



Australian Government  
Department of Industry,  
Innovation and Science

National  
Measurement  
Institute



## National Compliance Policy Legal Metrology Branch

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## Introduction

Consistency and certainty in measurement supports fair and open competition. It provides a level playing field for business by ensuring that all market participants, irrespective of their size or financial strength, follow the same rules and have equal opportunity to compete.

Studies in Australia, the USA and Canada have estimated that the total value of trade transactions involving measurement (including packaged goods and utility metering) accounts for at least 50% of Gross National Income (GNI). Of this amount, around a quarter is accounted for by retail transactions. The remaining three quarters are business to business transactions.

Based on these estimates, more than \$750 billion worth of goods and utilities are traded each year in Australia on the basis of their measurement. Reliable representations of measurements help consumers and businesses make informed purchasing decisions. More broadly, they support the efficient operation of the market.

Confidence in accurate measurement also delivers:

- reduced disputation and lower transactions costs in commercial dealings
- a sound evidential basis for legal and regulatory measurements.

Australia's legal metrology system provides a reliable framework to support confidence in accurate measurement. The system includes elements that ensure:

- measuring instruments are fit for purpose
- measurements are made correctly
- representations about measurements are accurate.

The system is also underpinned by the necessary scientific and technical infrastructure to support correct measurements (traceability).

The National Measurement Institute (NMI), a division of the Australian Government Department of Industry, Innovation and Science, is responsible for the regulation of Australia's legal metrology system.

In planning and undertaking its regulatory responsibilities, NMI recognises that reducing the burden on industry of inefficient regulation can lower costs to businesses and facilitate innovation. We also note the importance of ensuring that the regulatory environment strikes the right balance between efficient markets and community expectations.

NMI participates in formal processes that develop international documentary standards for measuring instruments and adopts relevant international standards to support market efficiency and to ensure Australia's regulatory environment is harmonised with international best practise.

In order to maintain delivery of best practice regulation, NMI recognises that as an organisation it must adapt, be proactive and innovative as we work with stakeholders to find new approaches in a changing environment.

## Regulation of legal metrology

A measuring instrument is being used for trade if it is used in determining the consideration in respect of a transaction or in determining the amount of a tax. In Australia, all measuring instruments used for trade must be pattern-approved and verified.

Pattern approval confirms that a measuring instrument's design meets relevant documentary standards and performs as intended over a range of environmental and operating conditions. NMI examines trade and other legal measuring instruments against relevant standards and issues certificates for pattern approval that are internationally recognised. NMI may also appoint Approving Authorities to examine measuring instruments and produce test reports for pattern approval.

When reviewing applications for pattern approval of trade measuring instruments where certification has already been issued in another country, NMI recognises test reports issued in accordance with the International Organisation for Legal Metrology's framework for mutual acceptance arrangements and can also accept certain other test results based on a risk analysis.

Verification is the testing of measuring instruments to ensure that they operate in accordance with pattern approval requirements and are accurate. Verification of trade measuring instruments is usually carried out by NMI appointed organisations, known as Servicing Licensees or Utility Meter Verifiers. These organisations verify instruments against standards that are aligned with international practice, including National Instrument Test Procedures (NITPs) determined by NMI.



Traceability is being able to demonstrate that a measurement result is related to a primary measurement standard through a documented, unbroken chain of calibrations. To ensure traceability of reference standards used for verification of trade measuring instruments, NMI appoints Verifying Authorities in areas such as length, mass, area, volume, density, and temperature.

NMI also appoints Certifying Authorities to ensure that certain legal measuring instruments are of an approved pattern and accurate. Certifying Authorities may also be appointed to produce reference materials used in the verification of trade measuring instruments and certification of legal measuring instruments.

NMI has a national network of trade measurement inspectors who audit traders and licensees to assess their regulatory compliance, and take appropriate enforcement action where there have been breaches of the law.

The main laws covering legal metrology are the *National Measurement Act 1960*, the *National Measurement Regulations 1999* and the *National Trade Measurement Regulations 2009*.

## Compliance principles

NMI is committed to ensuring that its legal metrology activities will be consistent with best-practice approaches to regulation, including following the principles of proportionality, consistency and transparency.

### *Proportionality*

Any regulatory response will be proportionate to the impact of any actual or potential harm.

### *Consistency*

We will take a consistent approach when interpreting, applying and enforcing national trade measurement legislation.

### *Transparency*

As a regulator, we will be accessible, provide clear guidance on all aspects of our legislation, and be open about our policies, processes and, where permitted, our decisions.



## Compliance model

### *A risk-based approach to minimise harm*

The aim of NMI's administration of legal metrology regulatory compliance is to minimise harm without creating unnecessary compliance costs or burdens for business.

