



Queensland

Trade Measurement Administration Act 1990

Reprinted as in force on 1 December 2009

Reprint No. 2C

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NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2010 Act No. 50 s 6

Information about this reprint

This Act is reprinted as at 1 December 2009. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



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Trade Measurement Administration Act 1990

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Trade Measurement Administration Act 1990

[as amended by all amendments that commenced on or before 1 December 2009]

An Act relating to the administration of the *Trade Measurement Act 1990* and associated matters

Part 1 Preliminary

1 Short title

This Act may be cited as the *Trade Measurement Administration Act 1990*.

2 Commencement

- (1) Section 1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.
- (2) Except as provided by subsection (1), the provisions of this Act commence on the day or days appointed by proclamation for their commencement.

3 Definitions

In this Act—

approved form see section 23A.

chief inspector means the person holding the office of chief inspector of trade measurement under section 5 and includes any person acting in that office.

function includes power.

inspector means—

[s 3A]

- (a) the chief inspector;
- (b) the person holding the office of deputy chief inspector of trade measurement under section 5;
- (c) a person holding office under section 5 as an inspector or assistant inspector;
- (d) a person acting in an office referred to in paragraph (b) or (c).

principal Act means the *Trade Measurement Act 1990*.

repealed Act means the *Weights and Measures Act 1951* as in force from time to time.

3A Expressions used in Trade Measurement Act 1990

Expressions used in this Act have the same meanings respectively as they have in the principal Act.

4 Declaration for the purposes of the principal Act

For the purposes of the principal Act the chief inspector is the administering authority and the licensing authority.

Part 2 Staff

5 Chief inspector and other staff

- (1) A chief inspector of trade measurement, a deputy chief inspector of trade measurement, inspectors, assistant inspectors and other officers as may be necessary to provide for the administration of the principal Act and this Act may be employed under the *Public Service Act 2008*.
- (2) During the absence from whatever cause of the chief inspector or a vacancy in the office of chief inspector the deputy chief inspector of trade measurement is, without further appointment, to act in the office of chief inspector.

- (3) The fact that the deputy chief inspector of trade measurement has exercised any function of the chief inspector is, until the contrary is proved, sufficient evidence of the absence of the chief inspector or a vacancy in the office of chief inspector.

6 Authority to exercise functions of an inspector

- (1) Authority to exercise the functions of an inspector may be given by the chief inspector to a person who, under the law of another State or of a Territory that corresponds to the principal Act, has functions similar to those of an inspector under the principal Act.
- (2) A person authorised under subsection (1) has the functions of an inspector for the time and purposes specified by the chief inspector when giving the authority.

7 Control of inspectors

A person (other than the chief inspector) who exercises the functions of an inspector is, in the exercise of the functions, subject to the direction and control of the chief inspector.

8 Inspectors' certificates of authority

- (1) Either the Minister or the chief inspector is to issue to each inspector a certificate of authority in the approved form.
- (2) The Minister is to issue to the chief inspector a certificate of authority in the form determined by the Minister.

9 Functions of chief inspector under Commonwealth regulations

The chief inspector, with the approval of the Minister—

- (a) may hold an appointment made under the National Measurement Regulations of the Commonwealth; and
- (b) may exercise any functions conferred on the holder of the appointment.

Part 3 Fees and charges

10 Fees and charges may be prescribed

- (1) Regulations may be made for and with respect to the imposition, collection and recovery of fees and charges for the purposes of the principal Act and this Act including—
 - (a) application fees; and
 - (b) licence fees; and
 - (c) fees payable for the issue of amended licences or certificates and for the issue of duplicate licences or certificates; and
 - (ca) fees payable for providing weighbridge suitability statements or duplicates of weighbridge suitability statements; and
 - (d) charges for the verification, re-verification or certification of measuring instruments; and
 - (e) charges for the examination of public weighbridges for suitability; and
 - (f) charges payable where an inspector keeps an appointment to examine or test a measuring instrument but is unable to carry out the examination or testing because the measuring instrument is unavailable or inaccessible or access to it is unreasonably refused; and
 - (g) charges to reimburse costs incurred in connection with the examination and testing of a measuring instrument under the principal Act; and
 - (h) charges payable by a person where the use of specified labour or equipment provided by the chief inspector is necessary for the exercise of the functions of an inspector; and
 - (i) charges payable for the use by a person of specified equipment provided by the chief inspector.

