Trade Measurement (Amendment) Act 2000
Act No. 17/2000

TABLE OF PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Purposes</td>
<td>1</td>
</tr>
<tr>
<td>2. Commencement</td>
<td>2</td>
</tr>
<tr>
<td>3. Definitions</td>
<td>2</td>
</tr>
<tr>
<td>4. New sections 3A and 3B inserted</td>
<td>2</td>
</tr>
<tr>
<td>3A. Determining certain quantities</td>
<td>2</td>
</tr>
<tr>
<td>3B. References to functions</td>
<td>3</td>
</tr>
<tr>
<td>5. Inspector's notice to remedy contravention</td>
<td>3</td>
</tr>
<tr>
<td>6. New sections 7A and 7B inserted</td>
<td>4</td>
</tr>
<tr>
<td>7A. Use of class 4 measuring instruments</td>
<td>4</td>
</tr>
<tr>
<td>7B. Use of measuring instruments for pre-packed articles</td>
<td>5</td>
</tr>
<tr>
<td>7. Amendments to section 8</td>
<td>5</td>
</tr>
<tr>
<td>8. Amendment to section 9</td>
<td>6</td>
</tr>
<tr>
<td>9. Amendments to section 10</td>
<td>6</td>
</tr>
<tr>
<td>10. Incorrect measurement</td>
<td>6</td>
</tr>
<tr>
<td>11. Measurement of pre-packed articles</td>
<td>7</td>
</tr>
<tr>
<td>12. Servicing licence</td>
<td>7</td>
</tr>
<tr>
<td>42. Requirement for servicing licence</td>
<td>7</td>
</tr>
<tr>
<td>13. Joint application for licence</td>
<td>7</td>
</tr>
<tr>
<td>14. Appeals</td>
<td>8</td>
</tr>
<tr>
<td>15. Amendment to section 60</td>
<td>8</td>
</tr>
<tr>
<td>16. Amendment to section 61</td>
<td>9</td>
</tr>
<tr>
<td>17. Amendments to section 62</td>
<td>9</td>
</tr>
<tr>
<td>18. Batch number</td>
<td>9</td>
</tr>
<tr>
<td>19. Amendment to section 80</td>
<td>10</td>
</tr>
<tr>
<td>14. Appeals tribunal</td>
<td>10</td>
</tr>
</tbody>
</table>

NOTES 11
The Parliament of Victoria enacts as follows:

1. **Purposes**

   The purposes of this Act are—

   (a) to amend the *Trade Measurement Act 1995* to adopt nationally agreed reforms; and

   (b) to make minor amendments to the *Trade Measurement Act 1995* and the *Trade Measurement (Administration) Act 1995* relating to applications for review to the Victorian Civil and Administrative Tribunal.
2. **Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3. **Definitions**

In section 3(1) of the *Trade Measurement Act 1995*—

(a) **insert**—

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

(a) has not less than 100 but not more than 1000 verification scale intervals, each of which is not less than 5 grams; and

(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;'

(b) for the definition of "measurement" **substitute**—

"measurement" means a determination of number or physical quantity, other than for descriptive purposes only;'

4. **New sections 3A and 3B inserted**

For section 3(2) and (3) of the *Trade Measurement Act 1995 substitute*—

"3A. **Determining certain quantities**

For the purposes of this Act—

(a) time interval not related to the calendar is a physical quantity; and
(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 exercise of a function includes, where the function is a duty, a reference to the performance of the duty.".

5. Inspector's notice to remedy contravention

For section 7(3) and (4) of the Trade Measurement Act 1995 substitute—

"(3) If an inspector finds a measuring instrument that is being used in contravention of sub-section (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

(ii) for a weighbridge—does not comply with stated requirements of the regulation relating to weighbridges; and
Trade Measurement (Amendment) Act 2000

Act No. 17/2000

(b) requiring the person to remedy the contravention within a stated period of not more than 28 days.

(4) 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.

(5) This section does not apply to the use of a measuring instrument to determine a quantity of articles by number of the articles.

(6) The regulations may provide for the circumstances in which the use for trade of a measuring instrument that has been repaired or modified, or commissioned, is permitted even though it does not bear an inspector's mark or a licensee's mark, pending its verification or certification."

6. New sections 7A and 7B inserted

After section 7 of the Trade Measurement Act 1995 insert—

"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; or

(b) for freight scales with a capacity of up to 2000 kg; or

(c) for weighing garbage; or

(d) for weighing earth, sand, gravel or other similar material; or

(e) as a crane-weigher; or

(f) for weighing timber in log form; or
Trade Measurement (Amendment) Act 2000
Act No. 17/2000

(g) for another purpose prescribed under a regulation.

