

Serial 110
Trade Measurement Amendment Bill 2002
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Trade Measurement Act*



NORTHERN TERRITORY OF AUSTRALIA
TRADE MEASUREMENT AMENDMENT ACT 2002

No. of 2002

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SCHEDULE

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2002

AN ACT

to amend the *Trade Measurement Act*

[Assented to 2002]
[Second reading 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Trade Measurement Amendment Act 2002*.

2. Principal Act

The *Trade Measurement Act* is in this Act referred to as the Principal Act.

3. Definitions

Section 3 of the Principal Act is amended –

(a) by omitting from subsection (1) "(1) In this Act" and substituting "In this Act";

(b) by inserting after the definition of "certify" the following:

"'class 4 measuring instrument' means a measuring instrument of an approved pattern that –

(a) has not less than 100 but not more than 1 000 verification scale intervals, each of which is not less than 5 grams; and

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- (b) is marked with a symbol that is an oval of any shape, or 2 parallel horizontal lines that are joined at each end by a semi-circle, with 4 vertical lines in it;";
- (c) by omitting from subsection (1) the definition of "measurement" and substituting the following
" 'measurement' means a determination of number or physical quantity, other than for descriptive purposes only;"; and
- (d) by omitting subsections (2) and (3).

4. New sections

The Principal Act is amended by inserting after section 3 the following:

"3A. Determining certain quantities

"For the purposes of this Act –

- (a) time interval not related to the calendar is a physical quantity;
- (b) time interval related to the calendar is not a physical quantity; and
- (c) any packaging or other thing that is not part of an article is to be disregarded when determining a physical quantity.

"3B. References to functions

"In this Act –

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the performance of a function includes, where the function is a duty, a reference to the performance of the duty."

5. Measuring instruments used for trade must be marked

Section 7 of the Principal Act is amended by inserting after subsection (2) the following:

"(2A) If an inspector finds a measuring instrument that is being used in contravention of subsection (1) or (2), the inspector may give to the owner or user of the measuring instrument a written notice –

- (a) stating the measuring instrument –
 - (i) does not have an inspector's mark or a licensee's mark on it; or

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- (ii) for a weighbridge – does not comply with stated requirements of the regulations concerning weighbridges; and
- (b) requiring the person to remedy the contravention within a stated period of not more than 28 days.

"(2B) If the person complies with the notice, the person is taken not to have committed an offence against this section in relation to the circumstances to which the notice relates."

6. New sections

The Principal Act is amended by inserting after section 7 the following:

"7A. Use of class 4 measuring instruments

"A person must not use a class 4 measuring instrument for trade, other than –

- (a) as airport baggage scales;
- (b) for freight scales with a capacity of up to 2 000 kg;
- (c) for weighing garbage;
- (d) for weighing earth, sand, gravel or other similar material;
- (e) as a crane-weigher;
- (f) for weighing timber in log form; or
- (g) for another purpose prescribed under a regulation.

Penalty: If the class 4 measuring instrument is a weighbridge –
100 penalty units.

In any other case – 50 penalty units.

"7B. Use of measuring instruments for pre-packed articles

"A person must not use a measuring instrument for measuring pre-packed articles on premises in which articles are pre-packed unless at least one measuring instrument on the premises is approved for trade use under the National Measurement Act, complies with this Act, and is suitable for measuring the articles to be pre-packed.

Penalty: 50 penalty units."

7. Unjust measurement

Section 8 of the Principal Act is amended –

- (a) by omitting from subsection (1) "or unjust"; and
- (b) by inserting after subsection (3) the following:

"(3A) If an inspector finds a measuring instrument being used for trade that is incorrect or is being used in a way that is unjust, the inspector may give to the owner or user of the measuring instrument a written notice –

- (a) stating –
 - (i) the measuring instrument is incorrect; or
 - (ii) the way the person is using it is unjust; and
- (b) requiring the person to take stated steps to stop contravening the relevant subsection within a stated period of not more than 28 days.

"(3B) If the person complies with the notice, the person is taken not to have committed an offence against this section in relation to the circumstances to which the notice relates."

8. Supplying incorrect etc. measuring instrument

Section 9 of the Principal Act is amended by omitting from subsection (1) "or unjust".

