

# TRADE MEASUREMENT ADMINISTRATION ACT 1989 No. 234

## NEW SOUTH WALES



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**TRADE MEASUREMENT ADMINISTRATION ACT 1989 No. 234**

**NEW SOUTH WALES**



**Act No. 234, 1989**

An Act relating to the administration of the Trade Measurement Act 1989 and associated matters. [Assented to 21 December 1989]

**The Legislature of New South Wales enacts:**

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Trade Measurement Administration Act 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Definitions**

3. (1) In this Act:

"**Commercial Tribunal**" means the Commercial Tribunal of New South Wales constituted under the Commercial Tribunal Act 1984;

"**Commissioner**" means the person holding or acting in the office of Commissioner for Consumer Affairs under the Fair Trading Act 1987;

"**corresponding law**" means a law of another State or a Territory of the Commonwealth that corresponds with this Act;

"**inspector**" means:

- (a) the Superintendent;
- (b) a person holding office under section 5 as an inspector; or
- (c) a person authorised under section 6 to exercise the functions of an inspector;

"**Principal Act**" means the Trade Measurement Act 1989;

"**regulations**" means regulations under this Act;

"**Superintendent**" means the person for the time being holding or acting in the office of Superintendent of Trade Measurement under section 5.

(2) Expressions used in this Act have the same meanings respectively as they have in the Principal Act.

(3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and

- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Declarations for the purposes of the Principal Act**

- 4. For the purposes of the Principal Act:
  - (a) the Superintendent is the administering authority; and
  - (b) the Commissioner is the licensing authority.

**PART 2 - STAFF**

**Superintendent and other staff**

5. (1) A Superintendent of Trade Measurement, inspectors and such other staff as may be necessary to provide for the administration of the Principal Act and this Act are to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Commissioner may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

**Authority to exercise functions of an inspector**

6. (1) Authority to exercise the functions of an inspector may be given by the Superintendent to:

- (a) a person whose services are made available under section 5; or
- (b) a person who, under a corresponding law, has functions similar to those of an inspector.

(2) With the consent of the Commissioner of Police, authority to exercise the functions of an inspector may be given by the Superintendent to a member of the Police Force.

(3) A person authorised under subsection (1) or (2) has the functions of an inspector for the time and purposes specified by the Superintendent when giving the authority.

### **Control of inspectors**

7. A person (other than the Superintendent) who exercises the functions of an inspector is, in the exercise of the functions, subject to the direction and control of the Superintendent.

### **Inspectors' certificates of authority**

8. The Minister is to issue to each inspector a certificate of authority in the form determined by the Minister.

### **Functions of Superintendent under Commonwealth regulations**

9. The Superintendent, with the approval of the Minister:
- (a) may hold an appointment made under the National Measurement Regulations of the Commonwealth; and
  - (b) may exercise any functions conferred on the holder of the appointment.

## **PART 3 - FEES AND CHARGES**

### **Charge payable in respect of verification or re-verification by inspector**

10. (1) When an inspector verifies or re-verifies a measuring instrument pursuant to the Principal Act, there is payable to the administering authority by the owner of the instrument the appropriate charge, as specified in Schedule 1.

(2) If a charge payable under this section is not paid, the administering authority is authorised by this section to obliterate the inspector's mark made in the course of the verification or re-verification concerned.

(3) In this section:

"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.

### **Charge payable by licensee in respect of certification**

11. (1) When a licensee certifies a measuring instrument pursuant to the Principal Act, there is payable by the licensee to the administering authority the appropriate charge, as specified in Schedule 1.

(2) It is a condition of the licensee's licence that the licensee pays a charge payable under this section.

(3) The regulations may make provision for or with respect to the payment of a charge under this section, including provision:

- (a) as to the time within which the charge must be paid; and
- (b) requiring the submission by a licensee of returns as to the number and nature of measuring instruments certified by the licensee during the period to which the return relates; and
- (c) requiring the verification of any such return by statutory declaration.

### **Special provisions for batch testing**

12. When a measuring instrument is marked with an inspector's mark or licensee's mark pursuant to the provisions of the regulations under the Principal Act concerning batch testing:

- (a) that marking is, for the purposes of sections 10 and 11, to be regarded as constituting the verification or certification, as appropriate, of the instrument concerned; and
- (b) accordingly, the charge appropriate to verification or certification in the course of batch testing, as specified in Schedule 1, is payable to the administering authority under the section concerned.

### **Other fees and charges may be prescribed**

13. (1) Regulations may be made for and with respect to the imposition, collection and recovery of fees and charges for the purposes of the Principal Act and this Act including:

- (a) application fees; and
- (b) licence fees; and
- (c) charges for the examination of public weighbridges for suitability; and
- (d) fees payable for the issue of amended licences or certificates and for the issue of duplicate licences and certificates; and
- (e) charges payable where an inspector keeps an appointment to examine or test a measuring instrument but is unable to carry out the examination or testing because the measuring instrument is unavailable or inaccessible or access to it is unreasonably refused; and

- (f) charges to re-imburse costs incurred in connection with the examination and testing of a measuring instrument under the Principal Act; and
  - (g) charges payable by a person where the use of specified labour or equipment provided by the Superintendent is necessary for the exercise of the functions of an inspector; and
  - (h) charges payable for the use by a person of specified equipment provided by the Superintendent.
- (2) The regulations may provide for a charge under subsection (1) (c)-(h) to be calculated on a time basis.
- (3) The regulations may provide for the fee payable under section 52 (Periodic licence fee) of the Principal Act for a licence to be a specified amount or an amount calculated in a specified manner.

#### **Recovery of unpaid fees and charges**

14. A fee or charge payable under this Part is recoverable as a debt due to the Crown.

### **PART 4 - PROCEEDINGS FOR OFFENCES**

#### **Time for instituting proceedings for offence**

15. Proceedings for an offence under the Principal Act or this Act may be instituted at any time before:

- (a) the expiration of the period of 3 years that next succeeds the commission of the offence; and
- (b) in the case of an offence under section 28 (1) (Requirements as to packaging of pre-packed articles) or 32 (1) (a) (Offence of packing short measure) of the Principal Act, the expiration of the period referred to in paragraph (a) or the expiration of the period of 1 year that next succeeds the discovery by an inspector of the commission of the offence, whichever is the later.

#### **Disposal of proceedings for offence**

16. (1) Proceedings for an offence under the Principal Act or this Act may be taken and prosecuted only by the Superintendent or, in the name of the Superintendent, by a person acting with the authority of the Superintendent.



(2) Proceedings for an offence under the Principal Act or this Act must be disposed of summarily before:

- (a) a Local Court constituted by a Magistrate; or
- (b) the Supreme Court in its summary jurisdiction.

(3) The maximum pecuniary penalty that may be imposed by a Local Court in proceedings that could have been taken in the Supreme Court is \$10,000.

