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The Trade Measurement Legislation Repeal Bill 2009 (Qld) – Towards a Single Trade Measurement System for Australia

Bill:	Trade Measurement Legislation Repeal Bill 2009 (Qld)
Date of introduction:	15 September 2009
Portfolio:	Tourism and Fair Trading
Hansard Reference Second Reading Speech:	<i>Queensland Parliamentary Debates</i> , 15 September 2009, pp 2223-2225.

Karen Sampford*
e-Research Brief 2009/30
November 2009

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Acknowledgments

* with assistance by Elizabeth Young

Contextual Statements

The UTML Experience demonstrates that uniformity does not emerge merely from uniform legislation. It requires mechanisms which ensure interpretation is uniform, the legislation is applied consistently and the process of amending legislation is managed as far as possible.

Report of the Committee of Inquiry into Australia's Standards and Conformance Infrastructure (the Kean Report) at p 45, quoting the NSW Department of Consumer Affairs submission to the Committee, p 3.

Transactions involving measurements range from simple consumer purchases at the corner shop to complex multimillion dollar international trade deals.

So, why does government need to be involved in these market processes? Well, consider how onerous it would be if traders had to prove to every customer that they had weighed each purchase accurately. Similarly, how difficult it would be for a packing house to prove that their cereal packet is filled with the stated amount.

... A trade measurement system helps overcome these difficulties. It gives confidence to buyers and sellers that measurements are accurate and this reduces transaction costs in each trade.

Trade measurement is a classic example of a proper role for government in establishing the infrastructure that makes it possible for markets to operate efficiently and effectively.

But Australia's current trade measurement infrastructure is not operating as efficiently and effectively as it should. This is why the Rudd government is introducing this historic legislation. We are determined to create a truly national system that will deliver productivity improvements throughout the economy to the benefit of all Australians.

... This government is serious about creating a seamless national economy unhampered by unnecessary duplications, overlaps and differences in regulation. In particular, we are determined to remove those inconsistencies that create unnecessarily complex and costly burdens on business.

*Dr Craig Emerson MP, Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation, 'National Measurement Amendment Bill 2008', Second Reading Speech, House of Representatives, *Parliamentary Debates*, 24 September 2008, pp 8367-8371 at pp 8369 & 8371.*

INTRODUCTION

On 15 September 2009, the Hon P Lawlor MP, Minister for Tourism and Fair Trading, introduced the [Trade Measurement Legislation Repeal Bill 2009](#) into the Queensland Legislative Assembly to repeal the current [Trade Measurement Act 1990](#) and the [Trade Measurement Administration Act 1990](#), and to make minor consequential amendments to a number of other Acts and pieces of subordinate legislation. The overall objective of the [Trade Measurement Legislation Repeal Bill 2009](#) (the Bill) is to facilitate a seamless transfer of the State's responsibility for trade measurement administration and enforcement to a national system of trade measurement under new Commonwealth law (namely, the [National Measurement Act 1960](#), as amended by the [National Measurement Amendment Act 2008](#)) which gives effect to a decision of the Council of Australian Governments (COAG) and which is to take effect from 1 July 2010.¹

BACKGROUND

WHAT IS TRADE MEASUREMENT?

In the Queensland Minister's [Second Reading Speech](#) to introduce the Bill, **trade measurement** is defined as the "use of standard forms of measurement as the basis for the price in a transaction".² The definition follows that adopted in the [Second Reading Speech](#) to the 2008 Commonwealth amending legislation (cited above) where the federal Minister also gave this simple explanation:

...by measuring the volume of fuel delivered from a petrol pump, a service station determines the total price you pay to fill your car's petrol tank.³

The **trade measurement system** refers to the infrastructure required to ensure trade measuring instruments (such as a petrol pump)⁴ are "sufficiently accurate to give a fair result to the buyer and seller".⁵

ITS IMPORTANCE

Although typically viewed as mundane, even "dry", as acknowledged by the responsible Queensland Minister in his [Second Reading Speech](#),⁶ trade measurement and the trade measurement system nonetheless possess considerable economic importance, as indicated in the 2006 Final Report of a review into the national trade measurement system commissioned by the Standing Committee of Officials on Consumer Affairs (SCOCA):

Studies in Australia, USA and Canada have indicated that the annual value of goods sold by measure is typically about 50% of GDP in developed countries. Based on this broad estimate, the trade measurement system in Australia may be underpinning transactions worth more than \$400 billion per annum. It is estimated that business-to-business transactions account for about 75% and retail transactions make up 25% of this value.⁷

(These same figures and/or estimates are referred to in the Queensland Minister's Second Reading Speech (p 2224) as well as in a number of other sources - see for instance, the federal Minister's [Second Reading Speech](#) to the 2008 Commonwealth amendment Bill and COAG's 2007 [Regulatory Reform Plan](#), discussed in more detail later in this e-Research Brief).

