

AGREEMENT

between

the COMMONWEALTH OF AUSTRALIA

and

the STATES and TERRITORIES of AUSTRALIA

in relation to the adoption of

UNIFORM TRADE MEASUREMENT

LEGISLATION & ADMINISTRATION

AN AGREEMENT made the first day of January, one thousand nine hundred and ninety, between -

THE COMMONWEALTH OF AUSTRALIA of the first part
THE STATE OF NEW SOUTH WALES of the second part
THE STATE OF VICTORIA of the third part
THE STATE OF QUEENSLAND of the fourth part
THE STATE OF SOUTH AUSTRALIA of the fifth part
THE STATE OF WESTERN AUSTRALIA of the sixth part
THE STATE OF TASMANIA of the seventh part
THE NORTHERN TERRITORY of the eighth part and
THE AUSTRALIAN CAPITAL TERRITORY of the ninth part.

WHEREAS -

- (A) it is generally acknowledged in the interests of the public and of persons and authorities concerned with the administration of the laws relating to trade measurement that there should be uniformity both in those laws and in their administration in the States and the Territories of Australia in order to promote commercial certainty and bring about a reduction in business costs and greater efficiency in the trade measurement industry that services the marketplace and that the confidence of consumers in the market should be maintained through suitable protection provisions;
- (B) the Governments of the Commonwealth and of the States and the Territories of Australia are agreed that such uniformity will be achieved by establishing and implementing a cooperative scheme the objectives of which are to ensure that:
- (a) the legislation relating to the scheme is, and continues to be, uniform throughout Australia at all times;
 - (b) the legislation is administered on a uniform basis;
 - (c) the Commonwealth and the States and the Territories are able to cooperate with each other in regard to the matters to be provided in the legislation and the way in which the legislation is administered;
 - (d) the legislation is capable of effective administration throughout Australia with the minimum of procedural requirements and is so administered; and
 - (e) changes in the legislation are proposed for consideration as appropriate from time to time and amendments made when the need for reform arises.
- (C) as the result of conferences between their respective Ministers the Governments have reached agreement on a scheme to achieve those objectives;
- (D) agreement has been reached between the Commonwealth and the States and the Territories that without fettering the powers of Parliaments will provide for the introduction of model legislation, the establishment and operation of a Ministerial Council and for matters relating to the functioning of the scheme as hereinafter appears.

NOW IT IS HEREBY AGREED as follows:

PART I - INTERPRETATION

1. In this agreement, except where a contrary intention appears;
 - (a) "the Commonwealth" means the Commonwealth of Australia;
 - (b) "State" means a State of the Commonwealth of Australia that is at the relevant time a party to this agreement;
 - (c) "the States" means all the States that are for the time being parties to this agreement; and
 - (d) "Territory" means a Territory of the Commonwealth of Australia that is for the time being party to this agreement; and
 - (e) "the Territories" means all the Territories that are for the time being parties to this agreement.

2. In this agreement, unless the contrary intention appears or the context otherwise requires:

"the Commonwealth Minister" means the Minister responsible for the National Measurement Act 1960;

"the Standing Committee" means the Standing Committee on Trade Measurement established by Commonwealth, State and Territory Ministers responsible for trade measurement legislation of the Commonwealth, the States and the Territories, with the charter and terms of reference set out in Attachment 1;

"the Commission" means the National Standards Commission, established by the National Measurement Act 1960;

"the Ministerial Council" means the Ministerial Council for Trade Measurement established by Part V;

"Model Legislation" means the proposed legislation referred to in clause 7;

"the State and Territories Acts" means legislation of the Parliament of a State or Territory that is provided for by this agreement as amended from time to time consistently with this agreement.

3. In this agreement, unless a contrary intention appears;
 - (a) a reference to a Part is a reference to the relevant Part of this agreement;
 - (b) a reference to a clause is a reference to the relevant clause of this agreement; and
 - (c) a reference to a sub-clause is a reference to the relevant sub-clause of the clause in which the reference appears or of such other clause as the reference indicates.