(4) In proceedings for an offence, an authority to prosecute purporting to have been signed by the Superintendent is evidence of that authority without proof of the signature of the Superintendent.

### **Double jeopardy**

17. (1) If an act or omission is both an offence under the Principal Act and an offence under a law of the Commonwealth, or of another State, or of a Territory, a person who:

- (a) is convicted of the offence under that law; or
- (b) is found by a court to have committed the offence under that law but is not convicted,

is not liable to be proceeded against for the offence under the Principal Act.

(2) In proceedings under the Principal Act, a certificate that complies with subsection (3) in relation to a conviction or finding of a court is conclusive evidence of the conviction or finding unless it is proved:

- (a) that the conviction was quashed or set aside; or
- (b) that the finding was set aside or reversed.

(3) A certificate complies with this subsection if it is signed by the registrar or other proper officer of the court that directed the conviction or made the finding and is to the effect:

- (a) that a named person was, on a stated date, convicted by that court of a specified offence; or
- (b) that a named person charged with a specified offence was, on a stated date, found by that court to have committed the offence but was not convicted.

### **Offences against the regulations**

18. If a regulation under the Principal Act or this Act imposes a penalty for an offence against the regulation, this Part applies to the offence in the same way as it applies to an offence against the Principal Act or this Act, except that:

- (a) proceedings for the offence against the regulation must be disposed of summarily before a Local Court constituted by a Magistrate; and
- (b) the maximum penalty that may be imposed for the offence is the penalty provided by the regulation.

## **PART 5 - APPEALS**

### **Appeals tribunal (disciplinary proceedings against licensees)**

19. For the purposes of section 59 (Rights of appeal) of the Principal Act, the appeals tribunal is the Commercial Tribunal.

### **Determination of appeals**

20. The appeals tribunal is to determine such an appeal and in doing so may:

- (a) in the case of an appeal against a decision to refuse an application for a licence - make any decision that the licensing authority could have made on the application;
- (b) in the case of an appeal against a decision to make an order under section 55 (Order preventing employment of certain persons) of the Principal Act - amend the order;
- (c) in the case of an appeal against a decision to impose or vary a condition of a licence - impose a different condition or vary the condition differently;
- (d) in the case of an appeal against a decision to take disciplinary action against a licensee - remit the matter to the licensing authority and direct it to take specified disciplinary action under section 58 (1) of the Principal Act.

### **Appeal to Supreme Court on question of law**

21. (1) A party to an appeal to the appeals tribunal may appeal to the Supreme Court against an order or decision made by the tribunal on a question of law.

- (2) On the hearing of the appeal, the Supreme Court may:
- (a) remit the matter to the appeals tribunal for determination in accordance with the decision of the Supreme Court; or
  - (b) make such other order as it thinks fit.

## **PART 6 - GENERAL**

### **Search warrants**

22. (1) An inspector may apply to an authorised justice for the issue of a search warrant if the inspector believes on reasonable grounds that a provision of this Act or the Principal Act or of the regulations under this Act or the Principal Act is being or has been contravened in or on a part of any premises.

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:

- (a) to enter the premises; and
- (b) to search the premises for evidence of a contravention of this Act or the Principal Act or of the regulations under this Act or the Principal Act.

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) In this section:

"authorised justice" means a Magistrate or a justice of the peace employed in the Attorney General's Department.

### **Penalty notices for certain offences**

23. (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under this Act, or the Principal Act, prescribed by the regulations under this Act.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
- (c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty which could be imposed for the offence by a court.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

(9) In this section:

**"authorised officer"** means:

- (a) an inspector; or
- (b) an officer of the administering authority authorised by the administering authority for the purposes of this section.

### **Service of documents**

24. (1) A document required or permitted by the Principal Act or this Act to be served on a person (whether the expression "serve", "give" or "send" or any other expression is used) may, unless the contrary intention appears, be served:

- (a) on a natural person - by delivering it to the person personally or by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a body corporate - by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.
- (2) Nothing in this section:
- (a) affects the operation of any other law of the State or elsewhere that authorises the service of a document in any other way; or
  - (b) affects the power of a court to authorise service of a document in any other way.

### **Delegation**

25. (1) The Commissioner may delegate to any person a function of the Commissioner exercisable under the Principal Act or this Act.

(2) The Superintendent may delegate to any person a function of the Superintendent exercisable under the Principal Act or this Act.

(3) A power of delegation under this section may not itself be delegated under this section.

### **Savings and transitional provisions**

26. Schedule 2 has effect.

### **Repeals**

27. (1) The following Acts are repealed:

Weights and Measures Act 1915 No. 10

Weights and Measures (Amendment) Act 1980 No. 63

(2) The Weights and Measures Regulations 1917 are repealed.

### **Regulations**

28. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to:

- (a) any matter required or permitted by the Principal Act to be prescribed by regulations made under this Act; or
- (b) the administration of the Principal Act.

(3) A regulation may impose a penalty not exceeding 20 penalty units for an offence against the regulation.

**Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)**

29. The Search Warrants Act 1985 is amended by inserting in the definition of "search warrant" in section 10 in alphabetical order of Acts the following matter:

section 22 of the Trade Measurement Administration Act 1989;

**Amendment of Justices Act 1902 No. 27, s.100I (Definitions)**

30. The Justices Act 1902 is amended by inserting (in alphabetical order) in the statutory provisions listed under paragraph (a) of the definition of "penalty notice" in section 100I the following matter:

Trade Measurement Administration Act 1989, section 23.

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SCHEDULE 1 - CHARGES

(Secs. 10 - 12)

TABLE 1 - CHARGES PAYABLE UNDER SECTION 10  
(verification/re-verification)

<i>Type or class of instrument</i>	<i>Charge for verification or re-verification</i>
1. MASSES:	
Each mass not exceeding 25kg	\$3
Each mass exceeding 25kg but not exceeding 100kg	\$20
Each mass exceeding 100kg	\$20 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the mass
2. MEASURES OF CAPACITY:	
Each measure of liquid not exceeding 20 litres	\$5 (or \$10 if the measure is subdivided)
Each measure of liquid exceeding 20 litres	\$20 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument
Each measure of liquid being a lubricating oil measure that is batch tested at the premises of the manufacturer	\$0.30

SCHEDULE 1 - CHARGES - *continued*

Each measuring cylinder or pharmaceutical measure	\$5
Each measure being a pipette, milk or cream flask used in connection with dairy products	\$5
Each beverage measure that is batch tested at the premises of the manufacturer in batches of up to 30,000 measures	\$0.30
Each beverage measure that is batch tested at the premises of the manufacturer in batches exceeding 30,000 measures	\$0.20
Each spirit measure of capacity 15ml, 30ml or 60ml	\$5
3. MEASURES OF LENGTH:	
Each set of graduations on a measure of length not exceeding 2 metres	\$4
Each flexible measure of length exceeding 2 metres	\$10 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument



SCHEDULE 1 - CHARGES - *continued*

4. WEIGHING INSTRUMENTS:

**Instruments not tested by the Weighbridge Test Unit made available by the administering authority:**

Each instrument (except an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$14

Each instrument (being an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$20

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$30

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$35

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$45

SCHEDULE 1 - CHARGES - *continued*

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$80

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$150

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$200

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$300

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$350

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$400

SCHEDULE 1 - CHARGES - *continued*

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$450

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$500

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$550

Each portable axle weigher \$40

Each chondrometer \$25

**Precious stones or metals:**

Each instrument, being an instrument used for the purpose of weighing precious stones or precious metals \$15 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

**Each pre-packaging in motion instrument:**

. with a capacity not exceeding 15kg \$100

. with a capacity exceeding 15kg \$150

SCHEDULE 1 - CHARGES - *continued*

**Instruments tested by the Weighbridge Test Unit made available by the administering authority**

\$250 for the first hour or part thereof, then \$56 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument with a minimum fee of \$250 in each case

An additional charge of \$20 is payable in respect of the verification or re-verification of a weighing instrument for each device attached to the instrument that displays or prints, or displays and prints, in addition to the information displayed by the instrument, the quantity, unit price or price of an article, or any combinations thereof, including a cash register.

5. LIQUID MEASURING INSTRUMENTS:

**Each liquid measuring instrument of the flowmeter type with or without a mechanical computing device:**

- . that has a flow rate not exceeding 100 litres per minute \$30
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56

SCHEDULE 1 - CHARGES - *continued*

- . that has a flow rate exceeding 250 litres per minute \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

**Each liquid measuring instrument of the flowmeter type fitted with an electronic indicating device:**

- . that has a flow rate not exceeding 100 litres per minute \$45
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

Each flowmeter used for measuring liquid propane gas \$130

Each liquid measuring instrument of the volumetric type having a capacity not exceeding 250 litres \$56

SCHEDULE 1 - CHARGES - *continued*

Each liquid measuring instrument of the volumetric type having a capacity exceeding 250 litres \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

An additional charge of \$20 is payable in respect of the verification or re-verification of a liquid measuring instrument for each bank-note accepting device, cash register or price or volume indicating device that is attached to the instrument.

An additional fee of \$40 is payable in respect of the verification or re-verification of a liquid measuring instrument for each card operated device attached to the instrument.

6. MISCELLANEOUS INSTRUMENTS:

Each bulk tank, tanker or farm milk tank \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

Dip sticks \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument or instruments

Each fabric measuring instrument \$29

Each leather measuring instrument \$29

SCHEDULE 1 - CHARGES - *continued*

Each spirit measuring instrument (remote storage)	\$50
Thermometers	\$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument or instruments
Each totalising belt conveyor weighing instrument	\$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument
Each measuring instrument not otherwise included in this Table	\$29 per half hour or part thereof that an inspector necessarily spends verifying or re-verifying the instrument

TABLE 2 - CHARGES PAYABLE UNDER SECTION 11  
(certification)

<i>Type or class of instrument</i>	<i>Charge for certification</i>
1. MASSES:	
Each mass not exceeding 25kg	\$3
Each mass exceeding 25kg	\$20
2. MEASURES OF CAPACITY:	
Each measure of liquid not exceeding 20 litres	\$5 (or \$10 if the measure is subdivided)

SCHEDULE 1 - CHARGES - *continued*

Each measure of liquid exceeding 20 litres	\$20
Each measure of liquid being a lubricating oil measure that is batch tested at the premises of the manufacturer	\$0.30
Each measuring cylinder or pharmaceutical measure	\$5
Each measure being a pipette, milk or cream flask used in connection with dairy products	\$5
Each beverage measure that is batch tested at the premises of the manufacturer in batches of up to 30,000 measures	\$0.30
Each beverage measure that is batch tested at the premises of the manufacturer in batches exceeding 30,000 measures	\$0.20
Spirit measures of capacity 15ml, 30ml and 60ml	\$5
3. MEASURES OF LENGTH:	
Each set of graduations on a measure of length not exceeding 2 metres	\$4
Each flexible measure of length exceeding 2 metres	\$10



SCHEDULE 1 - CHARGES - *continued*

4. WEIGHING INSTRUMENTS:

Each instrument (except an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$14

Each instrument (being an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$20

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$30

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$35

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$45

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$80

SCHEDULE 1 - CHARGES - *continued*

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$150

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$200

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$300

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$350

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$400

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$450

SCHEDULE 1 - CHARGES - *continued*

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$500

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$550

Each portable axle weigher \$40

Each chondrometer \$25

**Precious stones or metals:**

Each instrument used for the purpose of weighing precious stones or precious metals \$15

**Each pre-packaging in motion instrument:**

. with a capacity not exceeding 15kg \$100

. with a capacity exceeding 15kg \$150

An additional charge of \$20 is payable in respect of the certification of a weighing instrument for each device attached to the instrument that displays or prints, or displays and prints, in addition to the information displayed by the instrument, the quantity, unit price or price of an article, or any combinations thereof, including a cash register.

SCHEDULE 1 - CHARGES - *continued*

5. LIQUID MEASURING INSTRUMENTS:

**Each liquid measuring instrument of the flowmeter type with or without a mechanical computing device:**

- . that has a flow rate not exceeding 100 litres per minute \$30
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$58

**Each liquid measuring instrument of the flowmeter type fitted with an electronic indicating device:**

- . that has a flow rate not exceeding 100 litres per minute \$45
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$58

Each flowmeter used for measuring liquid propane gas \$130

Each liquid measuring instrument of the volumetric type having a capacity not exceeding 250 litres \$56

SCHEDULE 1 - CHARGES - *continued*

Each liquid measuring instrument  
of the volumetric type having a  
capacity exceeding 250 litres \$58

An additional charge of \$20 is payable in respect of the  
certification of a liquid measuring instrument for each bank-note  
accepting device, cash register or price or volume indicating  
device that is attached to the instrument.

An additional fee of \$40 is payable in respect of the certification  
of a liquid measuring instrument for each card operated device  
attached to the instrument.

6. MISCELLANEOUS  
INSTRUMENTS:

Each bulk tank, tanker or farm  
milk tank \$29

Each dip stick \$29

Each fabric measuring instrument \$29

Each leather measuring  
instrument \$29

Each thermometer \$29

Each spirit measuring instrument  
(remote storage) \$50

Each totalising belt conveyor  
weighing instrument \$29

Each measuring instrument not  
otherwise included in this Table \$29

## SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 26)

### Definitions

1. In this Schedule:

"**appointed day**" means the day on which this Schedule commences;

"**repealed Act**" means the Weights and Measures Act 1915 as in force immediately before the appointed day.

### Marks under repealed Act

2. A mark of verification or re-verification made on a measuring instrument pursuant to the repealed Act is to be considered to be an inspector's mark for the purposes of the Principal Act.

