



New South Wales

Trade Measurement Administration Regulation 1997

under the

Trade Measurement Administration Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Trade Measurement Administration Act 1989*.

FAYE LO PO' MP

Minister for Fair Trading

Explanatory note

The object of this Regulation is to repeal and remake, without any major changes, the *Trade Measurement Administration Regulation 1992*.

The new Regulation deals with the following matters:

- (a) the returns to be sent by persons licensed to certify measuring instruments (clause 5),
- (b) the fees and charges payable under the Trade Measurement Act 1989 and the *Trade Measurement Administration Act 1989* (clauses 6–9),
- (c) the prescription of certain offences under the *Trade Measurement Act 1989* as offences for which penalty notices may be issued under the *Trade Measurement Administration Act 1989*, the prescription of the amounts of penalties payable under penalty notices and the prescription of short descriptions of the offences (clauses 10 and 11),
- (d) other matters of a minor, consequential or ancillary nature (clauses 1–4 and 12).

The Regulation is made under the *Trade Measurement Administration Act 1989*, including Part 3 (Fees and charges), section 23 (Penalty notices for certain offences) and section 28 (the general regulation-making power).

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Explanatory note

The Regulation deals with matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

The Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Trade Measurement Administration Regulation 1997

1 Name of Regulation

This Regulation is the *Trade Measurement Administration Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1994.

3 Definition

In this Regulation:

the Act means the *Trade Measurement Administration Act 1989*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

5 Returns for certification of measuring instruments

- (1) A licensee must prepare a return for each 3 month period as to the number and nature of measuring instruments certified by the licensee in that period for which a charge is payable by the licensee under clause 7.
- (2) Every such return is to be in a form approved by the administering authority and is to be sent to the administering authority within 21 days of the end of the period to which the return relates.
- (3) A licensee must prepare and send a return for a period even if the licensee did not certify any measuring instruments in that period.
Maximum penalty: 20 penalty units.

6 Charges payable in respect of verification or re-verification by an inspector (section 10 of the Act)

For the purposes of section 10 of the Act, the appropriate charge payable to the administering authority by the owner of a measuring instrument when an inspector verifies or re-verifies the instrument is:

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- (a) in respect of a matter specified in Column 1 of Schedule 1, an amount of money equal to the amount obtained by multiplying \$25 by the number specified in Column 2 of that Schedule opposite that matter, or
 - (b) if 2 or more of those matters relate to the verification or re-verification, an amount of money equal to the sum of the amounts so obtained.

7 Charges payable by licensee in respect of certification (section 11 of the Act)

- (1) A licensee is to pay to the administering authority a charge in respect of the certification of a measuring instrument by the licensee under the Principal Act.
- (2) The charge is:
 - (a) in respect of a matter specified in Column 1 of Schedule 1, an amount of money equal to the amount obtained by multiplying \$10 by the number specified in Column 2 of that Schedule opposite that matter, or
 - (b) if 2 or more of those matters relate to the certification, an amount of money equal to the sum of the amounts so obtained.
- (3) A charge is not payable in respect of a second or subsequent certification of a measuring instrument in the same calendar year.
- (4) A charge payable in respect of a measuring instrument is to be sent to the administering authority with the return under clause 5 in which the certification of the instrument by the licensee is declared.

8 Other fees and charges (section 13 of the Act)

- (1) The fees specified in Column 2 of Part 1 of Schedule 2 are payable to the Commissioner in relation to the matters specified in Column 1 of that Part.
- (2) The charges specified in Column 2 of Part 2 of Schedule 2 are payable to the Superintendent in relation to the matters specified in Column 1 of that Part and are payable by the owner (within the meaning of section 10 of the Act) of the measuring instrument concerned.

9 Reduction, waiver and deferral of charges

The Superintendent may reduce, waive or defer payment of a charge payable under section 10 or 11 of the Act if of the opinion that the reduction, waiver or deferral is necessary or desirable for the purpose of alleviating hardship.

10 Prescribed offences and penalties

For the purposes of section 23 of the Act:

- (a) an offence created by a provision specified in Column 1 of Schedule 3 is a prescribed offence, and
- (b) the amount specified in Column 3 of Schedule 3 in respect of such an offence is the prescribed amount of penalty for the offence.

