

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Industry, Science and Technology

*National Measurement Act 1960*

*National Measurement Legislation Amendment (Fees) Regulations 2019*

### **Purpose and Operation**

The National Measurement Institute (NMI), a division of the Department of Industry, Innovation and Science, administers Australia's measurement framework under the *National Measurement Act 1960* (the Act).

NMI contributes to Australia's prosperity by leading a national system of measurement that is fit for purpose and trusted both nationally and internationally. NMI's regulatory activities are undertaken as key elements within the wider national system of measurement. These activities include approving the design or pattern of measuring instruments (Pattern Approval or PA), and Licensing, and Appointments of third parties, for example, to verify measuring instruments and verify reference standards.

The *National Measurement Regulations 1999* (the NM Regulations) prescribe fees and charges for the regulatory activity of pattern approval examination (testing) and certification of measuring instruments used for trade and other legal purposes. The *National Trade Measurement Regulations 2009* (the NTM Regulations) prescribe fees and charges for the regulatory activity of licensing third parties to verify measuring instruments and to operate public weighbridges. The *National Measurement Legislation Amendment (Fees) Regulations 2019* (the Amending Regulations) provide updated fees and charges related to regulatory charging activities. The fee for appointments of third parties have not been set in regulations and are managed administratively.

The Australian Government Charging Framework and the 2014 Cost Recovery Guidelines apply to all regulatory charging activities undertaken by the Australian Government. The cost recovery policy developed by NMI, in accordance with the Charging Framework and the Cost Recovery Guidelines, require amendments to the fees specified in the NM and NTM Regulations. The amendments will ensure that NMI's costs for the activities undertaken in respect to examination and certification of patterns of measuring instruments, and the issuing of servicing licences and public weighbridge licences are recovered under the NM and the NTM Regulations.

The fee increase for licensing third party organisations and pattern approval certification of measuring instruments reflect as closely as possible the underlying cost of these regulatory functions based on previous and projected demands. The fee increase for pattern approval examination (testing) of measuring instruments are based on previous and projected demands to recover 20 per cent of the associated costs as approved by Government.

The fees charged during the 2018/19 financial year for the pattern approval examination and certification of measuring instruments under the NM Regulations are increased by 75 per cent proportionally over four financial years. The amendments specify that the first increase was introduced on 1 July 2019, with subsequent increases introduced on 1 July 2020, 1 July 2021 and 1 July 2022. No new fees are introduced.

The fees charged during the 2018/19 financial year for licensing third parties to verify measuring instruments under the NTM Regulations are increased by 57 per cent proportionally over four financial years. The amendments specify that the first increase was introduced on 1 July 2019 with subsequent increases introduced on 1 July 2020, 1 July 2021 and 1 July 2022. These fees have not increased since their introduction on 1 July 2010. No new fees are introduced.

The fees charged during the 2018/19 financial year for licensing third parties to operate public weighbridges under the NTM Regulations are increased by 57 per cent, with the increase to come into effect as of 1 July 2019. These fees have not increased since their introduction on 1 July 2010. No new fees are introduced.

Under the previous fee structures in the NM and NTM Regulations, NMI was unable to fully recover the cost of delivering its regulatory activities. The fee changes ensure that NMI operates on a cost recovered basis wherever possible.

### **Authority**

Subsection 20(1) of the *National Measurement Act 1960* (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 Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

### **Consultation**

Consultation was undertaken with the Department of Finance regarding compliance with the 2014 Cost Recovery Guidelines.

Public consultation on the draft Cost Recovery Implementation Statement was completed in February 2018. The fees and charges take into account the feedback received from the public consultation.

### **Regulatory Impact**

Regulatory impact is minor (OBPR ID 23408). The Amending Regulations amend the fees charged by the Australian Government for regulatory activities related to approving of pattern of measuring instruments and licensing of third parties under the Act.

## **Details of the *National Measurement Legislation Amendment (Fees) Regulations 2019***

### **Section 1 Name of Instrument**

This section specifies the name of the Regulations as the *National Measurement Legislation Amendment (Fees) Regulations 2019* (the Amending Regulations).

### **Section 2 Commencement**

This section provides that the Amending Regulations commence on 1 July 2019.

### **Section 3 Authority**

This section sets out that the Amending Regulations are made under the *National Measurement Act 1960*.

### **Section 4 Schedules**

This section is a machinery clause that enables the Schedule to amend the *National Measurement Regulations 1999* (the NM Regulations) and the *National Trade Measurement Regulations 2009* (the NTM Regulations).

