

# Trade Measurement Regulation 2007

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New South Wales

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### Authorisation

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New South Wales

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# Trade Measurement Regulation 2007



New South Wales

The Administrator, with the advice of the Executive Council, has made the following Regulation under the [Trade Measurement Act 1989](#).

LINDA BURNEY, M.P., Minister for Fair Trading

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the [Trade Measurement Regulation 2007](#).

### 2 Interpretation

(1) In this Regulation, unless the contrary intention appears:

**approved** means approved by the administering authority.

**approved printing device** means a printing device that conforms to a pattern in relation to which there is in force under Part 6 of the [National Measurement Regulations 1999](#) of the Commonwealth a certificate that approves the use of the device for trade.

**certificate of suitability**, in relation to a weighbridge, means a certificate issued by the administering authority for the purposes of section 50 (1) (a) of the Act to the effect that the weighbridge is suitable for use as a public weighbridge.

**characters** includes letters, figures and symbols.

**cheese** and **cheese products** do not include articles for sale as processed cheese or cheese spreads.

**compressed or liquefied gas** does not include liquefied petroleum gas.

**cream** does not include clotted cream or sour (cultured) cream.

**dried or dehydrated fruit** includes glace and crystallised fruit and fruit peel.

**dried or dehydrated mixed fruit** includes any dried or dehydrated fruit mixed with

nuts.

**end-and-end measurement** means the determination of a measurement relating to a vehicle (whether loaded or not) by adding together separate measurements of the mass supported singly or in combination by the different axles of the vehicle, those separate measurements having been determined by separate operations of a weighbridge.

**garden landscape material** means soil, pebbles, crushed tile, crushed white quartz, Grawin gravel, crushed western red, crushed snowflake, New Zealand lava scoria, Pacific coral, river stones, crushed material mix and any like substance for use in gardens.

**ice cream** includes any form of frozen confection containing ice cream, flavoured ice, fruit-ice, water-ice or a substitute for ice cream.

**liquid chemicals** includes solvents packed for sale for pharmaceutical, laboratory or industrial use.

**main display part**, in relation to a package, means:

- (a) if the name or brand of the article in the package appears on the package once only—the part of the package on which it appears, or
- (b) if the name or brand of the article in the package appears on more than one part of the package with equal prominence in each case—any one of those parts, or
- (c) if the name or brand of the article in the package appears on more than one part of the package but not always with equal prominence—the part of the package on which it is more prominent or any part of the package on which it is most prominent, or
- (d) if the name or brand of the article in the package does not appear on the package—that part of the package which will be most prominent when the package is exposed for sale in the manner in which it is likely to be exposed for sale.

**measurement marking** means the marking of measurement required by this Regulation to be made on the package containing a pre-packed article.

**operator** means the person who personally determines a measurement by use of a weighbridge.

**owner**, in relation to a measuring instrument, means the person who uses, or proposes to use, the measuring instrument for trade or who proposes to make it available for use for trade.

**paint** includes (other than in Part 2 and Schedules 1-3) enamel but does not include a



two-pack paint, artists' paint or powder coatings.

**poultry** means any kind of bird used for human consumption, whether it is cooked or uncooked or consists of poultry pieces.

**poultry piece** means leg, wing, breast or other part detached from a poultry carcass and any division of a poultry carcass.

**public weighbridge licensee** means a person holding a public weighbridge licence.

**public weighing** means the use of a weighbridge by or on behalf of the public or for which a charge is made.

**resins** includes natural resins, synthetic resins and polymeric materials other than paint.

**servicing licensee** means a person holding a servicing licence.

**the Act** means the [Trade Measurement Act 1989](#).

**therapeutic goods** means goods for therapeutic use within the meaning of the [Therapeutic Goods Act 1989](#) of the Commonwealth as amended and in force for the time being.

**tobacco** includes plug tobacco.

- (2) Part 2 and Schedules 1–3 have effect in addition to, and do not derogate from, any other provisions of this Regulation relating to measuring instruments generally.

## Part 2 Weighbridges

### Division 1 Requirements for weighbridges used for trade

#### 3 Application of Division

This Division applies to weighbridges used for trade (including public weighbridges).

#### 4 Situation of weighbridge

A weighbridge must be so situated that:

- (a) there is sufficient room for a vehicle using the weighbridge to move on and off without turning on the platforms, and
- (b) its headwork is protected from wind and rain by an office or other adequate means, and
- (c) water or debris from the surrounding area does not accumulate on the platforms or in the pit.

## **5 Visibility on weighbridge**

A weighbridge must:

- (a) provide the operator with a clear view of the platforms, and
- (b) have the indicator that is used by the operator located not more than 6 metres from the edge of the platforms or in some other approved position, and
- (c) in the case of a road weighbridge, have an indicator in such a position that the mass displayed on it may easily be read by the driver of a vehicle using the weighbridge.

## **6 Approaches to weighbridge**

A weighbridge must have approaches that:

- (a) are in the same plane as the platforms for a minimum distance of:
  - (i) 3 metres if the length of the platforms is less than 18 metres, or
  - (ii) 1 metre if the length of the platforms is 18 metres or more, and
- (b) have a hard, true and durable surface of concrete or other approved material, and
- (c) are arranged so that drainage from the surface does not flow into the pit.

## **7 Platforms of weighbridge**

- (1) The platforms of a weighbridge must be of concrete or steel, or both, or be of other approved materials.
- (2) Unless exempted under subclause (3), a weighbridge must be provided with guard rails or other suitable means to prevent vehicles from moving onto or off the platform otherwise than from end to end.
- (3) The administering authority may exempt a weighbridge from compliance with subclause (2).

## **8 Pit of weighbridge**

If a weighbridge has a pit:

- (a) the entrance to the pit must be covered and be at least 1 metre deep and 900 mm wide, and
- (b) the neck of the pit must be at least 900 mm wide, and
- (c) there must be a clearance of at least 150 mm on each side of a lever in the neck of the pit, and
- (d) there must be free access to every part of the underwork and:

- (i) if free access is available from above to every part of the underwork, there must be a clearance of at least 150 mm below all parts of the underwork, or
  - (ii) in any other case there must be a clearance of at least 400 mm below the lowest lever, and
- (e) the pit must be free-draining or be provided with automatic mechanical drainage and be kept free from any accumulation of water, mud and debris.

### **9 Weighbridge without pit**

If a weighbridge does not have a pit:

- (a) there must be a clearance of at least 150 mm under the lowest live part of the platforms, and
- (b) the floor between load cell supports must be of concrete at least 75 mm thick and must be effectively drained and kept free from any accumulation of water, mud and debris, and
- (c) there must be in the same plane as, or lower than, the floor a clear space of at least 1 metre from the external edges of the frame, and
- (d) the load cell footings must be individually and mutually stable.

### **10 Weighbridge with electronic devices**

If a weighbridge is equipped with electronic devices:

- (a) they must be protected from electrical interference and the rays of the sun, and
- (b) the data plate of the load cells must have such access as is necessary to enable it to be read with ease.

### **11 Multi-platform weighbridge**

In a multi-platform weighbridge:

- (a) any dead space between platforms must not exceed 2 metres, and
- (b) the platforms must not interfere with each other so as to affect their operation, and
- (c) a visual summing indicator must be provided.

### **12 Portable weighbridge**

If a weighbridge is portable:

- (a) there must be a clearance of at least 150 mm under the lowest live part of the platforms, and

- (b) it must have a base that is stable when the weighbridge is in use, and
- (c) the headwork and exposed levers must have adequate protection, and
- (d) the ground under the platform must be treated to prevent the growth of foliage and must be kept free from any accumulation of water, mud and debris.

## **Division 2 Certificates of suitability (public weighbridges)**

### **13 Issue of certificate of suitability**

- (1) A public weighbridge licensee may apply for a certificate of suitability for a weighbridge by lodging at the office of the administering authority the fee prescribed under the Administration Act and an approved form of application.
- (2) On receipt of an application for a certificate of suitability, the administering authority must arrange for an inspector to examine the weighbridge.
- (3) The administering authority must issue a certificate of suitability for the weighbridge if an inspector examines it and finds that:
  - (a) it is suitable for use as a public weighbridge because of its type, capacity and strength and the size of its platforms, and
  - (b) it is so positioned that a vehicle using it may enter and leave the platforms without reversing, and
  - (c) it otherwise complies with the requirements of this Regulation.

### **14 Duration of certificate of suitability**

- (1) Except during any period of suspension, or unless it is sooner surrendered or cancelled, a certificate of suitability remains in force:
  - (a) until the end of the period of 12 months that next succeeds its date of issue, or
  - (b) as provided by subclause (2).
- (2) If application is made for a new certificate of suitability before, but not more than 1 month before, the date that is 12 months after the date of issue of its predecessor but is not finally dealt with before that later date, the previous certificate continues in force until the new certificate is issued or the application is refused.
- (3) The date of issue of a new certificate of suitability is to be considered to be the date that is 12 months after the date of issue of its predecessor (even if it is issued before or after that later date) and the new certificate is to be dated accordingly.
- (4) If a weighbridge is re-located, its certificate of suitability ceases to have effect.

