

Western Australia

**Trade Measurement Legislation (Amendment
and Expiry) Act 2010**

As at 08 Dec 2010

No. 54 of 2010

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Trade Measurement Legislation (Amendment and Expiry) Act 2010

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Trade Measurement Legislation (Amendment and Expiry) Act 2010

No. 54 of 2010

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.**

[Assented to 8 December 2010]

The Parliament of Western Australia enacts as follows:

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.

Part 2 — *Trade Measurement Act 2006* amended

3. Act amended

This Part amends the *Trade Measurement Act 2006*.

4. Sections 3A and 3B inserted

After section 2 insert:

3A. Application of Act limited

- (1) In this section —
transition day has the meaning given in the Administration Act section 4(1).
- (2) Except as provided by this section, section 3B and the Administration Act Part 7, this Act does not apply on or after the transition day.

3B. Expiry of Act

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

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

5. Act amended

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

6. Sections 3A and 3B inserted

After section 2 insert:

3A. Application of Act limited

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

3B. Expiry of Act

- (1) This Act expires —
 - (a) on 1 July 2013; or
 - (b) if an earlier day is fixed under subsection (2), on that earlier day.
- (2) The Governor may, by proclamation, fix a day that is earlier than 1 July 2013 as the day on which this Act expires.
- (3) A proclamation cannot be made under subsection (2) unless, after the transition day, the Commissioner has given the Minister a certificate signed by the Commissioner stating that the operation of this Act and the principal Act is no longer necessary.

7. Section 4 amended

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

NMI means the National Measurement Institute referred to in the National Measurement Act section 17;

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

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

2006;

8. Part 7 inserted

After section 37 insert:

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

38. Term used: offence

In this Part —

offence means an offence against this Act or the principal Act.

39. Act and principal Act continue to apply for certain purposes

This Act and the principal Act continue to apply on and after the transition day only for the following purposes —

- (a) the investigation and prosecution of offences committed before the transition day;
- (b) the giving, withdrawal or payment of infringement notices under Part 4 in respect of offences committed before the transition day;
- (c) the taking of disciplinary action under the principal Act section 80 against licensees served with a written notice under section 79 of that Act before the transition day;
- (d) the review by the State Administrative Tribunal under the principal Act section 81 of decisions of the Commissioner made before the transition day;
- (e) the payment or recovery of fees or charges that became payable, or in respect of which an invoice was issued, under this Act or the principal Act before the transition day.

40. Proceedings on and after transition day

- (1) Despite section 33(1), proceedings for an offence committed before the transition day must not be commenced after the end of 12 months after the transition day.
- (2) A person cannot be charged on or after the transition day with an offence committed before the transition day unless, at the time the person is charged, the act or omission constituting the offence would constitute an offence under the National Measurement Act.

- (3) If —
- (a) a person is sentenced on or after the transition day for an offence committed before the transition day (the *State offence*); and
 - (b) at the time the person is sentenced, the act or omission constituting the State offence would constitute an offence under the National Measurement Act (the *Commonwealth offence*); and
 - (c) there is a difference between the penalty for the State offence and the penalty for the Commonwealth offence,

the lesser penalty applies for the purposes of sentencing the person for the State offence.

41. Inspection of seized things by NMI

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

42. Provision of registers and other information to NMI

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

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

43. Transitional regulations

- (1) In this section —

transitional matter means any matter of a transitional or savings nature arising from the enactment of the *Trade Measurement Legislation (Amendment and Expiry) Act 2010* or the *National Measurement Amendment Act 2008* (Commonwealth).
- (2) If there is not sufficient provision in this Part for dealing with a transitional matter, regulations may be made under section 35 prescribing all matters that are required or necessary or convenient to be prescribed for dealing with the matter.
- (3) Without limiting subsection (2), regulations made for the purposes of that subsection may provide for the continued application of this Act or the principal Act for a purpose that is of a transitional or savings nature and for which there is not sufficient provision in sections 38, 39, 40, 41 and 42.

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”.