### **Schedule 1—Amendments**

#### ***National Measurement Regulations 1999***

##### **Item 1 Regulation 90B**

Item 1 replaces regulation 90B to update the language to current drafting standards and to include a reference to new regulation 90D (inserted by item 3).

##### **Item 2 Subregulation 90C(1)**

Item 2 amends subregulation 90C(1) to provide for CPI indexation of fees for the examination and certification of patterns of measuring instruments set out in Schedule 13 at the start of each financial year beginning 1 July 2020.

##### **Item 3 At the end of Part 10**

Item 3 adds new regulation 90D to provide for the non CPI cost recovery related additional increase to fees in the 2020, 2021 and 2022 financial years. From 1 July 2020, at the start of each financial year up to 1 July 2022, the fee increase for each financial year is calculated based on the indexation provided.

The fee increase is calculated based on the dollar amount from the previous financial year with CPI applied as per subregulation 90C(1). This is defined as the ‘base amount’ and this

amount is then further subject to further indexation to calculate the additional increase to fee to accommodate the 75 per cent fee increase introduced proportionally over four years.

#### **Item 4 Schedule 13**

Item 4 repeals and substitutes Schedule 13 to set out the prescribed fees for the financial year beginning 1 July 2019 for the activities undertaken in respect to examination and certification of patterns of different types of measuring instruments.

These fees are the 2018/19 fees increased by 18.75 per cent to reflect the first increase on 1 July 2019, with subsequent increases to be introduced on 1 July 2020, 1 July 2021 and 1 July 2022 (as described in item 3).

Based on previous and projected demand, the 75 per cent fee increases in Schedule 13 ensure that the cost of maintaining the capability and capacity to deliver examination and certification of pattern of various types of measuring instruments is recovered at 20 per cent and 100 per cent respectively.

##### Part 1—Volume measuring instruments

This Part prescribes the fees for the financial year from 1 July 2019 for volume measuring instruments of the following kinds:

- simple mechanical liquor measures or dispensers;
- simple mechanical indicators or counters for flow;
- fuel dispenser consoles (excluding computer-based systems);
- pulse counters and pulse generators;
- simple electronic and multi-liquor measuring systems;
- single product fuel dispensers (except for use with gaseous products);
- tank level gauges (excluding volume conversion and correction devices);
- electronic flowmeter indicators or calculators;
- computer-operated consoles for fuel dispensers;
- mass flowmetering systems (excluding liquefied petroleum gas);
- milk metering systems;
- flowmetering systems other than mentioned in subclause 3(1);
- controllers and calculator-indicators with conversion, linearisation or correction functions for flow;
- multi-product dispensers;
- single product dispensers for use with gaseous products;
- any other kind of volume measuring instrument not previously referred to.

##### Part 2—Weighing and dimensional measuring instruments

This Part prescribes the fees for the financial year from 1 July 2019 for weighing and dimensional measuring instruments of the following kinds:

- class 3 and 4 weighing instruments with a capacity of up to 100 kg;

- simple instruments for weighing or dimensional measurement;
- class 2 non-automatic weighing instruments;
- class 3 and 4 non-automatic weighing instruments with a capacity of more than 100 kg and less than 600 kg;
- baseworks for non-automatic weighing instruments with a capacity of 600 kg or more;
- load cells;
- simple indicators with no linearisation;
- overhead track weighing instruments;
- semi-automatic multi-dimensional measuring instruments;
- static wheel weighers;
- length measuring instruments;
- area measuring instruments;
- belt weighers;
- weighing-in-motion systems for trains and road vehicles;
- catchweighers;
- totalising hopper weighers;
- class 1 weighing instruments;
- controllers and indicators with conversion or linearisation functions for weighing;
- automatic multi-dimensional measuring instruments;
- any other kind of weighing or dimensional measuring instrument not referred to.

#### Part 3—Evidential breath analysers

This Part prescribes the fees for the financial year from 1 July 2019 for evidential breath analysers.

#### Part 4—Grain protein measuring instruments

This Part prescribes the fees for the financial year from 1 July 2019 for grain protein measuring instruments.

#### Part 5—Utility meters

This Part prescribes the fees for the financial year from 1 July 2019 for utility meters.

#### Part 6—Point of sale systems

This Part prescribes the fees for the financial year from 1 July 2019 for point of sale systems.

#### Part 7—Other measuring instruments

This Part prescribes the fees for the financial year from 1 July 2019 for measuring instruments not mentioned in Parts 1 to 6 of Schedule 13.

