Legal Metrology Compliance in 2020–21

Legal Metrology Branch

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# What is Trade Measurement?

Trade measurement refers to buying and selling of goods and services where the value is determined by measurement.

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[[1]](#footnote-1). Of this amount, around a quarter is accounted for by retail transactions with the remaining three quarters being business to business transactions. Based on these estimates, the total value of trade transactions involving measurement in Australia is currently more than $970 billion a year.

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.

Reliable representations of measurements help consumers and businesses make informed purchasing decisions. More broadly, they support the efficient operation of the market.

# Regulation of Trade Measurement

The National Measurement Institute (NMI), a division of the Australian Government Department of Industry, Science, Energy and Resources, administers the [*National Measurement Act 1960*](https://www.legislation.gov.au/Details/C2016C00085) and associated regulations to ensure that for trade purposes:

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

To help businesses comply with their legal obligations, NMI’s trade measurement inspectors:

* test measuring instruments, inspect packaged goods and review business practices
* provide advice on meeting compliance obligations
* take enforcement action when necessary.

Inspectors usually wear branded clothing and show an ID card to the business owner/operator at the commencement of an audit. However, inspectors can also make incognito ‘trial purchases’ to assess whether businesses are, for example, correctly operating scales and allowing for the weight of packaging during over-the-counter transactions.

NMI takes a risk-based approach when targeting compliance activities and determining the appropriate and proportionate regulatory response where non-compliance is identified.

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.

## A Note about Compliance

Non-compliance can take many forms, from inappropriate measurement practices (for example, not adjusting shop scales to account for the weight of packaging in over the counter transactions) and measurement labels that do not meet regulatory requirements, to short measure in packaged goods and using measuring instruments that are unapproved or inaccurate.

Not all instances of non-compliance necessarily affect the integrity of measurement-based transactions. Where measurement errors are found they are usually relatively minor and large errors are quite rare.

Where non-compliance is assessed as resulting 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.

However, even minor measurement errors can have a significant impact on competition and consumer detriment when considered in aggregate.

# Summary of 2020–21 Compliance Activity and Outcomes

## COVID-19 Response

In order to comply with various movement restrictions and to reduce the risk of COVID-19 transmission to our staff and within the community, trade measurement field audit activity was suspended or restricted for significant periods in many parts of the country during 2020–21.

Where a return to fieldwork has been possible, NMI has carefully assessed risks for each industry sector and followed safe work method statements to mitigate these risks. We will continue to follow social distancing and hygiene practices as an integral part of our COVID-Safe fieldwork. We remain committed to ensuring staff and clients stay safe.

NMI has also been conscious of the need to show flexibility in its regulatory approach during this time, allowing businesses to continue to operate under difficult circumstances while still ensuring that consumers are protected. This has included, after appropriate risk assessments:

* reviewing enforcement actions for non-compliance where traders are suffering financial hardship as a result of the contraction in business activity
* extending Regulation 13 Certificates where access to trade measurement laboratories or verifying authorities has been affected by travel restrictions
* considering payment terms for regulatory administration fees.

## Trader Audits

In 2020–21, NMI’s trade measurement inspectors:

* audited over 4800 business premises (includes initial and follow-up audits)
* tested around 14 000 measuring instruments
* inspected almost 600 weighbridges
* inspected almost 26 000 lines of packaged goods (over 100 000 individual packages) for correct measure and measurement labelling.

| Year | Trader audits | Measuring instruments | Weighbridges | Packaged lines | Individual packages |
| --- | --- | --- | --- | --- | --- |
| 2015–16 | 10 123 | 15 240 | 960 | 80 163 | 319 616 |
| 2016–17 | 10 218 | 17 037 | 1154 | 87 812 | 355 294 |
| 2017–18 | 9633 | 14 918 | 965 | 71 799 | 271 375 |
| 2018–19 | 7586 | 15 887 | 614 | 70 183 | 256 507 |
| 2019–20 | 7600 | 13 588 | 479 | 78 290 | 203 320 |
| 2020–21 | 4842 | 14 049 | 594 | 25 990 | 100 139 |

