



Trade Measurement Amendment (Fuel) Regulation 2003

under the

Trade Measurement Act 1989

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

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Trade Measurement Regulation 2002* to require the volume of petrol or diesel fuel sold by wholesale to be calculated by reference to its volume at a specified temperature.

This Regulation is made under the *Trade Measurement Act 1989*, including section 80 (the general regulation-making power).

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Clause 1 Trade Measurement Amendment (Fuel) Regulation 2003

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Trade Measurement Act 1989

1 Name of Regulation

This Regulation is the *Trade Measurement Amendment (Fuel) Regulation 2003*.

2 Commencement

This Regulation commences on 1 March 2003.

3 Amendment of Trade Measurement Regulation 2002

The *Trade Measurement Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 3)

Clause 92A

Insert after clause 92:

92A Regulation of sale of fuel by reference to measurement by volume

- (1) A person must not sell fuel by reference to the measurement of its volume unless the sale is at a price determined by reference to the volume of the fuel as measured by the litres the fuel occupies, or would occupy, at a temperature of 15° C.

Maximum penalty: \$2,000.

- (2) However, subclause (1) does not apply to any of the following sales of fuel:
- (a) a retail sale,
 - (b) a wholesale sale if:
 - (i) the wholesale sale happens immediately before, or at the same time as, a retail sale of the fuel, and
 - (ii) the volume of the fuel, as measured for the wholesale sale, is the same as the volume of the fuel as measured for the retail sale,
 - (c) a wholesale sale if:
 - (i) before the wholesale sale the fuel:
 - (A) was moved, in any way, from a primary storage facility to a fixed storage facility at another location, and
 - (B) was unloaded into the fixed storage facility for further distribution or for further sale and distribution, and
 - (ii) for the movement, the fuel was measured by reference to the volume of the fuel as measured by the litres the fuel occupies, or would occupy, at a temperature of 15° C,
 - (d) a wholesale sale (the *relevant sale*) if:
 - (i) the relevant sale happens immediately before or after, or at the same time as, another wholesale sale of the fuel, and

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Schedule 1 Amendment

- (ii) before the relevant sale the fuel:
 - (A) was moved, in any way, from a primary storage facility to a fixed storage facility at another location, and
 - (B) was unloaded into the fixed storage facility for further distribution or for further sale and distribution,
- (e) a wholesale sale if:
 - (i) before the wholesale sale the fuel:
 - (A) was moved, in any way, from a primary storage facility to a fixed storage facility at another location, and
 - (B) was unloaded into the fixed storage facility for further distribution or for further sale and distribution, and
 - (ii) after the fuel was at the primary storage facility but before the wholesale sale, the fuel was not the subject of another sale.

(3) In this clause:

business entity means an entity that operates a business, other than a fuel business.

cooperative entity includes an entity that is a buying group for its members.

diesel fuel means any fuel commonly known as diesel, diesel oil, distillate, automotive diesel fuel, automotive diesel oil or automotive distillate.

fixed storage facility means a facility, other than a primary storage facility, at which fuel is unloaded and from which fuel is reloaded for further distribution or further sale and distribution.

fuel means petrol, or diesel fuel, that a person would reasonably consider is ultimately intended for automotive consumption.

primary storage facility means:

- (a) an oil refinery, or
- (b) a shipping facility, or

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- (c) a facility connected by product transfer pipeline to an oil refinery or to a shipping facility, or
 - (d) a facility connected by product transfer pipeline to a facility mentioned in paragraph (c).

retail sale, of fuel, means a sale to any of the following:

- (a) an entity that purchases the fuel only for its own consumption,
- (b) a business entity that purchases the fuel only for 1 or both of the following purposes:
 - (i) for its own consumption,
 - (ii) for resale to its staff or contractors for consumption by the purchasing staff or contractors,
- (c) a cooperative entity that purchases the fuel only for resale to its members for consumption by the purchasing members.

shipping facility means a facility where fuel may be supplied by ship.