PART II - OPERATION OF AGREEMENT

4. (1) This agreement shall be deemed to have come into force on 1 January 1990.
- (2) This agreement may be amended by agreement of all the parties.

5. In the event that a party withdraws from this agreement pursuant to Part VIII, the agreement shall nevertheless continue in force with respect to the other parties.
6. A State or a Territory shall cease to be a party to this agreement if:
 - (a) it fails to secure the passage of the Model Legislation within the time frame endorsed by the Ministerial Council; or
 - (b) the State or the Territory withdraws from this agreement pursuant to Part VIII.

PART III - LEGISLATION

7. Each party will take the steps necessary for a model uniform trade measurement bill, regulations and any amendments unanimously approved by the State and Territory Ministers of the Ministerial Council to become the law governing trade measurement within each party's jurisdiction.
8. The Model Legislation will not be amended within each jurisdiction except as follows:
 - (a) the alteration of a provision that refers to another law, so as to reflect differences in the jurisdiction in the law so referred to, or the omission of such a provision if the law referred to is not relevant in the jurisdiction;
 - (b) amendments as to the manner of referring to provisions of the Model Legislation and changes to the set out of provisions, their numbering and headings;
 - (c) the alteration of "State" to "Territory" where appropriate, and alterations necessarily consequential on such an alteration;
 - (d) amendments necessary because of the different procedures within a jurisdiction for the commencement of the Model Legislation and the making of Regulations;
 - (e) amendment of the manner of expressing a monetary penalty for an offence against the Model Legislation (but not so as to alter the actual amount of the penalty);
 - (f) such other amendments as are unanimously approved by the State and Territory Ministers of the Ministerial Council.
9. The Model Legislation will apply in place of existing trade measurement legislation in each jurisdiction and will commence by a date nominated by the Ministerial Council.
10. Any additional legislative or other action required within a party's jurisdiction to implement the Model Legislation shall not modify the effect of the Model Legislation except in such a way as may be unanimously approved by the State and Territory Ministers of the Ministerial Council.

PART IV - ADMINISTRATION

11. Consistent with each party's Legislation each party will administer the Model Legislation in a uniform manner endorsed by the Ministerial Council or the Standing Committee on Trade Measurement as the case may be.

12. Members of the Standing Committee will implement the Committee's unanimous decisions in relation to administrative matters and unresolved matters will be submitted to the Ministerial Council for resolution.
13. The Minister of the Commonwealth or of a State or Territory who has administrative responsibility for trade measurement law(s) in the Commonwealth or in a State or Territory shall be entitled to be notified of, and to be given information concerning, any matter concerning trade measurement being dealt with by the Standing Committee or the administration of trade measurement by the Commonwealth or a State or Territory and shall have the right to refer any matter arising out of or in connection with the Minister's responsibilities directly to the Standing Committee or to the Ministerial Council for consideration.
14. The trade measuring instruments set out in Attachment 2 shall be progressively monitored within a ten year period as agreed by Ministerial Council.

PART V - MINISTERIAL COUNCIL

15. For the purposes of this Agreement there shall be a Council of Commonwealth, State and Territory Ministers to be known as the Ministerial Council for Trade Measurement.
16. (1) The Ministerial Council shall consist of a member representing each party for the time being to this Agreement who, subject to sub-clause (2), shall be the Minister of State of that party who is for the time being responsible for administering the law(s) relating to trade measurement.
 - (2) A member of the Ministerial Council for the time being representing a party to this agreement:
 - (a) may appoint a delegate who is another Minister of State of that party to attend a meeting of the Ministerial Council in place of the member; or
 - (b) shall, while a Minister of State of the party is for the time being acting as the Minister who is referred to in sub-clause (1), be the Minister who is so acting,

and references in this agreement (other than in this clause) to a member of the Ministerial Council shall include a delegate in respect of attendance at any such meeting or a Minister who is so acting.

