National Measurement Act 1960

Act No. 64 of 1960 as amended

This compilation was prepared on 1 July 2004
taking into account amendments up to Act No. 27 of 2004

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting,
Attorney-General’s Department, Canberra
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Notes
An Act relating to Weights and Measures

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the National Measurement Act 1960.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

Australia includes the external Territories.

Australian legal unit of measurement means:
(a) a unit of measurement prescribed for the purposes of subsection 7A(1); or
(b) a unit of measurement derived by the application of guidelines issued by the Chief Metrologist under subsection 7B(1), or 2 or more successive applications of those guidelines.

Australian primary standard of measurement means a standard of measurement that is maintained, or caused to be maintained, by the Chief Metrologist as an Australian primary standard of measurement for the purposes of subsection 8(1).

Australian secondary standard of measurement means a standard of measurement that is maintained, or caused to be maintained, by the Chief Metrologist as an Australian secondary standard of measurement for the purposes of subsection 8(2) and that has been verified, in accordance with the regulations, by means of, by reference to, by comparison with or by derivation from an Australian primary standard of measurement.

certified measuring instrument means a measuring instrument that has been certified in accordance with the regulations.

certified reference material means a reference material that has been certified in accordance with the regulations.
Section 3

**Chief Metrologist** means the Chief Metrologist mentioned in section 18A.

**Commonwealth authority** means a body corporate established for a public purpose by or under a law of the Commonwealth.

**component,** in relation to a thing (in this definition called the *basic thing*) by means of which a measurement of a physical quantity may be made, includes another thing (whether or not forming part of the basic thing) where:

(a) the basic thing is so designed or constructed as to include, or have associated with it, the other thing; and

(b) the other thing is designed or intended to do any or all of the following:

(i) carrying out a conversion of the result of a measurement made by the basic thing;

(ii) calculating a number, tax or price by reference to the result of a measurement made by the basic thing;

(iii) correcting the result of a measurement made by the basic thing;

(iv) providing or repeating information consisting of or relating to any or all of the following:

   (A) the result of a measurement made by the basic thing;

   (B) a conversion of the result of a measurement made by the basic thing;

   (C) a calculation of a number, tax or price calculated by reference to the result of a measurement made by the basic thing;

(v) controlling the measurement process carried out by the basic thing.

**interest in land** includes an interest by way of stratum title (by whatever name known), an interest by way of strata title (by whatever name known) and a time-sharing interest in land (by whatever name known).

**material measure** means a thing designed or intended to conserve or reproduce, in a permanent manner during the use of the thing, one or more known values of a physical quantity.
measuring instrument means:
   (a) a thing by means of which a measurement of a physical quantity may be made; or
   (b) a component of such a thing.

measuring instrument with an approved pattern means a measuring instrument a pattern of which has been approved under this Act.

metric system of measurement means measurement in terms of:
   (a) the units comprised in the International System of Units for the time being approved by the General Conference on Weights and Measures;
   (b) units decimally related to those units and for the time being so approved; and
   (c) such other units as the Minister declares, from time to time, by notice published in the Gazette, to be within the metric system.

pattern, in relation to a measuring instrument, includes a sample of the measuring instrument.

recognized-value standard of measurement means a standard of measurement that the Chief Metrologist has, under section 8A, determined shall be a recognized-value standard of measurement.

reference material means a material whose properties are used for the calibration of measuring instruments, the assessment of a measuring method or for assigning values to materials.

reference standard of measurement means a standard of measurement (other than an Australian primary standard of measurement, an Australian secondary standard of measurement, a recognized-value standard of measurement or a State primary standard of measurement) that has been verified in accordance with the regulations and for which the period for which a certificate of verification is given under the regulations has not expired.

Secretary means the Secretary of the Department.
standard of measurement means:
(a) a material measure, measuring instrument or measuring
    system designed or intended to define, realise, conserve or
    reproduce:
    (i) a unit of measurement of a physical quantity; or
    (ii) one or more known values of a physical quantity;
    in order to transmit that unit or those values to measuring
    instruments by way of comparison; or
(b) a formula designed or intended to define the magnitude of a
    physical quantity.

State or Territory officer means a person who, whether on a
full-time basis or a part-time basis and whether in a permanent
capacity or otherwise:
(a) is in the service or employment of a State or Territory or an
    authority of a State or Territory; or
(b) holds or performs the duties of any office or position
    established by or under a law of a State or Territory.