As noted above, the most common enforcement response is for inspectors to provide advice and conduct follow-up inspections to ensure non-compliance is rectified. Most businesses are keen to do the right thing and promptly rectify trade measurement breaches once they are made aware of them. The success of this approach is demonstrated by 90.8 per cent of all businesses inspected found to be complying with the law after follow-up audits were undertaken, up from 65.9 per cent of 3587 traders found to be fully compliant after an initial audit, in 2020–21.

| Year | Initial audits | Initial  non-compliance | Follow-up audits | Follow-up  non-compliance | Estimated final non-compliance |
| --- | --- | --- | --- | --- | --- |
| 2015–16 | 7634 | 2558 (33.5%) | 2489 | 380 (15.3%) | 5.1% |
| 2016–17 | 7761 | 2732 (35.2%) | 2257 | 382 (16.9%) | 5.9% |
| 2017–18 | 7282 | 2545 (34.9%) | 2351 | 422 (17.9%) | 6.3% |
| 2018–19 | 6357 | 2127 (33.5%) | 1229 | 237 (19.3%) | 6.5% |
| 2019–20 | 5736 | 1932 (33.7%) | 1864 | 470 (25.2%) | 8.5% |
| 2020–21 | 3587 | 1222 (34.1%) | 1255 | 337 (26.9%) | 9.2% |

While much non-compliance is relatively minor and usually quickly addressed when identified by trade measurement inspectors, trader types with a greater incidence of non-compliance requiring more serious enforcement action in 2020–21 included:

* Supermarkets
* Meat Retail
* Freight
* Seafood Retail
* Mining and Resources.

## Measuring Instruments

Australia’s trade measurement laws require that measuring instruments used for trade are of an approved type, have been verified by a licensed technician before use, and are accurate at all times while in use. NMI authorises servicing licensees to undertake verifications.

14 049 measuring instruments were tested in 2020–21, with only 2.4 per cent found to be inaccurate to consumer disadvantage. During the year, 3.4 per cent of instruments tested were found to be inaccurate in consumers’ favour.

In 2020–21, instrument categories with the greatest proportion of instruments tested found to be inaccurate to consumer disadvantage included:

* retail fuel dispensers (petrol and diesel) – with 3.9 per cent of 6258 tested inaccurate to consumer disadvantage
* beverage dispensers – with 4.0 per cent of 152 tested inaccurate to consumer disadvantage
* weighing instruments (30 kg to 3 tonnes) – with 7.4 per cent of 54 tested inaccurate to consumer disadvantage.

## Packaged Goods

Of the 25 990 lines of packaged goods tested in 2020–21, 4.6 per cent were found to contain less product than stated on the label, with most discrepancies relatively small. Packaged goods product types with the greatest proportion of incorrect measure in 2020–21 included:

* fuel (solid) – 17.1 per cent of 170 packaged lines
* meat (processed) – 9.1 per cent of 1057 packaged lines
* seafood (frozen) – 6.5 per cent of 309 packaged lines
* health foods – 5.9 per cent of 289 packaged lines
* meat (fresh) – 5.7 per cent of 6448 packaged lines
* dairy (cheese) – 5.6 per cent of 2223 packaged lines.

Further details on compliance and enforcement activity and outcomes in 2020–21 are provided below.

The results outlined in this report were used in developing NMI’s inspection priorities for trade measurement compliance activity in 2021–22. A copy of the [2021–22 National Compliance Plan](https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan)[[2]](#footnote-2) is available on the NMI website.

# Concentrated National Audits

After an initial trial in 2018–19, NMI has adopted concentrated national audits as an integral part of our compliance and enforcement strategy. Under this program type, all trade measurement inspection activity nationally is focused on a single industry sector over a specific time period.

Two major factors determining which traders are targeted in these national audits are:

* previously identified non-compliance
* relative market shares of industry participants.

Three concentrated national audit programs were undertaken in 2020–21:

* supermarkets
* fruit and vegetable retail
* meat, fish and poultry retail.

The data in this section of the report specifically refers to inspection outcomes from concentrated audits. In the remainder of the report this data is aggregated with data from inspections conducted over all of 2020–21.