Moreover, as Jan Todd's authoritative history of trade measurement in Australia points out, accurate measurement is vital to individual welfare on a day to day basis –

... everyday measuring instruments [keep] Australians in good health, [make] them safe at work and on the roads and [enable] them to take for granted the efficient operations of the many goods and services on which they [rely] for such daily routines as checking the time, slaving at the computer, popping a pill, watching TV, driving a car or making a meal.⁸

Trade measurement's low visibility, despite its undoubted significance, is due, Todd suggests, to a number of factors, one of which relates to the federal/State balance:

One reason is that measurements often become visible only when they go wrong. A radiation treatment damages rather than saves a patient. A bridge collapses because its internal stresses were poorly assessed. An export industry falls apart because a quality indicator breaches a critical threshold. The more effective the measurement controls, the less visible the measurements.

... A more fundamental reason for the low visibility of measurement is that the functions that ensure valid measurements have no direct commercial reward. They are public services, public goods, from which everyone receives benefit but none can appropriate profits: a clear case where private enterprise and the market will always fail to fund and produce a basic infrastructure. A further reason bears on the nature of the federated structure of government and the sheer waste of time involved in endless negotiations between federal and state bodies that share functional responsibilities but not political priorities. ... Policy making in a fragmented federal system can go round in circles for decades as the prevarication on trade

measurement readily shows.⁹

WHAT IS THE CURRENT SYSTEM THROUGHOUT AUSTRALIA?

Currently, the Commonwealth, States and Territories share responsibility for the administration of trade measurement.¹⁰

AT FEDERAL LEVEL

The Commonwealth's [National Measurement Act](#) (NMA), which dates back to 1960, prescribes the Australian legal units of measurement and describes how to demonstrate that a measurement has been made in terms of those units should this be required for legal purposes. The Act also provides for pattern approval (ie the approval of the design)¹¹ of measuring instruments to ensure that their design is suitable for accurate measurement when used under normal environmental conditions. National Measurement Regulations and National Measurement Guidelines provide more detail to facilitate the application of the Commonwealth Act (see the Information Sheet on '[Measurement legislation](#)' prepared by the National Measurement Institute (NMI)).

It is the States and Territories, however, that currently have the major role in relation to trade measurement matters. The Commonwealth's role is limited - it has an inspection and enforcement role in a single area – utility metering¹² - although this is now set to change (see the [Bills Digest](#) prepared for the debate on the Commonwealth National Measurement Amendment Bill 2008 (now enacted);¹³ see also the NMI's Information Sheet on '[Measurement legislation](#)' and refer back to the e-Research Brief's 'Introduction').

AT STATE AND TERRITORY LEVEL

Under the [Uniform Trade Measurement Legislation and Administration Agreement of 1990](#), [Uniform Trade Measurement Legislation](#) (UTML), developed by the Commonwealth, States and Territories, has been enacted by the States and Territories. Combined with individual administration acts and regulations, UTML provides the States and Territories with the means to regulate the accuracy of measuring instruments used for trade.¹⁴

What Is Queensland's Part?

As its part in the above agreement, Queensland administers two Trade Measurement Acts. The first is the [Trade Measurement Act 1990](#) with its set of four regulations:

- [Trade Measurement \(Measuring Instruments\) Regulation 1991](#);
- [Trade Measurement \(Prepacked Articles\) Regulation 1991](#),
- [Trade Measurement \(Weighbridges\) Regulation 1991](#), and
- [Trade Measurement \(Miscellaneous\) Regulation 1991](#).

The administrative infrastructure underpinning the operation of the Trade Measurement Act is provided by the [Trade Measurement Administration Act 1990](#) and the [Trade Measurement Administration Regulation 1991](#).