### **15 Duplicate certificate of suitability**

- (1) If the administering authority is satisfied that a certificate of suitability has been lost, destroyed or made useless by damage, the administering authority may, on payment of the fee prescribed under the Administration Act for a duplicate certificate, issue a duplicate of the certificate.
- (2) A duplicate certificate issued under subclause (1) has the same effect as the original certificate.

### **16 Suspension or cancellation of certificate of suitability**

- (1) The administering authority may, by notice in writing served on the public weighbridge licensee personally or by post, suspend the certificate of suitability for a weighbridge if the administering authority, after examination of the weighbridge by an inspector, is of the opinion that any application for a new certificate for the weighbridge made at the time of the examination would have been refused.
- (2) The administering authority may terminate a suspension after a further examination of the weighbridge by an inspector and payment of the fee prescribed under the Administration Act for the further examination.
- (3) Termination of a suspension may be effected unconditionally or after compliance with specified conditions, whether or not including conditions as to time for compliance.
- (4) If conditions imposed under subclause (3), or added or amended under paragraph (a), are not complied with, the administering authority may, by notice in writing served on the public weighbridge licensee personally or by post:
  - (a) amend or add to the conditions, or
  - (b) cancel the certificate.
- (5) The administering authority may, instead of suspending a certificate, impose conditions subject to which the certificate will continue in force including a condition requiring a further examination of the weighbridge and payment of the fee prescribed under the Administration Act for the further examination.

### **17 Return of cancelled certificate**

If a certificate of suitability issued to a public weighbridge licensee is cancelled, the public weighbridge licensee (whether or not still holding a public weighbridge licence) is guilty of an offence unless the certificate is delivered to the licensing authority not later than 7 days after its cancellation.

Maximum penalty: \$200.

## **18 Register of certified weighbridges**

The administering authority is to maintain a register of weighbridges for which a certificate of suitability is current and is to enter in the register:

- (a) the location of the weighbridge and particulars of its certification, and
- (b) a number allotted by the administering authority as the registered number for the weighbridge, and
- (c) such other particulars as the administering authority considers appropriate.

## **Division 3 Public weighbridges—licensees and operators**

### **19 Condition of public weighbridge licence**

It is a condition of a public weighbridge licence that the public weighbridge licensee:

- (a) must do everything that the Act and this Regulation require to be done by the public weighbridge licensee, and
- (b) must not do anything that the Act and this Regulation require the public weighbridge licensee to refrain from doing.

### **20 Sign and certificate to be exhibited**

A public weighbridge licensee must exhibit in view of the public at each weighbridge made available under the authority of the public weighbridge licence:

- (a) words and figures not less than 100 mm high and of proportionate breadth, and in clear contrast with their background, that read “Registered Public Weighbridge No. ” showing the registered number, and
- (b) properly protected, the certificate of suitability for the weighbridge.

### **21 Tare books and measurement tickets**

(1) A public weighbridge licensee must provide at each weighbridge made available under the authority of the public weighbridge licence:

- (a) tare mass books in accordance with Forms 1 or 2 in Schedule 2, and
- (b) measurement tickets in accordance with Forms 1, 2, 3 or 4 in Schedule 3.

(2) The measurement tickets provided by a public weighbridge licensee:

- (a) must be printed and bound in books, or provided in approved pads, containing original tickets and provision for at least one copy of each original, and
- (b) must be numbered consecutively with each copy ticket bearing the same number as its original, and

(c) must have the word “original” printed on each original ticket and the word “duplicate” on each copy ticket.

- (3) The public weighbridge licensee must ensure that a copy of the relevant measurement ticket is issued to a customer of the public weighbridge licensee and the public weighbridge licensee must retain for at least 12 months all original tickets (whether or not a copy has been issued) and all unissued copy tickets.
- (4) A public weighbridge licensee must, immediately after a pad of measurement tickets has been completely used, permanently make up in book form (by stapling or other suitable means) all originals and copies retained under subclause (3) from the used pad.
- (5) A public weighbridge licensee must, on being required by an inspector to do so, produce original and copy tickets retained under subclause (3).

## **22 General duties of public weighbridge licensee**

A public weighbridge licensee who makes a weighbridge available as a public weighbridge must ensure that:

- (a) the weighbridge is kept truly balanced, that the platforms are kept clean and that the space between the frame and the platforms is kept free from obstructions, and
- (b) measurement of a vehicle or livestock brought to the weighbridge is not refused during normal trading hours in the area unless the capacity of the weighbridge is insufficient or advance payment of the charge is required but not made, and
- (c) due care is exercised in determining a measurement by use of the weighbridge, and
- (d) entries are made in the tare mass book, and measurement tickets are completed and copies issued, with due care and in accordance with this Regulation, and
- (e) on demand made at the weighbridge at any reasonable time by an inspector or other interested person, there is produced the original of any measurement ticket relating to a measurement made by use of the weighbridge during the preceding 12 months, and
- (f) the administering authority is informed, and the weighbridge is withdrawn from use, if the public weighbridge licensee knows, or has reason to believe, that a measurement made by use of the weighbridge would be incorrect.

## **23 Duties of operator**

- (1) An operator of a public weighbridge is guilty of an offence if he or she fails to comply with a requirement of Schedule 1 when the weighbridge is in use for public weighing.

Maximum penalty: \$2,000.

- (2) An operator of a public weighbridge is guilty of an offence if he or she alters the

original of a measurement ticket after a copy of it has been issued.

Maximum penalty: \$2,000.

- (3) An operator of a public weighbridge is guilty of an offence if he or she issues a measurement ticket that is not a correct copy of the original.

Maximum penalty: \$2,000.

- (4) An operator of a public weighbridge is guilty of an offence if he or she removes from a book, or issues, an original measurement ticket.

Maximum penalty: \$2,000.

- (5) An operator of a public weighbridge is guilty of an offence if he or she removes, or permits to be removed, from a book an unused measurement ticket.

Maximum penalty: \$2,000.

- (6) An operator of a public weighbridge is guilty of an offence if he or she uses the weighbridge for public weighing when he or she knows, or has reason to believe, that the weighbridge is incorrect.

Maximum penalty: \$2,000.

#### **24 Notification by public weighbridge licensee of change of particulars**

A public weighbridge licensee must notify the licensing authority in writing of:

- (a) any change in the address for the service of notices on the public weighbridge licensee, and
- (b) the full name and residential address of each person who commences or ceases to be employed by the public weighbridge licensee to operate any weighbridge made available under the authority of the weighbridge licence,

and must do so not later than 14 days after the event.

#### **25 Vehicle registration weighing—exemption from licensing etc**

- (1) If a public weighbridge is used only to measure the tare mass of a vehicle for registration purposes, that use is not to be considered to be use as a public weighbridge for the purposes of section 43 (Requirement for public weighbridge licence) of the Act so long as:

- (a) the operator of the weighbridge issues a written statement of the mass measured, and
- (b) that statement is marked with the words “FOR REGISTRATION PURPOSES ONLY” in prominent capital letters at least 5 mm high.



- (2) Clause 23 does not apply to the operator of a weighbridge to which subclause (1) applies.

## **26 Register of public weighbridge licences**

For the purposes of section 47 of the Act, the prescribed particulars to be kept in a register by the licensing authority in respect of each public weighbridge licence are as follows:

- (a) the number of the public weighbridge licence and the date of its issue,
- (b) the name of the public weighbridge licensee and the address at which notices may be served personally on the public weighbridge licensee,
- (c) particulars of any conditions to which the public weighbridge licence is subject imposed under section 48 of the Act,
- (d) such other particulars as the licensing authority thinks desirable.

## **Division 4 End-and-end weighing**

### **27 Prohibited for public weighbridges**

If a public weighbridge is used for public weighing to determine an end-and-end measurement, the public weighbridge licensee and operator of the public weighbridge are each guilty of an offence.

Maximum penalty: \$2,000.

### **28 Restrictions in other cases**

- (1) A person who uses for trade a weighbridge in order to determine an end-and-end measurement is guilty of an offence unless subclause (2) is complied with.

Maximum penalty: \$2,000.

- (2) This subclause is complied with if:

- (a) use of the weighbridge is not for public weighing, and
- (b) the wheelbase of the vehicle concerned is:
  - (i) longer than the length of the platform of the weighbridge or, if the weighbridge has 2 or more platforms, the total of the lengths of the platforms, and
  - (ii) shorter than the sum of the length, or total length, found under subparagraph (i) and the length of the shorter, or, if their lengths are the same, of either, of the approaches to the platform or platforms, and
- (c) the approaches have a smooth and level surface that is paved with concrete or

other approved material and is in the same horizontal plane as the top of the platform or platforms, and

- (d) the perimeter of the approaches is clearly indicated by painted marks or by other approved means, and
- (e) at all times during the measuring:
  - (i) the wheels on one or more of the axles are located on the platform or platforms and the wheels on the other axles are located within the indicated perimeter of the approaches, and
  - (ii) the brakes, gears and any other means capable of restricting the free movement of the vehicle are disengaged.