State primary standard of measurement means a standard of
measurement that has been approved by the Chief Metrologist and
that is maintained, or caused to be maintained, by a State or
Territory and that has been verified under section 9 by means of,
by reference to, by comparison with or by derivation from an
Australian primary standard of measurement or an Australian
secondary standard of measurement.

unit of measurement includes any word or expression that is used
in conjunction with numerical values in order to describe the
magnitudes of physical quantities.

use for trade, in relation to a measuring instrument, means use of
the measuring instrument for either or both of the following
purposes:
(a) determining the consideration in respect of a transaction;
(b) determining the amount of a tax.

utility meter means a measuring instrument that is:
(a) a gas meter; or
(b) an electricity meter; or
(c) a water meter;
but does not include a meter that is included in a class of meters exempted from the operation of Part VA by the regulations.

Note: Most of the definitions dealing with utility meters are in section 18H.

verification, in respect of a utility meter, has the meaning given in section 18T.

verifying authority, in respect of the verification of utility meters, means the Secretary or a person appointed under section 18ZC or 18ZKA.

(2) For the purposes of this Act, time interval not related to the calendar is a physical quantity and time interval so related is not a physical quantity.

(3) A reference in this Act to the verification of a standard of measurement shall be read as including a reference to the reverification of the standard of measurement.

(3A) A reference in this Act to the verification of a utility meter used for trade does not include a reference to the reverification of a utility meter used for trade.

(4) A reference in this Act to an appropriate State authority shall be read as a reference to a Department of State or other authority in a State or Territory having responsibility for matters relating to weights and measures.

4 Objects and application of Act

(1) The objects of this Act are:

(a) to establish a national system of units and standards of measurement of physical quantities; and

(b) to provide for the uniform use of those uniform units and standards of measurement throughout Australia; and

(c) to co-ordinate the operation of the national system of measurement; and
Part I  Preliminary

Section 4

(d) to bring about the use of the metric system of measurement in Australia as the sole system of measurement of physical quantities; and
(e) to provide for a system of verification of utility meters used for trade;
and this Act shall be construed accordingly.

(1A) Subsections (2) and (3) do not apply in respect of the application of this Act and regulations to utility meters used for trade.

Note: Section 4A deals with the application of the Act in respect of utility meters used for trade.

(2) This Act and the regulations do not apply to the exclusion of any law of a State or Territory except in so far as that law is inconsistent with an express provision of this Act or of the regulations.

(3) Without limiting the generality of subsection (2), this Act and the regulations shall not be taken to apply to the exclusion of any law of a State or Territory:
(a) relating to improper practices in connexion with weights and measures;
(b) providing for the verification of means of measurement, other than Australian primary standards of measurement, Australian secondary standards of measurement, recognized-value standards of measurement, reference standards of measurement or State primary standards of measurement;
(d) prohibiting or restricting the use of a unit of measurement of a physical quantity either generally or in respect of particular transactions or in respect of the transactions included in a particular class of transactions;
(e) providing that particular transactions, or the transactions included in a particular class of transactions, shall be made or entered into in terms of a particular unit of measurement of a physical quantity; or
(f) relating to the packaging of articles for sale.
Section 4A

4A Application of Act—utility meters used for trade

General rule—Commonwealth law applies

(1) Subject to subsections (2) and (3), this Act and the regulations are intended to apply to the exclusion of any State or Territory law to the extent that the State or Territory law relates to utility meters used for trade.

Exception—certain State and Territory laws coexist with Commonwealth law

(2) This Act and the regulations are not intended to exclude or limit the concurrent operation of any State or Territory law relating to improper practices in connection with utility meters used for trade.

Exception—this Act does not apply to reverification

(3) This Act and the regulations do not apply to the reverification of utility meters used for trade.

5 Act to bind the Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island and any authority constituted by or under a law of the Commonwealth or of a State or Territory.

6 Extension of Act to Territories

This Act extends to all the Territories.

6A Application of the Criminal Code

Chapter 2 of the Criminal Code applies to all offences created by this Act.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
Part II—Units and standards of measurement

7 Australian legal units of measurement

Subject to subsection 7A(2), the Australian legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity.

7A Regulations may prescribe Australian legal units of measurement etc.

(1) The regulations may prescribe the Australian legal units of measurement of any physical quantity.

