

Trade Measurement (Repeal) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to repeal the *Trade Measurement Act 1989* and the *Trade Measurement Administration Act 1989* as a consequence of the agreement by the Council of Australian Governments in April 2007 in relation to national trade measurement reform and the transfer of trade measurement responsibilities from the States and Territories to the Commonwealth,
- (b) to make provision for transitional and consequential matters related to the transfer of trade measurement responsibilities,
- (c) to amend the *Fair Trading Act 1987* in relation to information sharing arrangements between the Director-General of the Department of Services, Technology and Administration (**the Director-General**) and certain other agencies of the State or of the Commonwealth, another State or Territory or an overseas jurisdiction (which may be used in relation to the transfer of trade measurement information to the Commonwealth).

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation (except sections 1, 2, 13 and 15 and Schedule 1.1 which commence on the date of assent to the proposed Act). It is proposed to appoint a date of commencement of 1 July 2010 by proclamation since this is the anticipated date that the Commonwealth will assume full responsibility for the national trade measurement system.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Repeals

Clause 4 provides for the repeal of the *Trade Measurement Act 1989* and the *Trade Measurement Administration Act 1989*.

Part 3 Transitional provisions

Clause 5 enables the issue and service of a penalty notice under the repealed *Trade Measurement Administration Act 1989* in respect of a penalty notice offence committed before the date of that Act's repeal.

Clause 6 provides for the taking of disciplinary action under the repealed *Trade Measurement Act 1989* if notice of such action was given in accordance with that Act before its repeal.

Clause 7 allows a person to apply to the Administrative Decisions Tribunal for the review of a decision of a licensing authority under the *Trade Measurement Act 1989* following its repeal if the person was entitled to make such an application immediately before the date of repeal. Clause 7 also provides for the continuation of existing reviews after the date of repeal.

Clause 8 allows an inspector to deal with a seized measuring instrument, record or other thing in accordance with the *Trade Measurement Act 1989* after its repeal if the inspector seized the thing prior to the date of repeal. Clause 8 also provides that the National Measurement Institute may inspect a seized thing for the purposes of the administration or enforcement of the Commonwealth trade measurement law.

Clause 9 provides that a fee or charge that is payable under Part 3 of the *Trade Measurement Administration Act 1989* (or the regulations under that Part) immediately before the repeal of that Act continues to be recoverable as a debt due to the Crown. Clause 9 also allows for the recovery of a charge under section 11 of the *Trade Measurement Administration Act 1989* that would have become payable after the commencement date but that relates to a period ending on or before the commencement date.

Clause 10 enables a search warrant to be issued after the commencement date in relation to the suspected contravention of a provision of the *Trade Measurement Administration Act 1989* or the *Trade Measurement Act 1989* (or of the regulations under either of those Acts) in or on a part of any premises before the commencement date.

Clause 11 makes it clear, for the purposes of the continuing matters referred to in clauses 5–10, that the *Trade Measurement Act 1989* and the *Trade Measurement Administration Act 1989* continue to apply as if they had not been repealed and the Acts and instruments specified in Schedule 1 (except Schedule 1.1) continue to apply as if they had not been amended.

Clause 12 provides that a reference in any other Act or instrument to the *Trade Measurement Act 1989* or the *Trade Measurement Administration Act 1989* extends to a reference to the Commonwealth trade measurement law (except in so far as the context or subject-matter otherwise indicates or requires).

Part 4 Miscellaneous

Clause 13 enables the Director-General (or an authorised member of staff of the Department of Services, Technology and Administration) to provide certain registers and other information to the National Measurement Institute for the purpose of the administration or enforcement of the Commonwealth trade measurement law.

Clause 14 provides that section 30 of the *Interpretation Act 1987* is not affected by the proposed Act unless otherwise indicated in the proposed Act. Section 30 enables proceedings to be commenced under the repealed *Trade Measurement Act 1989* or the *Trade Measurement Administration Act 1989* in respect of offences which are alleged to have been committed before the date of repeal.

Clause 15 enables regulations to be made for or with respect to any matter required or permitted to be prescribed by the proposed Act or that is necessary or convenient to be prescribed for carrying out or giving effect to the proposed Act.

Clause 16 provides for the repeal of the proposed Act on 1 July 2013.

Schedule 1 Amendment of Acts and instruments

Schedule 1.1 amends the *Fair Trading Act 1987* to ensure that the information sharing arrangements provided for under section 9A of that Act are sufficiently flexible (by providing that such arrangements may be approved of by the Director-General in addition to being entered into by the Director-General).

Schedule 1.1 also amends section 9A so that such arrangements may relate to information of a type prescribed by the regulations (in addition to the types of information already specified in that section).

Schedule 1.2–1.9 make amendments to various Acts and instruments as a consequence of the repeal of the *Trade Measurement Act 1989* and the *Trade Measurement Administration Act 1989*.