## Supermarkets

As supermarket purchases represent a significant proportion of daily consumer measurement-related transactions, NMI closely monitors compliance in this sector. A concentrated audit of major supermarkets and independent grocery stores was undertaken from 30 November to 11 December 2020.

As part of the audit NMI’s trade measurement inspectors:

* visited 315 business premises
* tested 1585 measuring instruments
* checked 7676 packaged article lines
* conducted 36 trial purchases

Non-compliance was found at 78 (25 per cent) of the 315 business premises audited, including:

* 3 measuring instruments not verified
* 36 measuring instruments inaccurate outside MPE to consumer advantage
* 3 measuring instruments inaccurate outside MPE to consumer disadvantage
* 83 packaged article lines with short measure
* 30 packaged article lines with non-compliant labelling
* 6 failed trial purchases.

A total of 103 non-compliance notices were issued, for the following breaches: 60 related to measuring instruments; 113 related to packaged goods; and 29 for failure of trading practice (shortfall offences from trial purchases). Some stores were issued with more than one notice or a notice covering more than one breach.

Trade measurement compliance of major supermarkets will continue to be monitored as part of NMI’s 2021–22 [National Compliance Plan](https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan)[[3]](#footnote-3).

## Fruit and Vegetable Retail

In response to above average levels of non-compliance detected in this industry sector across packaged articles, instruments and trading practices, a concentrated national audit was undertaken from 15–21 March 2021.

As part of the audit NMI’s trade measurement inspectors:

* visited 442 business premises
* tested 979 measuring instruments
* checked 5212 packaged article lines
* conducted 386 trial purchases

Non-compliance was found at 389 (88 per cent) of the 442 business premises audited, including:

* 98 measuring instruments not verified
* 49 measuring instruments inaccurate outside MPE to consumer advantage
* 23 measuring instruments inaccurate outside MPE to consumer disadvantage
* 369 packaged article lines with short measure
* 637 packaged article lines with non-compliant labelling
* 171 failed trial purchases.

While most non-compliance detected was relatively minor and corrected by traders on advice from inspectors, NMI issued the following enforcement actions:

* 10 warning letters
* 3 infringement notices of $1110 each.

## Meat, Fish and Poultry Retail

To check whether businesses previously found to be non-compliant had appropriately amended their business practices, a concentrated national audit was undertaken from 30 November to 11 December 2020.

As part of the audit NMI’s trade measurement inspectors:

* visited 200 business premises
* tested 392 measuring instruments
* checked 1670 packaged article lines
* conducted 88 trial purchases

Non-compliance was found at 84 (42 per cent) of the 200 business premises audited, including:

* 14 measuring instruments not verified
* 20 measuring instruments inaccurate outside MPE to consumer advantage
* 3 measuring instruments inaccurate outside MPE to consumer disadvantage
* 150 packaged article lines with short measure
* 50 packaged article lines with non-compliant labelling
* 27 failed trial purchases.

While most non-compliance detected was relatively minor and corrected by traders on advice from inspectors, NMI issued the following enforcement actions:

* 16 warning letters
* 2 infringement notices of $1110 each.

# Enforcement Actions

NMI inspectors issue non-compliance notices whenever any breaches of trade measurement law are identified during trader audits.

Enforcement action of a more serious nature is taken when:

* continued non-compliance is detected after a notice has been previously issued
* a breach detected in an initial audit is particularly severe
* contraventions are of high public interest/impact.

Potential enforcement actions include:

* warning letters
* infringement notices with associated fines
* enforceable undertakings
* referral to the Commonwealth Director of Public Prosecutions (CDPP) for injunction or potential prosecution.

Any enforcement action, such as a warning letter or infringement notice, may cover more than one breach of trade measurement law.

The value of fines associated with infringement notices in 2020–21 was $1110 per offence. NMI issued 12 infringement notices with $18 510 in associated fines.

2020–21 was the second year that NMI entered into enforceable undertakings. NMI entered into enforceable undertakings with two food importers and one retail fuel company in 2020–21.

