or assist person to engage in fraudulent conduct

[16] Subregulation 3.38 (1)

omit

knowingly

[17] Regulation 3.40, heading

substitute

3.40 Public weighbridge licensee must not engage in certain conduct related to false representation

[18] Subregulation 3.40 (1)

substitute

- (1) A public weighbridge licensee must not make a false representation in relation to the measurement of anything using a public weighbridge.

[19] Regulation 3.56, heading

substitute

3.56 Operator must not permit or assist person to engage in fraudulent conduct

[20] Subregulation 3.56 (1)

omit

knowingly

[21] Regulation 3.58, heading

substitute

3.58 Operator must not engage in certain conduct related to false representation

[22] Paragraphs 3.58 (1) (a) and (b)

omit

licensee

insert

operator

[23] After regulation 3.61

insert

3.61A Prescribed period

For paragraph 18QA (1) (d) of the Act, the prescribed period is 90 days.

[24] Paragraphs 4.6 (a) and (b)

omit

immediate package

insert

inner package

[25] Regulation 4.8, heading

substitute

4.8 Exemptions — packaged seed and imported prepackaged products

[26] Paragraph 4.8 (1) (c)

omit

more.

insert

more;

[27] After paragraph 4.8 (1) (c)

insert

(d) imported prepackaged products.

[28] After regulation 4.16

insert

4.16A AQS mark — prescribed location

- (1) For subsection 18JK (1) of the Act, the location at which an AQS mark is marked on a package is the principal display panel.

Note 1 For the definition of **AQS mark**, see regulation 4.2.

Note 2 For a representation of the AQS mark, including the relative dimensions of the mark as a proportion of its width, see Schedule 3.

Note 3 For the definition of *principal display panel*, see regulation 4.1.

Note 4 For offences related to marking an AQS mark other than in the manner prescribed by this regulation, see subsections 18JK (2) to (4) of the Act.

[29] Division 4.5, heading

substitute

Division 4.5 Prohibited expressions and prescribed particulars

[30] After regulation 4.29

insert

4.29A Prescribed particulars for register

For subsection 18JY (1) of the Act, each of the following particulars relating to permits issued under section 18JX of the Act is prescribed:

- (a) the name of the packer or the importer to whom the Secretary issued the permit;
- (b) the address of the packer or the importer to whom the Secretary issued the permit;
- (c) a description of the article to which the permit relates;
- (d) the period the permit is in force.

Note For the publication requirements of the register, see subsection 18JY (2) of the Act.

[31] Regulation 4.33, definition of *tolerable deficiency*

omit

subregulation 4.36 (4)

insert

regulation 4.36

[32] Subregulations 4.35 (3) and (4)*omit*

equal

insert

approximately equal

[33] Regulation 4.36*substitute***4.36 Tolerable deficiencies**

Determine the tolerable deficiency (T) appropriate for the nominal quantity of the prepackages using the following table.

Nominal quantity of product (Q_n) in g or mL	Tolerable deficiency (T) ^a	
	Percent of Q_n	g or mL
0 to 50	9	—
50 to 100	—	4.5
100 to 200	4.5	—
200 to 300	—	9
300 to 500	3	—
500 to 1 000	—	15
1 000 to 10 000	1.5	—
10 000 to 15 000	—	150
15 000 to 50 000	1	—

^a T values are to be rounded up to the next σ of a g or mL for $Q_n \leq 1\,000$ g or mL and to the next whole g or mL for $Q_n > 1\,000$ g or mL

Nominal quantity of product (Q_n) in length	Percent of (Q_n)
$Q_n \leq 5$ m	No tolerable deficiency allowed
$Q_n > 5$ m	2

Nominal quantity of product (Q_n) in area	Percent of (Q_n)
All Q_n	3

Nominal quantity of product (Q_n) in count	Percent of (Q_n)
$Q_n \leq 50$ items	No tolerable deficiency allowed
$Q_n > 50$ items	1 ^b

^b Compute the value of T by multiplying the nominal quantity by 1% and rounding the result up to the next whole number. The value may be larger than 1% due to the rounding but this is accepted because the products are whole items and cannot be divided.

[34] Subregulation 4.40 (2), including the note

substitute

- (2) An inspector must determine the quantity of the content of each sampled prepackage.