### Permit for sale of pre-packed articles

3. A permit in force under section 29F of the repealed Act immediately before its repeal is to be considered to have been issued under section 38 of the Principal Act.

### References to the repealed Act

4. A reference in any other Act, or in any instrument, to the repealed Act is to be read as a reference to this Act or the Principal Act, as appropriate.

### General

5. (1) If anything done or commenced under the repealed Act before the appointed day and still having effect, or not completed, immediately before that day could have been done or commenced under this Act or the Principal Act if it had been in force at the time the thing was done or commenced:

(a) the thing done continues to have effect; or

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS  
*- continued*

(b) the thing commenced may be completed,  
as if it had been done or commenced under the Principal Act.

(2) Subclause (1) does not apply to anything in relation to which other provision is made by or under this Schedule.

**Regulations**

6. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of the Principal Act or this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision referred to in subclause (1) is, if the regulations so provide, to have effect despite any other clause of this Schedule.

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[*Minister's second reading speech made in -  
Legislative Assembly on 15 November 1989  
Legislative Council on 23 November 1989*]

ARTICLE 10. SAVINGS AND TRANSITIONAL PROVISIONS

(1) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(2) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(3) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(4) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(5) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(6) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(7) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(8) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(9) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(10) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(11) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(12) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(13) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(14) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.

(15) The provisions of this Act shall be applied to the extent that they are not inconsistent with the provisions of any law in effect on the date of the effective date of this Act.



FIRST PRINT

## TRADE MEASUREMENT ADMINISTRATION BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Trade Measurement Bill 1989.

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

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#### PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

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

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

#### PART 2 - STAFF

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

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

## *Trade Measurement Administration 1989*

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

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

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

### **PART 3 - FEES AND CHARGES**

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

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

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

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

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

### **PART 4 - PROCEEDINGS FOR OFFENCES**

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

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

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

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

### **PART 5 - APPEALS**

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

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

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

*Trade Measurement Administration 1989*

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**PART 6 - GENERAL**

**Clause 22** provides for the issue of search warrants.

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

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

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

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

**Clause 27** repeals the former Act and regulations.

**Clause 28** is a general regulation making power.

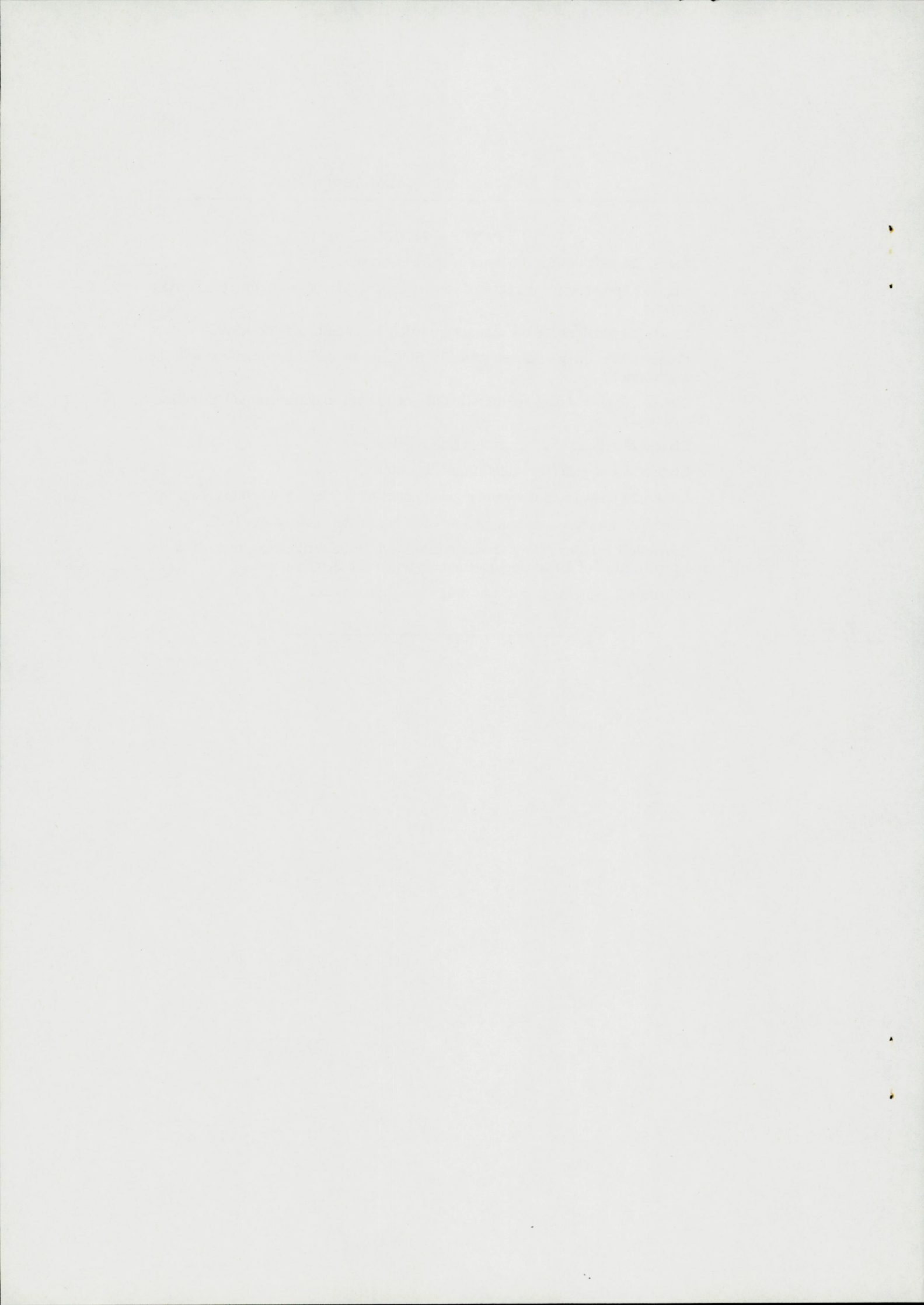
**Clause 29** makes a consequential amendment to the Search Warrants Act 1985.

