

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 125**

Issued by the Authority of the Minister for Innovation, Industry, Science  
and Research

*National Measurement Act 1960*

*National Measurement Amendment Regulations 2011 (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;
- provide for the uniform use of those uniform units and standards of measurement throughout Australia;
- co-ordinate the operation of the national system of measurement;
- provide for a system of verification of utility meters used for trade; and
- provide the legal framework for a national system of trade measurement.

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.

The *National Measurement Regulations 1999* (the Principal Regulations) support the establishment of the Commonwealth measurement system.

The purpose of the Regulations is to amend the Principal Regulations to enable point of sale systems and other measuring instruments to be pattern approved for use for trade. The Regulations also revise the prescribed fees for pattern approval services to reflect increased cost of providing these services and to clarify how these fees are calculated.

The Regulations also make changes to reflect the fact that a number of matters previously dealt with in the Principal Regulations have been inserted into the *National Trade Measurement Regulations 2009*.

Details of the Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

In accordance with section 17 of the *Legislative Instruments Act 2003*, consultation was undertaken with a number of relevant stakeholders in respect of the Regulations. In particular, the changes to the nomenclature and the extension of existing facilities to include the pattern approval of point of sale systems were developed following the National Measurement Institute's routine interaction with its stakeholders. The

Weighing Industry Association of Australia and the Petroleum Industry Contractors Association were consulted in relation to the increases to fees.

We have also consulted with the Office of Best Practice Regulation and they have advised that a Regulation Impact Statement was not required.

The amendments to the Principal Regulations commenced on 1 July 2011.

**Details of the National Measurement Amendment Regulations 2011 (No. 1)**

**Regulation 1 – Name of Regulations**

This regulation specifies the name of the Regulations as the *National Measurement Amendment Regulations 2011 (No. 1)*.

**Regulation 2 - Commencement**

This regulation provides that the Regulations commence on 1 July 2011.

**Regulation 3 – Amendment of National Measurement Regulations 1999**

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

**Schedule 1 – Amendments**

**Item 1 - Regulation 3, definition of *certificate of verification***

This item replaces the definition of the term *certificate of verification* in the Principal Regulations with an extended definition which also includes batch verification certificates issued under regulations 2.36B of the *National Trade Measurement Regulations 2009*. The extended definition corrects an error arising from amendments made to the *National Trade Measurement Regulations 2009* by the *National Trade Measurement Amendment Regulations 2010 (No. 1)*. As an unintended result of the latter, batch verification certificates issued under regulation 2.36B of the *National Trade Measurement Regulations 2009* were not included under regulation 90 of the Principal Regulations are therefore not prima facie evidence.

**Item 2 - Regulation 3, definitions of *recertification* and *reverification***

This item repeals the definitions of *recertification* and *reverification* from the Principal Regulations which are out of alphabetical order in the list of definitions. The latter resulted from a minor drafting error in the Principal Regulations and these terms are re-inserted in the correct alphabetical sequence by item 3.

**Item 3 - Regulation 3, definition of *point of sale system***

This item inserts a definition of a new term, *point of sale system* and reinserts the terms *recertification* and *reverification* omitted by item 2 in their correct alphabetical sequence.

The term ‘point of sale system’ identifies a component of a measuring instrument approved for use for trade that is able to process the result of a measurement made by the measuring instrument with which it is associated. The purpose of ‘point of sale’

components is to create labels, receipts and/or other documentation necessary to support transactions where the consideration is determined on the basis of measurement. However, 'point of sale systems' are not able to control or affect the metrological performance of measuring instruments approved for use for trade.

This definition will enable a commonly used component of measuring instruments approved for use for trade to be identified for the purposes of examination and certification and the calculation of the fees associated with this to be more readily identified.

#### **Item 4 - Regulation 87**

This item repeals regulation 87 which provides for classes of utility meters to be exempted from the operation of Part IV of the Act which makes provisions for the use of measuring instruments for trade. Regulation 87 is being repealed from the Principal Regulations as it relates more close to the subject matter of the *National Trade Measurement Regulations 2009* where an equivalent provision will be inserted by the *National Trade Measurement Amendment Regulations 2011 (No. 1)*. This provision is therefore effectively being relocated to a more appropriate location in the other regulations issued under the Act to make the legislation easier to follow and use.

