



Australian Capital Territory

Trade Measurement (Administration) Act 1991 No 57

Republication No 3

Republication date: 13 September 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 13 September 2002

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Trade Measurement (Administration) Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 September 2002. It also includes any amendment, repeal or expiry affecting the republished law to 13 September 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
13 September 2002



Australian Capital Territory

Trade Measurement (Administration) Act 1991

Contents

| | Page | |
|---------------|--|---|
| Part 1 | Preliminary | |
| 1 | Short title | 2 |
| 3 | Definitions for Act | 2 |
| 4 | Incorporation of Trade Measurement Act 1991 | 2 |
| Part 2 | Administration | |
| 6 | Administering and licensing authorities | 3 |
| 7 | Inspectors | 3 |
| 8 | Commissioner and inspectors may hold Commonwealth appointments | 3 |

Contents

| | Page |
|---|------|
| 8A Identity cards | 4 |
| 8B Power not to be exercised before identity card shown | 4 |
| 9 Consent to entry of premises | 4 |
| Part 3 Fees | |
| 12 Determination of fees | 6 |
| Part 4 Proceedings | |
| 13 Penalty notices | 7 |
| 14 Limitation of time for commencing prosecutions | 8 |
| Part 5 Miscellaneous | |
| 15 Search warrants | 9 |
| 16 Access to and return of seized records | 10 |
| 17 Approved forms | 11 |
| 18 Regulation-making power | 11 |
| Endnotes | |
| 1 About the endnotes | 12 |
| 2 Abbreviation key | 12 |
| 3 Legislation history | 13 |
| 4 Amendment history | 13 |
| 5 Earlier republications | 15 |

Amendments incorporated to
13 September 2002



Australian Capital Territory

Trade Measurement (Administration) Act 1991

An Act relating to the administration of the Trade Measurement Act 1991,
and for related matters

Part 1 Preliminary

1 Short title

This Act may be cited as the *Trade Measurement (Administration) Act 1991*.

3 Definitions for Act

In this Act:

commissioner means the commissioner for fair trading.

inspector means a person appointed under section 7 (1).

Measurement Act means the *Trade Measurement Act 1991*.

trade measurement legislation means this Act or the Measurement Act.

Note 1 A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

4 Incorporation of Trade Measurement Act 1991

The Measurement Act is incorporated and shall be read as one with this Act.

Part 2 Administration

6 Administering and licensing authorities

For the Measurement Act, the commissioner is the administering authority and the licensing authority.

7 Inspectors

- (1) The commissioner may, in writing, appoint a public servant to be an inspector for the trade measurement legislation.
- (2) An inspector shall, subject to the trade measurement legislation, perform such duties as the commissioner directs.
- (3) The commissioner may exercise the powers and discharge the functions that, under the trade measurement legislation, may be exercised or discharged by an inspector.

8 Commissioner and inspectors may hold Commonwealth appointments

- (1) The commissioner may—
 - (a) with the approval of the chief executive, hold an appointment under the *National Measurement Regulations 1999* (Cwlth); and
 - (b) exercise any function given to the holder of such an appointment.
- (2) An inspector may—
 - (a) with the approval of the commissioner, hold an appointment under the *National Measurement Regulations 1999* (Cwlth); and
 - (b) exercise any function given to the holder of such an appointment.

8A Identity cards

- (1) The commissioner must issue an identity card to each inspector.
- (2) The identity card must state that the person is an inspector for this Act.
- (3) The identity card must also—
 - (a) include a recent photograph of the person; and
 - (b) state—
 - (i) the person's name; and
 - (ii) the date of issue of the card; and
 - (iii) a date of expiry for the card; and
 - (c) include anything else prescribed under the regulations.
- (4) A person who ceases to be an inspector must return his or her identity card to the commissioner as soon as practicable, but within 21 days, after ceasing to be an inspector.

Maximum penalty (subsection (4)): 1 penalty unit.

8B Power not to be exercised before identity card shown

An inspector may exercise a power under a Territory law in relation to a person only if the inspector first shows the person his or her identity card.