It should be noted that the CDPP determines whether to take forward a referral to prosecution. Prosecutions may also conclude in the year subsequent to any referral.

| Year | Non-compliance notice | Warning letter | Infringement notice | Enforceable Undertaking | Referral to CDPP | Conviction |
| --- | --- | --- | --- | --- | --- | --- |
| 2015–16 | 2938 | 207 | 87 ($85 100) | 0 | 7 | 1 |
| 2016–17 | 3687 | 306 | 74 ($69 300) | 0 | 3 | 3 |
| 2017–18 | 3614 | 239 | 58 ($65 250) | 0 | 1 | 0 |
| 2018–19 | 2753 | 74 | 37 ($43 050) | 0 | 3 | 1 |
| 2019–20 | 2234 | 188 | 100 ($123 900) | 2 | 0 | 1 |
| 2020–21 | 1787 | 40 | 12 ($18 510) | 3 | 1 | 0 |

As shown in the table below, in 2020–21 the most common breaches subject to a warning letter were short measure in packaged goods and trading practices, while the most common breaches subject to an infringement notice were short measure in packaged goods and inaccurate measurement instrument. Trading practices breaches include not correctly operating scales and not allowing for the weight of packaging during over-the-counter transactions. As noted above, an enforcement action may cover more than one breach.

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 14 | 57 | 6 | 21 |
| Infringement notice | 3 | 11 | 0 | 1 |

## Convictions

No convictions were recorded in 2020–21.

# Compliance and Enforcement by Trader Type

As noted above, more serious enforcement actions are imposed where severe and continued non-compliance is detected. Certain trader types continued to have relatively higher rates of more serious non-compliance during 2020–21, reflecting ongoing issues in those sectors.

Higher rates of serious non-compliance detected among some trader types in 2020–21 also reflected our risk-based focus on investigation through concentrated national audit programs.

The data in this section aggregates results from all inspections conducted throughout 2020–21, including those from concentrated audit programs.

## Meat Retail

| Year | Initial audits | Non-compliant | Follow-up audits | Non-compliant | Warning letters | Infringement notices |
| --- | --- | --- | --- | --- | --- | --- |
| 2017–18 | 856 | 418 (49%) | 414 | 61 (15%) | 41 | 4 ($3900) |
| 2018–19 | 467 | 176 (38%) | 161 | 28 (17%) | 8 | 6 ($7350) |
| 2019–20 | 610 | 309 (51%) | 193 | 47 (24%) | 74 | 14 ($15 750) |
| 2020–21 | 176 | 68 (39%) | 187 | 65 (35%) | 9 | 2 ($2220) |

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 0 | 10 | 0 | 7 |
| Infringement notice | 0 | 2 | 0 | 0 |

## Supermarkets

| Year | Initial audits | Non-compliant | Follow-up audits | Non-compliant | Warning letters | Infringement notices |
| --- | --- | --- | --- | --- | --- | --- |
| 2017–18 | 1547 | 593 (38%) | 545 | 101 (19%) | 54 | 13 ($17 550) |
| 2018–19 | 2062 | 881 (43%) | 298 | 59 (20%) | 16 | 11 ($12 600) |
| 2019–20 | 1186 | 304 (26%) | 317 | 74 (23%) | 10 | 9 ($9450) |
| 2020–21 | 757 | 152 (20%) | 305 | 72 (24%) | 8 | 3 ($3330) |

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 0 | 18 | 0 | 1 |
| Infringement notice | 0 | 3 | 0 | 0 |

## Freight

| Year | Initial audits | Non-compliant | Follow-up audits | Non-compliant | Warning letters | Infringement notices |
| --- | --- | --- | --- | --- | --- | --- |
| 2017–18 | 60 | 11 (18%) | 7 | 1 (14%) | 1 | 1 ($900) |
| 2018–19 | 46 | 8 (17%) | 8 | 2 (25%) | 0 | 0 |
| 2019–20 | 28 | 15 (54%) | 6 | 1 (17%) | 0 | 0 |
| 2020–21 | 36 | 15 (42%) | 2 | 1 (50%) | 0 | 2 ($4200) |

