



New South Wales

Trade Measurement Amendment Regulation 2008

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*.

VIRGINIA JUDGE, M.P.,
Minister for Fair Trading

Explanatory note

Under an agreement made in 1990 between the Commonwealth and most States and Territories, uniform trade measurement legislation has been enacted throughout those jurisdictions.

The ongoing review of the uniform trade measurement legislation is the responsibility of the Trade Measurement Advisory Committee (*TMAC*), that was established by the Ministerial Council on Consumer Affairs (*MCCA*).

The TMAC has recommended a number of amendments to the uniform legislation of a technical nature or to improve the administration of the legislation. These amendments have been approved by the MCCA, and are collectively known as the “batch two” amendments, so as to distinguish them from earlier “batch one” amendments. Queensland, the lead jurisdiction, has adopted the batch two amendments in the form of the *Trade Measurement (Prepacked Articles) Amendment Regulation (No.1) 2006* and the *Trade Measurement (Weighbridges) Amendment Regulation (No.1) 2006*.

The object of this Regulation is to amend the *Trade Measurement Regulation 2007* so as to maintain uniformity with other jurisdictions.

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 Regulation 2008

Trade Measurement Amendment Regulation 2008

under the

Trade Measurement Act 1989

1 Name of Regulation

This Regulation is the *Trade Measurement Amendment Regulation 2008*.

2 Commencement

This Regulation commences on 1 February 2009.

3 Amendment of Trade Measurement Regulation 2007

The *Trade Measurement Regulation 2007* is amended as set out in Schedule 1.

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(Clause 3)

[1] Clause 2 Interpretation

Insert in alphabetical order in clause 2 (1):

approved form means a form approved by the administering authority under clause 29A.

copy measurement ticket means a copy measurement ticket mentioned in clause 18 (3) (b) or (4) (b) or in clause 7 (2) of Schedule 1.

measurement ticket, for a measurement made at a weighbridge, means a measurement ticket issued for the measurement and includes a copy measurement ticket and an original measurement ticket.

original measurement ticket means an original measurement ticket mentioned in clause 18 (3) (a) or (4) (c) (ii) or in clause 7 (6) of Schedule 1.

preservation period means:

- (a) for measurement tickets issued from a book or pad of tickets—the period for which the tickets are required to be kept under clause 18 (3) (d), or
- (b) for measurement tickets that are generated electronically—the period for which the tickets are required to be kept under clause 18 (4) (c).

registered number of a weighbridge means the number included in the register of licences kept by the administering authority as the registered number of the weighbridge.

[2] Part 2, Division 2

Omit Divisions 2 and 3 from Part 2. Insert instead:

Division 2 Weighbridge suitability statement (public weighbridges)

13 Provision of a weighbridge suitability statement when public weighbridge licence is granted

- (1) This clause applies when an application is made for the grant of a public weighbridge licence for a weighbridge.
- (2) The administering authority must advise the licensing authority whether the weighbridge is suitable for use as a public weighbridge.

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- (3) If the administering authority advises the licensing authority that the weighbridge is suitable for use as a public weighbridge and the licensing authority decides to grant the licence, the licensing authority must ensure the licence has a weighbridge suitability statement written on it.

14 Provision of a weighbridge suitability statement in relation to an existing public weighbridge licence

- (1) This clause applies to the provision of a weighbridge suitability statement for a weighbridge other than when the public weighbridge licence for the weighbridge is granted.
- (2) On payment of the fee for the new weighbridge suitability statement, the administering authority may provide the statement by issuing a copy of the licence with the statement written on it.
- (3) However, the administering authority must not provide the new weighbridge suitability statement unless an inspector examines the weighbridge for the administering authority and is satisfied the weighbridge is suitable for use as a public weighbridge.

15 Suitability for use as a public weighbridge

To decide whether a weighbridge is suitable for use as a public weighbridge, an inspector must examine the weighbridge for the administering authority and be satisfied of the following:

- (a) that there is enough room for a vehicle using the weighbridge to move onto and off the weighbridge without reversing,
- (b) that the type of weighbridge and the size of its platforms are suitable for the purpose,
- (c) that the weighbridge complies with this Regulation.