## **Division 5 Miscellaneous weighbridge provisions**

### **29 Fraudulent activities of public weighbridge licensee or operator**

A public weighbridge licensee or operator of a weighbridge is guilty of an offence if he or she:

- (a) knowingly permits, assists in, or connives at, a fraud in connection with the measurement of anything by using the weighbridge or the issue of a measurement ticket, or
- (b) makes, or connives at the making of, a representation known by the public weighbridge licensee or operator to be false with respect to the measurement of anything by means of the weighbridge, or
- (c) knowing of any fraudulent proceeding in connection with the measurement of anything by means of the weighbridge, fails to impart that knowledge to an inspector as soon as practicable.

Maximum penalty: \$2,000.

## **Part 3 Measuring instruments**

### **Division 1 Verification, re-verification and certification**

#### **30 Marking of measuring instrument**

- (1) When an inspector's mark or licensee's mark is made on a measuring instrument, the person who makes the mark must also mark, in the approved manner, the date on which the mark is made, unless the instrument is a glass measure.
- (2) When an employee of a servicing licensee certifies a measuring instrument, the employee must, in addition to making the licensee's mark on the measuring

instrument, also make such other mark in conjunction with the licensee's mark as will enable the servicing licensee to identify the employee who made the mark.

### **31 Certain measuring instruments not to be verified/certified**

A measuring instrument must not be verified or certified if:

- (a) it bears a manufacturer's mark or trade mark that could be mistaken for an inspector's mark or a licensee's mark, or
- (b) it is of rough, crude or unskillful construction or is constructed of inferior material, or
- (c) it is not reasonably clean or has wet paint on it, or
- (d) it is so damaged as to be unsuitable for use for trade.

### **32 Measuring instrument to be clean**

For the purpose of facilitating re-verification of a measuring instrument, an inspector may direct the person in possession of the instrument to clean the instrument.

### **33 Testing of measuring instrument**

The testing of a measuring instrument for the purpose of verification, re-verification or certification is:

- (a) if the measuring instrument is fixed—to be carried out with the measuring instrument in its fixed position, or
- (b) if the measuring instrument is movable and has a base—to be carried out with the measuring instrument on a level plane or, if this is not practicable, on a plane that is as nearly level as possible, or
- (c) if the measuring instrument is transportable and the results obtained by its use are affected by gravity—be carried out so as to compensate for the conditions applicable in the region in which it is used or to be used.

### **34 Testing and marking of measure of length**

If a measure of length is to be verified or certified, it is to be examined, tested and marked:

- (a) on both sides, if it is calibrated on both sides and is not permanently fixed so that only one side is visible, or
- (b) on the visible side, if it is permanently fixed so that only one side is visible.

### **35 Exemption from re-verification and from marking**

- (1) If a glass measure referred to in Division 2 has been marked in accordance with

clause 41, re-verification of it is not required.

- (2) If a measure of length has been verified, re-verification of it is not required.

### **36 Restrictions on use for trade of certain small masses**

- (1) A mass of 0.2 metric carat or less, or of 50 mg or less, is exempt from section 7 of the Act (Measuring instruments used for trade must be marked).
- (2) A person who uses such a mass for trade is guilty of an offence unless the person is the holder of a certificate issued by the administering authority or the holder of a servicing licence to the effect that the mass concerned complies with the requirements for verification specified in section 13 of the Act.

Maximum penalty: \$2,000.

### **37 Dismantling of measuring instrument for testing**

- (1) If an inspector considers it to be necessary to examine or test a component part of a measuring instrument for the purpose of verifying or re-verifying the instrument and that cannot be done without dismantling the instrument, the inspector may require the owner of the measuring instrument to comply with subclause (2).
- (2) The owner of a measuring instrument complies with this subclause if the owner:
- (a) dismantles the measuring instrument or causes it to be dismantled, or
  - (b) consents to the measuring instrument being dismantled by the inspector and absolves the inspector from liability for any damage caused in the course of its dismantling or re-assembly.
- (3) If the owner fails to comply with subclause (2) when required to do so by an inspector, the measuring instrument must not be used for trade while the failure continues.

### **38 Owner to provide and pay for labour etc**

- (1) An inspector may direct the owner of a measuring instrument to provide and pay for:
- (a) any labour, materials or equipment, or
  - (b) the expeditious transportation to and from the site of the measuring instrument of any test masses, measures or equipment,
- required by the inspector for the purpose of verifying or re-verifying the measuring instrument.
- (2) If the owner fails to comply with such a direction, the measuring instrument concerned must not be used for trade while the failure continues.
- (3) The owner of a measuring instrument while in possession of any test masses,

measures or equipment referred to in subclause (1) is liable for any loss of, or damage to, them and any costs and expenses incurred by the administering authority because of any such loss or damage is recoverable by the administering authority as a debt due by the owner of the measuring instrument.

## Division 2 Batch testing and marking

### 39 Definitions

In this Division:

**approval** means an approval given under clause 40.

**glass**, in relation to a container or drinking vessel, includes any other material permitted by the approval for its pattern issued under the *National Measurement Regulations 1999* of the Commonwealth.

**glass measure** means:

- (a) a container made wholly or principally of glass in which it is intended that lubricating oil will be sold by volume of the quantity (otherwise than as a pre-packed article), or
- (b) a measure made of glass or another rigid or semi-rigid substance intended for use for the sale of beer, ale, stout or spirits by quantity (otherwise than as a pre-packed article).

**testing facilities** means labour and equipment necessary for testing glass measures in accordance with clause 43.

### 40 Approval for batch testing of glass measures

- (1) The administering authority may give a manufacturer or importer of glass measures written approval for the glass measures to be tested and marked under this Division.
- (2) An approval ceases to have effect if it is revoked by the administering authority or if the manufacturer or importer fails:
  - (a) to comply with any requirements of the administering authority notified in the approval, or
  - (b) to take reasonable precautions to prevent the commission of an offence under clause 42, or
  - (c) to provide and pay for testing facilities as required by the administering authority, or
  - (d) to make the testing facilities available, without charge, for use by an inspector or servicing licensee in order to carry out tests in accordance with clause 43, or

(e) to comply with clause 44 relating to the keeping and examination of records.

#### **41 Approval authorises making of marks**

While an approval is in force, the manufacturer or importer is authorised to mark a glass measure with a mark consisting of:

- (a) the inspector's mark specified in the approval or the licensee's mark of the manufacturer or importer, and
- (b) the characters specified in the approval as those that are to form part of the approved mark, marked in the size and manner, and in the position on the measure, required by the approval.

#### **42 Restrictions on removal of marked glass measure**

If a glass measure is removed from the custody of the manufacturer or importer after being marked in accordance with an approval, the manufacturer or importer is guilty of an offence unless:

- (a) the measure is one of a batch that complies with clause 43, and
- (b) an inspector or a servicing licensee has given written approval for the removal of the batch from the custody of the manufacturer or importer.

Maximum penalty: \$2,000.

#### **43 Batch testing requirements**

- (1) A batch of glass measures complies with this Regulation only if:
  - (a) at least the appropriate test proportion of the batch is tested by an inspector or servicing licensee, and
  - (b) in each such test less than 2 per cent of the measures tested fail to comply with the requirements of section 13 of the Act for verification or certification.
- (2) The appropriate test proportion of a batch of glass measures is the proportion determined by the administering authority from time to time.
- (3) A batch of glass measures fails to comply with this Regulation if the batch is not accompanied by a histogram detailing the results of tests made on the batch by or on behalf of the manufacturer or importer concerned.

#### **44 Records to be kept and made available**

A manufacturer or importer given an approval must:

- (a) keep such records relating to glass measures as are specified in the approval, and

- (b) make the records available for examination if required to do so by an inspector.

### **Division 3 Servicing licences and licensees**

#### **45 Conditions of servicing licence**

It is a condition of a servicing licence that the servicing licensee:

- (a) must do everything that this Regulation requires to be done by the servicing licensee, and
- (b) must not do anything that this Regulation requires the servicing licensee to refrain from doing.

#### **46 Servicing licensee to keep certain records or give certain notices**

- (1) The administering authority may direct a servicing licensee to do any of the following:
  - (a) make specified records relating to the certification of measuring instruments,
  - (b) retain those records for at least 2 years after making them,
  - (c) produce the retained records on demand made by an inspector,
  - (d) give the administering authority not later than 14 days after certifying a measuring instrument a written notice in an approved form,
  - (e) retain a copy of such a notice for at least 2 years after service of the notice,
  - (f) produce the retained copies on demand made by an inspector.
- (2) The servicing licensee must comply with a direction given under subclause (1).

#### **47 Notification by servicing licensee of changed particulars**

A servicing licensee must notify the licensing authority in writing of:

- (a) any change in the address for the service of notices on the servicing licensee, and
- (b) the full name and residential address of each person who commences or ceases to be employed by the servicing licensee to certify measuring instruments,

and must do so not later than 14 days after the event.