PART VI - FUNCTIONS OF MINISTERIAL COUNCIL

17. The functions of the Ministerial Council shall be:
 - (a) to consider and to keep under review the formulation and operation of the legislation provided for by this agreement;
 - (b) to establish uniform procedures for the administration of the legislation; and
 - (c) to give consideration to any reports by the Standing Committee under this Agreement.
18. Without prejudice to the generality of clause 17 the functions of the Ministerial Council shall include:
 - (a) consideration and approval of the Model Legislation;

- (b) consideration of the Bill and regulations of each State and Territory by which it is intended to implement the Model Legislation.
19. (1) When the Ministerial Council requires the Standing Committee shall furnish a report to the Ministerial Council in relation to any policy which the Standing Committee is pursuing, or proposes to pursue in relation to this agreement. The Ministerial Council shall have the right of veto over any policy decision of the Standing Committee.
 - (2) The Ministerial Council may itself exercise and, without derogation from its power in that respect at any time, may from time to time and for such time as it may determine, authorise any one or more of its members or the Standing Committee on Trade Measurement to exercise a discretion arising out of or relating to a matter or to matters specified by it.

PART VII - PROCEEDINGS OF MINISTERIAL COUNCIL

20. (1) Ordinary meetings of the Ministerial Council (in this Part called "Council") shall be held at such times and places as are from time to time decided by Council and would normally be held at the same time as the Conference of Ministers responsible for Trade Measurement.
 - (2) A special meeting of Council may be convened by any member by notice of 14 days or of such other period as may be accepted by all members for the purpose of the meeting.
 - (3) A special meeting shall not, except with the agreement of all members of Council, consider a matter which has not been specified in or at the time of the notice of the meeting.
21. The quorum for a meeting of Council shall be six members.
 22. (1) The Chairman of a meeting of Council shall be decided by Council prior to or, if not previously decided, at the meeting.
 - (2) At a meeting of Council the Chairman shall have a deliberative but not a casting vote.
23. Except as otherwise provided in clauses 7, 8, 10, and 24, a resolution will be carried by Council by a simple majority of members present and voting on the resolution.
 24. A resolution which, without being considered at a meeting of Council, is referred to all members of Council and of which a majority of the members, or, if a unanimous vote is required for the passage of the resolution, all the members indicate by telephone, teleprinter message or other mode of communication to the Council that they are in favour shall be as valid and effectual and as if it had been passed at a meeting of Council duly convened and held.
 25. Subject to the foregoing provisions of this Part, Council may determine its own procedure and for that purpose may make rules of procedure, including rules relating to notices of meetings and conduct of business at meetings and to voting by members under clause 23, and may from time to time alter such rules.

PART VIII - WITHDRAWAL

26. (1) A party may at any time by notice in writing to the Ministerial Council withdraw from this agreement and shall cease to be a party when the notice of withdrawal takes effect.
- (2) A notice of withdrawal under this clause shall take effect on a date to be specified in the notice which is not less than one year from the date on which the notice is given.

CHARTER AND TERMS OF REFERENCE OF
THE STANDING COMMITTEE ON TRADE MEASUREMENT

(Attachment 1 to Agreement)

The Formal Conference of Commonwealth State and Northern Territory Ministers responsible for Trade Measurement at the meeting at Yulara Northern Territory in September 1986 agreed that the Formal Conference on Weights and Measures be renamed the Standing Committee on Trade Measurement with the following charter and terms of reference.

1. OBJECTIVES

The objectives of the Standing Committee on Trade Measurement will be:

- (i) to develop and maintain uniformity in trade measurement matters including packaging, between States and Territories, and between the Commonwealth and States/Territories;
- (ii) to assist the National Standards Commission in its role of promoting and co-ordinating the use in Australia of a uniform system of units and standards of measurement of physical quantities;
- (iii) to develop and maintain the use of trade measuring instruments in a fair and proper manner;
- (iv) to provide a forum for State/Territory input to the development of pattern approval procedures; and
- (v) to develop national strategies to deal with for new technologies in trade measurement.