16 When weighbridge is to be examined for issuing new weighbridge suitability statement

The administering authority must, as far as practicable, cause an inspector to examine a public weighbridge not earlier than 1 month before the end of the period for which the weighbridge suitability statement for the public weighbridge licence is in force.

17 Licence and sign to be displayed at public weighbridge

- (1) A licensee for a public weighbridge must display at the weighbridge:

- (a) the licence for the weighbridge with a current weighbridge suitability statement written on it, and
 - (b) a sign that clearly indicates, in words and figures at least 100mm high and on a background of contrasting colour:
 - (i) that the weighbridge is a public weighbridge, and
 - (ii) the registered number for the weighbridge.
- (2) The licensee must ensure:
- (a) the licence and the sign:
 - (i) are prominently displayed at the weighbridge, and
 - (ii) can be easily seen by anyone using the weighbridge, and
 - (b) the licence is properly protected from the effects of the weather.
- (3) In this clause, *licence* includes a copy of the licence.

18 General system of measurement tickets

- (1) A licensee for a public weighbridge must ensure measurement tickets in the approved form are able to be issued at the weighbridge for each measurement made using the weighbridge.
- (2) The measurement tickets must be:
 - (a) issued from a bound book of tickets or from a block of tickets held together at one edge to form a pad, or
 - (b) generated electronically.
- (3) If the measurement tickets are issued from a book or pad, the licensee must ensure:
 - (a) that there are clearly identifiable original measurement tickets that are numbered consecutively and retained by the licensee, and
 - (b) that there are clearly identifiable copy measurement tickets that are issued to persons for whom measurements are made, and
 - (c) that, immediately after the last issue of a copy measurement ticket from a pad of measurement tickets, all original measurement tickets and all unissued copy measurement tickets are securely bound together, and
 - (d) that a book or pad from which measurement tickets are issued is kept from when a measurement ticket is first issued from the book or pad until at least 1 year after a measurement ticket is last issued from the book or pad.

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- (4) If the measurement tickets are generated electronically, the licensee must ensure:
 - (a) that particulars of measurement tickets, numbered consecutively, are created electronically, and
 - (b) printed versions of the measurement tickets, clearly identified as copy measurement tickets, are issued to persons for whom measurements are made in accordance with their numerical order, and
 - (c) that at least 1 of the following is kept for at least 1 year after a measurement is made and a copy measurement ticket is issued:
 - (i) the electronic record of the particulars included in the ticket,
 - (ii) a printed version of the original measurement ticket, clearly identified as an original measurement ticket.
- (5) Subclause (4) (a) does not apply to a copy of a measurement ticket issued under clause 7 of Schedule 1.
- (6) A book or pad of measurement tickets may contain more than 1 copy measurement ticket for each original measurement ticket.

19 Offences by licensees

- (1) A licensee for a public weighbridge must ensure:
 - (a) that the weighbridge is kept accurately at zero when there is no load on the platform, and
 - (b) that the weighbridge platform is kept clean, and
 - (c) that the space between the weighbridge frame and the weighbridge platform is kept free from obstructions, and
 - (d) for a measurement made using the weighbridge for a person:
 - (i) appropriate care is taken to decide the measurement, and
 - (ii) an original measurement ticket and the copy measurement ticket, both in the approved form, are completed in numerical order and with appropriate care as soon as practicable, and
 - (iii) the person is issued with the copy measurement ticket for the measurement immediately after the original measurement ticket is completed.

Maximum penalty: \$2,000.

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- (2) If during the preservation period for a measurement ticket a relevant person requires the licensee to produce the measurement ticket, the licensee must ensure the following document is produced to the relevant person within a reasonable time:
- (a) for a measurement ticket issued from a book or pad of tickets—the original measurement ticket,
 - (b) for a measurement ticket generated electronically—a printed version of the original ticket.

Maximum penalty: \$2,000.

- (3) During the preservation period, a licensee for a public weighbridge must not:
- (a) if measurement tickets are issued from a book or pad of tickets, remove from a book or pad, or alter, or allow someone else to remove from a book or pad, or to alter, any original measurement ticket or any unissued copy measurement ticket, or
 - (b) if measurement tickets are generated electronically:
 - (i) delete or alter, or allow someone else to delete or alter, any electronic record of particulars included in a measurement ticket required to be kept under clause 18 (4) (c) (i), or
 - (ii) dispose of or alter, or allow someone else to dispose of or alter, any printed version of an original measurement ticket required to be kept under 18 (4) (c) (ii).