9. Provision and maintenance of standards

Section 10 of the Principal Act is amended –

- (a) by omitting from subsection (1) all the words after "measurement and" and substituting "such classes and denominations of reference standards of measurement as the administering authority decides are necessary for the purposes of this Act"; and
- (b) by omitting from subsection (2) "such classes" and substituting "such classes and denominations, decided by the administering authority,".

10. Incorrect measurement or price calculation

Section 23 of the Principal Act is amended –

- (a) by inserting "or decides the measurement" after "operates the measuring instrument"; and

- (b) by omitting from paragraph (a) "the other party to the sale" and substituting "any other person who is a party to a sale of the article".

11. Incorrect pricing of pre-packed article

Section 31 of the Principal Act is amended by inserting in subsection (1) "(without any packaging or other thing that is not part of the article)" after "by reference to the measurement of the article".

12. Requirement for servicing licence

Section 42 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) A person must not test a batch of measuring instruments or certify or purport to certify a measuring instrument unless the person is the holder of a servicing licence or an employee of the holder of a servicing licence.

Penalty: 200 penalty units.

"(1A) A person who is the holder of a servicing licence, or an employee of the holder of a servicing licence, must comply with the conditions of the licence.

Penalty: 200 penalty units."

13. Application for licence

Section 44 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) However, if 2 or more persons who carry on business together as partners join in making an application, the licensing authority may only grant a single licence to the joint applicants."

14. Powers of entry etc.

Section 60 of the Principal Act is amended by omitting from subsection (1)(b) "to enable the inspector to enter and search it; and" and substituting the following:

"to enable the inspector –

- (i) to enter and search it; or
- (ii) to weigh or measure it and its load; and".

15. Powers in relation to measuring instruments

Section 61 of the Principal Act is amended –

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- (a) by omitting "If an inspector" and substituting "(1) If an inspector"; and
- (b) by adding at the end the following:

"(2) Also, the inspector may record the details of any measuring instrument that is examined or tested under this section in the way the inspector considers appropriate, including by filming or photographing."

16. Powers in relation to articles

Section 62 of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) "examine" and substituting "examine and measure"; and
- (b) by adding at the end the following:

"(4) Also, the inspector may record the details of any article that is examined or measured under this section in the way the inspector considers appropriate, including by filming or photographing."

17. Evidence – pre-packed articles

Section 76 of the Principal Act is amended –

- (a) by omitting from subsection (1) "prima facie";
- (b) by inserting after subsection (3) the following:

"(3A) A batch number on a pre-packed article is evidence of the matters indicated by the number, including for example, the date and place the article was packed and who packed it."; and

- (c) by adding at the end the following:

"(5) In this section –

'batch number' means a number marked on a pre-packed article in accordance with a system of numbers, letters or symbols or any combination of numbers, letters and symbols, used by the person packing the article to mark the article to indicate when and where it was packed and who packed it."

18. Regulations

Section 80 of the Principal Act is amended by inserting in subsection (2)(g) "certified," after "the sealing of a".

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19. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 19

| Provision | Amendment | |
|--|-----------|-------------------|
| | omit | substitute |
| Section 7(1) | \$10,000 | 100 penalty units |
| | \$5,000 | 50 penalty units |
| Section 7(2) | \$10,000 | 100 penalty units |
| Sections 8(1), (2) and (3) and 9(2) | \$20,000 | 200 penalty units |
| Section 16(4) | \$5,000 | 50 penalty units |
| Sections 18(2), 20(1) and 21 | \$20,000 | 200 penalty units |
| Section 22(3) | \$5,000 | 50 penalty units |
| Section 24 | \$20,000 | 200 penalty units |
| Sections 25(1) and (3) and 26(2) | \$5,000 | 50 penalty units |
| Section 28(1) and (2) | \$10,000 | 100 penalty units |
| Section 30(1) | \$5,000 | 50 penalty units |
| Sections 31(1), 32(1) and 43(1) | \$20,000 | 200 penalty units |
| Section 65 | \$10,000 | 100 penalty units |
| Section 73(1) | \$2,000 | 20 penalty units |
| Section 80(3) | \$2,000 | 100 penalty units |