#### **48 Register of servicing licences**

For the purposes of section 47 of the Act, the prescribed particulars to be kept in a register by the licensing authority in respect of each servicing licence are as follows:

- (a) the number of the servicing licence and the date of its issue,
- (b) the name of the servicing licensee and the address at which notices may be served

personally on the servicing licensee,

- (c) particulars of any conditions to which the servicing licence is subject imposed under section 48 of the Act,
- (d) such other particulars as the licensing authority thinks desirable.

## **Division 4 Miscellaneous provisions regarding measuring instruments**

### **49 Restrictions on use of measuring instrument for trade**

- (1) A person is guilty of an offence if, in using for trade a measuring instrument of an approved pattern designed for measuring a liquid, the person purports to measure anything other than a liquid to which the approved pattern relates.

Maximum penalty: \$2,000.

- (2) A person is guilty of an offence if, in using for trade a measuring instrument held in, or suspended from, the hand, the person purports to measure mass.

Maximum penalty: \$2,000.

- (3) A person is guilty of an offence if, in using for trade a measuring instrument marked for a specific use, the person does so otherwise than in accordance with the marking.

Maximum penalty: \$2,000.

- (4) A person is guilty of an offence if, in using for trade a measuring instrument marked for use with specified proportional masses, the person uses other proportional masses.

Maximum penalty: \$2,000.

- (5) A person is guilty of an offence if, except for factory use or non-retail counter use, the person uses for trade a measuring instrument with a tare bar.

Maximum penalty: \$2,000.

- (6) A person is guilty of an offence if the person uses a measuring instrument for trade in order to determine mass greater than the mass permitted by the approved pattern for the instrument.

Maximum penalty: \$2,000.

- (7) A person is guilty of an offence if, in using a measuring instrument for trade in order to determine the mass of any goods for therapeutic use within the meaning of the [Therapeutic Goods Act 1989](#) of the Commonwealth, or the mass of precious metals, the person uses masses other than masses marked "A" (in accordance with a certificate of approval of pattern under the National Measurement Act).

Maximum penalty: \$2,000.



- (8) A person is guilty of an offence if, in using a measuring instrument for trade in order to determine the mass of anything other than precious stones, the person uses metric carat masses.

Maximum penalty: \$2,000.

- (9) A person who, on the same premises, is in possession of more than one measuring instrument that is used for trade and is marked for use with proportional masses is guilty of an offence unless the proportional masses are readily identifiable with the measuring instrument on which they were tested.

Maximum penalty: \$2,000.

- (10) A person who uses for trade a measuring instrument fitted with a load receptor is guilty of an offence if:

- (a) it is one of 2 or more such measuring instruments on the premises and its load receptor is not clearly marked to identify it with the measuring instrument on which it is used, or
- (b) the load receptor is removable and measures incorrectly in any position on its supports, or
- (c) any latitude of movement of the load receptor on its supports causes it to foul any part of the measuring instrument, or
- (d) the load receptor is in the form of a scoop mounted so that a purchaser cannot readily see whether there is any foreign matter in the load receptor.

Maximum penalty: \$2,000.

#### **50 Subdivision of scale spacing**

If the scale spacing on a measuring instrument that bears an inspector's mark or a licensee's mark is altered by being subdivided after the inspector's mark or licensee's mark was marked on the instrument:

- (a) the person who subdivided the scale spacing is guilty of an offence, and
- (b) a person who uses the measuring instrument for trade is guilty of an offence.

Maximum penalty: \$2,000.

#### **51 Measurement of liquid**

If a measuring instrument is used for trade in order to measure a liquid, the person in possession of the measuring instrument or who makes it available for use for trade is guilty of an offence unless:

- (a) the measuring instrument is, at least to the extent necessary for the purpose of

permitting proper observation of its operation, artificially illuminated between sunset and sunrise and at any other time when illumination is necessary for that purpose, and

- (b) in the case of a flowmeter fitted with a zero resetting device—the flowmeter is re-set to zero before the commencement of a measurement to be made by its use, and
- (c) in the case of a sale of liquid measured by a driveway flowmeter—the existing readings of volume, price per litre and price are not erased until the sale has been completed.

Maximum penalty: \$2,000.

## **52 Measurement of precious stones**

A person who, for the purpose of measuring diamonds or other precious stones, uses for trade a measuring instrument that:

- (a) has a verification scale interval greater than 10 mg, or
- (b) has a capacity of less than 5000 CM and a verification scale interval greater than 0.01 CM, or
- (c) has a capacity of 5000 CM or more and a verification scale interval greater than 0.05 CM,

is guilty of an offence.

Maximum penalty: \$2,000.

## **53 Measurement of precious metals**

A person who, for the purpose of measuring gold, silver or other precious metals, uses for trade a measuring instrument that has a capacity specified in Column 1 of the Table to this clause and a verification scale interval greater than that specified in Column 2 opposite the capacity is guilty of an offence.

Maximum penalty: \$2,000.

### **Table**

<b>Column 1</b>	<b>Column 2</b>
Less than 1 kg	10 mg
1 kg or more but less than 10 kg	100 mg
10 kg or more	1 g

#### **54 Offence of using instrument for trade when prohibited**

A person who uses a measuring instrument for trade in contravention of a provision of this Regulation, for which no other penalty is provided by this Regulation, is guilty of an offence.

Maximum penalty: \$2,000.

### **Part 4 Pre-packed articles**

#### **Division 1 Exemptions**

##### **55 Exemptions from marking requirements (name, address, measurement)**

- (1) A package containing an article specified in Schedule 4 is exempt from the operation of Divisions 2–6 in the circumstances specified in that Schedule in relation to the article or, if no circumstances are specified, in all circumstances.
- (2) A package is not exempt from the operation of Divisions 2–6 merely because it contains 2 or more packages each of which would be exempt under subclause (1) as separate packages.
- (3) Despite subclause (1), if an exempt package has a name and address or measurement marked on it, the way the name and address or measurement is marked on the package must comply with this Regulation.
- (4) It is not to be assumed that an article described in item 1 under the heading “Textile goods” or in item 4 under the heading “Hardware goods” in Schedule 4 has been packed for sale by measurement merely because it has been packed for sale:
  - (a) as a single item, or
  - (b) as a set (except in the case of identical automotive parts), or
  - (c) as a pair, or as one of a pair, if it is an article ordinarily described by pairs, or as one of a pair.
- (5) An article is not excluded from the description of “General goods” in item 5 of Schedule 4 merely because it could be included in some other description of goods in that Schedule.

##### **56 Exemptions for packages containing paper**

- (1) A package containing paper that is a package to which this Regulation applies:
  - (a) is exempt from clauses 59 and 61, and
  - (b) is permitted to be marked with the expression “gross mass” or any other expression that has a similar meaning to that expression.

- (2) This Regulation applies to a package containing paper if:
- (a) it was packed at the factory at which the paper was produced, or
  - (b) it is packed in a quantity of more than 5 kg, or
  - (c) it contains at least 500 sheets and is marked with the number of sheets and the dimensions of each sheet.

#### **57 Requirements applicable to both inner and outer packages**

A requirement of this Regulation as to the marking of a package containing a pre-packed article applies to both the immediate package containing the article and any other package containing that package (whether or not with other packages) unless the provision that imposes the requirement otherwise provides.

#### **58 Exemptions for certain inner and outer packages**

A requirement of this Regulation as to the marking of a package does not apply to:

- (a) any immediate package ordinarily sold only in an outer package that is marked in accordance with the requirement, or
- (b) any outer package in which the immediate package is packed only for the purposes of transportation.

### **Division 2 Marking of name and address**

#### **59 Marking of name and address on packages**

- (1) When a pre-packed article is packed or sold, the package containing the article must be marked with the name and address of the person who packed the article or on whose behalf it was packed.
- (2) That marking must be:
  - (a) readily visible and legible, and
  - (b) such as to enable the person named to be identified and located.
- (3) The address marked must be an address in a State or internal Territory at which, under a law in force in that State or Territory, notices or legal process may be served on the person named.

#### **60 Exemption for packaged seed**

- (1) Clause 59 does not apply to:
  - (a) public-bred agricultural seed that is of a prescribed variety and is packed in a quantity of 10 kg or more, or

(b) public-bred agricultural seed that is not of a prescribed variety and is packed in a quantity of 25 kg or more, or

(c) non-proprietary varieties of horticultural seed packed in a quantity of 25 kg or more.

(2) In this clause, **prescribed variety** means agricultural seed for Rhodes grass, Molasses grass, Buffel grass, Veldt grass, Brachiaria species, Guinea grass, Hamil grass, Gamba grass, Mitchell grass, Creeping Blue grass and Indian Blue grass.

### **Division 3 General requirements for measurement marking**

#### **61 Requirement to mark measurement**

(1) When a pre-packed article is packed or sold, the package containing the article must be marked with a statement of the measurement of the article.

(2) The statement must be such as will be clear, conspicuous, readily seen and easily read when the article is exposed for sale in the manner in which it is likely to be exposed for sale.

#### **62 General position of measurement marking**

(1) The measurement marking on a package must be made:

(a) on the main display part of the package, and

(b) if another part of the package is, or other parts of the package are, likely to be displayed instead of the main display part when the article is exposed for sale—on that other part or one of those other parts.