9 Consent to entry of premises

- (1) An inspector who seeks a person's consent to the entering of premises under the Measurement Act, section 60 (2) (a) shall inform the person that he or she may refuse to give the consent.
- (2) Where an inspector obtains the consent of a person to enter premises under the Measurement Act, section 60 (2) (a), the inspector shall ask the person to sign a written acknowledgment—

- (a) that the person has been informed that he or she may refuse to so consent; and
 - (b) that the person has consented; and
 - (c) of the day on which, and the time at which, the person consented.
- (3) Where it is material, in any proceedings, for a court to be satisfied that a person has consented to the entry of premises by an inspector under the Measurement Act, section 60 (2) (a) and an acknowledgment in accordance with subsection (2) signed by the person is not produced in evidence, it shall be presumed that the person did not consent, unless the contrary is established.

Part 3 Fees

12 Determination of fees

- (1) The Minister may, in writing, determine fees for the trade measurement legislation.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Part 4 Proceedings

13 Penalty notices

- (1) The regulations may prescribe—
 - (a) an offence under the trade measurement legislation for this section; and
 - (b) the pecuniary penalty payable for the offence if the offence is dealt with under this section.
- (2) The penalty that may be prescribed under subsection (1) (b) shall not exceed the highest penalty that a court could impose for the offence.
- (3) Where an inspector has reason to believe that a person has committed a prescribed offence, he or she may serve on the person a penalty notice in accordance with this section.
- (4) A penalty notice shall—
 - (a) specify the day on which, and the time and place at which, the prescribed offence is alleged to have been committed; and
 - (b) specify the nature of the alleged prescribed offence; and
 - (c) contain a notification to the person on whom it is served that, if he or she does not wish the matter to be dealt with by the court, he or she may pay the amount of the prescribed penalty in relation to that prescribed offence, being the amount specified in the notice, within the period of 28 days after the date of the notice; and
 - (d) specify the place at which, and the manner in which, the prescribed penalty may be paid.
- (5) Where a person who has been served with a penalty notice pays the penalty specified in the notice within the specified period—

- (a) any liability of the person in respect of the alleged prescribed offence is discharged; and
- (b) no further proceedings shall be taken in respect of the alleged prescribed offence; and
- (c) the person shall not be regarded as having been convicted of the alleged prescribed offence; and
- (d) the person is not to be taken, by reason only of having made the payment, to have made any admission of liability in respect of the circumstances of the alleged offence; and
- (e) the making of the payment does not affect or prejudice any right of action or defence to a claim arising out of the circumstances of the alleged offence.

14 Limitation of time for commencing prosecutions

A prosecution for an offence against the Measurement Act, section 28 (1) or 32 (1) (a) shall not be commenced later than 1 year after the discovery by an inspector of the apparent commission of the alleged offence.

Part 5 Miscellaneous

15 Search warrants

- (1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against the trade measurement legislation, and the information sets out those grounds, the magistrate may issue a search warrant authorising an inspector named in the warrant, with such assistance and by such force as is necessary and reasonable—
 - (a) to enter the premises; and
 - (b) to search those premises for things of that kind; and
 - (c) to exercise any of the powers that, under the trade measurement legislation, may be exercised by an inspector.
- (2) A magistrate shall not issue a warrant under subsection (1) unless—
 - (a) the informant or some other person has given to the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant shall—
 - (a) state the purpose for which it is issued; and
 - (b) specify the nature of the offence in relation to which the entry, search and exercise of the powers under the trade measurement legislation are authorised; and
 - (c) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and

- (d) include a description of the kind of things in relation to which the powers under the trade measurement legislation may be exercised; and
 - (e) specify a day, not being later than 1 month after the day of the issue of the warrant, on which the warrant ceases to have effect.
- (4) If, in the course of a search carried out under the authority of a warrant issued under this section—
- (a) an inspector finds anything that he or she believes on reasonable grounds to be connected with an offence specified in the warrant or any other offence under the trade measurement legislation; and
 - (b) the inspector believes on reasonable grounds that, in order to prevent the continuation, commission or repetition of the offence, it is necessary to exercise any of the powers that, under the trade measurement legislation, may be exercised by an inspector;

the warrant is to be taken to authorise the exercise of that power in relation to that thing.

