

FIRST PRINT

TRADE MEASUREMENT ADMINISTRATION (CHARGES)
AMENDMENT BILL 1991 (No. 2)

NEW SOUTH WALES



EXPLANATORY NOTE

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

Currently, Schedule 1 to the Trade Measurement Administration Act 1989 sets out the charges that are payable when a measuring instrument is tested and approved under the Trade Measurement Act 1989 by a Government inspector or a private licensee under that Act. (This is known as "verification" or "re-verification" when carried out by an inspector and as "certification" when carried out by a licensee.) The charge in respect of verification/re-verification is payable by the owner of the instrument to the administering authority and in respect of certification is payable to the administering authority by the licensee who carries out the certification.

The object of this Bill is to amend the Act:

- (a) to provide that the regulations are to fix the charges to be paid in respect of each verification/re-verification of a measuring instrument (instead of those charges being fixed by the Act); and
- (b) to remove the requirement in the Act for the payment of a charge by a licensee when the licensee certifies a measuring instrument and instead to empower the making of regulations to require a licensee to pay such a charge and to fix the amount of the charge.

The Bill repeals the list of charges in Schedule 1 to the Act and also makes consequential amendments.

Clause 1 specifies 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.

Clause 3 gives effect to the Schedule of amendments (Schedule 1).

Schedule 1 contains the amendments described above.



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TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Trade Measurement Administration Act 1989 No. 234

SCHEDULE 1—AMENDMENTS

**TRADE MEASUREMENT ADMINISTRATION (CHARGES)
AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Trade Measurement Administration Act 1989 to make further provision with respect to the charges payable under that Act.

Trade Measurement Administration (Charges) Amendment 1991 (No. 2)

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Trade Measurement Administration (Charges) Amendment Act 1991.

Commencement

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

Amendment of Trade Measurement Administration Act 1989 No. 234

3. The Trade Measurement Administration Act 1989 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 10 (**Charge payable in respect of verification or re-verification by inspector**):

From section 10 (1), omit "as specified in Schedule 1", insert instead "as prescribed by the regulations".

- (2) Sections 11, 12:

Omit the sections, insert instead:

Charges payable by licensee in respect of certification

11. (1) The regulations may make provision for or with respect to requiring a licensee to pay a charge to the administering authority when the licensee certifies a measuring instrument under the Principal Act.

(2) It is a condition of a licensee's licence that the licensee pay any charge payable by the licensee under the regulations made for the purposes of this section.

(3) The charges authorised to be imposed under this section are for the purpose of meeting the costs of administering this Act and the Principal Act and are in addition to any other fee or charge that a licensee is required to pay by or under this Act or the Principal Act.

Regulations prescribing charges

12. (1) For the purpose of the prescription of charges under sections 10 and 11 (and without limiting those sections), the

Trade Measurement Administration (Charges) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

regulations may make provision for or with respect to any of the following:

- (a) prescribing different charges for different types or classes of measuring instruments;
- (b) prescribing different charges depending on the nature and circumstances of verification, re-verification or certification;
- (c) prescribing the periods for which and the times by which the charges must be paid;
- (d) requiring the submission by the persons liable to pay charges of returns as to the number and nature of measuring instruments verified, re-verified or certified during a specified period;
- (e) requiring any such return to be verified by statutory declaration;
- (f) providing for the reduction of, waiver of or exemption from payment of the prescribed charges in specified circumstances.

(2) Regulations made for the purposes of section 11 need not require the payment of a charge for each and every certification of a measuring instrument and may, for example, provide that no charge, or a reduced charge, is payable in respect of any subsequent certification of the same measuring instrument during a specified period.

(3) For the purposes of sections 10 and 11 (and the regulations under those sections), the marking of a measuring instrument with an inspector's mark or a licensee's mark pursuant to the provisions of the regulations under the Principal Act concerning batch testing is to be regarded as constituting the verification or certification, as appropriate, of the instrument concerned.