THE HISTORY BEHIND THE BILL

Proposals for a national trade measurement system for Australia have a long history,¹⁵ dating back even prior to Federation. A 1891 report had proposed that there should be a uniform approach to weights and measures¹⁶ and, at Federation, the [Commonwealth Constitution](#) gave the Commonwealth a specific head of power to make laws in relation to "weights and measures" under s 51(xv).¹⁷

THE SCOTT REVIEW

In 1985, the Scott review of the trade measurement system recommended that the Commonwealth should enact national trade measurement legislation which would override State legislation. However, the review report's proposal was rejected. Instead, Commonwealth and State and Territory Ministers decided that the States and Territories should implement a uniform system of trade measurement via the passage by each government of mirror legislation.¹⁸

UNIFORM TRADE MEASUREMENT LEGISLATION

The subsequent [intergovernmental agreement](#) which was developed by the Commonwealth and the States

and Territories, and drawn up for signature by all jurisdictions, committed the signatories to enact model legislation through their respective parliaments and to refrain from unilaterally amending it subsequently (Clause 7, [Uniform Trade Measurement Legislation and Administration Agreement of 1990](#)). It also provided for the establishment of a Ministerial Council with functions including keeping under review the formulation and operation of the legislation agreed to (Part V, [Uniform Trade Measurement Legislation and Administration Agreement of 1990](#)).

However, while each State and Territory ultimately enacted substantially similar uniform trade measurement legislation, the introduction of UTML among all the States and Territories was a staggered process, with implementation in every State or Territory occurring at different times.¹⁹ Only two States (Queensland and New South Wales) and the Territories met the timetable for enactment originally endorsed²⁰ while Western Australia (WA) did not actually sign the formal agreement on UTML signed by the other States and Territories in January 1990.²¹ WA did not take action until 2007 (despite advising the 1995 Committee of Inquiry into Australia's Standards and Conformance Infrastructure that it expected to introduce legislation that year)²² and then only implemented trade measurement legislation *similar* to the UTML.²³

The format of the trade measurement administration legislation has also varied among the States and Territories in relation to matters such as the bodies to which appeals may be directed under the trade measurement legislation and procedural steps governing the appointment of inspectors to police legislative provisions.²⁴

Lack of synchronisation in relation to legislative amendments and differing interpretations of the legislation have also undermined uniformity, as more than one commentator has noted.²⁵

THE KEAN REPORT

Indeed, these sorts of problems had been identified very early in the implementation of UTML, leading the Kean Report (the Report of the Committee of Inquiry into Australia's Standards and Conformance Infrastructure), published in March 1995, to describe the uniform trade measurement legislation as a "flawed model"²⁶ and to recommend that the Commonwealth should take full responsibility for trade measurement.²⁷

To quote the report:

Weights and measures need to be uniform and uniformly administered. State and Territory regulatory standards should not have the effect of erecting barriers to important domestic markets.

...

Notwithstanding the delays that have occurred in the adoption of uniform legislation, and the disparate nature of its administration, some States appear reluctant to see the Commonwealth move to legislate to resolve the problems that are being encountered.

However, the Committee believes that there is little choice but for the Commonwealth to take decisive action. It is over 100 years since the goal of a system of uniform trade measurement was proposed. Over a decade has elapsed since efforts began to build such a system through enactment by every government of complementary legislation. This has not succeeded. ... The inherent inadequacies of the UTML model as a way of achieving national uniformity remain.²⁸

Although consultation on the Kean Report's proposals later occurred (and the Report itself had counselled consultation),²⁹ for a variety of reasons, in Todd's assessment, "... the lack of a full and firm consensus once more left the trade measurement issue unresolved".³⁰

The Keating government saw the potential gains from reducing eight regulatory regimes to one and gave its support to the concept, as did most state consumer affairs ministers, at least in principle. But state concerns about administrative arrangements, and suggestions for alternative ways of delivering trade measurement services under federal control, led to plans for consultation before finalising the national trade measurement legislation.

When Keating lost the 1996 election the incoming Howard government minister, McGauran, ordered the consultations. Many flaws in the existing trade measurement system were cited, including the constraint on entering mutual recognition agreements with other countries when each state had responsibility in its own jurisdiction. Even if states collaborated, a joint MRA was no substitute for a single national agreement. No one knew this better than Australian wine producers and bottle manufacturers, who consistently failed to find resolution on the batch testing of wine bottles, thereby frustrating access of Australian wine to the European market. Once again, those who suffered the problems of fragmentation strongly supported a national system, but the sentiment was muted within the state departments that might lose resources.³¹