(2) Subclause (1) does not apply in the case of:

(a) automotive parts, or

(b) any other package if the administering authority, by notice published in the Gazette, exempts the package from the operation of this clause and any conditions or restrictions specified in the notice are complied with.

#### **63 Set-out and form of measurement marking**

(1) The required measurement marking must:

(a) be close to, and marked to be read in the same direction as, any name or brand of the article to which it relates, and

(b) be at least 2 mm from the limits of the package and separated by at least 2 mm in all directions from other graphic matter or copy, and

(c) be in a form in which units of measurement under the metric system are ordinarily

written in the English language, and

(d) in the case of a decimal sub-multiple, be preceded by a zero or other numeral.

(2) If a package is entirely or substantially cylindrical, spheroidal, conical or of oval cross-section, the measurement marking must, in addition to complying with subclause (1), be positioned so that no part of the marking is further than one-sixth of the circumference of the package from the line that vertically bisects that part of the package on which the marking is required to be made.

(3) For the purposes of subclause (2), the circumference of a package is the circumference where the measurement marking is made.

#### **64 Size etc of characters in measurement marking**

(1) The characters used in a measurement marking must be clear and:

(a) stamped or printed in a colour that provides a distinct contrast with the colour of the background and be of at least the minimum height required by subclause (2), or

(b) stamped or embossed and be of at least 3 times the minimum height required by subclause (2), or

(c) marked by an approved printing device in characters at least 3 mm high, or

(d) legibly handwritten, if permitted by subclause (3).

(2) The minimum height for the characters in a measurement marking is the height specified in Column 2 of the Table to this clause opposite the maximum dimension of the package specified in Column 1 of that Table.

(3) A measurement marking may be legibly handwritten in the following cases:

(a) when the article is packed to be sold on the premises on which it is packed, or

(b) when the package contains cake or is one to which clause 78 applies, or

(c) when the package contains a roll of ribbon, lace or elastic or other article of haberdashery, or

(d) when the article is, by notice published in the Gazette by the administering authority, declared to be an article to which this subclause applies and any conditions applicable to the packaging of the article and specified in the notice are complied with.

#### **Table**

**Column 1**

**Column 2**

Maximum dimension of package	Minimum character height
120 mm or under	2.0 mm
Over 120 mm but not over 230 mm	2.5 mm
Over 230 mm but not over 360 mm	3.3 mm
Over 360 mm	4.8 mm

For the purposes of this Table, the maximum dimension of a package is:

- (a) if the package is rectangular—the measurement of the breadth, height or length of the package, whichever is the greatest, or
- (b) if the package is cylindrical, spheroidal, conical or of oval cross-section—the measurement of the height, length or maximum diameter of the package, whichever is the greatest.

#### 65 Unit etc of measurement to be used

- (1) Except for an article specifically provided for by subclause (2), the measurement marking of an article must be expressed as follows:
  - (a) if the article is ordinarily sold by number—by reference to number,
  - (b) if the article is ordinarily sold by linear or superficial measurement—by reference to that kind of measurement,
  - (c) if the article is a liquid—by reference to volume,
  - (d) if the article is solid (including in the form of powder or flakes), semi-solid or partly solid and partly liquid, and is not included in paragraph (a)—by reference to mass.
- (2) The measurement marking of an article of a kind described in Column 1 of Schedule 5 must be expressed by reference to the kind of measurement specified in Column 2 of that Schedule opposite the description of the article.
- (3) A measurement marking (other than in terms of number) must be expressed in terms of a unit of measurement permissible as specified in Schedule 6.
- (4) In this section, **ordinarily sold**, in relation to an article sold by number or linear or superficial measurement, means the majority of the merchants selling the article in Australia ordinarily sell it by number or linear or superficial measurement.

#### 66 Fractions, significant figures

- (1) If a measurement marking includes a fraction of a unit of measurement, it must be expressed as a decimal sub-multiple of the unit.

- (2) Whether a measurement marking is a whole multiple or a sub-multiple, or a combination of both, it must express a degree of accuracy to not more than 3 significant figures.

#### **67 Special provision—marking by approved printing device**

If a measurement marking is made by an approved printing device:

- (a) the measurement marking may express a degree of accuracy to more than 3 significant figures if the certificate of approval approves use of the device to measure the degree of accuracy expressed, and
- (b) a measurement marking in terms of mass made by use of the device in accordance with the certificate of approval may be expressed in terms of grams.

#### **68 Marking by reference to minimum measurement**

- (1) A marking on the package containing a pre-packed article of the measurement of the article (whether or not for the purposes of this Regulation) must not be made by reference to minimum measurement unless:
  - (a) permitted by this clause (or required by clause 69 in the case of eggs), and
  - (b) the reference to minimum measurement is marked in the same way as the required measurement marking.
- (2) Pre-packed dressed poultry (other than poultry pieces) may be marked with a measurement in terms of minimum mass if:
  - (a) the mass stated is a whole number multiple of 100 g, and
  - (b) (except in the case of cooked poultry) the package is also marked, in characters not less than 10 mm in height, with a size number calculated by dividing the stated minimum mass by 100.
- (3) Pre-packed preserved sausage may be marked with a measurement in terms of minimum mass.

### **Division 4 Special provision for measurement marking of certain articles**

#### **69 Eggs**

The measurement marking of a pre-packed article containing eggs must be made:

- (a) by reference to the number of eggs in the package, and
- (b) by reference to the minimum mass of each egg.



## **70 Articles packed in sheets**

Pre-packed aluminium foil, facial tissues, toilet paper and waxed paper are articles that do not require a measurement marking on the package if the number of usable sheets of specified dimensions is marked on the package as if the number and dimensions marked were a measurement marking.

## **71 Number of pre-packed articles comprising 1 tonne**

If 45 or fewer packages of an article that is ordinarily sold by mass have a total mass of 1 tonne, the measurement marking of the mass of the article may be made on each package by referring to the number of packages to the tonne in such a manner as to imply that the mass of each package is 1 tonne divided by that number.

## **72 Bedsheets, tarpaulins etc**

(1) The measurement marking relating to:

(a) bedsheets (not designed as fitted or semi-fitted bedsheets) or other sheets of hemmed fabric material, or

(b) tarpaulins,

must be expressed in terms of the finished size of the article.

(2) The measurement marking relating to:

(a) a mattress protector, or

(b) a bedsheet designed as a fitted or semi-fitted bedsheet,

must be expressed in terms of the suitability of its finished size to fit a mattress of specified dimensions expressed as length × width × depth.

## **73 Pairs of window curtains**

The measurement marking relating to window curtains designed to cross over when hung in pairs must be expressed in terms of the finished size of the maximum width, and the maximum drop, of each curtain.

## **74 Marking of width or thickness if it directly affects price**

If a measurement marking may be made in terms of the length of an article, the marking must include any measurement of the thickness or width of the article, or both, that bears a direct relationship to the price of the article.

## **Division 5 Special provision concerning measurement marking of**

## outer packages

### 75 Package containing packages of articles of the same kind and measurement

- (1) This clause applies to 2 or more pre-packed articles of the same kind and apparently with the same measurement:
  - (a) each of which is separately packed in its own package (an **inner package**), and
  - (b) all of which are also packed together in another package (the **outer package**).
- (2) The measurement marking on the outer package may:
  - (a) state the total measurement of all the articles in the outer package, or
  - (b) state (as if it were a measurement marking) the number of packages in the outer package and the measurement of each of them.
- (3) A measurement marking need not be marked on the outer package if:
  - (a) the outer package contains not more than 8 inner packages, and
  - (b) the inner packages are ordinarily sold only while in the outer package, and
  - (c) the whole or part of the outer package is transparent and the measurement marking on each of the inner packages is clearly visible through the packaging of the outer package.

### 76 Inner and outer packages of single article

- (1) This clause applies to a pre-packed article consisting of an article contained in a package (the **inner package**) that is contained in another package (the **outer package**).
- (2) A measurement marking need not be marked on the outer package if:
  - (a) the inner package is ordinarily sold only while in the outer package, and
  - (b) the whole or part of the outer package is transparent and the measurement marking on the inner package is clearly visible through the packaging of the outer package.

### 77 Package containing articles of different kinds or different measurements

- (1) This clause applies to a pre-packed article consisting of a package (the **outer package**) containing at least 2 articles of which at least one is a pre-packed article, but does not apply in a case to which clause 75 (Package containing packages of articles of the same kind and measurement) applies.
- (2) None of the articles in the outer package is required to be marked with a

measurement marking if:

- (a) all the articles in the outer package are ordinarily sold only while in the outer package, and
- (b) the outer package is marked in the same way as a measurement marking with a description of each article in the outer package and a statement of its measurement.

- (3) The provisions of clause 62 as to the position of a measurement marking do not apply to a marking referred to in subclause (2) (b) if the packaging of the outer package is transparent and all the articles it contains are clearly visible through it.

