

TRADE MEASUREMENT ADMINISTRATION BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Trade Measurement Bill 1989.

The object of this Bill is to make provision for the administration in New South Wales of the proposed Trade Measurement Act 1989 as part of proposed uniform trade measurement legislation throughout Australia.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 contains definitions used in the proposed Act ("Principal Act" is defined to mean the proposed Trade Measurement Act 1989).

Clause 4 states that the Superintendent of Trade Measurement is the administering authority, and the Commissioner for Consumer Affairs is the licensing authority, for the purposes of the Principal Act.

PART 2 - STAFF

Clause 5 provides for the appointment of the Superintendent of Trade Measurement, inspectors and other staff under the Public Sector Management Act 1988.

Clause 6 provides that the Superintendent can give authority to certain persons (including Police) to act as inspectors for the purposes of the Principal Act.

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Clause 7 provides that inspectors are subject to the direction and control of the Superintendent.

Clause 8 provides for the issue to inspectors of certificates of authority.

Clause 9 authorises the Superintendent to hold an appointment and exercise functions under the National Measurement Regulations of the Commonwealth.

PART 3 - FEES AND CHARGES

Clause 10 requires payment of a charge when an inspector verifies or re-verifies a measuring instrument under the Principal Act.

Clause 11 requires a licensee who certifies a measuring instrument to pay a charge to the administering authority.

Clause 12 requires measuring instruments that are batch tested to be considered to have been individually verified or certified for the purpose of calculating a charge payable under clause 10 or 11.

Clause 13 empowers the making of regulations to prescribe other fees and charges.

Clause 14 provides for the recovery of unpaid fees and charges as a debt due to the Crown.

PART 4 - PROCEEDINGS FOR OFFENCES

Clause 15 provides that proceedings for an offence under the proposed Act or the Principal Act must be instituted within 3 years after the offence is committed or (in the case of certain offences under the Principal Act in relation to the packaging of articles) within 1 year after the offence is detected, whichever is later.

Clause 16 provides for the taking of proceedings in a Local Court or in the Supreme Court in its summary jurisdiction. A Local Court will not be able to impose a penalty of more than \$10,000.

Clause 17 prevents double jeopardy where a person commits the same offence under both the Principal Act and a law of another State or a Territory or of the Commonwealth.

Clause 18 provides that proceedings for an offence against the regulations under the proposed Act or the Principal Act must be disposed of before a Local Court.

PART 5 - APPEALS

Clause 19 provides that the Commercial Tribunal is to be the appeals tribunal for appeals under the Principal Act.

Clause 20 provides for the decisions that the Commercial Tribunal can make on an appeal under the Principal Act.

Clause 21 provides for an appeal from the Commercial Tribunal to the Supreme Court on a question of law.

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PART 6 - GENERAL

Clause 22 provides for the issue of search warrants.

Clause 23 provides for the issue of penalty notices ("on-the-spot" fines) for certain offences.

Clause 24 provides for the manner in which documents may be served.

Clause 25 authorises the delegation of functions by the Superintendent and the Commissioner.

Clause 26 gives effect to the schedule of savings and transitional provisions (Schedule 2).

Clause 27 repeals the former Act and regulations.

Clause 28 is a general regulation making power.

Clause 29 makes a consequential amendment to the Search Warrants Act 1985.

Clause 30 makes a consequential amendment to the Justices Act 1902.

Schedule 1 lists the charges payable in respect of the verification, re-verification and certification of measuring instruments under the Principal Act.

Schedule 2 contains savings and transitional provisions.
