

# Trade Measurement Regulation 2007

[2007-191]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Regulation was impliedly repealed by the repeal of the [Trade Measurement Act 1989](#) by sec 4 of the [Trade Measurement \(Repeal\) Act 2009 No 108](#) with effect from 1.7.2010.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 July 2010

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New South Wales

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# Trade Measurement Regulation 2007



New South Wales

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

**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.

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

**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.

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

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



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

**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 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.

**preservation period** means:

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

**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.

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

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

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

**standard wine package** means a package that contains:

- (a) 50 mL, 100 mL, 187 mL, 200 mL, 250 mL, 375 mL, 500 mL, 750 mL, 1 L or 1.5 L of wine, or
- (b) 2 or more whole litres of wine.

**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.

**wine** means a beverage that:

- (a) is produced by the complete or partial alcoholic fermentation of fresh grapes, grape must or other products derived from fresh grapes, and
- (b) contains not less than 7% and not more than 24% of alcohol by volume.

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

## **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 Weighbridge suitability statement (public weighbridges)**

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

- (1) This clause applies when an application is made for the grant of a public weighbridge licence for a weighbridge.
- (2) The administering authority must advise the licensing authority whether the weighbridge is suitable for use as a public weighbridge.
- (3) If the administering authority advises the licensing authority that the weighbridge is suitable for use as a public weighbridge and the licensing authority decides to grant the licence, the licensing authority must ensure the licence has a weighbridge suitability statement written on it.

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

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

**15 Suitability for use as a public weighbridge**

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

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

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

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

### **17 Licence and sign to be displayed at public weighbridge**

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

### **18 General system of measurement tickets**

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

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

## **19 Offences by licensees**

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

Maximum penalty: \$2,000.

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

Maximum penalty: \$2,000.

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

Maximum penalty: \$2,000.

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

**Note—**

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

## **20 If weighbridge measurement incorrect**

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



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

## **21 Request for measurement may be refused in some circumstances**

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

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

## **22 Offences by operator**

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

Maximum penalty: \$2,000.

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

Maximum penalty: \$2,000.

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

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

Maximum penalty: \$2,000.

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

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

- (b) if the measurement ticket was generated electronically:

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

Maximum penalty: \$2,000.

### **23 Licensee to give notice of change of particulars**

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

Maximum penalty: \$1,500.

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

- (1) The use of a weighbridge to measure the tare mass of a vehicle to enable it to be registered for use on a public road is not to be considered to be use as a public weighbridge for the purposes of section 43 of the Act.
- (2) Subclause (1) applies only if the operator of the weighbridge issues a written statement of the tare mass measured clearly indicating that the tare mass was measured for registration purposes only.
- (3) Clause 22 does not apply to the operator of the weighbridge when using the weighbridge for the purpose mentioned in subclause (1).

### **25 Register of licences**

- (1) For the purposes of section 47 of the Act, the prescribed particulars relating to a public weighbridge licence are as follows:
  - (a) the licence number and the date it was issued,
  - (b) the licensee's name,

- (c) the address at which notices may be served personally on the licensee,
- (d) particulars of any conditions imposed under section 48 of the Act,
- (e) for the weighbridge to which the licence relates:
  - (i) particulars of the weighbridge's location, and
  - (ii) the registered number given to the weighbridge by the administering authority,
- (f) when the most recent weighbridge suitability statement for the licence was provided.

- (2) The register is open to inspection during normal business hours by any person on payment of the fee, if any, prescribed under the Administration Act.

### **Division 3**

#### **26 (Repealed)**

### **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.

### **29A Approval of forms**

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

## **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 personally on the person named.

**Note—**

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

### **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
  - (a1) a standard wine package if the measurement marking on the package complies with clause 62A, 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.

#### **62A Position of measurement marking on standard wine package**

- (1) For the purposes of clause 62 (2) (a1), the measurement marking on a standard wine package must be made on the surface of the package, other than the base or the top,

in a way that enables all of the following information about the wine to be seen in a single field of vision:

- (a) the statement of the measurement,
  - (b) the country of origin,
  - (c) the product name or product description,
  - (d) the actual alcohol content by volume expressed as a percentage.
- (2) For the purposes of this clause, information on a standard wine package can be seen in a **single field of vision** if a person can see the information without having to turn the package.