Maximum penalty: \$2,000.

- (4) In this clause, *relevant person*, in relation to the production of a measurement ticket, means:
- (a) an inspector, or
 - (b) a person with a genuine interest in examining the measurement ticket.

Note. An example for subclause (4) (b) is a person whose goods were on a truck being driven by someone else when the weighing happened.

20 If weighbridge measurement incorrect

- (1) If the licensee for a public weighbridge knows, or has reason to believe, a measurement made using the weighbridge would be incorrect, the licensee must immediately withdraw the weighbridge from use.

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- (2) If a weighbridge is withdrawn from use under subclause (1), the licensee must immediately notify the administering authority that the weighbridge has been withdrawn from use and the reason for the withdrawal.

21 Request for measurement may be refused in some circumstances

A licensee for a public weighbridge must ensure any request for a measurement to be made using the weighbridge during normal trading hours is not refused unless:

- (a) the weighbridge does not have the capability to make the measurement, or
- (b) the person asking for the measurement to be made is asked to pay the licensee's fee in advance and the payment is not made, or
- (c) the licensee knows, or has reason to believe, a measurement made using the weighbridge would be incorrect.

22 Offences by operator

- (1) An operator of a public weighbridge must not use the weighbridge for public weighing in a way that contravenes Schedule 1 or do, or omit to do, something else that contravenes Schedule 1.

Maximum penalty: \$2,000.

- (2) An operator of a public weighbridge must not use the weighbridge for public weighing if the operator knows, or has reason to believe, a measurement made using the weighbridge would be incorrect.

Maximum penalty: \$2,000.

- (3) An operator of a public weighbridge, for a measurement made using the weighbridge for a person, must not issue to the person:

- (a) the original measurement ticket for the measurement, or
- (b) a copy measurement ticket that is not a correct copy of the original measurement ticket for the measurement.

Maximum penalty: \$2,000.

- (4) During the preservation period, an operator of a public weighbridge, for a measurement made by the weighbridge for a person, must not:

- (a) if the measurement ticket was issued from a book or pad of tickets, remove from the book or pad, or alter, or allow someone else to remove from the book or pad, or to alter,

the original measurement ticket or any unissued copy measurement ticket, or

- (b) if the measurement ticket was generated electronically:
- (i) delete or alter, or allow someone else to delete or alter, any electronic record of particulars included in the measurement ticket required to be kept under clause 18 (4) (c) (i), or
 - (ii) dispose of or alter, or allow someone else to dispose of or alter, any printed version of the original measurement ticket that is required to be kept under clause 18 (4) (c) (ii).

Maximum penalty: \$2,000.

23 Licensee to give notice of change of particulars

- (1) A licensee for a public weighbridge must give to the licensing authority written notice of the following:
- (a) a change in the address for service of notices on the licensee,
 - (b) for each person employed as an operator of the weighbridge:
 - (i) the full name and residential address of the person, and
 - (ii) if the person stops being employed to operate the weighbridge—the last day the person was employed to operate the weighbridge.
- (2) The licensee must give notice within 14 days after the relevant event happens.

Maximum penalty: \$1,500.

24 When a vehicle weighing is not a use of a weighbridge as a public weighbridge

- (1) The use of a weighbridge to measure the tare mass of a vehicle to enable it to be registered for use on a public road is not to be considered to be use as a public weighbridge for the purposes of section 43 of the Act.
- (2) Subclause (1) applies only if the operator of the weighbridge issues a written statement of the tare mass measured clearly indicating that the tare mass was measured for registration purposes only.

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- (3) Clause 22 does not apply to the operator of the weighbridge when using the weighbridge for the purpose mentioned in subclause (1).