Part 8—Fees for use of particular equipment in examination and certification of patterns of instruments

This Part prescribes the fees for the financial year from 1 July 2019 for the use of particular equipment in examination and certification of patterns of measuring instruments.

***National Trade Measurement Regulations 2009***

**Item 5 Regulation 1.4 (heading)**

Item 5 amends the heading to regulation 1.4 to replace the term “interpretation” with “definitions”. This is a technical amendment that aligns the heading to the regulation with the use of current drafting terms.

**Item 6 Regulation 1.4**

Item 6 amends regulation 1.4 to remove the reference to “unless the contrary intention appears”. This is a technical amendment which brings the regulation into alignment with current drafting practice and provides reader certainty with the use of the definitions. A note has also been added to direct the reader to the commonly used definitions in the *National Trade Measurement Regulations 2009*, which have already defined in the Act and are not replicated in the Regulations.

**Item 7 Regulation 1.4**

Item 7 inserts new definitions for *class*, *class amount*, *licence year* and *new applicant amount*. The new definitions for *class*, *class amount* and *new applicant amount* are included in the definitions regulation as these are terms that are used and defined in amended/new regulations 2.41 and 2.41A (inserted by item 10).

The new definition for *licence year* is inserted to clarify that an application for a new, or renewal of, a servicing licence or public weighbridge licence, can relate to a year or part year.

**Item 8 Regulation 1.4 (note following the definition of *registered number*)**

Item 8 repeals the note following the definition of *registered number* in regulation 1.4. The note about the terms defined in the empowering Act is now moved as a note to the heading of the definition provisions, in alignment with the current drafting practice.

**Item 9 Regulation 1.4**

Item 9 inserts new definition for *verifier amount*. The new definition for *verifier amount* was included in the definitions regulation as this term is used and defined in amended/new regulation 2.41B (inserted by item 10).

## **Item 10 Regulation 2.41**

Item 10 repeals and substitutes regulation 2.41 and adds new regulations 2.41A, 2.41B and 2.41C, as described below.

### **2.41 Definition of class amount**

Substituted regulation 2.41 defines the term *class amount* and provides for the class amount for licence applications at the beginning of each financial year beginning 1 July 2019, 1 July 2020, 1 July 2021 and 1 July 2022. The fee increase for the class amount over the period specified in the regulation accounts for a 57 per cent increase spread proportionally over four years.

The fee increase ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to issuing of licences is recovered and NMI operates on a cost recovered basis.

### **2.41A Definition of new applicant amount**

New regulation 2.41A defines the term *new applicant amount* and provides for the new applicant amount for licence applications at the beginning of each financial year beginning 1 July 2019, 1 July 2020, 1 July 2021 and 1 July 2022. The fee increase for the new applicant amount over the period specified in the regulation accounts for a 57 per cent increase spread proportionally over four years.

The fee increase ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to issuing of licences is recovered and NMI operates on a cost recovered basis.

### **2.41B Definition of verifier amount**

New regulation 2.41B defines the term *verifier amount* and provides for the fee amount based on the number of verifiers nominated in the licence applications at the beginning of each financial year beginning 1 July 2019, 1 July 2020, 1 July 2021 and 1 July 2022. The fee increase for the verifier amount over the period specified in the regulation accounts for a 57 per cent increase spread proportionally over four years.

The fee increase ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to issuing of licences is recovered and NMI operates on a cost recovered basis.

### **2.41C Prescribed fee—application for servicing licence (Act s 18NA(3)(b))**

New regulation 2.41C updates the fee for an application for a servicing licence as the sum of amounts as calculated based on the amounts under paragraphs 2.41C(a) to (c).

## **Item 11 Regulations 2.44, 2.45 and 2.46**

Item 11 repeals and substitutes regulations 2.44, 2.45 and 2.46, as described below.

### 2.44 Prescribed fee—application to amend condition of servicing licence (Act s 18NI(2)(b))

Regulation 2.44 prescribes the fee for an application to amend a condition of a servicing licence, at the beginning of each financial year beginning 1 July 2019, 1 July 2020, 1 July 2021 and 1 July 2022. The fee increase for an application to amend a condition of servicing licence over the period specified in the regulation accounts for a 57 per cent increase spread proportionally over four years.

The fee increase ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to issuing of licences is recovered and NMI operates on a cost recovered basis.