#### **Items 5-10 – Fees**

Items 5-10 amends the fees levied for the examination and certification of measuring instruments. First, by amending the provisions in the Principal Regulations which specify which of the three levels of fees apply to remove references to obsolete measuring instruments, and by including provisions for new measuring instruments that have been developed. Second, by revising the fees to reflect the increased costs of examining and certifying measuring instruments consistent with the requirements of the *Australian Government Cost Recovery Guidelines*. Third, by levying an additional fee for electromagnetic susceptibility testing at the higher frequencies now used by mobile phones. Fees for the examination and certification of point of sale systems are also prescribed separately to enable these to be more easily located.

#### *Item 5 - Paragraph 90B (2) (a)*

This item prescribes the types of volume measuring instruments, weighing instruments and dimensional measuring instrument to which level 1 fees apply under Schedule 13 for the purposes of examination and certification. In its amended form, this regulation includes point of sale systems as defined in item 3 for both volume measuring instruments and weighing and dimensioning instruments. Milk tanks, vehicle and other tanks are removed from the list of volume measuring instruments as are counters, pulse counters, and pulse generators counters as these devices are now effectively obsolete in this context. Further clarification is provided of the fact that simple volume measuring instruments refers to mechanical devices, and the application of this paragraph to simple weighing instruments with a maximum range of no greater than 100 kg is made explicit. Some extraneous words are removed to improve the readability of this paragraph.

*Item 6 - Paragraph 90B (3) (a)*

This item prescribes the types of volume measuring instruments, weighing instruments and dimensional measuring instrument to which level 2 fees apply under Schedule 13 for the purposes of examination and certification. Liquefied petroleum gas flowmeters, multiproduct pumps, milk meters and class 1 weighing instruments are removed from the list of measuring instruments to which level 2 fees are applied. Milk meters are now effectively obsolete and liquefied petroleum gas flowmeters, multiproduct pumps and class 1 weighing instruments are no longer classified as instruments to which level 2 fees apply. Further clarification is provided of the types of instruments and components of measuring instruments to which level 2 fees apply. Some additional details of the types instruments to which level 2 fees apply are inserted and some extraneous words are removed to improve the readability of this paragraph.

*Item 7 - Subparagraph 90B (4) (a) (i)*

This item prescribes the types of volume measuring instruments, to which level 3 fees apply under Schedule 13 for the purposes of examination and certification. Single product dispensers for use with gaseous products have been included as their examination and certification has become more onerous as the technology employed in these instruments has become more advanced. Some additional details of the types of volume measuring instruments to which level 3 fees apply are inserted and some extraneous words are removed to improve the readability of this paragraph.

*Item 8 - Subsubparagraphs 90B (4) (a) (ii) (E) and (F)*

This item prescribes the types of weighing and dimensional measuring instruments, to which level 3 fees apply under Schedule 13 for the purposes of examination and certification. Class 1 weighing instruments have been included as their examination and certification has become more onerous as the technology employed in these instruments has become more advanced and they have become more sophisticated.

*Item 9 - Schedule 13, Parts 1 to 6*

This item replaces Parts 1 to 6 of the current Schedule 13, which provides for fees for regulatory measurement functions carried out by the National Measurement Institute (NMI) under the national measurement legislation. The revised Parts of the Schedule are in the same form as the current Schedule and contain the same suite of items for which fees are levied. However, they amend the quantum of the fees to reflect the NMI's increased costs of providing these services in line with the *Australian Government Cost Recovery Guidelines*. One additional fee is levied as item 10 in Part 2 of the Schedule for electromagnetic susceptibility testing at high frequencies. This additional testing is now needed to ensure that measuring instruments are able to operate correctly in the presence of mobile phones which now operate at higher frequencies than previously. Fees for the examination and certification of point of sale systems are also prescribed separately in a new Part 3A to enable the fees associated with the examination and certification of these ubiquitous components of measuring instruments to be more readily identified in the Schedule. The fees levied in the new Part 3A consist of the existing fees for Application Processing and Application Assessment levied at the same level as throughout the Schedule. They

are presented in the new Part 3A to make it easier for stakeholders to find information on what the fees will be for the examination and certification of these ubiquitous components of measuring instruments.

*Item 10 - Schedule 13, Part 8*

This item replaces Part 8 the current Schedule 13, which provides for fees for regulatory measurement functions carried out by the National Measurement Institute (NMI) under the national measurement legislation. The revised Part of the Schedule is in the same form as in the current Schedule and contains the same suite of items for which fees are levied. However, it amends the quantum of the fees to reflect the NMI's increased costs of providing these services in line with the *Australian Government Cost Recovery Guidelines*. No additional fees are levied.