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

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

**Schedule 2** contains savings and transitional provisions.

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FIRST PRINT

**TRADE MEASUREMENT ADMINISTRATION BILL 1989**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

**PART 1 - PRELIMINARY**

1. Short title
2. Commencement
3. Definitions
4. Declarations for the purposes of the Principal Act

**PART 2 - STAFF**

5. Superintendent and other staff
6. Authority to exercise functions of an inspector
7. Control of inspectors
8. Inspectors' certificates of authority
9. Functions of Superintendent under Commonwealth regulations

**PART 3 - FEES AND CHARGES**

10. Charge payable in respect of verification or re-verification
11. Charge payable by licensee in respect of certification
12. Special provisions for batch testing
13. Other fees and charges may be prescribed
14. Recovery of unpaid fees and charges

**PART 4 - PROCEEDINGS FOR OFFENCES**

15. Time for instituting proceedings for offence
16. Disposal of proceedings for offence
17. Double jeopardy
18. Offences against the regulations

**PART 5 - APPEALS**

19. Appeals tribunal (disciplinary proceedings against licensees)

*Trade Measurement Administration 1989*

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20. Determination of appeals
21. Appeal to Supreme Court on question of law

PART 6 - GENERAL

22. Search warrants
23. Penalty notices for certain offences
24. Service of documents
25. Delegation
26. Savings and transitional provisions
27. Repeals
28. Regulations
29. Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)
30. Amendment of Justices Act 1902 No. 27, s. 100I (Definitions)

SCHEDULE 1 - CHARGES

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS

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**TRADE MEASUREMENT ADMINISTRATION BILL 1989**

NEW SOUTH WALES



No. , 1989

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**A BILL FOR**

An Act relating to the administration of the Trade Measurement Act 1989 and associated matters.

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The Legislature of New South Wales enacts:

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Trade Measurement Administration Act 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Definitions**

3. (1) In this Act:

"**Commercial Tribunal**" means the Commercial Tribunal of New South Wales constituted under the Commercial Tribunal Act 1984;

"**Commissioner**" means the person holding or acting in the office of Commissioner for Consumer Affairs under the Fair Trading Act 1987;

"**corresponding law**" means a law of another State or a Territory of the Commonwealth that corresponds with this Act;

"**inspector**" means:

- (a) the Superintendent;
- (b) a person holding office under section 5 as an inspector; or
- (c) a person authorised under section 6 to exercise the functions of an inspector;

"**Principal Act**" means the Trade Measurement Act 1989;

"**regulations**" means regulations under this Act;

"**Superintendent**" means the person for the time being holding or acting in the office of Superintendent of Trade Measurement under section 5.

(2) Expressions used in this Act have the same meanings respectively as they have in the Principal Act.

(3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and



- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Declarations for the purposes of the Principal Act**

- 4. For the purposes of the Principal Act:
  - (a) the Superintendent is the administering authority; and
  - (b) the Commissioner is the licensing authority.

**PART 2 - STAFF**

**Superintendent and other staff**

5. (1) A Superintendent of Trade Measurement, inspectors and such other staff as may be necessary to provide for the administration of the Principal Act and this Act are to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Commissioner may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

**Authority to exercise functions of an inspector**

6. (1) Authority to exercise the functions of an inspector may be given by the Superintendent to:

- (a) a person whose services are made available under section 5; or
- (b) a person who, under a corresponding law, has functions similar to those of an inspector.

(2) With the consent of the Commissioner of Police, authority to exercise the functions of an inspector may be given by the Superintendent to a member of the Police Force.

(3) A person authorised under subsection (1) or (2) has the functions of an inspector for the time and purposes specified by the Superintendent when giving the authority.

**Control of inspectors**

7. A person (other than the Superintendent) who exercises the functions of an inspector is, in the exercise of the functions, subject to the direction and control of the Superintendent.

**Inspectors' certificates of authority**

8. The Minister is to issue to each inspector a certificate of authority in the form determined by the Minister.

**Functions of Superintendent under Commonwealth regulations**

9. The Superintendent, with the approval of the Minister:

- (a) may hold an appointment made under the National Measurement Regulations of the Commonwealth; and
- (b) may exercise any functions conferred on the holder of the appointment.

**PART 3 - FEES AND CHARGES**

**Charge payable in respect of verification or re-verification by inspector**

10. (1) When an inspector verifies or re-verifies a measuring instrument pursuant to the Principal Act, there is payable to the administering authority by the owner of the instrument the appropriate charge, as specified in Schedule 1.

(2) If a charge payable under this section is not paid, the administering authority is authorised by this section to obliterate the inspector's mark made in the course of the verification or re-verification concerned.

(3) In this section:

"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.

**Charge payable by licensee in respect of certification**

11. (1) When a licensee certifies a measuring instrument pursuant to the Principal Act, there is payable by the licensee to the administering authority the appropriate charge, as specified in Schedule 1.

(2) It is a condition of the licensee's licence that the licensee pays a charge payable under this section.

(3) The regulations may make provision for or with respect to the payment of a charge under this section, including provision:

- (a) as to the time within which the charge must be paid; and
- (b) requiring the submission by a licensee of returns as to the number and nature of measuring instruments certified by the licensee during the period to which the return relates; and
- (c) requiring the verification of any such return by statutory declaration.

**Special provisions for batch testing**

12. When a measuring instrument is marked with an inspector's mark or licensee's mark pursuant to the provisions of the regulations under the Principal Act concerning batch testing:

- (a) that marking is, for the purposes of sections 10 and 11, to be regarded as constituting the verification or certification, as appropriate, of the instrument concerned; and
- (b) accordingly, the charge appropriate to verification or certification in the course of batch testing, as specified in Schedule 1, is payable to the administering authority under the section concerned.

**Other fees and charges may be prescribed**

13. (1) Regulations may be made for and with respect to the imposition, collection and recovery of fees and charges for the purposes of the Principal Act and this Act including:

- (a) application fees; and
- (b) licence fees; and
- (c) charges for the examination of public weighbridges for suitability; and
- (d) fees payable for the issue of amended licences or certificates and for the issue of duplicate licences and certificates; and
- (e) charges payable where an inspector keeps an appointment to examine or test a measuring instrument but is unable to carry out the examination or testing because the measuring instrument is unavailable or inaccessible or access to it is unreasonably refused; and

- (f) charges to re-imburse costs incurred in connection with the examination and testing of a measuring instrument under the Principal Act; and
  - (g) charges payable by a person where the use of specified labour or equipment provided by the Superintendent is necessary for the exercise of the functions of an inspector; and
  - (h) charges payable for the use by a person of specified equipment provided by the Superintendent.
- (2) The regulations may provide for a charge under subsection (1) (c)-(h) to be calculated on a time basis.
- (3) The regulations may provide for the fee payable under section 52 (Periodic licence fee) of the Principal Act for a licence to be a specified amount or an amount calculated in a specified manner.

**Recovery of unpaid fees and charges**

14. A fee or charge payable under this Part is recoverable as a debt due to the Crown.

**PART 4 - PROCEEDINGS FOR OFFENCES**

**Time for instituting proceedings for offence**

15. Proceedings for an offence under the Principal Act or this Act may be instituted at any time before:

- (a) the expiration of the period of 3 years that next succeeds the commission of the offence; and
- (b) in the case of an offence under section 28 (1) (Requirements as to packaging of pre-packed articles) or 32 (1) (a) (Offence of packing short measure) of the Principal Act, the expiration of the period referred to in paragraph (a) or the expiration of the period of 1 year that next succeeds the discovery by an inspector of the commission of the offence, whichever is the later.