- (2) The regulations may provide for a charge under subsection (1)(d) to (i) to be calculated on a time basis.
- (3) The regulations may provide for the fee payable under section 52 (Periodic licence fee) of the principal Act for a licence to be a specified amount or an amount calculated in a specified manner.
- (4) For this section, it does not matter whether the fee prescribed for a public weighbridge licence and a weighbridge suitability statement is a combined fee for the same period.

11 Recovery of unpaid fees and charges

A fee or charge payable under the regulations is recoverable as a debt due to the Crown.

Part 4 Proceedings for offences

12 Time for instituting proceedings for offence

Proceedings for an offence under the principal Act or this Act may be commenced within 12 months after the offence is committed or within 12 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire.

13 Summary proceedings

- (1) Proceedings for offences under the principal Act or this Act are to be taken in a summary manner under the *Justices Act 1886* upon the complaint of the chief inspector, or other person authorised in that behalf by the chief inspector.
- (2) An averment in the complaint that the complainant is duly authorised to lay the complaint is sufficient proof of such authorisation in the absence of evidence to the contrary.

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15 Double jeopardy

- (1) If an act or omission is both an offence under the principal Act and an offence under a law of the Commonwealth, or of another State, or of a Territory, a person who—
 - (a) is convicted of the offence under that law; or
 - (b) is found by a court to have committed the offence under that law but is not convicted;is not liable to be proceeded against for the offence under the principal Act.
- (2) In proceedings under the principal Act, a certificate that complies with subsection (3) in relation to a conviction or finding of a court is conclusive evidence of the conviction or finding unless it is proved—
 - (a) that the conviction was quashed or set aside; or
 - (b) that the finding was set aside or reversed.
- (3) A certificate complies with this subsection if it is signed by the registrar or other proper officer of the court that directed the conviction or made the finding and is to the effect—
 - (a) that a named person was, on a stated date, convicted by that court of a specified offence; or
 - (b) that a named person charged with a specified offence was, on a stated date, found by that court to have committed the offence but was not convicted.

Part 6 General

19 Search warrants

- (1) An inspector may apply to a stipendiary magistrate for the issue of a search warrant in respect of any premises or part thereof.

-
- (2) If a stipendiary magistrate to whom application for a search warrant under subsection (1) is made is satisfied that the inspector suspects on reasonable grounds that—
- (a) in the premises or part to which the application relates an offence against the principal Act is being or has been committed; or
 - (b) in the premises or part to which the application relates there is anything with respect to which an offence against the principal Act is being or has been committed, or with respect to which the inspector may exercise a function conferred on the inspector by the principal Act;

the stipendiary magistrate may, subject to subsection (5), issue a search warrant directed to the inspector to enter the premises or part specified in the warrant for the purpose of exercising therein the powers conferred on an inspector by the principal Act.