### **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**

<b>Column 1</b>	<b>Column 2</b>
<b>Maximum dimension of package</b>	<b>Minimum character height</b>
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 or permitted 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**

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

### **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 particular foods by mass**

- (1) This clause applies to the following pre-packed foods:
  - (a) fruit, other than whole fruit, priced according to mass,
  - (b) dried or dehydrated fruit,
  - (c) dried or dehydrated mixed fruit,

- (d) vegetables, other than whole vegetables, priced according to mass,
  - (e) mushrooms,
  - (f) cheese or cheese products,
  - (g) dressed poultry not marked in terms of minimum mass in accordance with clause 68,
  - (h) fish, including crustaceans,
  - (i) meat,
  - (j) smallgoods, including bacon, corned beef and ham.
- (2) When a pre-packed article to which this clause applies is sold, the package containing the article must, in addition to being marked with the measurement of the article, be marked with its total price and price per kilogram unless, for the sale, the package is exposed:
- (a) in or on a receptacle on or immediately adjacent to which the total price and price per kilogram of the article is displayed:
    - (i) in characters at least 10mm high, and
    - (ii) where that price can be readily seen and easily read, or
  - (b) in a display of packages each marked:
    - (i) as containing the same article, and
    - (ii) with the same measurement of the article.
- (3) The marking on a package required by this clause must be made as if it were a measurement marking.
- (4) This clause does not apply to a pre-packed article if:
- (a) it is sold for resale, or
  - (b) the package containing the article is a rigid container.

**Note—**

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

## **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>
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<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  

$$\frac{6x + 2y + 5}{100}$$
, and
- (b) the permissible average deficiency is the deficiency, expressed as a percentage, calculated in accordance with the formula  

$$\frac{6x + 2y}{100}$$
,

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
Class of article	Permissible actual deficiency—per cent	Permissible average deficiency—per cent
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 Measuring mass of frozen fish**

- (1) This clause applies to pre-packed frozen fish that has surface ice on any part of the fish.
- (2) For the purposes of the Act and this Regulation, the mass of pre-packed frozen fish in a package must be measured using the following steps:
  - (a) measure and record the mass of a sieve,
  - (b) immediately after removing the package from cold storage, remove the fish from the package and:
    - (i) if the fish does not exceed the capacity of the sieve—complete the steps mentioned in subclause (3), or
    - (ii) if the fish exceeds the capacity of the sieve—complete the steps mentioned in subclause (4).
- (3) If the fish does not exceed the capacity of the sieve:
  - (a) put the fish in the sieve and put the sieve containing the fish in a water bath containing an amount of water at least 8 times the volume of the fish at a temperature of  $25^{\circ}\text{C}\pm 5^{\circ}\text{C}$ , and
  - (b) keep the fish immersed in the water bath until the surface ice has been removed from the fish, and
  - (c) remove the sieve containing the fish from the water bath, and
  - (d) keep the sieve at an angle of about  $20^{\circ}$  from the horizontal for at least 2 minutes but not more than 2 minutes 15 seconds to allow water to drain from the fish, and
  - (e) if practicable, remove excess water from the fish by using a cloth or a paper towel, and

- (f) measure and record the combined mass of the sieve and the fish, and
  - (g) deduct the recorded mass of the sieve from the recorded combined mass of the sieve and the fish to find the mass of the fish.
- (4) If the fish exceeds the capacity of the sieve:
- (a) divide the fish into lots that do not exceed the capacity of the sieve in any way that is convenient for complying with this subclause, and
  - (b) for fish in a lot that has surface ice on it—complete the steps mentioned in subclause (3) (a)–(g), and
  - (c) for fish in a lot that does not have surface ice on it—directly measure and record the mass of the fish, and
  - (d) add together the mass of fish recorded under paragraphs (b) and (c) to find the mass of the fish.
- (5) The mass of the fish is:
- (a) if the fish does not exceed the capacity of the sieve—the mass of the fish as worked out under subclause (3) (g), or
  - (b) if the fish exceeds the capacity of the sieve—the mass of the fish as worked out under subclause (4) (d).

- (6) In this clause:

**fish** means all or part of, or any number of, or any combination of, any cold-blooded aquatic vertebrate or invertebrate, including shellfish but not an amphibian or a reptile.

**frozen** means kept in storage at a maximum temperature of 0°C.

**International Standard** means a standard made or published by the International Organisation for Standardisation, Geneva.

**sieve**, for measuring fish from a package, means a circular wirecloth sieve:

- (a) with a diameter of:
  - (i) if the measurement marking on the package is not more than 500g—200mm, or
  - (ii) if the measurement marking on the package is more than 500g—300mm, and
- (b) with a mesh aperture size of 2.36mm, and
- (c) that complies with the requirements for wirecloth sieves in:

- (i) the Australian Standard entitled AS 1152—1993, *Specification for test sieves*, or
- (ii) the International Standard entitled ISO 3310-1:2000 (*E*), *Test sieves—Technical requirements and testing*.