2. TERMS OF REFERENCE

The role of the Standing Committee on Trade Measurement will be to advise the Ministerial Council on matters relating to trade measurement and:

- (i) to provide a mechanism for, and to promote effective communication between States, Territories and the National Standards Commission on trade measurement matters;
- (ii) to develop, monitor and maintain effective uniform trade measurement legislation and administrative procedures;
- (iii) to provide a forum for resolving relevant packaging issues;

- (iv) to assist the National Standards Commission in the development of pattern approval procedures;
- (v) to identify, discuss and resolve differences between States and Territories or States/Territories and the National Standards Commission on trade measurement issues;
- (vi) to review trade measurement legislation in other countries on a regular basis and to consider the relevance and possible adoption of international procedures proposed by the International Organisation of Legal Metrology (OIML) and similar organisations;
- (vii) to establish a mechanism for regular discussion with relevant industry and consumer representatives on trade measurement issues and their effect on fair trading;
- (viii) to encourage the trade measuring instrument industry to seek advice from the National Standards Commission and/or States and Territories, particularly when new products or processes are being considered;
- (ix) to support the uniform training of trade measurement officers; and
- (x) to develop uniform procedures to deal with new technology and processes which enhance fair trading and are subject to trade measurement legislation.

3. MEETINGS

The Standing Committee on Trade Measurement will meet at least once each year.

4. MEMBERSHIP

Membership of the Standing Committee on Trade Measurement will include representatives from each State and Territory, the National Standards Commission and the Commonwealth portfolio responsible for Consumer Affairs.

Observers may include representatives from:

- (i) States and Territory trade measurement authorities;
- (ii) the National Standards Commission;
- (iii) the New Zealand trade measurement authority; and
- (iv) others as agreed by the Standing Committee on Trade Measurement.

The chairman and secretariat will be provided by the National Standards Commission.

5. ACCOUNTABILITY

The Standing Committee on Trade Measurement shall report to the Ministerial Council* on matters concerning the administration and amendment of the uniform trade measurement legislation, and other trade measurement issues which it cannot resolve.

6. PROCEDURES

The Standing Committee on Trade Measurement will adopt the following operating procedures:

- (i) decisions will be made by consensus where possible; otherwise each State/Territory, the National Standards Commission and Commonwealth Office of Consumer Affairs will have one vote each. The National Standards Commission is not bound to act on recommendations of the Standing Committee on Trade Measurement on matters solely within the Commission's jurisdiction;
- (ii) unanimous administrative/technical decision will be implemented by each State and Territory. This will be in accordance with the Formal Agreement for matters relating to the uniform trade measurement legislation;
- (iii) matters not resolved by the Standing Committee on Trade Measurement will be referred to the Ministerial Council;
- (iv) the existing Packaging Consultative Committee and the Trade Measurement Industry Consultative Committee (as reconstituted in the Attachment) will continue to operate; and
- (v) working parties may be established as necessary by SCTM.

* At the present time SCOCAM and the Commonwealth Minister for Science would be the appropriate Ministerial Council (the Commonwealth Ministers would have only one vote).

REVIEW OF THE OBJECTIVES AND OPERATIONS OF
THE TRADE MEASUREMENT CONSULTATIVE COMMITTEE

(Attachment to Charter and Terms
of Reference of the Standing Committee on Trade Measurement)

1. BACKGROUND

A consultative committee known as the Trade Measurement Industry Consultative Committee (TMICC) was formally established at a Ministers' Conference in August 1983. Formal terms of reference and mode of operation were not clearly established. However the TMICC was directed to report to the Formal Conference on Weights and Measures. The chairman of TMICC is provided by industry.

As part of the review of the role of the Standing Committee on Trade Measurement (formerly the Formal Conference on Weights and Measures) the Working Party on Uniform Trade Measurement Legislation reviewed the charter and terms of reference of TMICC.

2. NAME

It is recommended that the Trade Measurement Industry Consultative Committee be replaced by a committee to be named the Trade Measurement Consultative Committee (TMCC) to more clearly reflect the breadth of representation.