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 0 | 0 | 0 | 0 |
| Infringement notice | 0 | 2 | 0 | 0 |

## Mining and Resources

| Year | Initial audits | Non-compliant | Follow-up audits | Non-compliant | Warning letters | Infringement notices |
| --- | --- | --- | --- | --- | --- | --- |
| 2017–18 | 101 | 27 (27%) | 23 | 5 (22%) | 0 | 1 ($1050) |
| 2018–19 | 59 | 19 (32%) | 13 | 0 (0%) | 1 | 1 ($2100) |
| 2019–20 | 76 | 47 (62%) | 9 | 2 (22%) | 0 | 0 |
| 2020–21 | 61 | 26 (43%) | 4 | 0 (0%) | 1 | 1 ($3330) |

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 0 | 3 | 0 | 0 |
| Infringement notice | 0 | 3 | 0 | 0 |

## Seafood Retail

| Year | Initial audits | Non-compliant | Follow-up audits | Non-compliant | Warning letters | Infringement notices |
| --- | --- | --- | --- | --- | --- | --- |
| 2017–18 | 191 | 101 (53%) | 92 | 20 (22%) | 5 | 0 |
| 2018–19 | 116 | 53 (46%) | 48 | 6 (13%) | 5 | 1 ($1050) |
| 2019–20 | 158 | 79 (50%) | 54 | 21 (39%) | 21 | 4 ($5250) |
| 2020–21 | 32 | 13 (41%) | 48 | 16 (33%) | 5 | 1 ($1110) |

Breaches by enforcement action 2020–21

| Enforcement action | Inaccurate measuring instrument | Packaged goods (short measure) | Packaged goods (labelling) | Trading Practices |
| --- | --- | --- | --- | --- |
| Warning letter | 1 | 1 | 0 | 6 |
| Infringement notice | 0 | 0 | 0 | 1 |

# Compliance by Instrument Type

The basis of any trade measurement transaction is an accurate measuring instrument. As in previous years, in 2020–21 more than 80 per cent of instruments tested were found to be fully compliant with legislative requirements. Only a relatively small proportion (2.4 per cent) of measuring instruments were found to be inaccurate to consumer disadvantage, outweighed by the 3.4 per cent of instruments found to be inaccurate in favour of the consumer.

An instrument was deemed non-compliant if one or more of the following was found:

* not verified by an authorised servicing licensee (or without a verification mark)
* failed to measure accurately – regardless of whether the inaccuracy was in favour of the consumer or resulted in short measure
* did not meet other standards necessary to comply with legislation, such as display issues; eccentricity; inadequate sealing; or data plate irregularities.

| Year | Instruments tested | Compliant | Not verified | Inaccurate (consumer advantage) | Inaccurate (consumer disadvantage) | Other non-compliance |
| --- | --- | --- | --- | --- | --- | --- |
| 2015–16 | 15 240 | 12 623 (82.8%) | 587 (3.9%) | 563 (3.7%) | 261 (1.7%) | 1206 (8.0%) |
| 2016–17 | 17 093 | 14 664 (85.8%) | 829 (4.8%) | 571 (3.3%) | 309 (1.8%) | 720 (4.3%) |
| 2017–18 | 14 906 | 12 605 (84.6%) | 872 (5.9%) | 557 (3.7%) | 339 (2.3%) | 533 (3.5%) |
| 2018–19 | 15 887 | 13 184 (83.0%) | 611 (3.9%) | 1144 (7.2%) | 385 (2.4%) | 750 (4.7%) |
| 2019–20 | 13 588 | 11 753 (86.5%) | 415 (3.1%) | 505 (3.7%) | 342 (2.5%) | 773 (5.7%) |
| 2020–21 | 14 049 | 12 104 (86.2%) | 413 (2.9%) | 473 (3.4%) | 341 (2.4%) | 718 (5.1%) |

The instrument types with an above average proportion found to be inaccurate to consumer disadvantage have been relatively consistent over recent years.