(2) The regulations may prescribe units of measurement of any physical quantity to be additional legal units of measurement for use for a particular purpose or for the purpose of a particular contract, dealing or other transaction or class of contracts, dealings or other transactions.

(3) The regulations may prescribe prefixes specifying numerical value.

7B Guidelines

(1) The Chief Metrologist may issue written guidelines governing:
   (a) the way in which an Australian legal unit of measurement may be combined with itself, or one or more other Australian legal units of measurement, to produce an Australian legal unit of measurement; and
   (b) the way in which an Australian legal unit of measurement may be combined with a prefix prescribed for the purposes of subsection 7A(3) to produce an Australian legal unit of measurement.

(2) A set of guidelines issued by the Chief Metrologist under subsection (1) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.
8 Australian standards of measurement

(1) The Chief Metrologist shall maintain, or cause to be maintained, such standards of measurement as are necessary to provide means by which measurements of physical quantities for which there are Australian legal units of measurement may be made in terms of those units.

(2) The Chief Metrologist shall maintain, or cause to be maintained, such standards of measurement (not being Australian primary standards of measurement) as the Chief Metrologist considers desirable to maintain as Australian secondary standards of measurement in order to provide additional means by which measurements of physical quantities for which there are Australian legal units of measurement may be made in terms of those units.

8AA Co-ordinated Universal Time

The Chief Metrologist is to maintain, or cause to be maintained, Co-ordinated Universal Time (UTC) as determined by the International Bureau of Weights and Measures.

8A Recognized-value standards of measurement

(1) The Chief Metrologist may determine that:

(a) magnitudes of physical quantities specified in the determination; or

(b) magnitudes of physical quantities as ascertained in accordance with a formula set out in the determination;

shall be recognized-value standards of measurement.

(2) The Chief Metrologist may revoke or vary any such determination.

(3) Notice of a determination under this section, or of the revocation or variation of such a determination, shall be published in the Gazette.

(4) A recognized-value standard of measurement is not subject to verification.
Part II Units and standards of measurement

Section 9

9 Verification of State primary standards of measurement

(1) A State primary standard of measurement may, at the request of the appropriate State authority, be verified by or on behalf of the Chief Metrologist by means of, by reference to, by comparison with or by derivation from:
   (a) an appropriate Australian primary standard of measurement;
   (b) an appropriate Australian secondary standard of measurement; or
   (c) 2 or more standards of measurement each of which is an appropriate Australian primary standard of measurement or an appropriate Australian secondary standard of measurement.

(2) Verification of such a standard of measurement shall be carried out in a manner that is, having regard to the nature of the standard of measurement to be verified, appropriate for the purpose.

(3) Where a State primary standard of measurement is verified by the Chief Metrologist or by a person on behalf of the Chief Metrologist, the Chief Metrologist or the person, as the case may be, shall specify the period within which the standard is to be verified again, and the standard shall be verified again within that period.

10 Measurements to be ascertained in accordance with appropriate standards of measurement, certified reference materials or certified measuring instruments

When, for any legal purpose, it is necessary to ascertain whether a measurement of a physical quantity for which there are Australian legal units of measurement has been made or is being made in terms of those units, that fact shall be ascertained by means of, by reference to, by comparison with or by derivation from:
   (a) an appropriate Australian primary standard of measurement;
   (b) an appropriate Australian secondary standard of measurement;
   (c) an appropriate State primary standard of measurement;
   (d) an appropriate recognized-value standard of measurement;
   (e) an appropriate reference standard of measurement;

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(f) 2 or more standards of measurement, each of which is a standard of measurement referred to in paragraph (a), (b), (c), (d) or (e);
(g) a certified reference material;
(h) a certified measuring instrument;
(i) one or more standards of measurement, each of which is a standard of measurement referred to in paragraph (a), (b), (c), (d) or (e) and a certified reference material;
(j) one or more standards of measurement, each of which is a standard of measurement referred to in paragraph (a), (b), (c), (d) or (e) and a certified measuring instrument; or
(k) one or more standards of measurement, each of which is a standard of measurement referred to in paragraph (a), (b), (c), (d) or (e), a certified reference material and a certified measuring instrument;

and not in any other manner.