**Disposal of proceedings for offence**

16. (1) Proceedings for an offence under the Principal Act or this Act may be taken and prosecuted only by the Superintendent or, in the name of the Superintendent, by a person acting with the authority of the Superintendent.

(2) Proceedings for an offence under the Principal Act or this Act must be disposed of summarily before:

- (a) a Local Court constituted by a Magistrate; or
- (b) the Supreme Court in its summary jurisdiction.

(3) The maximum pecuniary penalty that may be imposed by a Local Court in proceedings that could have been taken in the Supreme Court is \$10,000.

(4) In proceedings for an offence, an authority to prosecute purporting to have been signed by the Superintendent is evidence of that authority without proof of the signature of the Superintendent.

#### **Double jeopardy**

17. (1) If an act or omission is both an offence under the Principal Act and an offence under a law of the Commonwealth, or of another State, or of a Territory, a person who:

- (a) is convicted of the offence under that law; or
- (b) is found by a court to have committed the offence under that law but is not convicted,

is not liable to be proceeded against for the offence under the Principal Act.

(2) In proceedings under the Principal Act, a certificate that complies with subsection (3) in relation to a conviction or finding of a court is conclusive evidence of the conviction or finding unless it is proved:

- (a) that the conviction was quashed or set aside; or
- (b) that the finding was set aside or reversed.

(3) A certificate complies with this subsection if it is signed by the registrar or other proper officer of the court that directed the conviction or made the finding and is to the effect:

- (a) that a named person was, on a stated date, convicted by that court of a specified offence; or
- (b) that a named person charged with a specified offence was, on a stated date, found by that court to have committed the offence but was not convicted.

**Offences against the regulations**

18. If a regulation under the Principal Act or this Act imposes a penalty for an offence against the regulation, this Part applies to the offence in the same way as it applies to an offence against the Principal Act or this Act, except that:

- (a) proceedings for the offence against the regulation must be disposed of summarily before a Local Court constituted by a Magistrate; and
- (b) the maximum penalty that may be imposed for the offence is the penalty provided by the regulation.

**PART 5 - APPEALS**

**Appeals tribunal (disciplinary proceedings against licensees)**

19. For the purposes of section 59 (Rights of appeal) of the Principal Act, the appeals tribunal is the Commercial Tribunal.

**Determination of appeals**

20. The appeals tribunal is to determine such an appeal and in doing so may:

- (a) in the case of an appeal against a decision to refuse an application for a licence - make any decision that the licensing authority could have made on the application;
- (b) in the case of an appeal against a decision to make an order under section 55 (Order preventing employment of certain persons) of the Principal Act - amend the order;
- (c) in the case of an appeal against a decision to impose or vary a condition of a licence - impose a different condition or vary the condition differently;
- (d) in the case of an appeal against a decision to take disciplinary action against a licensee - remit the matter to the licensing authority and direct it to take specified disciplinary action under section 58 (1) of the Principal Act.

**Appeal to Supreme Court on question of law**

21. (1) A party to an appeal to the appeals tribunal may appeal to the Supreme Court against an order or decision made by the tribunal on a question of law.

- (2) On the hearing of the appeal, the Supreme Court may:
- (a) remit the matter to the appeals tribunal for determination in accordance with the decision of the Supreme Court; or
  - (b) make such other order as it thinks fit.

**PART 6 - GENERAL**

**Search warrants**

22. (1) An inspector may apply to an authorised justice for the issue of a search warrant if the inspector believes on reasonable grounds that a provision of this Act or the Principal Act or of the regulations under this Act or the Principal Act is being or has been contravened in or on a part of any premises.

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:

- (a) to enter the premises; and
- (b) to search the premises for evidence of a contravention of this Act or the Principal Act or of the regulations under this Act or the Principal Act.

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) In this section:

**"authorised justice"** means a Magistrate or a justice of the peace employed in the Attorney General's Department.

**Penalty notices for certain offences**

23. (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under this Act, or the Principal Act, prescribed by the regulations under this Act.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
- (c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty which could be imposed for the offence by a court.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

(9) In this section:

"authorised officer" means:

- (a) an inspector; or
- (b) an officer of the administering authority authorised by the administering authority for the purposes of this section.

### **Service of documents**

24. (1) A document required or permitted by the Principal Act or this Act to be served on a person (whether the expression "serve", "give" or "send" or any other expression is used) may, unless the contrary intention appears, be served:



- (a) on a natural person - by delivering it to the person personally or by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (b) on a body corporate - by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.
- (2) Nothing in this section:
- (a) affects the operation of any other law of the State or elsewhere that authorises the service of a document in any other way; or
  - (b) affects the power of a court to authorise service of a document in any other way.

#### **Delegation**

25. (1) The Commissioner may delegate to any person a function of the Commissioner exercisable under the Principal Act or this Act.

(2) The Superintendent may delegate to any person a function of the Superintendent exercisable under the Principal Act or this Act.

(3) A power of delegation under this section may not itself be delegated under this section.

#### **Savings and transitional provisions**

26. Schedule 2 has effect.

#### **Repeals**

27. (1) The following Acts are repealed:

Weights and Measures Act 1915 No. 10

Weights and Measures (Amendment) Act 1980 No. 63

(2) The Weights and Measures Regulations 1917 are repealed.

#### **Regulations**

28. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to:

- (a) any matter required or permitted by the Principal Act to be prescribed by regulations made under this Act; or
- (b) the administration of the Principal Act.

(3) A regulation may impose a penalty not exceeding 20 penalty units for an offence against the regulation.

**Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)**

29. The Search Warrants Act 1985 is amended by inserting in the definition of "search warrant" in section 10 in alphabetical order of Acts the following matter:

section 22 of the Trade Measurement Administration Act 1989;

**Amendment of Justices Act 1902 No. 27, s.100I (Definitions)**

30. The Justices Act 1902 is amended by inserting (in alphabetical order) in the statutory provisions listed under paragraph (a) of the definition of "penalty notice" in section 100I the following matter:

Trade Measurement Administration Act 1989, section 23.