11 Short descriptions of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 3 is:
 - (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 3, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

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Clause 12 Trade Measurement Administration Regulation 1997

12 Repeal

- (1) The *Trade Measurement Administration Regulation 1992* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Trade Measurement Administration Regulation 1992*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Verification and certification charges

(Clauses 6, 7)

Column 1**Column 2****Verification, re-verification or certification of:**

Weighing instruments (not elsewhere covered) with a capacity:

not exceeding 30 kg (including a set of masses necessary to use the instrument, with no more than 20 masses per set)	2
exceeding 30 kg not exceeding 300 kg	3
exceeding 300 kg not exceeding 3 tonne	5
exceeding 3 tonne not exceeding 15 tonne	10
exceeding 15 tonne not exceeding 45 tonne	15
exceeding 45 tonne not exceeding 90 tonne	20
exceeding 90 tonne	30

Wheel load weighing instrument..... 2

Totalising belt conveyer weigher..... 30

in the case of a verification or re-verification, plus time in excess of 3 hours necessarily spent in testing, for each inspector per quarter hour or part thereof 1

Train weighing-in-motion weighing instrument..... 30

in the case of a verification or re-verification, plus time in excess of 3 hours necessarily spent in testing, for each inspector per quarter hour or part thereof..... 1

Pre-packing weighing-in-motion weigher 10

Masses (when not associated with a particular weighing instrument)—for each 5 or part thereof 1

Measures of capacity (excluding lubricating oil measures and liquor beverage measures that are submitted for verification or re-verification or certified in batches)—for each 5 or part thereof... 1

Lubricating oil measures (submitted for verification or re-verification or certified in batches):

per batch 10

plus for each 5 required to be tested..... 1

Maximum fee per batch for certification 50

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Schedule 1 Verification and certification charges

Column 1	Column 2
Liquor beverage measures (submitted for verification or re-verification or certified in batches):	
per batch.....	10
plus for each 5 required to be tested	1
Maximum fee per batch for certification	50
Measures of length:	
Rigid—for each 5 or part thereof.....	1
Flexible—each	1
Flowmeters (excluding liquefied gas flowmeters)—for each meter with a flowrate:	
not exceeding 100 litres/min	3
exceeding 100 litres/min not exceeding 1 000 litres/min	10
exceeding 1 000 litres/min	20
Liquefied gas flowmeters—for each meter with a flowrate:	
not exceeding 100 litres/min.....	10
exceeding 100 litres/min	20
Bulk tanks with a capacity:	
not exceeding 1 000 litres	5
exceeding 1 000 litres not exceeding 10 000 litres	10
exceeding 10 000 litres	20
Volumetric drum filler	5
Liquor dispensers—for each 5 dispensing heads or part thereof	1
Measuring instruments not elsewhere covered—for each	2
Additional charge	
An additional charge payable in respect of the verification, re-verification or certification of a measuring instrument approved by the National Standards Commission, for each interactive device (that is, console, card reader or note acceptor) so approved that is attached to the instrument and is not a measuring instrument	3

Schedule 2 Other fees and charges

(Clause 8)

Part 1 Fees payable to Commissioner

Column 1	Column 2
Fee to accompany application for:	
• servicing licence	\$50
• public weighbridge licence	\$50
Periodic licence fee for:	
• servicing licence	\$200 per annum for each place at which the licensee carries on business
• public weighbridge licence	\$150 per annum for each place at which the licensee carries on business
Fee for issue of certificate of suitability	\$50
Fee for amended licence or certificate of suitability	\$45
Fee for duplicate licence or certificate of suitability	\$20

Part 2 Charges payable to Superintendent

Column 1	Column 2
Verification or re-verification of measuring instruments	
Fee on request for service of an inspector with a view to verification or re-verification of measuring instruments:	
for each visit to premises where the visit is requested by the owner (within the meaning of section 10 of the Act) and:	

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Schedule 2 Other fees and charges

Column 1	Column 2
(a) the instruments could, in the opinion of an inspector, reasonably be taken to the office of an inspector for testing, or	
(b) the instruments could not, in the opinion of an inspector, reasonably be taken to the office of an inspector and less than 7 calendar days' notice of the day of testing has been given to the inspector	\$100
Waiting time	
Charge for the keeping of an appointment to examine or test a measuring instrument where examination or testing is unable to be carried out because the measuring instrument is unavailable or inaccessible or access to it is unreasonably refused:	
in the case of an inspector	\$100
in the case of the Weighbridge Test Unit made available by the Superintendent	\$250 plus \$2 per kilometre travelled
Charge payable on keeping of appointment to examine or test a measuring instrument, for time spent waiting before the measuring instrument is made available or access to it is allowed:	
in the case of an inspector	\$25 per quarter hour or part thereof
in the case of the Weighbridge Test Unit made available by the Superintendent	\$25 per quarter hour or part thereof
Examination of instruments that do not comply	
Charge payable to reimburse costs in connection with examination or testing of a measuring instrument with a view to verification or re-verification but where measuring instrument does not comply with requirements for verification or re-verification	The charge that would be payable under Schedule 1 for the verification or re-verification of the measuring instrument