25 Register of licences

- (1) For the purposes of section 47 of the Act, the prescribed particulars relating to a public weighbridge licence are as follows:
- (a) the licence number and the date it was issued,
 - (b) the licensee's name,
 - (c) the address at which notices may be served personally on the licensee,
 - (d) particulars of any conditions imposed under section 48 of the Act,
 - (e) for the weighbridge to which the licence relates:
 - (i) particulars of the weighbridge's location, and
 - (ii) the registered number given to the weighbridge by the administering authority,
 - (f) when the most recent weighbridge suitability statement for the licence was provided.
- (2) The register is open to inspection during normal business hours by any person on payment of the fee, if any, prescribed under the Administration Act.

[3] Clause 29A

Insert after clause 29:

29A Approval of forms

The administering authority may approve forms for use under this Regulation.

[4] Clause 59 Marking of name and address on packages

Insert "personally" after "may be served" in clause 59 (3).

[5] Clause 59 (3)

Insert at the end of clause 59 (3):

Note. A post office box address is not a place where a document may be served personally.

[6] Clause 68 Marking by reference to minimum measurement

Insert "or permitted" after "or required" in clause 68 (1) (a).

[7] Clause 69 Eggs

Omit “mass of each egg” from clause 69 (b).

Insert instead “total mass of all of the eggs in the package”.

[8] Clause 69 (2)

Insert at the end of clause 69:

- (2) The measurement marking of a pre-packed article containing eggs must not include a marking by reference to the minimum mass of each egg unless each egg in the package has at least the stated minimum mass.

[9] Clause 78

Omit the clause. Insert instead:

78 Unit price marking—retail sales of particular foods by mass

- (1) This clause applies to the following pre-packed foods:
 - (a) fruit, other than whole fruit, priced according to mass,
 - (b) dried or dehydrated fruit,
 - (c) dried or dehydrated mixed fruit,
 - (d) vegetables, other than whole vegetables, priced according to mass,
 - (e) mushrooms,
 - (f) cheese or cheese products,
 - (g) dressed poultry not marked in terms of minimum mass in accordance with clause 68,
 - (h) fish, including crustaceans,
 - (i) meat,
 - (j) smallgoods, including bacon, corned beef and ham.
- (2) When a pre-packed article to which this clause applies is sold, the package containing the article must, in addition to being marked with the measurement of the article, be marked with its total price and price per kilogram unless, for the sale, the package is exposed:
 - (a) in or on a receptacle on or immediately adjacent to which the total price and price per kilogram of the article is displayed:
 - (i) in characters at least 10mm high, and

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- (ii) where that price can be readily seen and easily read, or
- (b) in a display of packages each marked:
 - (i) as containing the same article, and
 - (ii) with the same measurement of the article.
- (3) The marking on a package required by this clause must be made as if it were a measurement marking.
- (4) This clause does not apply to a pre-packed article if:
 - (a) it is sold for resale, or
 - (b) the package containing the article is a rigid container.

Note. An example of display of packages referred to in subclause (2) (b) includes a display of packages each marked as containing a particular kind of cheese and marked with a measurement of 250g.

[10] Part 6

Insert after Part 5:

Part 6 Transitional provisions consequent on Trade Measurement Amendment Regulation 2008

95 Definitions

In this Part:

amended Regulation means this Regulation as amended by the amending Regulation.

amending Act means the *Trade Measurement Legislation Amendment Act 2007*.

amending Regulation means the *Trade Measurement Amendment Regulation 2008*.

commencement means the commencement of the amending Regulation.

pre-amended Regulation means this Regulation as in force immediately before its amendment by the amending Regulation.

96 Certificates of suitability

- (1) This clause applies to an application for a certificate of suitability for a particular weighbridge made under the pre-amended Regulation but not decided before the commencement.

- (2) If the fee payable under the Administration Act was paid for the application, clause 14 of the amended Regulation applies as if the fee had been paid for the purposes of that clause.

97 Suspension of certificates of suitability

A suspension of a certificate of suitability for a public weighbridge that is in force immediately before the commencement continues to have effect after the commencement as a suspension of a weighbridge suitability statement for the weighbridge's public weighbridge licence until either of the following happens:

- (a) the suspension is withdrawn or ends,
- (b) the public weighbridge licence to which the certificate of suitability relates is cancelled or surrendered.