- (3) A search warrant remains in force for the period of 1 month from the date of its issue and is lawful authority for the inspector to whom it is directed—
- (a) to enter the premises or part specified in the search warrant using such force as is reasonably necessary for the purpose; and
 - (b) to exercise therein the powers conferred on an inspector by the principal Act.
- (4) An inspector executing a search warrant is to produce the warrant for inspection by the occupier of the premises or part concerned, if requested by the occupier so to do.
- (5) A stipendiary magistrate is not to issue a search warrant under subsection (1) unless—
- (a) the application therefor is made on oath or affirmation and sets out the grounds on which the inspector's suspicion is based; and
 - (b) the stipendiary magistrate has been furnished (by the inspector or other person) with such further information

[s 21]

relating to those grounds as the stipendiary magistrate requires, such information being given on oath or affirmation; and

- (c) the stipendiary magistrate is satisfied that the issue of the search warrant is justified.
- (6) A stipendiary magistrate who issues a search warrant under subsection (1) is to cause to be made (on the warrant or otherwise) a record of the matters of fact on which the stipendiary magistrate has relied to justify the issue of the warrant.
- (7) Any justice is authorised to administer any oath or affirmation necessary for making an application for a search warrant under this section or for furnishing any information or statement for the purposes of this section.

21 Delegation

The chief inspector may delegate the chief inspector's powers under the principal Act or this Act.

22 Secrecy

- (1) A person is not to, without the prior approval of the Minister or the chief inspector, produce in any court or provide to any person any document, or disclose to any court or person any information, that has come into the firstmentioned person's possession or to that person's knowledge in the exercise of that person's functions under a prescribed Act unless that person—
 - (a) does so for the purposes of a prescribed Act; or
 - (b) is required to do so by order of any court or judge or otherwise by law.
- (2) A person who fails to comply with subsection (1) commits an offence.

Maximum penalty—10 penalty units.

- (3) For the purposes of subsection (1) each of the following Acts is a prescribed Act—
- (a) this Act;
 - (b) principal Act;
 - (c) repealed Act.

23 Penalties etc. payable to consolidated fund

All penalties, costs, fees, charges and expenses recovered under this Act are to be paid into and become part of the consolidated fund of this State.

23A Approval of forms

The chief executive may approve forms for use under this Act.

24 Regulations

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may impose a penalty not exceeding 30 penalty units for an offence against the regulations.

Part 7 Savings and transitional provisions

30 References to certain officials

In an Act or document—

- (a) a reference to the chief inspector of weights and measures may, if the context permits, be taken to be a reference to the chief inspector of trade measurement; and

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- (b) a reference to a deputy chief inspector of weights and measures may, if the context permits, be taken to be a reference to the deputy chief inspector of trade measurement.

31 References to repealed Act

In any Act or document, a reference to the *Weights and Measures Act 1951* or the *Trade Measurement (Bread) Act 1990* is taken to be a reference to the *Trade Measurement Act 1990* or this Act, as the case requires.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2009. Future amendments of the Trade Measurement Administration Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|---------|---|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amdt | = amendment | prov | = provision |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No. [X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised edition |
| num | = numbered | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2002 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |
| prev | = previous | | |

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to | Effective | Reprint date |
|-------------|-----------------|------------------|------------------|
| 1 | 1995 Act No. 1 | 1 May 1995 | 1 May 1995 |
| 1A | 1995 Act No. 58 | 28 November 1995 | 16 August 1996 |
| 1B | 1996 Act No. 37 | 1 December 1996 | 13 December 1996 |
| 2 | 1996 Act No. 37 | 1 December 1996 | 3 April 1998 |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|-----------------|-------|
| 2A | 2006 Act No. 19 | 1 February 2007 | |
| 2B | 2009 Act No. 25 | 2 November 2009 | |
| 2C | 2009 Act No. 24 | 1 December 2009 | |

5 Tables in earlier reprints

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed names and titles | 1 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

Trade Measurement Administration Act 1990 No. 70

date of assent 19 September 1990

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd gaz 25 May 1991 p 299)

amending legislation—

Consumer Law (Miscellaneous Provisions) Act 1995 No. 1 pt 1, s 3 sch 1

date of assent 3 March 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 1995 (1995 SL No. 89)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1995 (1996 SL No. 361)

Consumer Credit and Trade Measurement Amendment Act 2006 No. 19 pts 1, 4

date of assent 2 May 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2007 (2006 SL No. 248)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 5 pt 72