11 Conversion factors

Where, for any legal purpose:
(a) it is necessary to convert a measurement of a physical quantity expressed in terms of one of the Australian legal units of measurement of that physical quantity to a measurement expressed in terms of another Australian legal unit of measurement; or
(b) it is necessary to convert a measurement of a physical quantity expressed in terms of a unit of measurement (not being an Australian legal unit of measurement) of that physical quantity to a measurement expressed in terms of one of the Australian legal units of measurement;

the prescribed conversion factors shall, where applicable, be used.
Section 12

12 Trade contracts etc. to be expressed in Australian legal units of measurement

(1) On and after the date from which the Australian legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity, every contract, dealing or other transaction made or entered into for any work, goods or other thing that is to be done, sold, carried or agreed for by measurement of that physical quantity shall be made or entered into by reference to Australian legal units of measurement of that physical quantity, and if not so made or entered into is void.

(1A) Subsection (1) does not apply, and shall be deemed never to have applied, in relation to a contract, dealing or other transaction made or entered into with respect to an interest in land.

(2) Where, in a contract, dealing or other transaction to which subsection (1) applies:
   (a) reference is made to a unit of measurement of a physical quantity; and
   (b) there is an Australian legal unit of measurement of that physical quantity of the same name;
the reference shall, unless the contrary intention appears, be deemed to be a reference to that Australian legal unit of measurement.

(3) Nothing in subsection (1) shall be taken to affect the validity of a contract, dealing or other transaction referred to in that subsection that was made or entered into by reference to units of measurement of a physical quantity that, at the time when it was made or entered into, were Australian legal units of measurement of that physical quantity.

(4) Where a contract, dealing or other transaction in relation to which an additional unit of measurement is applicable under regulations made for the purposes of subsection 7A(2) is made or entered into by reference to that additional unit of measurement, the contract, dealing or other transaction is not void by reason only that it is made or entered into by reference to that additional unit of measurement.
12A Contracts etc. with respect to interests in land to be expressed in Australian legal units of measurement

(1) After the commencement of this section, every contract, dealing or other transaction made or entered into with respect to an interest in land that refers to any measurement of a physical quantity (including a reference to a measurement of a physical quantity for descriptive purposes only) shall refer to Australian legal units of measurement of that physical quantity.

(2) Where, in a contract, dealing or other transaction to which subsection (1) applies:
   (a) reference is made to a unit of measurement of a physical quantity; and
   (b) there is an Australian legal unit of measurement of that physical quantity of the same name;
the reference shall, unless the contrary intention appears, be deemed to be a reference to that Australian legal unit of measurement.

(3) Where a contract, dealing or other transaction in relation to which an additional unit of measurement is applicable under regulations made for the purposes of subsection 7A(2) refers to that additional unit of measurement, the contract, dealing or other transaction does not contravene subsection (1) merely because it refers exclusively to that additional unit of measurement.

(4) A contract dealing or other transaction made or entered into with respect to an interest in land does not contravene subsection (1) merely because it refers to units of measurement other than Australian legal units of measurement if:
   (a) in the case of land that is registered under a law of a State or Territory relating to the registration of interests in land—the folium of the register in which interests in the land are registered, or the duplicate certificate of title for the land, is expressed in, or contains or refers to a plan expressed in, units of measurement other than Australian legal units of measurement (whether or not also expressed in Australian legal units of measurement); or
   (b) in any other case—all the muniments of title for the land are expressed in, or contain or refer to a plan expressed in, units...
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Section 13

of measurement other than Australian legal units of measurement (whether or not some of the muniments of title are also expressed in, or contain or refer to a plan that is also expressed in, Australian legal units of measurement).

(5) Nothing in this section shall be taken to affect the validity of a contract, dealing or other transaction, or any interest derived under a contract, dealing or other transaction, merely because the contract, dealing or other transaction contravenes subsection (1).

(6) A person who makes or enters into a contract, dealing or other transaction that contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding $500.

13 Contracts etc. relating to exportation or importation of goods

The provisions of subsection 12(1) and of section 7 do not apply to or in relation to a contract, dealing or transaction made or entered into in connexion with the exportation of goods from, or the importation of goods into, Australia.

13A Futures contracts and contracts etc. relating to futures contracts

(1) Section 7 and subsection 12(1) do not apply in relation to a futures contract or a contract, dealing or transaction made or entered into in connection with a futures contract.

(2) In subsection (1), futures contract has the same meaning as in the Futures Industry Act 1986.