(3) Section 14 (**Recovery of unpaid fees and charges**):

After "under this Part", insert "(or the regulations under this Part)".

(4) Schedule 1 (**Charges**):

Omit the Schedule.

TRADE MEASUREMENT ADMINISTRATION (CHARGES)

AMENDMENT BILL 1991 (NO.2)

SECOND READING SPEECH

LEGISLATIVE ASSEMBLY

MR SPEAKER,

I MOVE THAT THIS BILL BE READ A SECOND TIME.

THE TRADE MEASUREMENT ADMINISTRATION (CHARGES) AMENDMENT BILL WAS PREVIOUSLY INTRODUCED ON 18TH APRIL, 1991, AND LAPSED UPON DISSOLUTION OF THE HOUSE.

IT IS NOW RE-INTRODUCED INTO THE NEW PARLIAMENT.

THE TRADE MEASUREMENT ACT 1989 AND THE TRADE MEASUREMENT ADMINISTRATION ACT 1989 COMMENCED IN NSW ON 1ST JULY, 1991.

THE TRADE MEASUREMENT ACT IS UNIFORM LEGISLATION WHICH IS IN FORCE IN THE NORTHERN TERRITORY AND WILL BE INTRODUCED BY THE REMAINING STATES AND TERRITORY IN ACCORDANCE WITH THEIR OWN TIMETABLES.

THE BILL BEFORE THE HOUSE RECTIFIES SOME ANOMALIES IN CONNECTION WITH THE FEE SETTING MECHANISMS UNDER THE TRADE MEASUREMENT ADMINISTRATION ACT.

UNDER THE TRADE MEASUREMENT ACT, MEASURING INSTRUMENTS USED FOR TRADE MUST BE TESTED FOR ACCURACY AND COMPLIANCE WITH PATTERN APPROVAL UNDER THE NATIONAL MEASUREMENT ACT 1980.

THE TESTING MAY BE CONDUCTED BY TRADE MEASUREMENT INSPECTORS (KNOWN AS VERIFICATION) OR BY PRIVATE REPAIR COMPANIES WHICH ARE LICENSED FOR THE PURPOSE OF CARRYING OUT THIS TASK (KNOWN AS CERTIFICATION).

IT IS ONE OF THE PRIMARY OBJECTIVES OF UNIFORM TRADE MEASUREMENT TO CREATE A SYSTEM WHEREBY THE PRIVATE SECTOR ASSUMES RESPONSIBILITY FOR THE QUALITY CONTROL FUNCTION OF TESTING INSTRUMENTS WHICH WILL RELEASE TRADE MEASUREMENT INSPECTORS TO CONCENTRATE ON EFFECTIVELY MONITORING THE TRADE MEASUREMENT REGIME.

THE TRADE MEASUREMENT ADMINISTRATION ACT ESTABLISHES THE ADMINISTRATIVE INFRASTRUCTURE FOR THE PURPOSE OF THE UNIFORM ACT.

THIS ACT REGULATES ALL TRADE MEASUREMENT FEES.

CERTIFICATION; VERIFICATION AND RE-VERIFICATION FEES ARE PRESCRIBED IN SCHEDULE 1. ALL OTHER FEES ARE PRESCRIBED BY REGULATION.

SECTION 11 (1) OF THE TRADE MEASUREMENT ADMINISTRATION ACT PROVIDES THAT A FEE IS PAYABLE BY A LICENCEE TO CONSUMER AFFAIRS EVERY TIME A MEASURING INSTRUMENT IS CERTIFIED.

CONSULTATION WITH THE WEIGHING INDUSTRY HAS REVEALED A NUMBER OF DEFECTS WITH THE OPERATION OF THIS SECTION, IN CONJUNCTION WITH SCHEDULE 1. BECAUSE CERTIFICATION FEES AND VERIFICATION FEES HAVE BEEN SET AT THE SAME LEVEL AND CERTIFICATION FEES MUST BE REMITTED TO THE GOVERNMENT.