RECENT DEVELOPMENTS

However, in more recent developments, in 2003, the Standing Committee of Officials on Consumer Affairs (SCOCA) - which operates under the Ministerial Council on Consumer Affairs (MCCA) - placed national trade

measurement on its agenda.³² Subsequently, a SCOCA Working Party presented a report, in November 2003, identifying four main options for consideration in the formulation of a national trade measurement system,³³ and, in August 2004, a [Joint Communiqué](#) of the MCCA announced that Ministers had agreed to undertake a review of the national arrangement for trade measurement administration in Australia.³⁴ In February 2006 COAG met and identified trade measurement as a “priority cross-jurisdictional ‘hot spot’ area” to investigate further and enlisted the MCCA to be involved.³⁵ The MCCA’s Standing Committee of Consumer Affairs Officials commissioned a review into the national trade measurement system. In June 2006, following an “extensive national community and government consultation process” including industry, consumers, Australian and New Zealand Governments, a public [Discussion Paper](#) was released.³⁶ A Final Report, prepared by Booz Allen Hamilton (Australia) Ltd, the consultants engaged by SCOCA, was published in August 2006.³⁷

Subsequently, in April 2007, in its [Regulatory Reform Plan](#), COAG stated:

The users and beneficiaries of the system have reported that the current arrangements impose avoidable regulatory costs on industry, consumers and government. An alternative arrangement that provides an effective national trade measurement system is vital in improving productivity and providing confidence in trade transactions in Australia ...³⁸

COAG accepted MCCA’s recommendations that the Commonwealth should have full responsibility for trade measurement (COAG had specifically sought the MCCA’s advice about the introduction of a national system) and agreed to the Commonwealth’s offer to take on full responsibility for the national trade measurement system, including its funding.³⁹

COAG also agreed that the transition period for the transfer of responsibility for the administration of the trade measurement system in Australia would be three years, with Commonwealth administration to commence on 1 July 2010.⁴⁰ It was subsequently announced that the [NMI](#), established by virtue of amendments, in 2004, to the Commonwealth National Measurement Act,⁴¹ would assume responsibility for administering the national system.⁴² The NMI, constituted as a division within the federal [Department of Innovation, Industry, Science and Research](#) (DIISR), is responsible for the “pattern approval testing of models of measuring instruments”⁴³ and, with the commencement of the new system, will become responsible for “the full spectrum of measurement, from the peak primary standards of measurement to measurements made at a domestic trade level”.⁴⁴

In December 2008 the *National Measurement Amendment Act 2008* was passed through Federal Parliament. This allows the Commonwealth to act through the NMI to establish and operate a single national trade measurement system. (The amendments had been preceded by the release of a Discussion Paper on the proposals prepared by the NMI. Submissions on the proposals were invited.)⁴⁵ Subsequently, in December 2008, the National Measurement Institute released a [Consultation Paper](#), this time on proposals to amend the National Measurement Regulations 1999 to incorporate national trade measurement provisions. As with the principal legislation, comments were invited; in all, 42 [submissions](#) were received, the largest number (19) being from industry peak bodies.⁴⁶ In September 2009, the [National Trade Measurement Regulations 2009](#) were signed off by the Governor General of Australia.

Progress regarding the implementation of the national trade measurement system is being monitored by the COAG [Business Regulation and Competition Working Group](#), which is chaired by Hon Dr Craig Emerson MP (Minister for Small Business, Independent Contractors and the Service Economy) and Hon Lindsay Tanner MP (Minister for Finance and Deregulation)⁴⁷ and of which Queensland officials are members.⁴⁸

THE QUEENSLAND BILL

KEY OBJECTIVES OF THE BILL

The repeals proposed under the Bill will facilitate the implementation of a national system of trade measurement, to be administered, and funded, by the Commonwealth, as agreed by COAG.⁴⁹ The repeal of the two Queensland Trade Measurement Acts progresses Queensland’s commitment to the COAG agreement which includes a requirement that all states and territories repeal their trade measurement laws to take effect on the transition date - 1 July 2010 - when enforcement of the new Commonwealth law is scheduled to start⁵⁰ (the transition date is now specified under the 2008 amendments to the Commonwealth National Measurement Act⁵¹ as well as in the [COAG Regulatory Reform Plan](#)).

KEY PROVISIONS OF THE BILL

Repeals

Clause 6 sets out the legislation that is to be repealed, namely Queensland’s two Trade Measurement Acts

referred to at the outset of this e-Research Brief.