14 References in laws to units of measurement

On and after the date from which the Australian legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity, a reference in a law of the Commonwealth or of a Territory (whether the law was made before or after the commencement of this Act) to a unit of measurement of that physical quantity shall, if there is an Australian legal unit of measurement of that physical quantity of

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the same name and unless the contrary intention appears, be read as a reference to that Australian legal unit of measurement.
Part III—National Measurement Institute and Chief Metrologist

16 Overview of Part

Overview of Part

(1) A National Measurement Institute is established within the Department.

(2) The Secretary has metrological functions of the Commonwealth, but may delegate within the Department metrological functions and powers.

(3) The position of Chief Metrologist is established and the functions of the Chief Metrologist identified.

17 National Measurement Institute

There is to be a National Measurement Institute within the Department.

18 Metrological functions

(1) The Secretary has metrological functions of the Commonwealth.

(2) Those functions include, but are not limited to, the following:
   (a) adopting the International System of Units, and developing and adopting additional units of measurement for use in Australia;
   (b) realising units of measurement through the development and maintenance of standards of measurement, reference materials and reference techniques;
   (c) assisting industry, scientific organisations and government to develop and utilise measurement techniques, including by technology transfer;
Section 18A

(d) promoting best practice in measurement in industry and the scientific and wider community, including by training;

(e) providing measurement services to industry, scientific organisations and government, including by:
   (i) measuring physical, chemical and biological quantities;
   and
   (ii) providing calibration services; and
   (iii) examining and approving patterns for measuring instruments;

(f) providing expertise in support of Australia’s measurement standards and conformance infrastructure;

(g) promoting uniformity in national trade measurement policy and practice, including through work with Commonwealth, State and Territory agencies;

(h) facilitating international trade to the extent that it is affected by measurement;

(i) fulfilling Australia’s international obligations with respect to measurement;

(j) conducting research in support of the functions mentioned in paragraphs (a) to (i).

(3) The fact that the Secretary has the functions mentioned in this section does not limit the power of the Commonwealth to charge fees for things done in performing those functions.

18A Chief Metrologist

(1) There is to be a Chief Metrologist, who is to be engaged under the Public Service Act 1999.

(2) The Chief Metrologist has the functions conferred on him or her under this Act and the regulations.

(3) The fact that the Chief Metrologist has the functions conferred on him or her under this Act and the regulations does not limit the power of the Commonwealth to charge fees for things done in performing those functions.
18B Acting Chief Metrologist

(1) The Secretary may appoint a person to act as the Chief Metrologist:
   (a) during a vacancy in the office of Chief Metrologist (whether or not an appointment has previously been made to the office); or
   (b) during any period, or during all periods, when the Chief Metrologist is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

(2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
   (a) the occasion for the appointment had not arisen; or
   (b) there was a defect or irregularity in connection with the appointment; or
   (c) the appointment had ceased to have effect; or
   (d) the occasion to act had not arisen or had ceased.

Note: For more information about acting appointments, see section 33A of the Acts Interpretation Act 1901.

18C Delegation by the Secretary

(1) The Secretary may delegate all or any of his or her functions or powers under this Act or the regulations to:
   (a) an SES employee or acting SES employee in the Department; or
   (b) the Chief Metrologist; or
   (c) an APS employee within the National Measurement Institute who has the expertise appropriate to the function or power delegated.

(2) The delegation must be in writing.

(3) In exercising functions or powers under a delegation, the delegate must comply with any directions of the Secretary.
18D Delegation by the Chief Metrologist

(1) The Chief Metrologist may delegate all or any of his or her functions or powers under this Act or the regulations to an APS employee within the National Measurement Institute who has the expertise appropriate to the function or power delegated.

(2) The delegation must be in writing.

(3) In exercising functions or powers under a delegation, the delegate must comply with any directions of the Chief Metrologist.
Part VA—Utility meters

Division 1—Preliminary

18G Overview of Part

Overview of Part

(1) This Part applies to utility meters used for trade.

(2) Division 2 sets out the requirements that apply to utility meters used for trade.

(3) Division 3 deals with the verification of utility meters.

(4) Division 4 deals with verifying authorities (applications for appointment, appointment of verifying authorities, conditions on appointment, disciplinary action for breaches of conditions of appointment).

(5) Division 5 deals with enforcement powers in respect of utility meters.

Note: For use for trade see subsection 3(1).

