



ACT DEPARTMENT OF JUSTICE
& COMMUNITY SAFETY

2002

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (TRADE MEASUREMENT INFRINGEMENT NOTICES)
REGULATIONS 2002

SUBORDINATE LAW 2002- 36

EXPLANATORY MEMORANDUM

Circulated by authority of the
Attorney General

Performance Assessment

DUE DATE:...../...../..... **DATE RECEIVED:**...../...../.....

SATISFACTORY **UNSATISFACTORY**

according to criteria specified in *ACT Government Policy Performance Measures*

Signature/.../... **Office of the Chief Minister**

2.

**MAGISTRATES COURT (TRADE MEASUREMENT INFRINGEMENT NOTICES)
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Outline

Part 8 of the *Magistrates Court Act 1930* provides for the issue of infringement notices for offences listed in regulations. The Magistrates Court (Trade Measurement Infringement Notices) Regulations 2002 (the regulations) enables infringement notices to be issued for certain offences against trade measurement legislation. The trade measurement legislation is defined as the *Trade Measurement Act 1991*, *Trade Measurement (Measuring Instruments) Regulations 1991*, *Trade Measurement (Miscellaneous) Regulations 1991* and the *Trade Measurement (Weighbridges) Regulations 1991*.

The trade measurement legislation is designed to facilitate commerce by promoting certainty in transactions where goods are exchanged in measurable quantities. Currently, any action for breaches of trade measurement legislation must be taken via the court system. This can be time consuming and costly. The ability to issue penalty notices for offences against trade measurement legislation will encourage compliance with the legislation and will allow for immediate action to be taken against traders who are breaching the legislation. This should provide greater protection for ACT consumers.

The regulations mirror provisions of the NSW *Trade Measurement Administration Regulation 1997*, dealing with penalty notices issued for the infringement of trade measurement legislation.

Financial Implications

Nil.

Clause Notes

Regulation 1 – Name of regulations – provides that the regulations are the Magistrates Court (Trade Measurement Infringement Notices) Regulations 2002.

Regulation 2 – Commencement – provides that the regulations commence on the day after their notification day.

Regulation 3 – Purpose of regulations – provides that the purpose of the regulations is to create a system of infringement notices under the *Magistrates Court Act 1930* for offences against trade measurement legislation.

Regulation 4 – Notes – provides that the notes included in the regulations are explanatory and do not form part of the regulations.

Regulation 5 – Meaning of trade measurement legislation – provides that the trade measurement legislation is defined as the *Trade Measurement Act 1991*, *Trade Measurement (Measuring Instruments) Regulations 1991*, *Trade Measurement (Miscellaneous) Regulations 1991* and the *Trade Measurement (Weighbridges) Regulations 1991*.

Regulation 6 – Administering authority – provides that the administering authority for infringement notices against the trade measurement legislation is the Commissioner for Fair Trading.

Regulation 7 – Infringement notice offences – provides that infringement notices can be issued for offences listed in schedule 1.

Regulation 8 – Infringement notice penalties – provides that the penalties for the offences in schedule 1 are listed in column 4 of the schedule. The penalties for corporations are five times the amount listed in column 4 of the schedule.

This regulation also provides that a charge of \$34 will be imposed for serving a reminder notice on a person who has not paid their infringement notice.

Regulation 9 – identifying particulars for person served – specifies how an infringement notice must identify the person on whom the notice is served. This regulation provides that a registered company must be identified by the company's ACN and if the person is a business with a business name registered under the *Business Names Act 1963* then the person must be identified by the registered business name.

Regulation 10 – identifying particulars for authorised person for infringement notice – provides that the infringement notice must identify the person who served the notice by their full name or surname and initials and the date of issue, and date of expiry of their identity card.

Regulation 11 – identifying particulars for authorised person for reminder notice – provides that the reminder notice for the infringement notice must identify the person who served the notice by their full name or surname and initials and the date of issue, and date of expiry of their identity card.

Regulation 12 – authorised people for the infringement notice offences – provides that an infringement notice or a reminder notice under these regulations may be issued by an inspector under the *Trade Measurement (Administration) Act 1991*.

Schedule 1 – Trade measurement legislation infringement notice offences and penalties – lists the offences for which an infringement notice can be issued. The schedule lists the maximum number of penalty units for the offence and the maximum penalty that can be imposed for the offence by infringement notice. The schedule provides that the maximum penalty for any infringement notice is \$500.