

EXPLANATORY STATEMENT

Select Legislative Instrument No. 35, 2015

National Measurement Act 1960

National Measurement Amendment (Fee Indexation) Regulation 2015

Authority and Background

The principal objectives of the National Measurement Act 1960 ('the Act') include to:

- establish a national system of units and standards of measurement of physical quantities;
- provide for the uniform use of those units and standards of measurement throughout Australia;
- co-ordinate the operation of the national system of measurement; and
- provide the legal framework for a national system of trade measurement.

Subsection 20(1) 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 national measurement system.

Section 33(3) of the *Acts Interpretation Act 1901* provides that where an act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *National Measurement Amendment (Fee Indexation) Regulation 2015* (the 'Amending Regulation') is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Purpose and operation

The Amending Regulation inserts an indexation provision according to which all fees prescribed in Schedule 13 of the Principal Regulation increase each financial year. The Amending Regulation also clarifies the operation of Schedule 13 by revising its structure and format.

Detailed explanation of the Amending Regulation's provisions

Part 1 – Preliminary

Section 1 – Name of Regulation

This section provides that the title of the Amending Regulation is the *National Measurement Amendment (Fee Indexation) Regulation 2015*.

Section 2 – Commencement

This section provides that the Amending Regulation commences on the day after it is registered.

Section 3 – Authority

This section provides that the legislative authority for the making of the Amending Regulation is the *National Measurement Act 1960*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

Schedule 1 – Amendments

Item 1 – Regulation 90B and 90C

Item 1 repeals regulation 90B in the Principal Regulations and substitutes it with a new regulation 90B.

The new regulation 90B provides that subject to new regulation 90C, fees for activities undertaken in respect of the examination and certification of patterns and measuring instruments are set out in Schedule 13. The new regulation 90B also clarifies that the activities in respect of the examination and certification of patterns and measuring instruments are undertaken by the Chief Metrologist, or a delegate of the Chief Metrologist.

Item 1 also inserts new regulation 90C which is an indexation provision according to which the fees prescribed in Schedule 13 increase each financial year subsequent to the 2014-15 financial year.

Item 2 – Schedule 13

Item 2 repeals Schedule 13 in the Principal Regulations and substitutes it with a new Schedule 13 as follows:

Item 2 - Part 1 ('Part 1')

Part 1 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of volume measuring instruments for the financial year beginning on 1 July 2014. Part 1 specifies that the fees prescribed in Part 1 are indexed under new regulation 90C in later financial years.

Part 1 clarifies that the fees prescribed in Part 1 do not apply to the separate examination and certification of patterns of point of sale systems.

Part 1 clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of volume measuring instruments.

Part 1 also specifies Level 1, Level 2 and Level 3 fees that apply in relation to certain kinds of volume measuring instruments.

Item 2 - Part 2 ('Part 2')

Part 2 prescribes the fees for activities undertaken in respect of examination and certification of patterns of weighing and dimensional measuring instruments for the financial year beginning on 1 July 2014. Part 2 specifies that the fees prescribed in Part 2 are indexed under new regulation 90C in later financial years.

Part 2 clarifies that the fees prescribed in Part 2 do not apply to the separate examination and certification of patterns of point of sale systems.

Part 2 clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of weighing and dimensional measuring instruments.

Part 2 also specifies Level 1, Level 2 and Level 3 fees that apply in relation to certain kinds of weighing and dimensional measuring instruments

Item 2 - Part 3 ('Part 3')

Part 3 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of evidential breath analysers for the financial year beginning on 1 July 2014. Part 3 specifies that the fees prescribed in Part 3 are indexed under new regulation 90C in later financial years.

Part 3 also clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of evidential breath analysers.

Item 2 – Part 4 ('Part 4')

Part 4 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of grain protein measuring instruments for the financial year beginning on 1 July 2014. Part 4 specifies that the fees prescribed in Part 4 are indexed under new regulation 90C in later financial years.

Part 4 also clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of grain measuring instruments.

Item 2 – Part 5 ('Part 5')

Part 5 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of utility meters for the financial year beginning on 1 July 2014. Part 5 specifies that the fees prescribed in Part 5 are indexed under new regulation 90C in later financial years.

Part 5 clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of utility meters.

Item 2 – Part 6 ('Part 6')

Part 6 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of point of sale systems for the financial year beginning on 1 July 2014. Part 6 specifies that the fees prescribed in Part 6 are indexed under new regulation 90C in later financial years.

Part 6 also clarifies that the fees in Part 6 do not apply to the examination and certification of a pattern of a point of sale system as a component of another measuring instrument.

Item 2 – Part 7 ('Part 7')

Part 7 prescribes the fees for activities undertaken in respect of the examination and certification of patterns of measuring instruments that are not covered by Parts 1 to 6 of Schedule 13 (other measuring instruments) for the financial year beginning on 1 July 2014. Part 7 specifies that the fees prescribed in Part 7 are indexed under new regulation 90C in later financial years.

Part 7 also clarifies that the fees prescribed in Part 8 of Schedule 13 are payable for the use of equipment mentioned in that Part, when activities are undertaken in respect of the examination and certification of patterns of other measuring instruments.

Item 2 – Part 8 ('Part 8')

Part 8 prescribes the fees for the use of particular equipment in the examination and certification of patterns of instruments. Part 8 specifies that the fees prescribed in Part 8 are indexed under new regulation 90C in later financial years.

The fees prescribed in Part 8 are fees that could be used in conjunction with fees prescribed for the activities set out in Parts 1 to 7 in the following circumstances:

- where additional equipment may be used in the examination and certification of patterns of instruments set out in Parts 1 to 6 of Schedule 13;
- where equipment listed in Part 8 is used in the examination and certification of patterns of instruments undertaken under Part 7 of Schedule 13.

Consultation

The National Measurement Institute will inform stakeholders and industry of these amendments prior to their taking effect by posting an update on their website and writing to stakeholders with a current application.

The National Measurement Institute has also consulted with the Office of Best Practice Regulation and they have advised that a Regulation Impact Statement was not required for these amendments (OBPR ID 16934).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Measurement Amendment (Fee Indexation) Regulation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The purpose of the *National Measurement Amendment (Fee Indexation) Regulation 2015* ('Amending Regulation') is to amend the *National Measurement Regulations 1999* ('Principal Regulations'). The Principal Regulations provide details that allow effective compliance with and administration of the *National Measurement Act 1960*.

The Act sets out the legislative framework for a national system of units and standards of measurement of physical quantities. This system provides a legal framework for the uniform use of units and standards of measurement and co-ordinates the operation of the national system of trade measurement. The Principal Regulations support the national measurement system.

Human rights implications

There are no human rights implications of the Amending Regulation. The administration of the national measurement system does not engage any of the applicable human rights and freedoms. The amendment of the Principal Regulations will not affect any of the applicable human rights and freedoms.

Conclusion

The Amending Regulation is compatible with human rights as it does not raise any human rights issues.

The Minister for Industry and Science, the Honourable Ian Macfarlane MP