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**SCHEDULE 1 - CHARGES**

(Secs. 10 - 12)

**TABLE 1 - CHARGES PAYABLE UNDER SECTION 10**  
(verification/re-verification)

<i>Type or class of instrument</i>	<i>Charge for verification or re-verification</i>
1. MASSES:	
Each mass not exceeding 25kg	\$3
Each mass exceeding 25kg but not exceeding 100kg	\$20
Each mass exceeding 100kg	\$20 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the mass
2. MEASURES OF CAPACITY:	
Each measure of liquid not exceeding 20 litres	\$5 (or \$10 if the measure is subdivided)
Each measure of liquid exceeding 20 litres	\$20 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument
Each measure of liquid being a lubricating oil measure that is batch tested at the premises of the manufacturer	\$0.30

SCHEDULE 1 - CHARGES - *continued*

Each measuring cylinder or pharmaceutical measure	\$5
Each measure being a pipette, milk or cream flask used in connection with dairy products	\$5
Each beverage measure that is batch tested at the premises of the manufacturer in batches of up to 30,000 measures	\$0.30
Each beverage measure that is batch tested at the premises of the manufacturer in batches exceeding 30,000 measures	\$0.20
Each spirit measure of capacity 15ml, 30ml or 60ml	\$5
3. MEASURES OF LENGTH:	
Each set of graduations on a measure of length not exceeding 2 metres	\$4
Each flexible measure of length exceeding 2 metres	\$10 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

SCHEDULE 1 - CHARGES - *continued*

4. WEIGHING INSTRUMENTS:

**Instruments not tested by the Weighbridge Test Unit made available by the administering authority:**

Each instrument (except an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$14

Each instrument (being an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$20

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$30

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$35

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$45

SCHEDULE 1 - CHARGES - *continued*

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity	\$80
Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity	\$150
Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity	\$200
Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity	\$300
Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity	\$350
Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity	\$400

SCHEDULE 1 - CHARGES - *continued*

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$450

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$500

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$550

Each portable axle weigher \$40

Each chondrometer \$25

**Precious stones or metals:**

Each instrument, being an instrument used for the purpose of weighing precious stones or precious metals \$15 plus \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

**Each pre-packaging in motion instrument:**

. with a capacity not exceeding 15kg \$100

. with a capacity exceeding 15kg \$150

SCHEDULE 1 - CHARGES - *continued*

**Instruments tested by the Weighbridge Test Unit made available by the administering authority**

\$250 for the first hour or part thereof, then \$56 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument with a minimum fee of \$250 in each case

An additional charge of \$20 is payable in respect of the verification or re-verification of a weighing instrument for each device attached to the instrument that displays or prints, or displays and prints, in addition to the information displayed by the instrument, the quantity, unit price or price of an article, or any combinations thereof, including a cash register.

5. **LIQUID MEASURING INSTRUMENTS:**

**Each liquid measuring instrument of the flowmeter type with or without a mechanical computing device:**

- . that has a flow rate not exceeding 100 litres per minute \$30
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56



SCHEDULE 1 - CHARGES - *continued*

- . that has a flow rate exceeding 250 litres per minute \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

**Each liquid measuring instrument of the flowmeter type fitted with an electronic indicating device:**

- . that has a flow rate not exceeding 100 litres per minute \$45
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

Each flowmeter used for measuring liquid propane gas \$130

Each liquid measuring instrument of the volumetric type having a capacity not exceeding 250 litres \$56

SCHEDULE 1 - CHARGES - *continued*

Each liquid measuring instrument of the volumetric type having a capacity exceeding 250 litres \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

An additional charge of \$20 is payable in respect of the verification or re-verification of a liquid measuring instrument for each bank-note accepting device, cash register or price or volume indicating device that is attached to the instrument.

An additional fee of \$40 is payable in respect of the verification or re-verification of a liquid measuring instrument for each card operated device attached to the instrument.

6. MISCELLANEOUS INSTRUMENTS:

Each bulk tank, tanker or farm milk tank \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument

Dip sticks \$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument or instruments

Each fabric measuring instrument \$29

Each leather measuring instrument \$29

SCHEDULE 1 - CHARGES - *continued*

Each spirit measuring instrument (remote storage)	\$50
Thermometers	\$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument or instruments
Each totalising belt conveyor weighing instrument	\$29 per half hour or part thereof that an inspector necessarily spends in verifying or re-verifying the instrument
Each measuring instrument not otherwise included in this Table	\$29 per half hour or part thereof that an inspector necessarily spends verifying or re-verifying the instrument

TABLE 2 - CHARGES PAYABLE UNDER SECTION 11  
(certification)

<i>Type or class of instrument</i>	<i>Charge for certification</i>
1. MASSES:	
Each mass not exceeding 25kg	\$3
Each mass exceeding 25kg	\$20
2. MEASURES OF CAPACITY:	
Each measure of liquid not exceeding 20 litres	\$5 (or \$10 if the measure is subdivided)

SCHEDULE 1 - CHARGES - *continued*

Each measure of liquid exceeding 20 litres	\$20
Each measure of liquid being a lubricating oil measure that is batch tested at the premises of the manufacturer	\$0.30
Each measuring cylinder or pharmaceutical measure	\$5
Each measure being a pipette, milk or cream flask used in connection with dairy products	\$5
Each beverage measure that is batch tested at the premises of the manufacturer in batches of up to 30,000 measures	\$0.30
Each beverage measure that is batch tested at the premises of the manufacturer in batches exceeding 30,000 measures	\$0.20
Spirit measures of capacity 15ml, 30ml and 60ml	\$5
3. MEASURES OF LENGTH:	
Each set of graduations on a measure of length not exceeding 2 metres	\$4
Each flexible measure of length exceeding 2 metres	\$10

SCHEDULE 1 - CHARGES - *continued*

4. WEIGHING INSTRUMENTS:

Each instrument (except an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$14

Each instrument (being an instrument fitted with a digital indicator or computing device) not exceeding 50kg capacity \$20

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$30

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50kg capacity but not exceeding 200kg capacity \$35

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$45

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 200kg capacity but not exceeding 3 tonne capacity \$80

SCHEDULE 1 - CHARGES - *continued*

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$150

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 3 tonne capacity but not exceeding 20 tonne capacity \$200

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$300

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 20 tonne capacity but not exceeding 50 tonne capacity \$350

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$400

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 50 tonne capacity but not exceeding 100 tonne capacity \$450

SCHEDULE 1 - CHARGES - *continued*

Each instrument (except an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$500

Each instrument (being an instrument fitted with a digital indicator or computing device) exceeding 100 tonne capacity \$550

Each portable axle weigher \$40

Each chondrometer \$25

**Precious stones or metals:**

Each instrument used for the purpose of weighing precious stones or precious metals \$15

**Each pre-packaging in motion instrument:**

. with a capacity not exceeding 15kg \$100

. with a capacity exceeding 15kg \$150

An additional charge of \$20 is payable in respect of the certification of a weighing instrument for each device attached to the instrument that displays or prints, or displays and prints, in addition to the information displayed by the instrument, the quantity, unit price or price of an article, or any combinations thereof, including a cash register.