MR SPEAKER, IN EFFECT LICENSEES WOULD BE DOING THE WORK AND COLLECTING MONIES ON BEHALF OF THE GOVERNMENT - WITHOUT RECEIVING ANY FINANCIAL BENEFIT.

FURTHER, REPAIR COMPANIES MUST INCUR ADDITIONAL COSTS IN TRAINING AND EQUIPMENT IN ORDER TO BECOME LICENCEES.

THESE FACTORS MAY OPERATE AS A DISINCENTIVE FOR REPAIR COMPANIES TO PARTICIPATE IN THE TESTING PROCESS. THUS, THE PRIVATISATION OBJECTIVE OF THE UNIFORM MEASUREMENT WOULD NOT BE ACHIEVED.

ATTEMPTS TO REMEDY THIS PROBLEM HAVE BEEN THWARTED BY THE INFLEXIBILITY OF THE FEE SETTING MECHANISMS UNDER THE TRADE MEASUREMENT ADMINISTRATION ACT.

THIS RIGIDITY HAS BEEN CREATED BY HAVING CERTIFICATION, VERIFICATION AND RE-VERIFICATION FEES PRESCRIBED IN SCHEDULE 1. IT IS GENERAL ADMINISTRATIVE PRACTICE TO PRESCRIBE FEES BY REGULATION, AND THERE IS NO REASON IN THIS INSTANCE WHY SUCH A POWER SHOULD NOT EXIST FOR THE FEES PRESCRIBED IN SCHEDULE 1.

THEREFORE, THE MAIN PURPOSE OF THIS BILL IS TO ENHANCE THE OPERATION OF THE CERTIFICATION SYSTEM BY REMOVING UNNECESSARY REQUIREMENTS AND PROVIDING THE OPPORTUNITY TO DEVISE A FEE STRUCTURE THAT WILL NOT UNDULY INTRUDE UPON OR OVERBURDEN INDUSTRY.

SECTION 10 (1) IS AMENDED TO PERMIT VERIFICATION AND RE-VERIFICATION FEES TO BE PRESCRIBED BY REGULATION, INSTEAD OF BEING FIXED BY THE ACT.

SECTIONS 11 AND 12 HAVE BEEN REPLACED BY TWO NEW SECTIONS:

SECTION 11 (CHARGES PAYABLE BY LICENCEES IN RESPECT OF CERTIFICATION), AND SECTION 12 (REGULATIONS PRESCRIBING CHARGES).

SECTION 11 (1) EMPOWERS THE MAKING OF REGULATIONS TO REQUIRE A LICENCEE TO PAY A CHARGE TO CONSUMER AFFAIRS WHEN CERTIFYING MEASURING INSTRUMENTS UNDER THE TRADE MEASUREMENT ACT 1989.

SECTION 11 (2) MAKES IT A CONDITION OF A LICENCEE'S LICENCE TO PAY A CHARGE.

SECTION 12 (1) PROVIDES THAT THE FEES PRESCRIBED PURSUANT TO SECTIONS 10 AND 11 MAY VARY BASED ON SUCH MATTERS AS TYPE OR CLASS OF MEASURING INSTRUMENT OR NATURE AND CIRCUMSTANCES OF THE TESTING OF THE MEASURING INSTRUMENT.

FURTHER, SECTION 12 (1) ALLOWS THE REGULATIONS TO ESTABLISH ADMINISTRATIVE REQUIREMENTS FOR THE PURPOSE OF FEES PRESCRIBED UNDER SECTIONS 10 AND 11.

SECTION 12 (2) PERMITS THE REGULATIONS TO PROVIDE THAT A FEE NEED NOT BE PAYABLE FOR EACH AND EVERY CERTIFICATION.

SECTION 12 (3) MAKES PROVISIONS IN RELATION TO THE BATCH TESTING OF MEASURING INSTRUMENTS.

FINALLY, SCHEDULE ONE OF THE TRADE MEASUREMENT ADMINISTRATION ACT IS REPEALED.

MR SPEAKER, I COMMEND THE BILL TO THE HOUSE.