[35] Regulation 4.45

omit

[36] After subparagraph 5.2 (1) (b) (iv)

insert

- (v) if a person advertises, offers or exposes firewood for sale at a price determined by reference to the volume of the firewood, the person must ensure that the following requirements are met:
- (A) the firewood must be stacked with as few gaps between each piece of firewood as practicable;
 - (B) the volume of a stack of firewood calculated using the dimensions of the stack must be at least the volume mentioned in advertising, offering or exposing the firewood for sale; or

[37] After Part 5

insert

Part 6 **Inspectors — prescribed qualifications and form of identity card**

6.1 Prescribed qualifications

For subsection 18MA (2) of the Act, the following qualifications are prescribed:

- (a) Certificate IV in Government (Investigation);
- (b) Certificate IV in Government (Trade Measurement);
- (c) Diploma of Government (Trade Measurement);
- (d) a qualification on the basis of which a person was eligible, under an earlier corresponding law, to be appointed as a senior trade measurement inspector or a trade measurement inspector in a jurisdiction.

6.2 Prescribed form of identity card

For subsection 18MB (1) of the Act, the form of an identity card issued by the Secretary to a trade measurement inspector under subsection 18MB (1) of the Act is a card that includes the following information:

- (a) the full name of the trade measurement inspector;
- (b) a statement that the trade measurement inspector has been appointed by the Secretary under section 18MA of the Act;
- (c) a statement that the powers and obligations of a trade measurement inspector are set out in Divisions 3 and 4 of Part IX of the Act;
- (d) the trade measurement inspector's signature;
- (e) the date of issue of the identity card;
- (f) the identity card number;
- (g) the expiry date of the identity card;
- (h) instructions for the return of a lost identity card;

- (i) the class of trade measurement inspector to which the inspector is appointed.

Note 1 Additional requirements related to the form of an identity card are mentioned in subsection 18MB (1) of the Act.

Note 2 For requirements related to carrying an identity card, see subsection 18MB (3) of the Act.

[38] Schedule 1, Part 3, table 8

substitute

Table 8 Price computing devices

Item	Unit price	Maximum permissible error for verification and in-service inspection
1	Not more than \$1 per litre	± 0.9 cent
2	More than \$1 per litre but not more than \$2 per litre	± 1 cent
3	More than \$2 per litre but not more than \$5 per litre	± 2.5 cents
4	More than \$5 per litre but not more than \$10 per litre	± 5 cents

[39] Schedule 1, Part 3, table 10, heading

omit

Load

insert

Load (m) expressed in verification scale intervals (e)

[40] Schedule 1, Part 3, Division 7*omit**Maximum permissible errors — weighing in motion***Table 14 Maximum permissible errors for weighing in motion***insert**Maximum permissible errors — weighing in motion or totalising hopper weigher***Table 14 Maximum permissible errors for weighing in motion or totalising hopper weigher****[41] Schedule 1, Part 3, table 14, heading***omit***Percentage of weight of single wagon or total train, as appropriate***insert***Percentage of weight of single wagon, total train or totalising hopper weigher, as appropriate****[42] Schedule 1, Part 3, Division 7, after clause 4***insert**Hopper weighing — totalising hopper weigher*

4A For a totalising hopper weigher:

- (a) a maximum permissible error for hopper weighing applies only if the hopper is loaded with at least the minimum totalised load for the hopper; and
- (b) the maximum permissible error for weighing is the value calculated according to table 14.

[43] Schedule 2, item 7

substitute

7 *[Reserved for future use]*

[44] Schedule 2, subitems 8.1 and 9.1

omit

All categories

insert

All sub-classes

[45] Schedule 2, after item 10

insert

11 *[Reserved for future use]*

[46] Schedule 2, subitems 12.1, 13.1, 14.1, 16.1 and 17.1

omit

All categories

insert

All sub-classes

**Schedule 2 Amendments commencing on
commencement of Schedule 1
to *National Measurement
Amendment Act 2010***

(regulation 4)

[1] Regulation 4.35

omit

[2] Regulations 4.39 to 4.41

omit

[3] Regulation 6.1

substitute

6.1 Prescribed qualifications

For subsection 18MA (2) of the Act, the following qualifications, knowledge or experience is prescribed:

- (a) Certificate IV in Government (Investigation);
- (b) Certificate IV in Government (Trade Measurement);
- (c) Diploma of Government (Trade Measurement);
- (d) a qualification on the basis of which a person was eligible, under an earlier corresponding law, to be appointed as a senior trade measurement inspector or a trade measurement inspector in a jurisdiction;
- (e) for a person employed as a trade measurement inspector in another Australian jurisdiction before 1 July 2010 — the Secretary is satisfied that the person has:
 - (i) appropriate knowledge; or
 - (ii) appropriate experience; or

- (iii) a combination of appropriate knowledge and appropriate experience.
-

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.