18H Definitions

(1) In this Part, unless the contrary intention appears:

approved pattern, in relation to a utility meter, means a pattern approved for the meter under section 19A that:

(a) is currently in force; or

(b) has expired or been cancelled (but not withdrawn) and was in force when the utility meter was first verified.

authorised officer means a person appointed as an authorised officer under section 18ZM.
evidential material means any of the following:
(a) any thing with respect to which an offence against this Part has been committed or is suspected, on reasonable grounds, to have been committed;
(b) any thing as to which there are reasonable grounds for suspecting that it will afford evidence as to the commission of any such offence;
(c) any thing as to which there are reasonable grounds for suspecting that it is intended to be used for the purpose of committing any such offence.

marking a utility meter with a verification mark has the meaning given in subsection (3).

meter gives an inaccurate measurement has the meaning given in subsection (2).

oblitrate, in respect of a verification mark, means destroy or remove a verification mark.

occupier, in relation to premises, means the person apparently in charge of the premises.

seize includes secure against interference.

verification mark means a mark allocated for use by the Secretary under section 18ZE.

verifier means a person to whom the Secretary has allocated a verification mark under section 18ZE.

(2) For the purposes of this Part, a meter gives an inaccurate measurement if the meter does not operate within the appropriate limits of error that are permitted under the regulations.

(3) A reference in this Part to a person marking a utility meter with a verification mark includes the marking of the utility meter itself, the affixing of a label to the utility meter or the marking of a label affixed to the utility meter.
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Division 2  Requirements for use of utility meters for trade

Section 18K

Division 2—Requirements for use of utility meters for trade

18K  Overview of Division

Overview of Division

(1) This Division provides that a utility meter used for trade is required to be:

(a) verified (see section 18L); and

(b) used in a way that gives an accurate measurement (see section 18P); and

(c) accurate (see section 18Q).

Note: For verification see section 18T.

(2) This Division imposes the following requirements regarding utility meters used for trade:

(a) that a person must not install an unverified utility meter (see section 18M);

(b) that a person must not supply an unverified utility meter (see section 18N).

(3) This Division also imposes a requirement that gas, electricity and water are to be sold by reference to a prescribed measurement (see section 18R).

18L  Utility meters used for trade to be verified

A person is guilty of an offence if:

(a) the person uses a utility meter for trade; and

(b) the utility meter is not verified.

Penalty:  50 penalty units.

National Measurement Act 1960
18M Installing unverified utility meters

A person is guilty of an offence if:
(a) the person installs in or on any premises a utility meter for use for trade; and
(b) the meter is not verified.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For verification see section 18T.

18N Supplying unverified utility meters

A person is guilty of an offence if:
(a) the person sells or otherwise supplies a utility meter for use for trade; and
(b) the meter is not verified.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For verification see section 18T.

18P Inaccurate use of utility meters

(1) A person is guilty of an offence if the person:
(a) uses a utility meter for trade; and
(b) does so in such a way that the meter gives an inaccurate measurement or gives other information inaccurately.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For meter gives an inaccurate measurement see section 18H.
(2) A person is guilty of an offence if:
   (a) the person does, or fails to do, something in relation to a utility meter; and
   (b) the person’s act or omission causes, or is likely to cause, the meter to give an inaccurate measurement or to give other information inaccurately.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For meter gives an inaccurate measurement see section 18H.

18Q Using or supplying inaccurate utility meter

(1) A person is guilty of an offence if:
   (a) the person uses a utility meter for trade; and
   (b) the meter gives an inaccurate measurement or gives other information inaccurately.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For meter gives an inaccurate measurement see section 18H.

(2) A person is guilty of an offence if:
   (a) the person sells or otherwise supplies a utility meter for use for trade; and
   (b) the meter gives an inaccurate measurement or gives other information inaccurately.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For meter gives an inaccurate measurement see section 18H.
18R Transactions by utility meters to be in prescribed units of measurement

A person is guilty of an offence if:

(a) the person sells a quantity of gas, electricity or water for a price; and

(b) the price is not a price determined by reference to a measurement of a quantity in the unit of measurement required by the regulations.

Penalty: 50 penalty units.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
Part VA  Utility meters  
Division 3  Verification of utility meters  

Section 18S  

Division 3—Verification of utility meters  

18S  Overview  

Overview of Division  
(1) This Division deals with verification of utility meters.  
(2) Verification is defined in section 18T.  
(3) The matter of who is permitted to verify utility meters is dealt with in section 18U.  
(4) The requirements for verification are dealt with in section 18V.  
(5) The offences associated with verification are set out in sections 18X and 18Y.  

