



New South Wales

# Trade Measurement Amendment Act 2001 No 5

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Trade Measurement Act 1989 No 233	2
Schedule 1 Amendments	3



New South Wales

# Trade Measurement Amendment Act 2001 No 5

Act No 5, 2001

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An Act to amend the *Trade Measurement Act 1989* to adopt changes to maintain uniform trade measurement legislation agreed between the States and Territories; and for other purposes. [Assented to 4 April 2001]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Trade Measurement Amendment Act 2001*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Trade Measurement Act 1989 No 233**

The *Trade Measurement Act 1989* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Insert in section 3 (1) in alphabetical order:

*class 4 measuring instrument* means a measuring instrument of an approved pattern that:

- (a) has not less than 100 but not more than 1,000 verification scale intervals, each of which is not less than 5 grams, and
- (b) is marked with a symbol that is an oval of any shape, or 2 parallel horizontal lines that are joined at each end by a semi-circle, with 4 vertical lines in it.

### [2] Section 3 (1)

Omit the definition of *measurement*. Insert instead:

*measurement* means a determination of number or physical quantity, other than for descriptive purposes only.

### [3] Section 3 (2) and (3)

Omit the subsections.

### [4] Sections 3A and 3B

Insert after section 3:

#### 3A Determining certain quantities

For the purposes of this Act:

- (a) time interval not related to the calendar is a physical quantity, and
- (b) time interval related to the calendar is not a physical quantity, and
- (c) any packaging or other thing that is not part of an article is to be disregarded when determining a physical quantity.

**3B References to functions**

In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**[5] Section 7 Measuring instruments used for trade must be marked**

Re-number existing section 7 (3) and (4) as section 7 (5) and (6).

**[6] Section 7 (3) and (4)**

Insert after section 7 (2):

- (3) If an inspector finds a measuring instrument that is being used in contravention of subsection (1) or (2), the inspector may give to the owner or user of the measuring instrument a written notice:
  - (a) stating that the measuring instrument:
    - (i) does not have an inspector's mark or a licensee's mark on it, or
    - (ii) for a weighbridge—does not comply with stated requirements of the regulations relating to weighbridges, and
  - (b) requiring the person to remedy the contravention within a stated period of not more than 28 days.
- (4) If the person complies with the notice, the person is taken not to have committed an offence against this section in relation to the circumstances to which the notice relates.

**[7] Sections 7A and 7B**

Insert after section 7:

**7A Use of class 4 measuring instruments**

A person must not use a class 4 measuring instrument for trade, other than:

- (a) as airport baggage scales, or

- (b) for the determination of freight or haulage charges, or
- (c) for weighing garbage, or
- (d) for weighing earth, sand, gravel or other similar material, or
- (e) as a crane-weigher, or
- (f) for weighing timber in log form, or
- (g) for another purpose prescribed by the regulations.

Maximum penalty:

- (a) if the class 4 measuring instrument is a weighbridge—\$10,000, or
- (b) in any other case—\$5,000.

**7B Use of measuring instruments for pre-packed articles**

A person must not use a measuring instrument for measuring pre-packed articles on premises in which articles are pre-packed unless at least one measuring instrument on the premises is approved for trade use under the National Measurement Act, complies with this Act, and is suitable for measuring the articles to be pre-packed.

Maximum penalty: \$5,000.

**[8] Section 8 Unjust measurement**

Omit “or unjust” from section 8 (1).

**[9] Section 8 (4)**

Re-number existing section 8 (4) as section 8 (6).

**[10] Section 8 (4) and (5)**

Insert after section 8 (3):

- (4) If an inspector finds a measuring instrument being used for trade that is incorrect or is being used in a way that is unjust, the inspector may give to the owner or user of the measuring instrument a written notice:
  - (a) stating that:
    - (i) the measuring instrument is incorrect, or

- (ii) the way the person is using it is unjust, and
  - (b) requiring the person to take stated steps to stop contravening the relevant subsection within a stated period, of not more than 28 days.
- (5) If the person complies with the notice, the person is taken not to have committed an offence against this section in relation to the circumstances to which the notice relates.

**[11] Section 9 Supplying incorrect etc. measuring instrument**

Omit “or unjust” from section 9 (1).

**[12] Section 10 Provision and maintenance of standards**

Omit “classes of reference standards of measurement as may be necessary for the purposes of this Act” from section 10 (1).

Insert instead “classes and denominations of reference standards of measurement as the administering authority decides are necessary for the purposes of this Act”.

**[13] Section 10 (2)**

Omit “classes”.

Insert instead “classes and denominations, decided by the administering authority,”.

**[14] Section 23 Incorrect measurement or price calculation**

Insert “or decides the measurement” after “operates the measuring instrument”.

**[15] Section 23 (a)**

Omit “the other party to the sale”.

Insert instead “any other person who is a party to a sale of the article”.

**[16] Section 31 Incorrect pricing of pre-packed article**

Insert “(without any packaging or other thing that is not part of the article)” after “article” where lastly occurring in section 31 (1).

**[17] Section 42 Requirement for servicing licence**

Renumber existing section 42 (2) as section 42 (3).

**[18] Section 42 (1) and (2)**

Omit section 42 (1). Insert instead:

- (1) A person must not test a batch of measuring instruments or certify or purport to certify a measuring instrument unless the person is the holder of a servicing licence or an employee of the holder of a servicing licence.

Maximum penalty: \$20,000.

- (2) A person who is the holder of a servicing licence, or an employee of the holder of a servicing licence, must comply with the conditions of the licence.

Maximum penalty: \$20,000.

**[19] Section 44 Application for licence**

Renumber existing section 44 (2) and (3) as section 44 (3) and (4).

**[20] Section 44 (2)**

Insert after section 44 (1):

- (2) However, if two or more persons who carry on business together as partners join in making an application, the licensing authority may only grant a single licence to the joint applicants.

**[21] Section 60 Powers of entry etc.**

Omit section 60 (1) (b). Insert instead:

- (b) require a person in charge of such a vehicle to stop it, or move it a reasonable distance to a place specified by an inspector, to enable the inspector:
  - (i) to enter and search it, or
  - (ii) to weigh or measure it and its load, and



**[22] Section 61 Powers in relation to measuring instruments**

Insert at the end of the section:

- (2) Also, the inspector may record the details of any measuring instrument that is examined or tested under this section in the way the inspector considers appropriate, including by filming or photographing.

**[23] Section 62 Powers in relation to articles**

Insert “and measure” after “examine” in section 62 (1) (a).

**[24] Section 62 (4)**

Insert after section 62 (3):

- (4) Also, the inspector may record the details of any article that is examined or measured under this section in the way the inspector considers appropriate, including by filming or photographing.

**[25] Section 76 Evidence—pre-packed articles**

Omit “prima facie” wherever occurring.

**[26] Section 76 (4)**

Renumber existing section 76 (4) as section 76 (5).

**[27] Section 76 (4)**

Insert after section 76 (3):

- (4) A batch number on a pre-packed article is evidence of the matters indicated by the number, including for example, the date and place the article was packed and who packed it.

**[28] Section 76 (6)**

Insert after the subsection renumbered as section 76 (5):

- (6) In this section:  
*batch number* means a number marked on a pre-packed article in accordance with a system of numbers, letters or symbols or

any combination of numbers, letters and symbols, used by the person packing the article to mark the article to indicate when and where it was packed and who packed it.

**[29] Section 80 Regulations**

Insert “certified,” after “of a” in section 80 (2) (g).

[Minister's second reading speech made in—  
Legislative Assembly on 6 March 2001  
Legislative Council on 28 March 2001]