We measure risk in terms of the harm and likelihood of regulatory non-compliance. Some of the factors used to determine harm include:

- impact on confidence in the measurement system
- extent of financial detriment to consumers or industry
- impact on maintaining a level playing field for business competition
- ability of consumers to make informed purchasing decisions.

In assessing risk we consider the impact of any single instance and/or the cumulative effect of many individual instances of non-compliance.

We use a risk-based approach when:

- prioritising the development and maintenance of legal metrology infrastructure (for example, pattern approval standards, NITPs and appointment of Authorities)
- targeting compliance activities
- determining the appropriate and proportionate regulatory response where non-compliance is identified.

### **Recognising compliance history**

Consideration of risk when determining regulatory responses will also be guided by previous compliance history. For example, NMI may:

- consider appropriate levels of surveillance for particular traders that have demonstrated a commitment to compliance through adoption of robust quality assurance systems or an industry code of conduct
- prioritise responding to complaints received about potential breaches of trade measurement law based on the compliance record of industry sectors and/or particular traders.

### *Program-driven compliance activities*

NMI combines market intelligence, consumer complaints and stakeholder feedback with compliance history to plan and implement national targeted inspection programs for industry sectors that have a higher risk of non-compliance with the requirements of trade measurement law.

NMI undertakes pilot programs to assess the level of risk associated with non-compliance in particular or emerging industry sectors. These pilot programs are used to determine whether a national targeted program needs to be introduced.

NMI also allocates a small portion of its resources to maintain a base level of compliance monitoring activity through random audits. These provide visibility in the wider market. The 'potential' for a low-risk entity to be subject to some form of compliance activity can be a sufficient incentive for these entities to continue to voluntarily meet their obligations.

## Compliance tools and responses

### *Ensuring competence in legal metrology infrastructure*

NMI has developed a package of assessment products for verifiers and weighbridge operators to ensure individuals operating under licences issued by NMI are able to competently discharge their regulatory responsibilities. NMI is registered by the Australian Skills Quality Authority under the Australian Quality Training Framework so participants who meet all the requirements of a relevant assessment are awarded a nationally recognised statement of attainment.

Verifiers employed by Servicing Licensees are required to hold statements of attainment for each of the subclasses of measuring instruments they verify.

It is a condition on all Public Weighbridge Licensees that at least one registered public weighbridge operator must hold a statement of attainment for weighbridge operations.

Servicing licensees are required to maintain a quality management system (QMS) that outlines appropriate processes, procedures, equipment and competency documentation needed to properly verify measuring instruments. QMS documents must be submitted with an application for issue or renewal of a servicing licence. They can also be subject to an on-site audit.

As a condition of their appointment, Verifying, Certifying and Approving Authorities and Utility Meter Verifiers must demonstrate their competence to perform specific types of testing, inspection, calibration, and other related activities. This is usually through appropriate accreditation from the National Association of Testing Authorities (NATA).

### *Enforcement actions*

As outlined above, NMI's trade measurement inspectors undertake targeted audits as part of market surveillance activity to monitor traders' and licensees' compliance with their obligations under the law. Inspectors can enter a place of business to:

- review trading practices
- ensure that measuring instruments used for trade are verified and used correctly
- check pre-packed articles for correct packer identification, measurement markings and accurate measure
- ensure that servicing and public weighbridge licensees are operating in accordance with the conditions of their licence
- take appropriate enforcement action where there have been breaches of the law.

Where non-compliance results in a low level of harm and there is minimal likelihood of continued non-compliance an inspector will issue a non-compliance notice, and may provide advice if appropriate. A follow-up visit will check that any issues identified have been corrected. This is the most common enforcement action.



In addition to non-compliance notices, where follow-up inspections identify continued non-compliance or the level of non-compliance detected in initial audits results in more significant harm, possible enforcement options include:

- letters of warning
- infringement notices (which currently include a fine of \$1050 per offence).

Where non-compliance and infringement notices have not deterred traders or licensees from breaching trade measurement law, or where monitoring activities detect more serious issues, further enforcement options include:

- NMI entering into an enforceable undertaking with the trader
- referring matters to the Commonwealth Director of Public Prosecutions (CDPP) for consideration of injunction or prosecution.

Additional disciplinary action can also be taken against servicing and public weighbridge licensees and utility meter verifiers, including:

- varying the conditions of their licence/appointment
- suspending their licence/appointment for up to 12 months
- cancelling their licence/appointment.

## For more information

The NMI website [www.measurement.gov.au](http://www.measurement.gov.au) contains clear and comprehensive guidance material on compliance requirements.

For advice about specific matters contact our national Hotline:

Tel: 1300 686 664

Email: [infotm@measurement.gov.au](mailto:infotm@measurement.gov.au)