



Australian Capital Territory

# **Trade Measurement (Administration) Act 1991**

**A1991-57**

**Republication No 5**

**Effective: 12 April 2007 – 1 July 2010**

Republication date: 12 April 2007

Last amendment made by A2007-3

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 12 April 2007. It also includes any amendment, repeal or expiry affecting the republished law to 12 April 2007.

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](http://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.



Australian Capital Territory

# Trade Measurement (Administration) Act 1991

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12/04/07

Trade Measurement (Administration) Act 1991  
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Australian Capital Territory

# Trade Measurement (Administration) Act 1991

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

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Trade Measurement (Administration) Act 1991*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act s 127 (1), (4) and (5) for the legal status of notes.

### 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 appoint a public servant as an inspector for the trade measurement legislation.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (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

### 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.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (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*.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief executive (see s 163)
- disallowable instrument (see s 9)
- document
- magistrate
- Minister (see s 162).

***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.

## Endnotes

1 About the endnotes

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## 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.

### 2 Abbreviation key

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



### 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)

**Justice and Community Safety Legislation Amendment Act 2003 (No 2) A2003-47 pt 12**

notified LR 31 October 2003

s 1, s 2 commenced 31 October 2003 (LA s 75 (1))

pt 12 commenced 1 November 2003 (s 2)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.101**

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.101 commenced 12 April 2007 (s 2 (1))

## Endnotes

4 Amendment history

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### 4 Amendment history

#### **Name of Act**

s 1 sub A2007-3 amdt 3.504

#### **Dictionary**

s 2 om R1 LRA  
ins A2007-3 amdt 3.506

#### **Notes**

s 3 am 2001 No 44 amdt 1.4080  
defs reloc to dict A2007-3 amdt 3.505  
sub A2007-3 amdt 3.506  
def **superintendent** sub 1994 No 97  
om 2000 No 17 s 3 sch 1

#### **Superintendent**

s 5 sub 1994 No 97  
om 2000 No 17 s 3 sch 1

#### **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; A2007-3 amdt 3.507

#### **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

**Penalty notices**

s 13 om A2003-47 s 42

**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))  
am A2007-3 amdt 3.508**Regulation-making power**

s 18 sub 2001 No 44 amdt 1.4085

**Dictionary**dict ins A2007-3 amdt 3.509  
def **commissioner** ins 2000 No 17 s 3 sch 1  
reloc from s 3 A2007-3 amdt 3.505  
def **inspector** reloc from s 3 A2007-3 amdt 3.505  
def **Measurement Act** sub 2000 No 17 s 3 sch 1  
reloc from s 3 A2007-3 amdt 3.505  
def **trade measurement legislation** sub 2000 No 17 s 3  
sch 1; 2001 No 44 amdt 1.4079  
reloc from s 3 A2007-3 amdt 3.505**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. 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
3	A2001-44	13 September 2002
4	A2003-47	1 November 2003

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