

Trade Measurement Legislation (Amendment and Expiry) Bill 2010

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

Trade Measurement Legislation (Amendment and Expiry) Bill 2010

A Bill for

An Act to —

- **amend the *Trade Measurement Act 2006* and the *Trade Measurement Administration Act 2006* to effect the transition of the regulation of weights and measures from the State to the Commonwealth as a consequence of the enactment of the *National Measurement Amendment Act 2008* (Commonwealth); and**
- **make consequential amendments to various Acts, and for related purposes.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Trade Measurement Legislation (Amendment and Expiry) Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) Parts 1, 2 and 3 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 4 —
 - (i) if assent day is before 1 July 2010 — on 1 July 2010; or
 - (ii) if assent day is, or is after, 1 July 2010 — on assent day.

1 **Part 2 — Trade Measurement Act 2006 amended**

2 **3. Act amended**

3 This Part amends the *Trade Measurement Act 2006*.

4 **4. Sections 3A and 3B inserted**

5 After section 2 insert:

6

7 **3A. Application of Act limited**

8 (1) In this section —
9 *transition day* has the meaning given in the
10 Administration Act section 4(1).

11 (2) Except as provided by this section, section 3B and the
12 Administration Act Part 7, this Act does not apply on
13 or after the transition day.

14 **3B. Expiry of Act**

15 This Act expires on the day on which the
16 Administration Act expires under section 3B of that
17 Act.

1 **Part 3 — Trade Measurement Administration Act 2006**
2 **amended**

3 **5. Act amended**

4 This Part amends the *Trade Measurement Administration*
5 *Act 2006*.

6 **6. Sections 3A and 3B inserted**

7 After section 2 insert:
8

9 **3A. Application of Act limited**

10 Except as provided by this section, section 3B and
11 Part 7, this Act does not apply on or after the transition
12 day.

13 **3B. Expiry of Act**

14 (1) This Act expires —

15 (a) on 1 July 2013; or

16 (b) if an earlier day is fixed under subsection (2),
17 on that earlier day.

18 (2) The Governor may, by proclamation, fix a day that is
19 earlier than 1 July 2013 as the day on which this Act
20 expires.

21 (3) A proclamation cannot be made under subsection (2)
22 unless, after the transition day, the Commissioner has
23 given the Minister a certificate signed by the
24 Commissioner stating that the operation of this Act and
25 the principal Act is no longer necessary.
26

1 **7. Section 4 amended**

2 (1) In section 4(1) insert in alphabetical order:

3

4 *NMI* means the National Measurement Institute
5 referred to in the National Measurement Act
6 section 17;

7 *transition day* has the meaning given in the *National*
8 *Measurement Amendment Act 2008* (Commonwealth)
9 Schedule 2 item 1(1).

10

11 (2) In section 4(1) in the definition of *principal Act* delete “2006.”
12 and insert:

13

14 2006;

15

16 **8. Part 7 inserted**

17 After section 37 insert:

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19 **Part 7 — Transition of regulation of weights and**
20 **measures from State to Commonwealth**

21 **38. Term used: offence**

22 In this Part —

23 *offence* means an offence against this Act or the
24 principal Act.

- 1 **39. Act and principal Act continue to apply for certain**
2 **purposes**
- 3 This Act and the principal Act continue to apply on and
4 after the transition day only for the following
5 purposes —
- 6 (a) the investigation and prosecution of offences
7 committed before the transition day;
- 8 (b) the giving, withdrawal or payment of
9 infringement notices under Part 4 in respect of
10 offences committed before the transition day;
- 11 (c) the taking of disciplinary action under the
12 principal Act section 80 against licensees
13 served with a written notice under section 79 of
14 that Act before the transition day;
- 15 (d) the review by the State Administrative Tribunal
16 under the principal Act section 81 of decisions
17 of the Commissioner made before the transition
18 day;
- 19 (e) the payment or recovery of fees or charges that
20 became payable, or in respect of which an
21 invoice was issued, under this Act or the
22 principal Act before the transition day.
- 23 **40. Proceedings on and after transition day**
- 24 (1) Despite section 33(1), proceedings for an offence
25 committed before the transition day must not be
26 commenced after the end of 12 months after the
27 transition day.
- 28 (2) A person cannot be charged on or after the transition
29 day with an offence committed before the transition
30 day unless, at the time the person is charged, the act or
31 omission constituting the offence would constitute an
32 offence under the National Measurement Act.