Penalty:

(a) if the class 4 measuring instrument is a weighbridge—100 penalty units;

(b) 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 1 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. Amendments to section 8

(1) In section 8(1) of the Trade Measurement Act 1995 omit "or unjust".

(2) For section 8(4) of the Trade Measurement Act 1995 substitute—

"(4) 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.

(5) 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) If a person commits an offence against this section, any contract to which the person is a party and which is made by reference to a measurement to which the offence relates is voidable at the option of another party to the contract.

8. Amendment to section 9

In section 9(1) of the Trade Measurement Act 1995 omit "or unjust".

9. Amendments to section 10

(1) In section 10(1) of the Trade Measurement Act 1995, for "of reference standards of measurement as may be" substitute "and denominations of reference standards of measurement as the administering authority decides are".

(2) In section 10(2) of the Trade Measurement Act 1995, after "classes" insert "and denominations, decided by the administering authority,".

10. Incorrect measurement

In section 23 of the Trade Measurement Act 1995—

(a) after "operates the measuring instrument" insert "or decides the measurement";

(b) in paragraph (a), for "the other party to the sale" substitute "any other person who is a party to a sale of the article".
11. **Measurement of pre-packed articles**

In section 31(1) of the **Trade Measurement Act 1995**, after "reference to the measurement of the article" insert "(without any packaging or other thing that is not part of the article)".

12. **Servicing licence**

For section 42 of the **Trade Measurement Act 1995 substitute—**

"**42. Requirement for servicing licence**

(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.

(2) 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.

(3) It is a defence in proceedings against an employee of a licensee in respect of a failure to comply with a condition of a servicing licence if the employee establishes that the licensee failed to make the employee aware of the condition.".

13. **Joint application for licence**
For section 44(2) and (3) of the Trade Measurement Act 1995 substitute—

"(2) 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.

(3) The application must be accompanied by the application fee prescribed under the Administration Act.

(4) The licensing authority may require an applicant to provide specified particulars (in writing) and documents relating to the application, and may refuse the application if they are not provided.".

14. Appeals

(1) For the heading to Division 4 of Part 6 of the Trade Measurement Act 1995 substitute—

"Division 4— Appeals".

(2) In section 59 of the Trade Measurement Act 1995—

(a) in sub-section (1), for "apply to the Victorian Civil and Administrative Tribunal for review of" substitute "appeal to the appeals tribunal under the Administration Act against".

(b) in sub-section (2) for "An application for review must be made" substitute "An appeal must be commenced".

15. Amendment to section 60
In section 60(1)(b) of the Trade Measurement Act 1995, for "the inspector to enter and search it; and" substitute—
"the inspector—
(i) to enter and search it; or
(ii) to weigh or measure it and its load; and".

16. Amendment to section 61

After section 61 of the Trade Measurement Act 1995 insert—
"
(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.".

17. Amendments to section 62

(1) In section 62(1)(a) of the Trade Measurement Act 1995, after "examine" insert "and measure".

(2) After section 62(3) of the Trade Measurement Act 1995 insert—
"
(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.".

18. Batch number

(1) In section 76(1), (2) and (3) of the Trade Measurement Act 1995 omit "prima facie".

(2) For section 76(4) of the Trade Measurement Act 1995 substitute—
"(4) 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.

(5) The fact that an article contained in a package is found exposed for sale or in the possession of a person for sale is evidence that the article is a pre-packed article.

(6) 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.'.

19. Amendment to section 80

In section 80(2)(g) of the Trade Measurement Act 1995, before "verified" insert "certified,"


After section 13 of the Trade Measurement (Administration) Act 1995 insert—

"14. Appeals tribunal

(1) For the purposes of section 59 of the Trade Measurement Act 1995, the appeals tribunal is the Victorian Civil and Administrative Tribunal.

(2) If a provision of the Victorian Civil and Administrative Tribunal Act 1998 is inconsistent with a provision of the Trade Measurement Act 1995 or of this Act, the provision of the Trade Measurement Act 1995 or of this Act prevails."
NOTES

† Minister’s second reading speech—
Legislative Assembly: 16 March 2000
Legislative Council: 12 April 2000

The long title for the Bill for this Act was "to amend the Trade Measurement Act 1995 to adopt nationally agreed reforms, to make minor amendments to that Act and the Trade Measurement (Administration) Act 1995 and for other purposes."