Transitional Provisions

Part 3 of the Bill (Clauses 7 to 15) contains transitional provisions designed to enable finalisation of a variety of administrative or enforcement matters (such as proceedings for an offence against the Trade Measurement Acts proposed to be repealed (**see Clause 8**), the serving of fines for a trade measurement offence actionable under the State Penalties Enforcement Act 1999 (**see Clause 9**) or the recovery of unpaid fees under the Trade Measurement Acts after their repeal (**Clause 13**), given that such matters may not necessarily be concluded on the transition date.

Commencement

With the exception only of proposed s 16, which is to commence upon assent, **Clause 2** provides for the provisions of the Bill, if enacted, to commence on proclamation. The *Explanatory Notes* indicate that it is expected that this proclamation would be made on 1 July 2010 (ie on the date on which the Commonwealth is to take on full responsibility for trade measurement).⁵²

Expiry Of The Repealing Legislation

The repeal Bill, if passed, will expire one year after the date on which it is anticipated it will be proclaimed: **Clause 17**.

EFFECTING THE TRANSITION FROM A STATES-BASED TO A FEDERAL REGIME

There are two points of particular note here.

- Under the COAG agreement, each of the other states and territories will be introducing similar transition and repeal bills. A *referral* of powers is not considered to be required, as under the federal [Constitution](#), as already explained (see the section on 'The History behind the Bill' in this e-Research Brief), the Commonwealth possesses the power to make law in respect of weights and measures.⁵³
- As PaoYi [Tan](#), commenting on the 2008 amending Commonwealth legislation, points out, even if the States and Territories did *not* legislate to repeal their trade measurement legislation, "the presence of inconsistent state and territory laws would not impede the ability for the federal legislation to operate", *because* Section 109 of the [Commonwealth Constitution](#) provides that Commonwealth laws override state laws to the extent of any inconsistency.⁵⁴

IMPLEMENTATION – BENEFITS? AND COSTS?

In summary, as the reports cited in this e-Brief and in the Explanatory Notes to the Bill indicate, the consensus of opinion appears to be that a national system of trade measurement would ensure benefits to business, government and consumers. More specifically, the Explanatory Notes state that it will allow Government "to provide a framework for consistent and timely adoption of new technologies and processes by industry".⁵⁵ Furthermore, a national system of trade measurement will mean a single set of requirements Australia-wide, resulting in "cost reductions and efficiency gains".⁵⁶ The Commonwealth is providing \$29 million over 4 years to implement changes needed during the transition period; the Queensland Government is not anticipating additional budgetary expenditure during this period.⁵⁷ COAG has agreed that the existing technology, that is trade measurement testing and scientific equipment, will be automatically transferred to the Commonwealth.⁵⁸ Staff already working in the State and Territory systems will be offered similar roles within the new Commonwealth system; the Queensland Public Sector Union (QPSU) is being consulted regarding the interests of affected staff.⁵⁹ COAG has indicated that any transfer of staff and resources would involve no net cost to the Commonwealth or to States and Territories.⁶⁰

SELECTED CHRONOLOGY OF KEY EVENTS

Date	Details	Links and Citations
1960	Introduction of the federal <i>National Measurement Act 1960</i> .	<i>National Measurement Act 1960</i> (Cth) on ComLaw, at http://www.comlaw.gov.au/ComLaw/legislation/actcompilation1.nsf/0/0BA368BBC8BD8886CA2575E6001A7A75/\$file/NatMeas60_WD02.pdf .
1985	The Scott Review recommended in favour of a national approach to trade measurement administration. However, the recommendation was rejected; instead, separate but uniform trade measurement legislation was drafted for the states and territories.	WD Scott and Company Pty Ltd, <i>Report on the Review of Trade Measurement System</i> , Department of Science, Canberra, March 1985. Jan Todd, <i>For Good Measure: The Making of Australia's Measurement System</i> , Allen & Unwin, 2004, Chapter 10 'Shaking up the system', pp 188-205.
1990	Uniform Trade Measurement Legislation and Administration Agreement of 1990. Each State and Territory (except Western Australia) agreed to implement uniform trade measurement legislation.	Uniform Trade Measurement Legislation and Administration Agreement of 1990 . <i>Trade Measurement Act 1990</i> (Qld); <i>Trade Measurement Administration Act 1991</i> (Qld).
1995	The Committee of Inquiry into Australia's Standards and Conformance Infrastructure, chaired by Bruce Kean, delivered its report (the Kean Report). The Kean Report recommended that: "The Commonwealth assume full responsibility for trade measurement by amending the National Measurement Act to incorporate the principal elements of the Uniform Trade Measurement Legislation" (Recommendation 5 at p 46 of the Report).	<i>Linking industry globally: Report of the Committee of Inquiry into Australia's Standards and Conformance Infrastructure</i> (Chairman: Bruce Kean), AGPS, Canberra, March 1995. The committee also prepared a 35 pp <i>Report Overview</i> . Both are available in hard copy only.