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Other fees and charges

Schedule 2

Column 1**Column 2****Other instruments**

Charge payable to reimburse costs in connection with examination or testing of a measuring instrument:

in the case of a standard of measurement for which a certificate is issued under Regulation 80 of the National Measurement Regulations of the Commonwealth

\$25 per quarter hour or part thereof that each inspector necessarily spends examining and testing the instrument or instruments

in the case of examination and testing of an instrument under section 15 (4) of the Principal Act, at the request of the person in possession of the measuring instrument:

- each wheel load weighing instrument
- each chondrometer
- a measure being a pipette, milk or cream flask used in connection with dairy products

\$50

\$50

\$25 per quarter hour or part thereof that each inspector necessarily spends examining and testing the instrument or instruments

- thermometers

\$25 per quarter hour or part thereof that each inspector necessarily spends examining and testing the instrument or instruments

- dip sticks

\$25 per quarter hour or part thereof that each inspector necessarily spends examining and testing the instrument or instruments

- other

\$25 per quarter hour or part thereof that each inspector necessarily spends examining and testing the instrument

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Schedule 2 Other fees and charges

Column 1	Column 2
Charges payable for the use of labour necessary for the exercise of an inspector's functions and not provided for by any of the preceding items	\$25 per quarter hour or part thereof
Equipment	
Charges payable for the use of equipment provided by the Superintendent:	
Weighbridge Test Unit	\$250 for first two hours of testing, plus \$25 per quarter hour thereafter plus \$2 per kilometre travelled in excess of 100 kilometres where such visit has been requested by the owner, user or other person
masses	\$50 per tonne or part thereof per day
any other equipment	\$50 per day
Advising	
Charges payable for the provision of technical advice by an inspector relating to the use or installation of measuring instruments, the testing of any package, or the examination of any document in relation to the administration of the Act, the Principal Act or Regulations	\$100 for the first hour plus \$25 per quarter hour or part thereof after the first hour

Schedule 3 Penalty notice offences

(Clauses 10 and 11)

Column 1	Column 2	Column 3
Trade Measurement Act 1989		
Section 7 (1)	use for trade unmarked weighbridge/ measuring instrument	\$500
Section 7 (2)	use for trade non-complying weighbridge	\$500
Section 8 (1)	use for trade incorrect/unjust measuring instrument	\$200
Section 28 (1)	pack pre-packed article without packer's mark/mark showing its measurement	\$250
Section 28 (2)	sell pre-packed article without packer's mark/mark showing its measurement	\$250
Trade Measurement (Weighbridges) Regulations 1997		
Regulation 19	fail to return cancelled certificate of suitability on time	\$50
Regulation 25 (a)	fail to comply with duties of public weighbridge operator	\$100
Regulation 25 (c)	fail to issue correct copy of measurement ticket	\$100
Regulation 25 (d)	remove from book/issue original measurement ticket	\$100
Regulation 25 (e)	remove from book/permit removal from book of unused measurement ticket	\$100
Regulation 29	use weighbridge for public weighing to measure end-to-end	\$250
Regulation 30 (1)	use weighbridge for trade weighing to measure end-to-end	\$250
Trade Measurement (Miscellaneous) Regulations 1997		
Regulation 3 (2)	advertise/offer/expose article for sale at a non-metric unit price	\$100
Trade Measurement (Measuring Instruments) Regulations 1997		
Regulation 23 (1) (e)	use measuring instrument with tare bar	\$100

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Schedule 3 Penalty notice offences

Column 1	Column 2	Column 3
Regulation 23 (1) (f)	use instrument to measure mass greater than approved limit	\$100
Regulation 23 (3)	use not properly identified load recepto/use load receptor that measures incorrectly in any position/fouls part of instrument/obscures inside view of scoop	\$100
Regulation 24 (a)	subdivide scale spacing on instrument after marking	\$100
Regulation 24 (b)	use instrument with scale spacing subdivided after marking	\$100