98 Display of licence

- (1) This clause applies if, because of section 83 (2) of the Act, a particular public weighbridge is taken to be licensed under a separate public weighbridge licence.
- (2) Until the administering authority issues the licensee a copy of the licence for the public weighbridge with a weighbridge suitability statement written on it, it is sufficient compliance with clause 17 (1) (a) of the amended regulation for the licensee to display under that clause the certificate of suitability issued for the weighbridge under the pre-amended regulation and in force immediately before the commencement of the amending Act.

99 Prescribed forms

- (1) For 1 year after the commencement, it is sufficient compliance with a provision of the amended Regulation requiring the use of an approved form for a licensee or operator to use instead a form complying with Schedule 2 or 3 to the pre-amended regulation.
- (2) If the licensee or operator uses any such form, the licensee or operator must complete the form in the way required by the pre-amended regulation.

[11] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Public weighbridge operator's duties

(Clause 22)

1 Completion and issue of measurement tickets

- (1) The operator must not complete a measurement ticket other than for complying with this Regulation.
- (2) When a measurement is made for a person, the operator must as soon as practicable complete an original measurement ticket in the approved form and then immediately issue a copy measurement ticket in the approved form to the person.
- (3) Without limiting the particulars to be included in a measurement ticket, when completing the measurement ticket the operator must:
 - (a) if the measurement is only a measurement of the tare mass of the vehicle—indicate clearly on the measurement ticket that the measurement is of the tare mass of the vehicle, or
 - (b) if the measurement is only of the gross mass of the vehicle, animal or any other thing—indicate clearly on the measurement ticket that the measurement is of the gross mass of the vehicle, animal or thing, or
 - (c) if the measurement is a measurement made for 2 or more linked but separately registered vehicles—include on the measurement ticket the registration letters and figures for all vehicles, or
 - (d) if the measurement is a measurement of a load on a vehicle—include on the measurement ticket the measurement of the load supported by all the axles of the vehicle.
- (4) Subclause (2) is subject to clauses 4 and 5 of this Schedule.

2 Correction of mistakes

If the operator makes a mistake in completing a measurement ticket that is in a book or pad of tickets and the operator becomes aware of the mistake before issuing the copy measurement ticket, the operator:

- (a) must immediately cancel the original measurement ticket and any copy of it, and
- (b) must not remove the original measurement ticket or any copy of it from the book or pad.

3 Restriction on additional information on measurement ticket

- (1) The operator must not, without reasonable excuse, issue a completed copy measurement ticket that has anything on it that is not required by this Regulation or an approved form.
- (2) Subclause (1) does not prevent:
 - (a) the following being printed on a measurement ticket:
 - (i) the licensee's business name, address and logo,
 - (ii) if the measurement ticket is also a tax invoice under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, anything else necessary for the ticket to be a tax invoice, or
 - (b) additional information being written in the margin, at the bottom or on the back of the measurement ticket if the information is consistent with, and does not qualify the meaning or accuracy of, the information required to be on the ticket.

Note. The relevant Australian Business Number must be printed on a tax invoice.

4 Measurement of vehicle in 2 weighings—unloaded then loaded

- (1) This clause applies if the driver of an unloaded vehicle advises the operator that the vehicle is to be loaded within 24 hours and requests the operator to measure the tare mass of the vehicle and the gross mass of the vehicle in 2 weighings.
- (2) The operator must measure the tare mass of the vehicle and partially complete a measurement ticket for the measurement by including the tare mass on the ticket but must not issue the partially completed copy measurement ticket.
- (3) If the vehicle returns to the weighbridge with its load within 24 hours after the measurement of the tare mass is made and the driver requests a measurement of the gross mass of the vehicle, the operator must measure its gross mass, complete the partially completed measurement ticket, and issue the copy measurement ticket.
- (4) If the vehicle does not return with its load within 24 hours after the measurement of the tare mass is made, the operator must:
 - (a) issue a completed measurement ticket for the tare mass of the vehicle if requested, within 72 hours after the measurement is made, by:
 - (i) the driver, or

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- (ii) someone else who the operator is satisfied is authorised to make the request, or
- (b) if no request mentioned in paragraph (a) is made within 72 hours—cancel the partially completed measurement ticket at the end of that period.