## **Division 6 Other markings concerning measurement**

### **78 Unit price marking—retail sales of certain foods by mass**

- (1) This clause applies to the following pre-packed foods:
  - (a) fruit,
  - (b) dried fruit, dehydrated fruit and dried or dehydrated mixed fruit,
  - (c) cheese and cheese products,
  - (d) dressed poultry not marked in terms of minimum mass in accordance with clause 68,
  - (e) fish (including crustaceans),
  - (f) mushrooms,
  - (g) vegetables,
  - (h) meat,
  - (i) smallgoods (including bacon, corned beef and ham),except when the package is a rigid container.
- (2) When a pre-packed article to which this clause applies is sold (except for the purpose of being resold) 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:
  - (a) the total price and price per kilogram are adequately displayed at the time of sale, as provided by subclause (4), or
  - (b) the article is described in Column 1 of the Table to this clause and is packed in a quantity specified in Column 2 of that Table opposite the description.

- (3) The marking on a package required by this clause must be made as if it were a measurement marking.
- (4) For the purposes of this clause, the total price and price per kilogram are adequately displayed if displayed on or immediately adjacent to the receptacle in or on which the article is exposed for sale, in characters not less than 10 mm high and in such a manner as to be readily seen and easily read.

**Table**

<b>Column 1</b>	<b>Column 2</b>
Cheese and cheese products	100 g 125 g 200 g 250 g 375 g 500 g 750 g 1 kg integral multiples of 500 g
Dressed poultry and meat	100 g 125 g 200 g 250 g 500 g 1 kg integral multiples of 1 kg
Dried fruit, dehydrated fruit, dried or dehydrated mixed fruit	100 g 125 g 150 g 200 g 250 g 375 g 500 g 750 g 1 kg 1.5 kg integral multiples of 1 kg
Fruit, fish (including crustaceans), mushrooms and vegetables	15 g 20 g 25 g 50 g 75 g 100 g 125 g 150 g 200 g 250 g 375 g 500 g 750 g 1 kg 1.25 kg 1.5 kg 2.5 kg integral multiples of 1 kg
Smallgoods (including bacon, corned beef and ham)	50 g 125 g 175 g 250 g 375 g 500 g integral multiples of 500 g

**Division 7 Prohibited and restricted expressions****79 Marking of “mass when packed”**

- (1) This clause applies to bar soaps, cotton wool, flax, glauber salts, jute, manila, fresh mushrooms, oven-baked animal biscuits, personal deodorant tablets, personal soap tablets (medicinal or toilet), sisal, soap flakes, soap powder (excluding detergent powders), tobacco, washing soda and whole hams.
- (2) Pre-packed articles of the kind to which this clause applies that are not packed in a hermetically sealed package may be marked “mass when packed”, or with other words that have a similar meaning to those words, if they are marked in the same way as the appropriate measurement marking.

**80 Marking of “mass at standard condition”**

A package containing pre-packed yarn or cotton wool that is not an hermetically sealed package may be marked with the words “mass at standard condition” or with other words that have a similar meaning to those words if:

- (a) the words are marked in the same way as the appropriate measurement marking, and
- (b) when the yarn or cotton wool is composed of a mixture of fibres—the package is also marked in the same way as the appropriate measurement marking with a correct statement of the proportion by mass of each of the kinds of fibre of which the yarn or cotton wool is composed.

### **81 Restrictions on use of “gross mass”**

- (1) For the purposes of section 30 of the Act, the expression “gross mass” and any other expression that has a similar meaning to that expression are restricted expressions.
- (2) A package may be marked with such an expression only if permitted by clause 56 (Exemptions for packages containing paper) or if:
  - (a) the package is used only for the purpose of transporting an article, and
  - (b) the expression is immediately followed by the words “for transport purposes only” and a statement of the appropriate quantity, and
  - (c) immediately below or following the expression the net mass is marked and designated as such or stated as a net amount in words that correspond to those used to express the gross amount.

### **82 Prohibited expressions**

For the purposes of section 30 of the Act, the following are prohibited expressions:

- (a) any expression (other than a marking required or permitted by the Act or this Regulation) that directly or indirectly relates to or qualifies a measurement marked on the package,
- (b) a statement that directly or indirectly relates or refers to the measurement of the article or any ingredient or component of the article, or of any source from which the article is derived, if the statement cannot be tested for truth by testing the article.

## **Division 8 Short measure**

### **83 Extent of deficiency necessary to constitute short measure**

- (1) This Division makes provision for the deficiency in actual measurement and average measurement of pre-packed articles permitted under section 33 of the Act before the actual measurement of a pre-packed article is to be regarded as being less than the measurement marked on the package.
- (2) In this Division:

***permissible actual deficiency*** means the deficiency in actual measurement permitted for the purposes of section 33 (1) (a) of the Act.

**permissible average deficiency** means the deficiency in the average of the actual measurements of a number of like articles permitted for the purposes of section 33 (1) (b) of the Act.

#### 84 Articles marked “mass when packed” etc

If the package containing a pre-packed article is, in accordance with clause 79, marked “mass when packed” or with other words that have a similar meaning to those words:

- (a) the permissible actual deficiency, if measured on the day the article is packed, is a deficiency of 5 per cent, and
- (b) the permissible average deficiency, if measured on the day the article is packed, is nil, and
- (c) the permissible actual deficiency, if measured after the day the article is packed, is the deficiency specified in Column 2 of the Table to this clause opposite the description of the article in Column 1 of that Table, and
- (d) the permissible average deficiency, if measured after the day the article is packed, is the deficiency specified in Column 3 of the Table to this clause opposite the description of the article in Column 1 of that Table.

**Table—Permissible deficiencies after day of packing**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Description of article</b>	<b>Permissible actual deficiency—per cent</b>	<b>Permissible average deficiency—per cent</b>
Bar soaps	21	16
Cotton wool	7	2
Flax	8	3
Glauber salts	7	2
Jute	9	4
Manila	8	3
Mushrooms (fresh)	18	13
Oven-baked animal biscuits	9	4
Personal deodorant tablets	12	7
Personal soap tablets (medicinal or toilet)	11	6
Sisal	8	3

Soap flakes	10	5
Soap powder (excluding detergent powders)	15	10
Tobacco	10	5
Washing soda	7	2
Whole hams	7	2

### 85 Articles marked “mass at standard condition”

(1) If the package containing a pre-packed article is, in accordance with this Regulation, marked “mass at standard condition” or with other words that have a similar meaning:

- (a) the permissible actual deficiency is the deficiency specified in Column 2 of the Table to this clause opposite the description of the class of article in Column 1 of that Table, and
- (b) the permissible average deficiency is the deficiency specified in Column 3 of the Table to this clause opposite the description of the class of article in Column 1 of that Table.

(2) If the article consists of a mixture of any 2 or more of class A, B or C fibres (as described in Column 1 of the Table to this clause):

(a) the permissible actual deficiency is the deficiency, expressed as a percentage, calculated in accordance with the formula

$$6x + 2y + 5$$

, and

(b) the permissible average deficiency is the deficiency, expressed as a percentage, calculated in accordance with the formula

$$6x + 2y$$

,

where:

**x** is the proportion that the mass of all class A fibre (if any) in the article bears to the total mass of the article, and

**y** is the proportion that the mass of all class B fibre (if any) in the article bears to the total mass of the article.

### Table

Column 1	Column 2	Column 3
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<b>Class of article</b>	<b>Permissible actual deficiency—per cent</b>	<b>Permissible average deficiency—per cent</b>
Class A fibre (wool or other animal fibre, viscose or cuprammonium rayon, or a mixture of any 2 or more of them)	11	6
Class B fibre (silk, cotton or cellulose acetate or a mixture of any 2 or more of them)	7	2
Class C fibre (a fibre, or a mixture of fibres, that is not a Class A or Class B fibre)	5	0

### **86 Other pre-packed articles**

If the package containing a pre-packed article is not one to which clauses 84 or 85 applies:

- (a) the permissible actual deficiency is 5 per cent, and
- (b) the permissible average deficiency is nil.

### **87 Method of determining average measurement (sec 33)**

- (1) For the purposes of this Division, the average of the actual measurements of a number of like articles is to be determined by calculating the average of the measurements of the contents of at least 12 packages or, if less than 12 are available, of such number (not less than 6) as are available.
- (2) If more than 12 packages are available, the actual number to be tested is to be as determined by an inspector.
- (3) Each of the packages measured must be of the same kind and have the same measurement marking and must be selected by an inspector without having been measured by an inspector.

## **Division 9 Miscellaneous provisions regarding pre-packed articles**

### **88 Mass of frozen pre-packed scallops**

For the purposes of the Act and this Regulation, the mass of frozen scallops packed as a pre-packed article is to be determined as follows:

- (a) measure and record the mass of an appropriate perforated container,
- (b) place the entire contents of the package into a suitable impermeable bag,



- (c) suspend or immerse the bag in running water until the contents have thawed,
- (d) empty contents into the perforated container,
- (e) drain the perforated container and the contents until minimal drip loss is recorded,
- (f) measure and record the mass of the perforated container plus contents,
- (g) subtract the mass of the perforated container from the mass of the perforated container and contents to obtain the net mass of the contents.