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

7 List of annotations

Long title amd 1995 No. 1 s 3 sch 1

Definitions

- s 3** amd 1995 No. 1 s 3 sch 1
def “**approved form**” ins 1995 No. 58 s 4 sch 1
def “**function**” ins 1995 No. 57 s 4 sch 1
def “**Magistrates Court**” om 1995 No. 1 s 3 sch 1
def “**Minister**” om 1995 No. 1 s 3 sch 1
def “**regulations**” om 1995 No. 1 s 3 sch 1

Expressions used in Trade Measurement Act 1990

- s 3A** (prev s 3(2)) renum 1995 No. 57 s 4 sch 1

Chief inspector and other staff

- s 5** amd 1995 No. 1 s 3 sch 1; 1996 No. 37 s 147 sch 2; 2009 No. 25 s 83 sch

Unjust measurement

- s 8** amd 1995 No. 58 s 4 sch 1

Fees and charges may be prescribed

- s 10** amd 2006 No. 19 s 34

Time for instituting proceedings for offence

- s 12** amd 1995 No. 1 s 3 sch 1

Summary proceedings

- s 13** amd 1995 No. 1 s 3 sch 1

Non-application of Penalty Units Act to penalties under principal Act

- s 14** om 1995 No. 57 s 4 sch 1

PART 5—APPEALS

- pt hdg** om 2009 No. 24 s 821

Appeals tribunal

- s 16** amd 1995 No. 57 s 4 sch 1
om 2009 No. 24 s 821

Determination of appeal

- s 17** om 2009 No. 24 s 821

How appeal commenced

- s 18** amd 1995 No. 58 s 4 sch 1
om 2009 No. 24 s 821

Search warrants

s 19 amd 1995 No. 1 s 3 sch 1

Service of documents

s 20 om 1995 No. 1 s 3 sch 1

Delegation

s 21 sub 1995 No. 1 s 3 sch 1

Secrecy

s 22 and 1995 No. 1 s 3 sch 1

Approval of forms

s 23A ins 1995 No. 58 s 4 sch 1

Regulations

s 24 amd 1995 No. 1 s 3 sch 1; 1995 No. 57 s 4 sch 1

PART 7—SAVINGS AND TRANSITIONAL PROVISIONS

pt hdg amd 1995 No. 1 s 3 sch 1

Repeals

s 25 om 1995 No. 1 s 3 sch 1

Saving of appointments

s 26 om 1995 No. 57 s 4 sch 1

Stamps and marks under repealed Act

s 27 om 1995 No. 57 s 4 sch 1

Permit for sale of pre-packed articles

s 28 om 1995 No. 57 s 4 sch 1

Certificates of registration as a principal

s 29 om 1995 No. 57 s 4 sch 1

References to certain officials

s 30 sub 1995 No. 57 s 4 sch 1

References to repealed Act

s 31 sub 1995 No. 1 s 3 sch 1

Transitional provision about forms

s 32 orig s 32 amd 1995 No. 1 s 3 sch 1
exp 1 May 1995 (see s 32(4))
AIA s 20 applies (see s 32(3))
prev s 32 ins 1995 No. 58 s 4 sch 1
exp 28 May 1996 (see s 32(3))

Regulations

s 33 om 1995 No. 1 s 3 sch 1

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 1 Version 7—Application for a Servicing Licence

pubd gaz 20 January 2006 p 201

Form 1a Version 1—Change of Certifier Details

pubd gaz 20 January 2006 p 201

Form 2 Version 7—Application for Public Weighbridge Licence

pubd gaz 20 January 2006 p 201

Form 2a Version 7—Change of details of Persons Employed by Licensee to Operate Weighbridge

pubd gaz 20 January 2006 p 201

Form 3 Version 7—Application for a Certificate of Suitability for Public Weighbridge

pubd gaz 20 January 2006 p 201

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