3. OBJECTIVES

The objectives of TMCC will be:

- (i) to assist in promoting uniformity throughout Australia in trade measurement matters;
- (ii) to assist the National Standards Commission and the States/Territories in promoting, developing and maintaining uniform trade measurement legislation and procedures;
- (iii) to promote the use of trade measuring instruments in a fair and proper manner;

- (iv) to provide a forum for industry, retailers and consumer organisations to have input into the decision making processes of the trade measurement authorities;
- (v) to disseminate information on trade measurement issues to interested parties; and
- (vi) to assist in developing national strategies to deal with new technology in trade measurement.

5. TERMS OF REFERENCE

The role of the Trade Measurement Consultative Committee will be to advise the Standing Committee on Trade Measurement on matters relating to trade measuring instruments particularly in relation to design and testing procedures, and:

- (i) to support the work of the Standing Committee on Trade Measurement and to co-operate with that committee;
- (ii) to provide a mechanism for, and promote effective communications between, manufacturers, suppliers, users of trade instruments, consumers, States/Territories and the National Standards Commission on trade measurement issues and their effect on fair trade;
- (iii) to assist in developing, monitoring and maintaining effective trade measurement and pattern approval procedures;
- (iv) to identify, discuss and resolve differences between manufacturers, suppliers, users of trade instruments and consumers, and the trade measurement authorities in trade measurement issues.
- (v) to promote consultation between the trade instrument industry and trade measurement authorities, particularly when new products or processes are being considered; and
- (vi) to assist in developing uniform procedures to support new technology and processes which enhance fair trading and are subject to trade measurement legislation and industrial codes of practices.

6. MEETINGS

The Trade Measurement Consultative Committee will meet as the need arises and will be convened by the National Standards Commission. The Commission will also convene a meeting if requested to do so by three or more members.

7. MEMBERSHIP

Membership of the Trade Measurement Consultative Committee will include two State/Territories representatives from the Standing Committee on Trade Measurement and a representative from each of:

- (i) the National Standards Commission (In addition to the Chairman and Secretary of TMCC);
- (ii) the Weighing Industry Association of Australia;
- (iii) the Petroleum Industry Equipment Manufacturers Association Ltd;
- (iv) the Service Stations Association of Australia;
- (v) the Australian Retailers Association;
- (vi) the Australian Federation of Consumer Organisations; and
- (vii) the Australian Institute of Petroleum.

Observers may include representatives from:

- (i) State/Territory trade measurement authorities;
- (ii) the National Standards Commission;
- (iii) relevant industries or associations; and
- (iv) others as agreed by the Trade Measurement Consultative Committee.

Observers may participate in discussion but do not have a vote.

The chairman and secretariat will be provided by the National Standards Commission.

8. ACCOUNTABILITY

The Trade Measurement Consultative Committee will advise and/or make recommendations to the Standing Committee on Trade Measurement.

9. PROCEDURES

- (i) The Trade Measurement Consultative Committee may undertake investigations referred to it, by the Standing Committee on Trade Measurement.
- (ii) Working parties may be established to advise the Trade Measurement Consultative Committee.
- (iii) Decisions will be by consensus where possible; otherwise the majority view will be reported to the Standing Committee on Trade Measurement with acknowledgement of the dissenting view point, where appropriate.
- (iv) The Standing Committee on Trade Measurement is not bound to act on recommendations of the Trade Measurement Consultative Committee.
- (v) Members of the Trade Measurement Consultative Committee will receive minutes of relevant Standing Committee agenda items.

TRADE MEASURING INSTRUMENTS TO BE MONITORED

(Attachment 2 to Agreement)

NOTE

1. LENGTH MEASURING

Simple Measures of Length
Fabric Measuring Instruments

2. AREA MEASURING

Leather Measuring Instruments

3. MASSES

Masses

4. MEASURES OF VOLUME

Measures of Volume
Drumfillers, Volumetric
Beverage Measures
Lubricating Oil Bottles
Pharmaceutical Dispensing Measures
Spirit Measures
Graduated Measuring Cylinders

5. LIQUID MEASURING INSTRUMENTS

Visible Bowl Dispensers
Flowmeters
Flowmeters, General (Driveway)
Flowmeters, Bulk (Pipeline, Drumfilling, Loading Rack)
Flowmeters, Hose-end Oil
Flowmeters, Vehicle Tank
Flowmeters, Food
Flowmeters, Vehicle Mounted
Flowmeters, Pipeline
Remote-storage Liquor Dispensers