2000	Australia's Chief Scientist undertook a review of Australia's science capabilities. Among the strategies he advised in his Final Report (Section 6.7) was:	Robin Batterham, <i>The Chance to Change: Final Report of the Australian Science Capability Review</i> , AGPS, Canberra, November 2000: http://bioinformatics.org.au/files/documents/chancetochange.pdf .
	"That a national measurement institute be established to consolidate chemical, physical, biological and legal metrology into one organisation" on the grounds that:	
	"Consolidation of these activities into one organisation would create critical mass and strengthen Australia's metrology infrastructure. This would have strong positive benefits in terms of the contribution metrology makes to the national interest".	
	<i>Metrology</i> refers to the science of weights and measures.	
March 2004	New Part III of the <i>National Measurement Act 1960</i> , inserted by the <i>National Measurement Amendment Act 2004</i> , established the National Measurement Institute (NMI) and the position of Chief Metrologist.	National Measurement Amendment Act 2004 (Cth) (Act as made).
		National Measurement Act 1960 (Cth) (compilation), see Part 111.
		Australia. Parliamentary Library, ' National Measurement Amendment Bill 2003 ', <i>Bills Digest</i> No 74, 2003-04.
August 2004	The Ministerial Council on Consumer Affairs (MCCA) agreed to review the national arrangement for trade measurement administration in Australia, looking at options for harmonising the administration of trade measurement across Australia.	'Joint Communiqué', Ministerial Council on Consumer Affairs Meeting, 27 August 2004 at http://www.consumer.gov.au/html/download/MCCA_Meetings/Meeting_13_27_Aug_04.pdf .
February 2006	Council Of Australian Governments (COAG) identified trade measurement as an important issue to investigate further.	'Communique', Council of Australian Governments' Meeting, 10 February 2006: http://www.coag.gov.au/coag_meeting_outcomes/2006-02-10/index.cfm .
June 2006	A Discussion Paper entitled 'Review of the National Trade Measurement System' was released in June 2006.	http://www.consumer.gov.au/html/download/TradeMR_DP.pdf .
August 2006	The Final Report of the review of the national trade measurement system was published.	<i>Final Report – Review of National Arrangements for Administering Trade Measurement in Australia</i> , 30 August 2006, prepared by Booz Allen Hamilton (Australia) Ltd.

13 April 2007	COAG accepted the MCCA recommendation that the Commonwealth should have responsibility for trade measurement. Announced that the NMI will take responsibility for administering a national system. The 3 year transition period will start from 1 July 2010.	<p>'Communique', Council of Australian Governments' Meeting, 13 April 2007: http://www.coag.gov.au/coag_meeting_outcomes/2007-04-13/index.cfm;</p> <p>COAG National Reform Agenda, COAG <i>Regulatory Reform Plan</i>, April 2007, pp 2-3: http://www.coag.gov.au/coag_meeting_outcomes/2007-04-13/docs/coag_nra_regulatory_reform.pdf.</p>
December 2007	Release of the <i>Consultation Paper</i> for the National Trade Measurement Legislation Proposal to Amend the National Measurement Act 1960 (Cth), prepared by the NMI. Submissions closed on 8 February 2008.	<i>Neither the Consultation Paper nor the Submissions are available online on the NMI's website.</i>
December 2008	<i>National Measurement Amendment Act 2008</i> passed through federal Parliament. This legislation amends the <i>National Measurement Act 1960</i> to allow the Commonwealth to act through the NMI, to establish and operate a single national trade measurement system.	<p>PaoYi Tan, 'National Measurement Amendment Bill 2008', Australian Parliamentary Library <i>Bills Digest</i> No 50, 2008-09.</p> <p>National Measurement Amendment Act 2008 (Cth) (Act as made).</p> <p>National Measurement Act 1960 (Cth) (compilation).</p>
December 2008	Release of the <i>Consultation Paper</i> for the National Trade Measurement Legislation Proposal to Amend the National Measurement Regulations 1999 (Cth), prepared by the NMI. Submissions closed on 9 February 2009.	Consultation Paper. National Trade Measurement Legislation Proposal to Amend the National Measurement Regulations 1999 (Cth).
June 2009	Release of the <i>Public Submissions to the Australian Government Consultation Paper on National Trade Measurement Regulations</i> .	Public Submissions to the Australian Government Consultation Paper on National Trade Measurement Regulations.
September 2009	National Trade Measurement Regulations signed off by the Governor-General of Australia.	<p>National Trade Measurement Regulations 2009.</p> <p>Explanatory Statement.</p>
1 July 2010	Enforcement of the new Commonwealth law regarding trade measurement begins.	