5 Measurement of vehicle in 2 weighings—loaded then unloaded

- (1) This clause applies if the driver of a loaded vehicle advises the operator that the vehicle is to be unloaded within 24 hours and requests the operator to measure the gross mass of the vehicle and the tare mass of the vehicle in 2 weighings.
- (2) The operator must measure the gross mass of the vehicle and partially complete a measurement ticket for the measurement by including the gross mass on the ticket but must not issue the partially completed copy measurement ticket.
- (3) If the vehicle returns to the weighbridge unloaded within 24 hours after the measurement of the gross mass is made and the driver requests a measurement of the tare mass of the vehicle, the operator must measure its tare mass, complete the partially completed measurement ticket, and issue the copy measurement ticket.
- (4) If the vehicle does not return unloaded within 24 hours after the measurement of the gross mass is made, the operator must:
 - (a) issue a completed measurement ticket for the gross mass of the vehicle if requested, within 72 hours after the measurement is made, by:
 - (i) the driver, or
 - (ii) someone else who the operator is satisfied is authorised to make the request, or
 - (b) if no request mentioned in paragraph (a) is made within 72 hours—cancel the partially completed measurement ticket at the end of that period.

6 Issue of measurement ticket for axle load measurement

- (1) This clause applies if a measurement to be made is not an end-and-end measurement but is only for the purpose of issuing a copy measurement ticket showing each load supported by separate axles, or groups of axles, of a vehicle.
- (2) The operator may make the measurement only if:
 - (a) the approaches to the weighbridge have a smooth and level surface that:

- (i) is paved with concrete or an approved material, and
- (ii) is in the same horizontal plane as the top of the platform or platforms, and
- (b) the perimeter of the approaches is clearly indicated by painted marks or in another approved way, and
- (c) while the measurement is being made:
 - (i) the wheels on 1 or more of the axles are always on the platform or platforms and the wheels on the other axles are always within the indicated perimeter of the approaches, and
 - (ii) the brakes, gears and anything else capable of restricting the free movement of the vehicle are disengaged.

7 Issue of copies of measurement tickets

- (1) This clause applies if:
 - (a) a relevant person requires an operator to give the person a copy of an original measurement ticket for a measurement that has already been made, and
 - (b) the requirement is made during the preservation period or the original measurement ticket is otherwise still available.
- (2) On payment to the operator of the licensee's fee for providing the copy, the operator must give the relevant person a copy of the original measurement ticket, clearly marked as a copy measurement ticket.
- (3) The copy must include the same particulars as the original measurement ticket of which it is a copy.
- (4) The copy may be any of the following:
 - (a) a photocopy,
 - (b) a copy measurement ticket,
 - (c) a copy of a form of measurement ticket completed for the purpose of creating the copy and numbered with the number of the measurement ticket of which it is a copy,
 - (d) a printed version of a measurement ticket that was generated electronically.
- (5) The copy must not be made in a way that involves the creation of an original measurement ticket for the purpose of issuing the copy.

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- (6) However, the form of an original measurement ticket from a book or pad of measurement tickets may be used to create a copy under subclause (4) (c).
- (7) When the form of an original measurement ticket is used to create a copy under subclause (4) (c), the original measurement ticket as created must be kept for at least 1 year after the copy is created.
- (8) In this clause *relevant person*, in relation to the issue of a copy of an original measurement ticket, means:
 - (a) a buyer or seller of goods whose measurement has been decided using the weighbridge, or
 - (b) another person who has an interest in the goods.

Note. An example for subclause (8) (b) is a person whose goods were on a truck being driven by someone else when the weighing happened.

8 Inspector may require measurement to be made

- (1) An inspector may require an operator to make a measurement of a loaded or unloaded vehicle.
- (2) The operator must comply with the inspector's requirement.
- (3) No fee is payable for the measurement.
- (4) In this clause, *fee* includes charge.

[12] Schedule 2 Forms of tare mass book

Omit the Schedule.

[13] Schedule 3 Forms of measurement tickets

Omit the Schedule.

[14] Schedule 5 Expression of measurement marking

Insert in alphabetical order of Description of article in Schedule 5 in Columns 1 and 2, respectively:

Pet litter and similar products	mass or volume
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[15] Schedule 6 Permissible units of measurement

Omit "grams for mass and kilometres for length" from clause 5.

Insert instead "grams or kilograms for mass and metres for length".

BY AUTHORITY