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**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**TRADE MEASUREMENT ACT 1991**

**TRADE MEASUREMENT (MEASURING INSTRUMENTS) REGULATIONS**

**EXPLANATORY MEMORANDUM**

Circulated by authority of

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Attorney General

## TRADE MEASUREMENT (MEASURING INSTRUMENTS) REGULATIONS

### GENERAL OUTLINE

These regulations are made under section 81 of the *Trade Measurement Act 1991* (the Act). They are part of the package of uniform legislation introduced pursuant to the Commonwealth-State-Territory Agreement on Uniform Trade Measurement Legislation and Administration to which the ACT became signatory in 1990.

The regulations set out requirements relating to verification and re-verification of measuring instruments, batch testing of glass measures, licences and licensees and other related matters.

### NOTES ON REGULATIONS

Regulations 1 and 2 deal with the title of and the definitions of terms used in the regulations.

Regulation 3 requires inspectors and licensees, when putting their mark on an instrument (excepting glass measures), to mark the date also. Licensees' marks are also to be accompanied by an identifying mark.

Regulation 4 prohibits the marking of instruments which

- . already bear marks which could be mistaken for an official mark;
- . are of inferior construction or materials; or
- . are dirty, have wet paint or are unsuitable for use due to damage.

Regulation 5 enables inspectors to direct that instruments be cleaned to facilitate re-verification.

Regulation 6 requires testing of instruments to be carried out on a level plane or as near to this as possible, in a fixed position and so as to compensate for conditions affecting transportable instruments subject to the effects of gravity.

Regulation 7 requires measures of length to be tested on both sides unless the measure is permanently fixed on one side.

Regulation 8 exempts from requirements for re-verification glass measures marked in accordance with batch testing procedures (see regulations 12 to 17) and measures of length.

Regulation 9 exempts small masses less than 0.2 carat or 50mg from the requirements of the Act that they bear an inspector's mark, provided that the person using such masses has certification from the Superintendent of Trade Measurement that the mass complies with the relevant standards. Maximum penalty for using such a mass without certification: \$2,000.

Regulation 10 enables an inspector to require an instrument to be dismantled when this is necessary for the inspection of a component.

Regulation 11 enables an inspector to require the owner of an instrument to pay the costs associated with the verification or re-verification of an instrument, including any loss or damage to the inspector's equipment left in the owner's possession.

Regulations 12 to 17 enable the Superintendent to give approval to manufacturers or importers of glassware (used to sell lubricating oil by volume or used as a drinking vessel to sell beer, ale or stout) to mark their glassware with an inspector's or licensee's mark, provided the manufacturer or importer -

- . makes batches of the glassware available for testing with appropriate facilities;
- . complies with other terms of the approval; and
- . keeps appropriate records as specified in the approval.

Except with written permission from an inspector or licensee, manufacturers or importers may not despatch glassware unless the appropriate proportion has been batch-tested and meets the required 2% tolerance. Maximum penalty: \$2,000.

Regulations 18 to 21 deal with certain requirements of licences and licensees.

Licensees must comply with the regulations and may be directed by the Superintendent to make and retain records relating to the certification of instruments. A licensee must notify the Superintendent of any change of address for the service of notices and of the names and addresses of employees who certify instruments.

The Superintendent is required to keep a register of licences and particulars of licences including any conditions.

Regulation 22 makes provision for offences punishable by a maximum penalty of \$2,000 for -

- . using liquid measures for measuring other substances or otherwise using measures marked for specific uses for different measuring uses;
- . supporting mass measures by hand, using incorrect proportional masses (masses which change the capacity of steelyard weighing devices), not having proportional masses readily identifiable with their instrument, or weighing masses above the correct level for an instrument;
- . using an instrument to measure goods for therapeutic use within the meaning of the relevant Commonwealth law;
- . using incorrect or non-approved measures to measure precious stones or metals; and
- . except for factory use or non-retail use, using an instrument with a tare bar (a device to subtract the weight of the container or packaging in which an article is weighed); and
- . using an instrument fitted with a load receptor incorrectly, not having it readily identifiable with its instrument, or permitting the receptor to be interfered with or contain loads not visible to the purchaser.

Regulation 23 prohibits the altering of scales on instruments after marking by an inspector. Maximum penalty: \$2,000.

Regulation 24 makes provision for offences punishable by a maximum penalty of \$2,000 in relation to liquid measures for -

- . not providing adequate lighting to enable the observation of the measure;
- . not ensuring flowmeters designed to re-set to zero actually do so before the next measurement;
- . permitting the reading on driveway flowmeters (eg petrol bowsers) to be erased before the completion of the sale.

Regulations 25 and 26 create offences punishable by a maximum penalty of \$2,000 for measuring precious stones or metals using an instrument not having the specified capacity and scale.

Regulation 27 is a general offence provision imposing a maximum penalty of \$2,000 for using a measuring instrument for trade contrary to the regulations if there is no other penalty prescribed.