ENDNOTES

- ¹ Hon P Lawlor MP, Minister for Tourism and Fair Trading, 'Trade Measurement Legislation Repeal Bill' (Qld), Second Reading Speech, [Queensland Parliamentary Debates](#), 15 September 2009, pp 2223-2225.
- ² Hon P Lawlor MP, Minister for Tourism and Fair Trading, 'Trade Measurement Legislation Repeal Bill' (Qld), Second Reading Speech, [Queensland Parliamentary Debates](#), 15 September 2009, at p 2223.
- ³ Dr Craig Emerson MP, Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation, 'National Measurement Amendment Bill 2008', [Second Reading Speech](#), Australia. House of Representatives, *Parliamentary Debates*, 24 September 2008, pp 8367-8371 at p 8369.
- ⁴ again, drawing upon the example given by the federal Minister in the Endnote above, p 8369.
- ⁵ Dr Craig Emerson MP, Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation, 'National Measurement Amendment Bill 2008', [Second Reading Speech](#), House of Representatives, *Parliamentary Debates*, 24 September 2008, at p 8369.
- ⁶ Hon P Lawlor MP, Minister for Tourism and Fair Trading, 'Trade Measurement Legislation Repeal Bill', Second Reading Speech, [Queensland Parliamentary Debates](#), 15 September 2009, at p 2223.
- ⁷ *Final Report – Review of National Arrangements for Administering Trade Measurement in Australia*, prepared by Booz Allen Hamilton (Australia) Ltd, 30 August 2006, p 6.
- ⁸ Jan Todd, *For Good Measure: The Making of Australia's Measurement System*, Allen & Unwin, Crows Nest, NSW, 2004, p 257.
- ⁹ Jan Todd, pp 257-258.
- ¹⁰ [COAG National Reform Agenda, COAG Regulatory Reform Plan](#), April 2007, p 2 at http://www.coag.gov.au/coag_meeting_outcomes/2007-04-13/docs/coag_nra_regulatory_reform.pdf. See also Australian Government, Department of Industry, Tourism and Resources, National Measurement Institute, '[Administration of trade measurement](#)', 'Current Commonwealth/State/Territory administration', last published 15 October 2009.
- ¹¹ Bruce Kean et al, *Linking Industry Globally: Report of the Committee of Inquiry into Australia's Standards and Conformance Infrastructure* (the Kean Report), Department of Science and Technology, Canberra, 1995, p 43.
- ¹² gas, electricity, water meters.
- ¹³ passed both Houses: 1 December 2008; assented to: 8 December 2008; commenced 1 July 2009; however, the Commonwealth trade measurement system does not come fully into effect until 1 July 2010: See Schedule 2.
- ¹⁴ National Measurement Institute, '[Administration of trade measurement](#)', 'Current Commonwealth/State/Territory administration', last published 15 October 2009.
- ¹⁵ For a comprehensive history of the trade measurement system in Australia, readers should consult Jan Todd's text (the full citation is given in Endnote 8 above), on which this e-Research Brief has drawn.
- ¹⁶ RB Lucas, *Review of Existing Legislation on Weights and Measures in the Australian Colonies together with a Scheme for Unification of System, in view of Federation*, SA Government Printer, Adelaide, 1891, discussed in Jan Todd, Chapter 2, 'National Visions', pp 23-39, especially at pp 33-38.

17 Kean Report, p 43; Jan Todd, p 255.

18 See the Kean Report, p 44; Jan Todd, pp 200-203. The recommendations from the Scott Report itself are attached as Appendix 8 to the 2006 *Review of National Arrangements for Administering Trade Measurement in Australia, Final Report*, prepared by Booz Allen Hamilton (Australia) Ltd.

19 Kean Report, p 45.

20 namely, that by 1 January 1992 all the States and territories would have enacted the model legislation: Kean Report, p 45.

21 See (at pp 16-17) the signatories to the agreement itself: [Uniform Trade Measurement Legislation and Administration Agreement of 1990](#).

22 Kean Report, p 45.

23 [Consultation Paper: National Trade Measurement Legislation Proposal to Amend the National Measurement Regulations 1999 \(Cth\)](#), p 3.