### 2.45 Prescribed fee—application to amend servicing licence due to change of partnership (Act s 18NJ(3)(d))

Regulation 2.45 prescribes the fee for an application to amend a servicing licence due to a change of partnership at the beginning of each financial year beginning 1 July 2019, 1 July 2020, 1 July 2021 and 1 July 2022. The fee increase for an application to amend a servicing licence due to a change of partnership over the period specified in the regulation accounts for a 57 per cent increase spread proportionally over four years.

The fee increase ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to issuing and amendment of licences is recovered and NMI operates on a cost recovered basis.

### 2.46 Prescribed fee—application for renewal of servicing licence (Act s 18NK(2)(b))

Regulation 2.46 prescribes the fee for an application for the renewal of a servicing licence as the sum of amounts as calculated based on the amounts under paragraphs 2.46C(a) and (b).

## **Item 12 Regulation 2.47A (heading)**

Item 12 repeals and substitutes the heading for 2.47A to provide clarity on the application of regulation 2.47A.

## **Item 13 Regulations 3.12 to 3.16**

Item 13 repeals and substitutes regulations 3.12, 3.13, 3.14, 3.15 and 3.16, as described below.

### 3.12 Prescribed fee—application for public weighbridge licence (Act s 18PA(3)(b))



Regulation 3.12 provides for the fees for an application for a public weighbridge licence. The fee increase of 57 per cent introduced on 1 July 2019, ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to the issuing of weighbridge licences is recovered and NMI operates on a cost recovered basis.

*3.13 Prescribed fee—application to amend condition of public weighbridge licence (Act s 18PI(2)(b))*

Regulation 3.13 provides for the fee for an application to amend a condition of public weighbridge licence. The fee increase of 57 per cent introduced on 1 July 2019, ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to amending conditions of weighbridge licences is recovered and NMI operates on a cost recovered basis.

*3.14 Prescribed fee—application to amend public weighbridge licence due to change of partnership (Act s 18PJ(3)(d))*

Regulation 3.14 provides for the fee for an application to amend a public weighbridge licence due to a change of partnership. The fee increase of 57 per cent introduced on 1 July 2019, ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to amending weighbridge licences is recovered and NMI operates on a cost recovered basis.

*3.15 Prescribed fee—application to contract out public weighbridge operation (Act s 18PK(3)(d))*

Regulation 3.15 provides for the fee for an application to amend a licence to contract out the operation of a public weighbridge. The fee increase of 57 per cent introduced on 1 July 2019, ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to amending weighbridge licences is recovered and NMI operates on a cost recovered basis.

*3.16 Prescribed fee—application for renewal of public weighbridge licence (Act s 18PL(2)(b))*

Regulation 3.16 provides for the fee for an application for the renewal of a public weighbridge licence. The fee increase of 57 per cent introduced on 1 July 2019, ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to renewal of weighbridge licences is recovered and NMI operates on a cost recovered basis.

#### **Item 14 Regulation 5.5**

Item 14 repeals and substitutes regulation 5.5, which prescribes the fees for the various miscellaneous applications related to the issuing and administration of servicing licences. The fee increase of 57 per cent introduced on 1 July 2019 ensures that the cost of maintaining the capability and capacity to deliver the services provided in respect to miscellaneous

applications related to the issuing and administration of servicing licences is recovered and NMI operates on a cost recovered basis.

## **Statement of Compatibility with Human Rights**

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

### ***National Measurement Legislation Amendment (Fees) Regulations 2019***

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 Legislative Instrument**

The *National Measurement Legislation Amendment (Fees) Regulations 2019* provides amendments to the prescribed fees and charges for the regulatory activity of approval of pattern of measuring instruments used for trade and other legal purposes and for the regulatory activity of licensing third parties to verify measuring instruments and to operate public weighbridges.

The fees charged for the pattern approval of measuring instruments are increased by 75 per cent from the values calculated as of 1 July 2018, with the increase spread proportionally over a period of four years. The amendments specify that the first increase is introduced on 1 July 2019, with subsequent increases on 1 July 2020, 1 July 2021 and 1 July 2022.

The fees charged for the licensing third parties to verify measuring instruments is increased by 57 per cent, with the increase spread proportionally over a period of four years. The amendments specify that the first increase introduced on 1 July 2019 with subsequent increases introduced on 1 July 2020, 1 July 2021 and 1 July 2022.

The fees charged for licensing third parties to operate public weighbridges is increased by 57 per cent, with the increase to come in to effect as of 1 July 2019.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Karen Andrews MP**  
**Minister for Industry, Science and Technology**