### **89 Application for permit to sell certain articles**

An application for a permit under section 38 of the Act for the sale of an article must:

- (a) be made to the administering authority in writing signed by or on behalf of the applicant, and
- (b) specify the grounds in section 39 of the Act that are relied on by the applicant, and
- (c) give particulars of the facts justifying reliance on those grounds.

## **Part 5 Miscellaneous**

### **90 Offer etc for sale by reference to measurement**

- (1) This clause does not apply to:
  - (a) pre-packed articles, or
  - (b) wine, spirits, beer, porter, stout, ale, cider, perry, mead or any other spirituous or fermented liquor, or
  - (c) diamonds or other precious stones.
- (2) A person who advertises, offers or exposes an article for sale at a price determined by reference to measurement (being mass, volume, linear measurement or superficial measurement) is guilty of an offence unless the measurement is:
  - (a) in the case of mass:
    - (i) 1 kilogram, or
    - (ii) 1 kilogram, with another reference to an integral number of kilograms, or
    - (iii) an integral number of tonnes, or
    - (iv) if the article is a precious metal—1 gram or 1 troy ounce, or
  - (b) in the case of volume:
    - (i) 1 litre, or

- (ii) 1 litre, with another reference to an integral number of litres, or
- (iii) an integral number of cubic metres, or
- (c) in the case of linear measurement:
  - (i) 1 centimetre, or
  - (ii) 1 metre, or
  - (iii) 1 metre, with another reference to an integral number of metres, or
- (d) in the case of superficial measurement:
  - (i) 1 square centimetre, or
  - (ii) 1 square metre, or
  - (iii) 1 square metre, with another reference to an integral number of square metres,

or is a measurement authorised by subclause (3).

Maximum penalty: \$2,000.

- (3) The length, width, thickness, diameter or other linear measurement of an article specified in the Table to this clause may be advertised, offered or exposed for sale by the millimetre, centimetre or metre.

**Table**

Carpets	Resin laminates
Ceramic tiles	Rope
Chain	Rubber material
Cord	Rubber mouldings
Cordage	Sheet glass
Electrical cable	Textiles
Electrical flex	Textile products (other than ready-made clothing)
Fabrics	Plywood
Floor coverings	Timber
Hardboard	Veneers
Particle board	Wire netting

Plastic mouldings

### 91 Beer and spirits to be sold by volume

- (1) Beer, stout, ale, brandy (including cognac and armagnac), gin, rum, vodka and whisky (whiskey) are prescribed articles to which section 26 of the Act applies.
- (2) Pursuant to that section, a sale of a quantity of such an article is required to be at a price determined by reference to the volume of the quantity.

### 92 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
    - (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

(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.

### 93 Repeal

The *Trade Measurement Regulation 2002* is repealed.

### 94 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Trade Measurement Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Duties of operator of public weighbridge

(Clause 23)

### 1 Due care to be exercised

An operator must exercise due care in the performance of his or her functions under the Act and this Regulation.

### 2 Entry in tare mass book

An operator who measures the tare mass of a vehicle without issuing a measurement ticket must immediately enter in the tare mass book consecutively in the order in which each tare mass is measured the particulars required by the form of the book.

### 3 Measurement tickets—completion and issue

- (1) An operator:
  - (a) must complete and issue a measurement ticket only in the form appropriate for the measurement made and in accordance with the particulars required by the form and this Regulation, and
  - (b) must, except in the case of a tare mass entered in the tare mass book, complete a measurement ticket in its numerical order in the book or pad immediately after

finding a measurement by use of the weighbridge, and

- (c) must issue a measurement ticket immediately after its completion unless it is required to be retained after cancellation or for issue under clause 5 (2) (a) of this Schedule, and
  - (d) must not complete or issue a measurement ticket except for the purpose of complying with paragraph (b) or (c) or clause 5 (2) (a) of this Schedule, and
  - (e) in completing a measurement ticket for 2 linked but separately registered vehicles, must enter the registration figures and letters for both vehicles, and
  - (f) must include in each measurement shown on a measurement ticket for a vehicle the measurement of the load supported by all axles.
- (2) An operator who makes an error in completing a measurement ticket must cancel, and retain in the book or pad, the measurement ticket and the duplicate or duplicates forming part of the book or pad.
- (3) An operator must, by the use of carbon paper or other effective means, make each duplicate that forms part of a book or pad of measurement tickets an exact copy of the original ticket completed by the operator.
- (4) An operator must not issue a measurement ticket that includes any matter additional to that required by this Regulation unless the additional matter:
- (a) appears in a margin, at the foot, or on the reverse side, of the ticket, and
  - (b) is not inconsistent with, and does not qualify, the meaning or accuracy of the information on the ticket.

#### **4 Issue of measurement ticket—tare mass only**

An operator who issues a measurement ticket recording only the tare mass of a vehicle must alter the measurement ticket:

- (a) by striking out the words “gross mass” and “net mass” on the ticket and writing in their place the words “tare mass only”, and
- (b) by stamping across the face of the ticket the words “TARE MASS ONLY” in prominent capital letters not less than 5 mm high.

#### **5 Issue of measurement ticket—loaded vehicle**

- (1) An operator who measures the mass of a loaded vehicle of which the tare mass has been determined must immediately complete and issue an appropriate measurement ticket.
- (2) An operator who measures the mass of a loaded vehicle of which the tare mass has

not been determined must:

- (a) immediately record the gross mass on the next consecutive measurement ticket and issue the ticket only after the tare mass of the vehicle has been determined, or
  - (b) issue a measurement ticket on which the gross mass has been recorded after:
    - (i) striking out the words “tare mass” and “net mass” on the ticket and writing in their place the words “gross mass only”, and
    - (ii) stamping across the face of the ticket the words “GROSS MASS ONLY” in prominent capital letters not less than 5 mm high.
- (3) An operator must not enter tare mass on the measurement ticket for a loaded vehicle unless the operator copies the tare mass from:
- (a) an entry made in the tare mass book, or
  - (b) a tare mass measurement ticket issued,
- not more than 24 hours earlier by the same operator or another operator using the same weighbridge or another weighbridge on the same premises.

## **6 Axle load measurement**

- (1) If the measurement to be made is not an end-and-end measurement but is only for the purpose of issuing a measurement ticket showing each load supported by separate axles, or groups of axles, of a vehicle, the operator of the weighbridge must ensure that subclause (2) is complied with.
- (2) This subclause is complied with if:
  - (a) the approaches to the weighbridge have a smooth and level surface that is paved with concrete or other approved material and 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 by other approved means, and
  - (c) at all times during the measuring:
    - (i) the wheels on one or more of the axles are located on the platform or platforms and the wheels on the other axles are located within the indicated perimeter of the approaches, and
    - (ii) the brakes, gears and other means capable of restricting the free movement of the vehicle are disengaged.

## 7 Copies of measurement tickets

- (1) If required to do so by:
  - (a) a buyer or seller of goods of which the measurement has been found by use of a weighbridge, or
  - (b) any other person who has an interest in the goods,the operator of the weighbridge must, on payment of the public weighbridge licensee's fee, supply a copy of the measurement ticket.
- (2) An operator must not supply a copy of a ticket under subclause (1) unless the copy complies with subclause (3) or (4).
- (3) A copy of a measurement ticket complies with this subclause if it is issued from a book or pad of measurement tickets after being amended:
  - (a) by striking out its number and writing nearby the words "Copy of ticket No " (quoting the number of the ticket of which it is a copy), and
  - (b) by stamping across the face of the ticket the words "COPY ONLY" in prominent capital letters not less than 5 mm high.
- (4) A copy of a measurement ticket complies with this subclause if it is issued from a book or pad printed in a form approved for the purpose of making those copies that includes on its face the words "COPY ONLY" in prominent capital letters not less than 5 mm high.
- (5) Except for any requirement as to time, and except for any inconsistency with this clause, this Regulation applies in relation to a copy measurement ticket in the same way as it applies to the ticket of which it is a copy.

## 8 Inspector may require measurement to be made

An operator must, if required to do so by an inspector exercising the functions of an inspector, make without charge a measurement relating to a loaded or unloaded vehicle.

## Schedule 2 Forms of tare mass book

(Clause 21)

### Form 1

<b>Date of measurements</b>	<b>Description of vehicle measured</b>	<b>Registered No or Nos of vehicle</b>	<b>Name of driver of vehicle</b>	<b>Tare mass (including decimal submultiples of tonnes)</b>
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**Form 2**

<b>Date of measurements</b>	<b>Description of vehicle measured</b>	<b>Registered No or Nos of vehicle</b>	<b>Name of driver of vehicle</b>	<b>Tare mass (kilograms)</b>
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**Schedule 3 Forms of measurement tickets**

(Clause 21)

**Form 1**

Ticket No .....

Date .....

Registered Public Weighbridge No .....

[Here state the name of the holder of the public weighbridge licence]  
.....  
.....

[Here state the location of the weighbridge] .....

Direct Measurement

Goods measured .....

Marks and brands on goods measured .....