| Instrument type | Year | Instruments tested | Inaccurate (consumer disadvantage) |
| --- | --- | --- | --- |
| Fuel dispensers (petrol and diesel) | 2015–16 | 2923 | 85 (2.9%) |
| 2016–17 | 1260 | 54 (4.3%) |
| 2017–18 | 1434 | 91 (6.3%) |
| 2018–19 | 3883 | 211 (5.4%) |
| 2019–20 | 3699 | 193 (5.2%) |
| 2020–21 | 6258 | 245 (3.9%) |
| Weighing instruments (30 kg to 3 tonnes) | 2015–16 | 364 | 16 (4.4%) |
| 2016–17 | 475 | 23 (4.8%) |
| 2017–18 | 346 | 18 (5.2%) |
| 2018–19 | 298 | 13 (4.4%) |
| 2019–20 | 179 | 5 (2.8%) |
| 2020–21 | 54 | 4 (7.4%) |
| Beverage dispensers | 2015–16 | 865 | 35 (4.0%) |
| 2016–17 | 945 | 62 (6.6%) |
| 2017–18 | 1113 | 34 (3.1%) |
| 2018–19 | 401 | 16 (4.0%) |
| 2019–20 | 1486 | 61 (4.1%) |
| 2020–21 | 152 | 6 (4.0%) |

## **Compliance of Retail Fuel Dispensers**

Of 6258 fuel dispensers tested in 2020–21, 221 (3.5 per cent) were delivering more fuel than indicated on the display to the benefit of consumers while 245 (3.9 per cent) were delivering less fuel. This represents a significant improvement on inaccuracy levels detected in recent years.

The great majority of dispensers inaccurate to consumer disadvantage were inaccurate in the range of one to three times the maximum permissible error of 0.3 per cent. This equates to between 30 cents and 90 cents for every $100 of fuel delivered. While this is a relatively small sum for an individual consumer, if applied to 3.9 per cent of all fuel sales in the year it amounts to between $3m and $9m in aggregate detriment for the community.

NMI will continue to closely assess trade measurement compliance at retail fuel sites as part of its [National Compliance Plan for 2021–22](https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan)[[4]](#footnote-4).

| Year | Petrol and diesel dispensers tested | Inaccurate (consumer advantage) | Inaccurate (consumer disadvantage) |
| --- | --- | --- | --- |
| 2015–16 | 2923 | 140 (4.8%) | 85 (2.9%) |
| 2016–17 | 1260 | 51 (4.0%) | 54 (4.3%) |
| 2017–18 | 1434 | 31 (2.2%) | 91 (6.3%) |
| 2018–19 | 3883 | 157 (4.0%) | 211 (5.4%) |
| 2019–20 | 3699 | 191 (5.2%) | 193 (5.2%) |
| 2020–21 | 6258 | 221 (3.5%) | 245 (3.9%) |

### Consumer complaints

Consumer concern about this issue is reflected in complaints to NMI about potential breaches of trade measurement law, of which almost two thirds relate to allegations of short measure from fuel dispensers (liquid and gas). Only 17 (6.5 per cent) of 260 fuel related complaints received in 2020–21 were found to be justified when investigated, consistent with results in previous years.

| Year | Total complaints received | Fuel (liquid and gas) complaints | Fuel complaints justified (consumer disadvantage) |
| --- | --- | --- | --- |
| 2015–16 | 724 | 459 (63%) | 10 (2.2%) |
| 2016–17 | 672 | 411 (61%) | 18 (4.4%) |
| 2017–18 | 782 | 511 (65%) | 16 (3.1%) |
| 2018–19 | 767 | 494 (64%) | 31 (6.3%) |
| 2019–20 | 651 | 403 (62%) | 14 (3.5%) |
| 2020–21 | 449 | 260 (58%) | 17 (6.5%) |

## Public Weighbridge and Servicing Licensee Compliance

Businesses across Australia rely on the capability of licensed third-party organisations in order to comply with the requirements of the Act and to help maintain the metrological infrastructure for trade measurement. NMI appoints organisations called Servicing Licensees to verify the accuracy of trade measuring instruments before first use or after repair. NMI also appoints Public Weighbridge Licensees to ensure weighbridges made available to the public are operated in accordance with regulatory requirements.