SCHEDULE 1 - CHARGES - *continued*

5. LIQUID MEASURING INSTRUMENTS:

Each liquid measuring instrument of the flowmeter type with or without a mechanical computing device:

- . that has a flow rate not exceeding 100 litres per minute \$30
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$58

Each liquid measuring instrument of the flowmeter type fitted with an electronic indicating device:

- . that has a flow rate not exceeding 100 litres per minute \$45
- . that has a flow rate exceeding 100 litres per minute but not exceeding 250 litres per minute \$56
- . that has a flow rate exceeding 250 litres per minute \$58

Each flowmeter used for measuring liquid propane gas \$130

Each liquid measuring instrument of the volumetric type having a capacity not exceeding 250 litres \$56



SCHEDULE 1 - CHARGES - *continued*

Each liquid measuring instrument  
of the volumetric type having a  
capacity exceeding 250 litres \$58

An additional charge of \$20 is payable in respect of the  
certification of a liquid measuring instrument for each bank-note  
accepting device, cash register or price or volume indicating  
device that is attached to the instrument.

An additional fee of \$40 is payable in respect of the certification  
of a liquid measuring instrument for each card operated device  
attached to the instrument.

6. MISCELLANEOUS  
INSTRUMENTS:

Each bulk tank, tanker or farm  
milk tank \$29

Each dip stick \$29

Each fabric measuring instrument \$29

Each leather measuring  
instrument \$29

Each thermometer \$29

Each spirit measuring instrument  
(remote storage) \$50

Each totalising belt conveyor  
weighing instrument \$29

Each measuring instrument not  
otherwise included in this Table \$29

**SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 26)

**Definitions**

1. In this Schedule:

"appointed day" means the day on which this Schedule commences;

"repealed Act" means the Weights and Measures Act 1915 as in force immediately before the appointed day.

**Marks under repealed Act**

2. A mark of verification or re-verification made on a measuring instrument pursuant to the repealed Act is to be considered to be an inspector's mark for the purposes of the Principal Act.

**Permit for sale of pre-packed articles**

3. A permit in force under section 29F of the repealed Act immediately before its repeal is to be considered to have been issued under section 38 of the Principal Act.

**References to the repealed Act**

4. A reference in any other Act, or in any instrument, to the repealed Act is to be read as a reference to this Act or the Principal Act, as appropriate.

**General**

5. (1) If anything done or commenced under the repealed Act before the appointed day and still having effect, or not completed, immediately before that day could have been done or commenced under this Act or the Principal Act if it had been in force at the time the thing was done or commenced:

(a) the thing done continues to have effect; or

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS  
- *continued*

(b) the thing commenced may be completed,  
as if it had been done or commenced under the Principal Act.

(2) Subclause (1) does not apply to anything in relation to which other provision is made by or under this Schedule.

**Regulations**

6. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of the Principal Act or this Act.

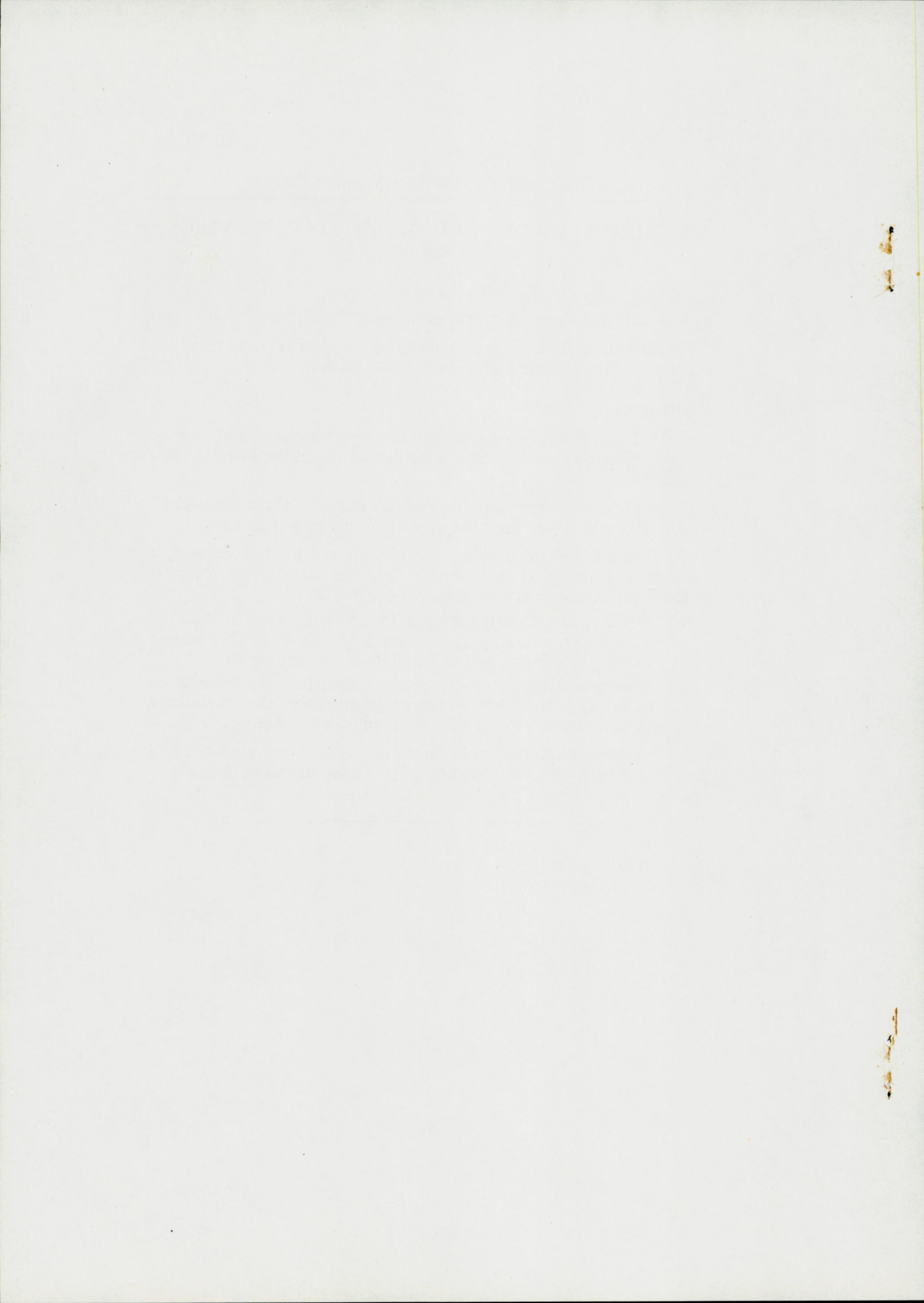
(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision referred to in subclause (1) is, if the regulations so provide, to have effect despite any other clause of this Schedule.

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Update sheet issued as at 1 July 1990.

ACT NOT REPRINTED UNDER THE REPRINTS ACT 1972 AS AT  
THE DATE OF ISSUE OF THIS SHEET

TRADE MEASUREMENT ADMINISTRATION ACT  
1989 NO. 234

Amendment(s) not included in the current print -

<u>Made by</u>	<u>Provision(s) affected</u>
Statute Law (Miscellaneous Provisions) Act 1990 No. 46	Sch. 1

Note. Amendments are shown irrespective of whether they are in force at the date of issue of this sheet.

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