16 Access to and return of seized records

- (1) Where a record or document is seized and retained under the Measurement Act, section 61 or 62 the inspector shall permit the person otherwise entitled to possession of it, or his or her agent, to inspect, make copies of or take extracts from the record or document.
- (2) The provisions of the Measurement Act, sections 64 (1) and (2) apply to a record seized and retained under section 61 or 62 of that Act as if such a record were an article.

17 Approved forms

- (1) The administering authority may, in writing, approve forms for the trade measurement legislation.
- (2) If the administering authority approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

18 Regulation-making power

The Executive may make regulations for the trade measurement legislation.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | p = page |
| cl = clause | par = paragraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | prov = provision |
| exp = expires/expired | pt = part |
| Gaz = Gazette | r = rule/subrule |
| hdg = heading | reg = regulation/subregulation |
| IA = Interpretation Act 1967 | renum = renumbered |
| ins = inserted/added | reloc = relocated |
| LA = Legislation Act 2001 | R[X] = Republication No |
| LR = legislation register | s = section/subsection |
| LRA = Legislation (Republication) Act 1996 | sch = schedule |
| mod = modified / modification | sdiv = subdivision |
| No = number | sub = substituted |
| num = numbered | SL = Subordinate Law |
| o = order | <u>underlining</u> = whole or part not commenced or to be expired |
| om = omitted/repealed | |

3 Legislation history

Trade Measurement (Administration) Act 1991 No 57

notified 2 October 1991

s 1, s 2 commenced 2 October 1991

s 17 commenced 1 November 1991 (s 2 (2))

remainder commenced 1 November 1991 (Gaz 1991 No S125)

as amended by

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97

notified 15 December 1994

s 1, s 2 commenced 15 December 1994

remainder commenced 15 December 1994 (Gaz 1994 No S 293)

Justice and Community Safety Legislation Amendment Act 2000 (No 3) No 17

notified 1 June 2000

commenced 1 June 2000

Legislation (Consequential Amendments) Act 2001 No 44 pt 390

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 390 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

4 Amendment history

Commencement

s 2 om R1 LRA

Definitions for Act

s 3 am 2001 No 44 amdt 1.4080

def **commissioner** ins 2000 No 17 s 3 sch 1

def **Measurement Act** sub 2000 No 17 s 3 sch 1

def **superintendent** sub 1994 No 97

om 2000 No 17 s 3 sch 1

def **trade measurement legislation** sub 2000 No 17 s 3 sch 1;
2001 No 44 amdt 1.4079

Superintendent

s 5 sub 1994 No 97

om 2000 No 17 s 3 sch 1

Endnotes

4 Amendment history

Appointment of Superintendent under National Measurement Regulations

s 5A ins 1994 No 97
om 2000 No 17 s 3 sch 1

Delegation

s 5B ins 1994 No 97
om 2000 No 17 s 3 sch 1

Administering and licensing authorities

s 6 am 2000 No 17 s 3 sch 1

Inspectors

s 7 am 2000 No 17 s 3 sch 1

Commissioner and inspectors may hold Commonwealth appointments

s 8 sub 2000 No 17 s 3 sch 1

Identity cards

s 8A ins 2000 No 17 s 3 sch 1

Power not to be exercised before identity card shown

s 8B ins 2000 No 17 s 3 sch 1

Fees

pt 3 hdg sub 2001 No 44 amdt 1.4081

Fee on verification or reverification of instrument

s 10 om 2001 No 44 amdt 1.4082

Fees

s 11 om 2001 No 44 amdt 1.4082

Determination of fees

s 12 am 2001 No 44 amdt 1.4083, amdt 1.4084

Approved forms

s 17 (prev s 17) om 2000 No 17 s 3 sch 1
ins 2001 No 44 amdt 1.4085
(4)-(7) exp 12 September 2002 (s 17 (7))

Regulation-making power

s 18 sub 2001 No 44 amdt 1.4085

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|-------------------------|----------------------|---------------------------|
| 1 | Act 2000 No 17 | 1 August 2000 |
| 2 | Act 2001 No 44 | 2 November 2001 |

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