Place of despatch of goods measured .....

Destination of goods measured .....

Registered No or Nos of vehicle measured .....

Name of driver of vehicle .....

Gross mass in tonnes (including decimal submultiples of tonnes) .....

Tare mass in tonnes (including decimal submultiples of tonnes) .....

Net mass in tonnes (including decimal submultiples of tonnes) .....

.....[Signature of operator]

**Form 2**

Ticket No .....

Date .....

Registered Public Weighbridge No .....

[Here state the name of the holder of the public weighbridge licence]  
.....  
.....

[Here state the location of the weighbridge] .....

Direct Measurement

Goods measured .....

Marks and brands on goods measured .....

Place of despatch of goods measured .....  
 Destination of goods measured .....  
 Registered No or Nos of vehicle measured .....  
 Name of driver of vehicle .....  
 Gross mass in kilograms .....  
 Tare mass in kilograms .....  
 Net mass in kilograms .....

.....[Signature of operator]

**Form 3**

Ticket No .....  
 Date .....  
 Registered Public Weighbridge No .....  
 [Here state the name of the holder of the public weighbridge licence]  
 .....  
 .....  
 [Here state the location of the weighbridge] .....  
 Axle Masses Only  
 Registered No or Nos of vehicle(s) measured .....  
 Name of driver of vehicle .....

	<b>Axle No (front to rear)</b>	<b>Tonnes (including decimal submultiples of tonnes)</b>
	—1—	.....
	—2—	.....
If 2 or more axles are measured together, this is to be shown by bracketing the relevant axle numbers.	—3—	.....
	—4—	.....
	—5—	.....
	—6—	.....

.....[Signature of operator]

Masses shown on this ticket are not to be used for trade.

**Form 4**

Ticket No .....  
 Date .....  
 Registered Public Weighbridge No .....  
 [Here state the name of the holder of the public weighbridge licence]  
 .....  
 .....  
 [Here state the location of the weighbridge] .....  
 Axle Masses Only  
 Registered No or Nos of vehicle(s) measured .....

Name of driver of vehicle .....

	<b>Axle No (front to rear)</b>	<b>Kilograms</b>
	—1—	.....
	—2—	.....
If 2 or more axles are measured together, this is to be shown by bracketing the relevant axle numbers.	—3—	.....
	—4—	.....
	—5—	.....
	—6—	.....

.....[Signature of operator]

Masses shown on this ticket are not to be used for trade.

### **Schedule 4 Exemptions from marking**

(Clause 55)

#### **1 Textile goods**

- (1) Textiles, wearing apparel and other similar articles that are not packed for sale by measurement and are not ordinarily so sold.
- (2) Textiles that are:
  - (a) packed for sale by mass and are sold in packages each containing more than 4 kg, or
  - (b) packed for sale by length and are sold in packages each containing more than 25 m, or
  - (c) packed for sale by area and are sold in packages each containing more than 25 m<sup>2</sup>.

#### **2 Food goods**

- (1) Any agricultural produce grown and packed on the same property by the grower and sold by mass in sacks of more than 25 kg gross mass.
- (2) Confectionery, nuts, popcorn, potato crisps and savouries that are:
  - (a) packed on premises for sale on those premises if the package is displayed for sale on those premises in a receptacle that bears a statement that can be readily seen and easily read in characters not less than 10 mm high of the mass and of the price of the contents of the package and if the mass of the contents does not exceed 200 g, or

(b) packed in or with another article if the value of the combined articles is substantially represented by that other article.

- (3) Confectionery packed singly in a novelty shape and an Easter egg packed singly.
- (4) Honey in the comb in original frames.
- (5) Hay.
- (6) Ice cream packed in a quantity less than 200 mL.
- (7) Kippers.
- (8) Pies or pasties made for use as an individual serve of which the mass is less than 250 g.
- (9) Cakes, puddings and sponges packed singly in a quantity less than 125 g.
- (10) Alcoholic liquors packed in a quantity more than 10 L.

### **3 Medicinal and toilet goods**

- (1) Therapeutic goods, being goods the sale or supply of which to the public is prohibited by law except on the written prescription of a person recognised by law as competent to prescribe them.
- (2) A toilet preparation in a compact and a refill of such a preparation.
- (3) Single application hair dyes or hair bleaches or single application home permanent hair waving kits.
- (4) Vaccines packed in a quantity less than 25 mL or a single dose of any substance packed in a vial or ampoule for sale for use as an injection.

### **4 Hardware goods**

- (1) Articles of hardware that are not packed for sale by measurement and are not ordinarily so sold.
- (2) Tinters or colouring agents for use in paint that are packed in a quantity less than 100 g or 100 mL.
- (3) Colouring material in a package on which is marked directions for mixing it, or a specified quantity of it, with a specified type and volume of paint—if the quantity of the material to be mixed does not exceed 10 per cent of the volume of the paint with which it is to be mixed.

### **5 General goods**

- (1) Articles ordinarily sold by number that are packed in a quantity of less than 9 in a

package made wholly or partly of transparent material so that when the package is exposed for sale the number of articles contained in the package is readily apparent to a purchaser.

- (2) An article of which the mass exceeds 75 kg or the volume exceeds 150 L.
- (3) An article packed in a quantity less than 15 g or 15 mL other than adhesives, dried vegetables and freeze-dried vegetables, herbs, instant tea, pepper and other spices, therapeutic goods and tobacco.
- (4) Fire extinguisher refills.
- (5) Photographic film and photographic printing paper.
- (6) A bag of clay.
- (7) Fish bait.
- (8) Garden landscape material, including pine-bark feature mix, pine-bark nuggets, pre-planted mushroom spawn, tree-bark, any article that is or contains compost, farmyard manure, garden peat, leaf mould, peatmoss, sphagnum moss, tanbark or other like substance.
- (9) Artists' paint packed in a quantity less than 100 g.
- (10) Candles.
- (11) Legume seed inoculants.
- (12) A pre-packed article sold as authorised by Division 2 (Permit to sell certain pre-packed articles) of Part V of the Act.

## Schedule 5 Expression of measurement marking

(Clause 65)

<b>Column 1</b>	<b>Column 2</b>
<b>Description of article</b>	<b>Kind of measurement permissible</b>
Acids in liquid form	mass or volume
Aerosol products	mass
Compressed or liquefied gases	mass or equivalent volume (cubic metres or litres) at stated temperature and pressure
Cream and cream substitutes	volume
Fencing wire	length
Flavouring essences	mass or volume, if the quantity is not less than 500 g

Heavy residual fuel oil, industrial diesel fuel and furnace oil	mass or volume
Honey, malt extract, golden syrup and treacle	mass
Ice cream	volume
Linseed oil and other vegetable oils	volume if the quantity is not more than 5 L; mass or volume if the quantity is more than 5 L
Liquefied petroleum gas	mass
Liquid chemicals	mass or volume
Paint (other than paste paint), varnish and varnish stains	volume
Paste paint	mass
Perfume compounds	mass or volume, if the quantity is not less than 500 g
Perlite	mass or volume
Resins	mass or volume
Rope, cord and line—	
(a) of a diameter less than 1.5 mm	length and mass per specified length
(b) of a diameter of 1.5 mm or more	length and diameter
Skin cream in jars	mass or volume
Tomato sauce	volume
Toothpaste	mass
Twines, twists and lashings	length and mass per specified length
Yoghurt	mass

## Schedule 6 Permissible units of measurement

(Clause 65)

### 1 Mass

If the measurement marking is to be expressed in terms of mass, the permissible units of measurement are as follows:

- (a) kilogram is permissible in all cases,
- (b) gram is also permissible if the mass does not exceed 1000 grams,
- (c) milligram is also permissible if the mass does not exceed 1000 milligrams.

## **2 Volume**

If the measurement marking is to be expressed in terms of volume, the permissible units of measurement are as follows:

- (a) litre, decilitre or centilitre is permissible for liquids in all cases,
- (b) cubic metre is permissible for solids in all cases,
- (c) millilitre is also permissible in the case of a liquid if the volume does not exceed 1000 millilitres,
- (d) cubic centimetre is also permissible in the case of a solid if the volume does not exceed 1000 cubic centimetres.

## **3 Linear measurement**

If the measurement marking is to be expressed in terms of linear measurement, the permissible units of measurement are as follows:

- (a) metre is permissible in all cases,
- (b) centimetre is also permissible if the length does not exceed 100 centimetres,
- (c) millimetre is also permissible if the length does not exceed 1000 millimetres,
- (d) millimetre is also permissible in the case of paper lengths not exceeding 10000 millimetres, building material in sheet form and coated abrasive belts,
- (e) millimetre is also permissible in the case of an article if it was customary before the [Trade Measurement \(Pre-packed Articles\) Regulations 1997](#) commenced to express the linear measurement of the article in millimetres.

## **4 Superficial measurement**

If the measurement marking is to be expressed in terms of superficial measurement, any unit of superficial measurement is permissible.

## **5 Mass per specified length**

If the measurement marking is to be expressed in terms of mass per specified length, the permissible units of measurement are grams for mass and kilometres for length.