Compliance activities to help ensure the integrity of the licensing system, include:

* quality management audits of Servicing Licensees and Public Weighbridge Licensees, including through the Weighbridge Testing program
* audits of recently verified measuring instruments to ensure that verification is being undertaken correctly.

We also monitor Servicing Licensee compliance through a number of metrics, such as:

* appropriate and timely reporting of measuring instrument verifications
* auditing of test reports submitted for complex instrument verifications
* Licensees being authorised to verify relevant instrument subclasses
* verifications being performed by verifiers holding appropriate competency for specific instrument types.

Licensing enforcement actions 2020–21

| Enforcement action | 2020–21 |
| --- | --- |
| Non-compliance advice email | 269 |
| Warning letter | 2 |
| Infringement notice | 1 |

# Compliance of Packaged Goods

In 2020–21, trade measurement inspectors examined 25 990 lines of packaged goods (100 139 individual packages) to check whether they:

* contained the correct amount (weight, volume or units) as displayed on the label
* displayed sufficient measurement marking (e.g. weight, price per kilogram and total price for the article) in the correct format and position
* included correct packer identification (name and street address of packer if packed within Australia or name and address of importer or seller).

Most discrepancies detected in packaged goods are usually relatively small and can be corrected following advice from a trade measurement inspector.

| Year | Packaged lines inspected | Individual packages | Lines with short measure | Lines with non-compliant labelling |
| --- | --- | --- | --- | --- |
| 2015–16 | 80 163 | 319 616 | 2155 (2.7%) | 1615 (2.0%) |
| 2016–17 | 87 964 | 355 438 | 3111 (3.5%) | 4589 (5.2%) |
| 2017–18 | 71 733 | 271 243 | 3464 (4.8%) | 3691 (5.2%) |
| 2018–19 | 70 183 | 256 507 | 1621 (2.3%) | 1606 (2.3%) |
| 2019–20 | 78 290 | 203 320 | 1269 (1.6%) | 2243 (2.9%) |
| 2020–21 | 25 990 | 100 139 | 1194 (4.6%) | 1125 (4.3%) |

While meat and seafood consistently appear among the categories of packaged goods with the greatest proportion found to contain short measure, there has been considerable variation among other categories over recent years.

Packaged goods short measure 2020–21

| Product type | Packaged lines inspected | Individual packages | Lines with short measure |
| --- | --- | --- | --- |
| Fuel (Solid) | 170 | 802 | 29 (17.1%) |
| Meat (Processed) | 1057 | 3801 | 96 (9.1%) |
| Seafood (Frozen) | 309 | 1358 | 20 (6.5%) |
| Health Foods | 289 | 1110 | 17 (5.9%) |
| Meat (Fresh) | 6448 | 21 359 | 369 (5.7%) |
| Dairy (Cheese) | 2223 | 8972 | 124 (5.6%) |

Fuel Quality Compliance

Following Machinery of Government changes in early 2020, NMI was responsible for administering compliance with the *Fuel Quality Standards Act 2000* in 2020–21. Under this program, NMI undertook sampling and testing to help maintain the integrity of liquid fuel composition throughout Australia.

In 2020–21, NMI:

* visited 346 retail sites for fuel quality compliance audits
* undertook onsite screening of 1138 samples
* submitted 157 samples for testing by NATA accredited laboratories.

Seven samples submitted for testing were found to be non-compliant:

* 3 with ethanol content greater than 85%
* 2 with olefin levels over 18%
* 1 with sulphur content over 50 ppm
* 1 with Research Octane Number (RON) less than 95.

It should be noted that each of the samples found to be non-compliant were only marginally outside limits required under legislation and deficiencies were corrected after advice from NMI inspectors.

1. Birch, J (2003) ‘Benefit of Legal Metrology for the Economy and Society’, International Committee of Legal Metrology. [↑](#footnote-ref-1)
2. https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan [↑](#footnote-ref-2)
3. https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan [↑](#footnote-ref-3)
4. https://www.industry.gov.au/data-and-publications/national-measurement-institute-national-compliance-plan [↑](#footnote-ref-4)