24 Hon GR Milliner MLA, 'Trade Measurement Administration Bill', Second Reading Speech, *Queensland Parliamentary Debates*, 1 August 1990, p 2617.

25 Jan Todd, p 255; National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.

26 Kean Report, p 44 – see the section heading mid-way down the page.

27 Kean Report, pp 44-46. The recommendation (Recommendation 5 of the Committee of Inquiry) is at p 46.

28 Kean Report, pp 17, 46.

29 Kean Report, p 46. (although, it should be noted, only about the “practical issues concerning the management and administration of a national system”, not about the intent of the legislation – again, see p 46 of the Kean Report).

30 Jan Todd, pp 254-255. The quotation occurs at p 255.

31 Jan Todd, pp 254-255.

32 Jan Todd, p 255.

33 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 4. The Working Party's report is attached to and discussed in a paper by the Ministerial Council on Consumer Affairs (out of Session Paper D04/0004M).

34 Joint Communiqué, Ministerial Council on Consumer Affairs Meeting, 27 August 2004, p 3.

35 Council of Australian Governments' Meeting, Communiqué, 10 February 2006, under the heading 'Reducing the Regulatory Burden'; National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.

36 Discussion Paper: *Review of the National Trade Measurement System*, June 2006. Queensland officials provided input to this discussion paper and prepared a *Regulatory Impact Statement* which was released nationally for public consultation in March 2007: Trade Measurement Legislation Repeal Bill 2009, [Explanatory Notes](#), p 8.

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- 37 Final Report – Review of National Arrangements for Administering Trade Measurement in Australia, 30 August 2006. The consultants who produced the Final Report also prepared the Discussion Paper cited in Endnote 36.
- 38 [COAG Regulatory Reform Plan](#), April 2007, p 2.
- 39 [COAG Regulatory Reform Plan](#), April 2007, pp 2-3.
- 40 [COAG Regulatory Reform Plan](#), April 2007, p 3.
- 41 The legislation which introduced the NMI was backgrounded by the Australian Parliamentary Library in *Bills Digest* No 74, 2003-04 '[National Measurement Amendment Bill 2003](#)'. For more information about the factors leading to the establishment of the NMI, again, see Jan Todd's history of trade measurement in Australia, especially Chapter 13, 'Global Challenges, Regional Initiatives and Unfinished Business', (pp 243-261) at pp 255-261.
- 42 National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.
- 43 National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.
- 44 National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.
- 45 Australian Government. National Measurement Institute. Consultation Paper: National Trade Measurement Legislation Proposal to Amend the National Measurement Regulations 1999 (Cth), December 2008, p 1.
- 46 [Public Submissions to the Australian Government Consultation Paper on National Trade Measurement Regulations](#), p 5.
- 47 National Measurement Institute, '[Administration of trade measurement](#)', last published 15 October 2009.
- 48 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 8.
- 49 Hon P Lawlor MP, Minister for Tourism and Fair Trading, 'Trade Measurement Legislation Repeal Bill', Second Reading Speech, [Queensland Parliamentary Debates](#), 15 September 2009, at pp 2223-2224.
- 50 [COAG Regulatory Reform Plan](#), April 2007, p 3. See also the [Explanatory Notes](#), pp 3 & 5 to the Trade Measurement Legislation Repeal Bill (Qld) and Hon P Lawlor MP, Minister for Tourism and Fair Trading, 'Trade Measurement Legislation Repeal Bill', Second Reading Speech, [Queensland Parliamentary Debates](#), 15 September 2009, at pp 2224-2225.
- 51 See Schedule 2, 'Application and transitional provisions', 'Part 1 – Preliminary', Item 1 'Definitions', meaning of 'transition day'.
- 52 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 3.
- 53 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 6. See further s 51(xv) of the [Commonwealth Constitution](#).
- 54 PaoYI Tan, '[National Measurement Amendment Bill 2008](#)', Australian Parliamentary Library, *Bills Digest*, 27 October 2008, No 50, 2008-09, p 13.
- 55 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 5.
- 56 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 5. The same benefits are identified in the federal Minister's [Second Reading Speech](#) (p 8370) to the 2008 Commonwealth amendment Bill.
- 57 Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 6.

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- ⁵⁸ Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 6.
- ⁵⁹ Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 7.
- ⁶⁰ Trade Measurement Legislation Repeal Bill 2009 (Qld), [Explanatory Notes](#), p 6.