- 1 (3) If—
2 (a) a person is sentenced on or after the transition
3 day for an offence committed before the
4 transition day (the *State offence*); and
5 (b) at the time the person is sentenced, the act or
6 omission constituting the State offence would
7 constitute an offence under the National
8 Measurement Act (the *Commonwealth*
9 *offence*); and
10 (c) there is a difference between the penalty for the
11 State offence and the penalty for the
12 Commonwealth offence,
13 the lesser penalty applies for the purposes of
14 sentencing the person for the State offence.

15 **41. Inspection of seized things by NMI**

16 The Commissioner may allow the NMI, for the
17 purposes of the administration or enforcement of the
18 National Measurement Act, to inspect a thing seized
19 and retained under the principal Act Part 7 in the
20 course of the investigation of an offence committed
21 against that Act before the transition day.

22 **42. Provision of registers and other information to NMI**

- 23 (1) For the purposes of the administration or enforcement
24 of the National Measurement Act, the Commissioner
25 may provide the following information to the NMI—
26 (a) a copy of the register kept under the principal
27 Act section 25(a);
28 (b) a copy of the register kept under the principal
29 Act section 59(1);
30 (c) any other information relating to the
31 administration or enforcement of this Act or the
32 principal Act.

s. 8

- 1 (2) Subsection (1) applies despite any enactment relating
2 to confidentiality or secrecy.
- 3 (3) If information is provided under subsection (1) in good
4 faith —
- 5 (a) no civil or criminal liability is incurred in
6 respect of the provision of the information; and
- 7 (b) the provision of the information is not to be
8 regarded as a breach of any duty of
9 confidentiality or secrecy imposed by law; and
- 10 (c) the provision of the information is not to be
11 regarded as a breach of professional ethics or
12 standards or as unprofessional conduct.

13 **43. Transitional regulations**

- 14 (1) In this section —
- 15 *transitional matter* means any matter of a transitional
16 or savings nature arising from the enactment of the
17 *Trade Measurement Legislation (Amendment and*
18 *Expiry) Act 2010* or the *National Measurement*
19 *Amendment Act 2008* (Commonwealth).
- 20 (2) If there is not sufficient provision in this Part for
21 dealing with a transitional matter, regulations may be
22 made under section 35 prescribing all matters that are
23 required or necessary or convenient to be prescribed
24 for dealing with the matter.
- 25 (3) Without limiting subsection (2), regulations made for
26 the purposes of that subsection may provide for the
27 continued application of this Act or the principal Act
28 for a purpose that is of a transitional or savings nature
29 and for which there is not sufficient provision in
30 sections 38, 39, 40, 41 and 42.
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Part 4 — Consequential amendments

9. Consumer Affairs Act 1971 amended

- (1) This section amends the *Consumer Affairs Act 1971*.
- (2) In the Schedule delete “*Trade Measurement Act 2006*”.

10. Road Traffic (Administration) Act 2008 amended

- (1) This section amends the *Road Traffic (Administration) Act 2008*.
 - (2) In section 112(1):
 - (a) in paragraph (a) delete “*Trade Measurement Act 2006*” and insert:

National Measurement Act 1960 (Commonwealth)
 - (b) in paragraph (a) delete “Part 6” and insert:

Part XI
 - (c) in paragraph (b) delete “or re-verified”.
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