### **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.

## Part 6 Transitional provisions consequent on Trade Measurement Amendment Regulation 2008

### 95 Definitions

In this Part:

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

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

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

**commencement** means the commencement of the amending Regulation.

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

### 96 Certificates of suitability

- (1) This clause applies to an application for a certificate of suitability for a particular weighbridge made under the pre-amended Regulation but not decided before the commencement.
- (2) If the fee payable under the Administration Act was paid for the application, clause 14 of the amended Regulation applies as if the fee had been paid for the purposes of that clause.

### **97 Suspension of certificates of suitability**

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

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

### **98 Display of licence**

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

### **99 Prescribed forms**

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

## **Schedule 1 Public weighbridge operator's duties**

(Clause 22)

### **1 Completion and issue of measurement tickets**

- (1) The operator must not complete a measurement ticket other than for complying with this Regulation.
- (2) When a measurement is made for a person, the operator must as soon as practicable complete an original measurement ticket in the approved form and then immediately issue a copy measurement ticket in the approved form to the person.
- (3) Without limiting the particulars to be included in a measurement ticket, when completing the measurement ticket the operator must:

- (a) if the measurement is only a measurement of the tare mass of the vehicle—indicate clearly on the measurement ticket that the measurement is of the tare mass of the vehicle, or
- (b) if the measurement is only of the gross mass of the vehicle, animal or any other thing—indicate clearly on the measurement ticket that the measurement is of the gross mass of the vehicle, animal or thing, or
- (c) if the measurement is a measurement made for 2 or more linked but separately registered vehicles—include on the measurement ticket the registration letters and figures for all vehicles, or
- (d) if the measurement is a measurement of a load on a vehicle—include on the measurement ticket the measurement of the load supported by all the axles of the vehicle.

(4) Subclause (2) is subject to clauses 4 and 5 of this Schedule.

## **2 Correction of mistakes**

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

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

## **3 Restriction on additional information on measurement ticket**

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

**Note—**

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

**4 Measurement of vehicle in 2 weighings—unloaded then loaded**

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

**5 Measurement of vehicle in 2 weighings—loaded then unloaded**

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

gross mass is made, the operator must:

- (a) issue a completed measurement ticket for the gross mass of the vehicle if requested, within 72 hours after the measurement is made, by:
  - (i) the driver, or
  - (ii) someone else who the operator is satisfied is authorised to make the request, or
- (b) if no request mentioned in paragraph (a) is made within 72 hours—cancel the partially completed measurement ticket at the end of that period.

## **6 Issue of measurement ticket for axle load measurement**

- (1) This clause applies if a measurement to be made is not an end-and-end measurement but is only for the purpose of issuing a copy measurement ticket showing each load supported by separate axles, or groups of axles, of a vehicle.
- (2) The operator may make the measurement only if:
  - (a) the approaches to the weighbridge have a smooth and level surface that:
    - (i) is paved with concrete or an approved material, and
    - (ii) is in the same horizontal plane as the top of the platform or platforms, and
  - (b) the perimeter of the approaches is clearly indicated by painted marks or in another approved way, and
  - (c) while the measurement is being made:
    - (i) the wheels on 1 or more of the axles are always on the platform or platforms and the wheels on the other axles are always within the indicated perimeter of the approaches, and
    - (ii) the brakes, gears and anything else capable of restricting the free movement of the vehicle are disengaged.

## **7 Issue of copies of measurement tickets**

- (1) This clause applies if:
  - (a) a relevant person requires an operator to give the person a copy of an original measurement ticket for a measurement that has already been made, and
  - (b) the requirement is made during the preservation period or the original measurement ticket is otherwise still available.
- (2) On payment to the operator of the licensee's fee for providing the copy, the operator must give the relevant person a copy of the original measurement ticket, clearly

marked as a copy measurement ticket.

- (3) The copy must include the same particulars as the original measurement ticket of which it is a copy.
- (4) The copy may be any of the following:
  - (a) a photocopy,
  - (b) a copy measurement ticket,
  - (c) a copy of a form of measurement ticket completed for the purpose of creating the copy and numbered with the number of the measurement ticket of which it is a copy,
  - (d) a printed version of a measurement ticket that was generated electronically.
- (5) The copy must not be made in a way that involves the creation of an original measurement ticket for the purpose of issuing the copy.
- (6) However, the form of an original measurement ticket from a book or pad of measurement tickets may be used to create a copy under subclause (4) (c).
- (7) When the form of an original measurement ticket is used to create a copy under subclause (4) (c), the original measurement ticket as created must be kept for at least 1 year after the copy is created.
- (8) In this clause **relevant person**, in relation to the issue of a copy of an original measurement ticket, means:
  - (a) a buyer or seller of goods whose measurement has been decided using the weighbridge, or
  - (b) another person who has an interest in the goods.

**Note—**

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

## **8 Inspector may require measurement to be made**

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

## **Schedules 2, 3 (Repealed)**

### **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
Pet litter and similar products	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 or kilograms for mass and metres for length.