6. WEIGHING INSTRUMENTS

Australia Post's Weighing Instruments

Balances

Beam Scales

Counter Scales

Counter Weighing Instruments, Part Self-Indicating

Counter Weighing Instruments, Part Self-Indicating and
Price-computing

Counter Weighing Instruments, Self-indicating

Counter Weighing Instruments, Self-indicating and Price-computing

Spring Balances

Suspended Weighing Instruments, Self-indicating

Platform Weighing Instruments, Non Self-Indicating

Platform Weighing Instruments, Self-indicating

Weighbridges Non Self-Indicating

Weighbridges Self-Indicating

Milk Weighing Instruments

Crane Weighing Instruments

Hopper Weighing Instruments

Conveyor Weighers

Personal Weighing Instruments

Overhead Weighing Instruments (Track)

Livestock Weighers

7. COUNTING INSTRUMENTS

Counting/Weighing Instruments

8. FARM MILK TANKS

Farm Milk Tanks

9. VEHICLE TANKS

Vehicle Tanks

10. LIQUEFIED GAS FLOWMETERS

LPG Flowmeters

Anhydrous Ammonia Flowmeters

11. SPECIAL CATEGORY MEASURING INSTRUMENTS

- Electricity Meters
- Gas Meters
- Water Meters
- Taxi Meters
- Odometers Used by Hire Car Firms
- Tyre Pressure Gauges
- Telephone Meters
- Parking Meters

IN WITNESS WHEREOF this Agreement has been signed for and on behalf of the parties hereto respectively as at the day and year first above written.

SIGNED for and on behalf of)
the COMMONWEALTH OF AUSTRALIA)
by Hon. Simon Crean M.P.)
Minister for Science and Technology)
in the presence of)

J. Birch

[Signature]

SIGNED for and on behalf of)
the STATE OF VICTORIA)
by Hon. Brian W. Mier M.L.C.)
Minister for Consumer Affairs)
in the presence of)

P.M. Faulkner

[Signature]

SIGNED for and on behalf of)
the STATE OF NEW SOUTH WALES)
by Hon. G.B. Peacocke)
Minister for Business and Consumer Affairs)
in the presence of)

[Signature]

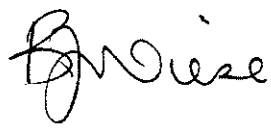
[Signature]

SIGNED for and on behalf of)
the STATE OF QUEENSLAND)
by Hon. G.R. Milliner)
Minister for Justice and Corrective Services)
in the presence of)

[Signature]

[Signature]

SIGNED for and on behalf of)
the STATE OF SOUTH AUSTRALIA)
by Hon. Barbara J. Wiese M.L.C.)
Minister for Consumer Affairs)
in the presence of)

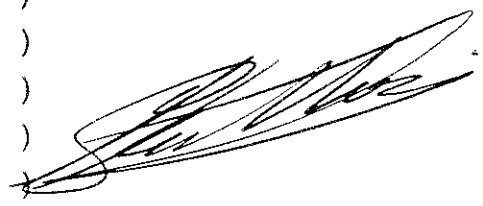


SIGNED for and on behalf of)
the STATE OF WESTERN AUSTRALIA)
by Hon. Yvonne D. Henderson M.L.A.)
Minister for Consumer Affairs)
in the presence of)

SIGNED for and on behalf of)
the STATE OF TASMANIA)
by Hon. Fran Bladel M.H.A.)
Minister for Administrative Services and)
Consumer Affairs)
in the presence of)



SIGNED for and on behalf of)
the NORTHERN TERRITORY)
by Hon. Steve Hatton M.L.A.)
Minister for Health and Community Services)
in the presence of)



SIGNED for and on behalf of)
the AUSTRALIAN CAPITAL TERRITORY)
by Mr. B. Collaery M.L.A.)
Attorney-General)