18T  Meaning of verification  

A utility meter is verified when it does not already bear a verification mark and a verifier permitted to verify the meter:  
(a) is satisfied that the utility meter complies with the requirements for verification set out in section 18V; and  
(b) marks the meter with the verifier’s verification mark.  

Note: For verification mark see section 18H.  

18U  Who is permitted to verify utility meters?  

A person is permitted to verify utility meters if:  
(a) the person is:  
   (i) a verifying authority; or  
   (ii) an employee of a verifying authority; and  
(b) the verification is done in accordance with the conditions of the verifying authority’s appointment (if any); and  

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(c) the verification complies with the requirements in the regulations as to sampling plans and marking of utility meters.

Note: For verifying authority see subsection 3(1).

18V  Requirements for verification

The requirements for verification of a utility meter are:

(a) the utility meter must operate within the appropriate limits of error that are permitted under the regulations; and

(b) the meter must be of an approved pattern.

Note: For approved pattern see section 18H.

18W  Standards of measurements to be used for verification

The determination of whether the requirements of verification under section 18V have been complied with must be made as required by section 10.

18X  Offences relating to verification

(1) A person is guilty of an offence if:

(a) the person marks a utility meter with a verification mark; and

(b) the person is not permitted to do so.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 18U for when a person is permitted to mark a utility meter with a verification mark.

Note 3: For verification mark see section 18H.

(2) Subsection (1) does not apply to the employee of a verifying authority who marks a utility meter with a verification mark if:

(a) the employee does so in breach of a condition of the verifying authority’s appointment; and

(b) the verifying authority failed to make the employee aware of the condition.
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Note 1: A defendant bears an evidential burden in relation to the matter in subsection (2), see subsection 13.3(3) of the Criminal Code.

Note 2: For verifying authority see subsection 3(1).

(3) A person is guilty of an offence if:
   (a) the person marks a utility meter with a verification mark; and
   (b) the mark is not a verification mark but is likely to give the impression that it is a verification mark.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For verification mark see section 18H.

(4) A person is guilty of an offence if:
   (a) the person has an instrument or other thing in his or her possession; and
   (b) the instrument or thing is designed for marking a utility meter with a verification mark; and
   (c) the person is not permitted to mark a utility meter with that verification mark.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For verification mark see section 18H.

Note 3: See section 18U for when a person is permitted to mark a utility meter with a verification mark.

(5) A person is guilty of an offence if:
   (a) the person has an instrument or other thing in his or her possession; and
   (b) the instrument or thing is designed for making a mark on a utility meter that is not a verification mark but is likely to give the impression that it is such a mark.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For verification mark see section 18H.
(6) A person is guilty of an offence if:
   (a) the person sells or otherwise supplies a utility meter for use for trade, or uses a utility meter for trade; and
   (b) the utility meter is marked in contravention of subsection (1) or (3).

Penalty: 200 penalty units.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

18Y Repairer to obliterate verification mark

(1) A person is guilty of an offence if:
   (a) the person, in repairing a utility meter, does anything to the utility meter that affects its metrological performance; and
   (b) the person does not obliterate any verification mark that the meter bears.

Penalty: 200 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For obliterate see section 18H.

(2) Subsection (1) does not apply if the effect on the meter can be corrected by normal operational adjustment of the meter.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2), see subsection 13.3(3) of the Criminal Code.
Division 4—Verifiers of utility meters

18Z Overview

Overview of Division

(1) This Division deals with verifiers.

(2) The Secretary is a verifying authority (see section 18ZA).

(3) Other persons may apply for appointment as verifying authorities (see section 18ZB).

(4) The Secretary appoints those verifying authorities subject to conditions (see sections 18ZC and 18ZD).

(5) The Secretary may take disciplinary action against a verifying authority appointed under section 18ZC that breaches a condition of its appointment (see section 18ZJ).

(6) A verifying authority appointed under section 18ZC has a right to appeal to the Administrative Appeals Tribunal in certain circumstances (see section 18ZK).

(7) The Secretary may also appoint Government officials or bodies as verifying authorities (see section 18ZKA). These appointments may be subject to conditions.

(8) The Secretary allocates verification marks for use by verifiers (see sections 18ZE and 18ZKB) and there is a register of those marks (see section 18ZF).

18ZA Secretary is a verifying authority

(1) The Secretary is a verifying authority.

(2) The Secretary may verify any class of utility meters.
18ZB  Application for approval as a verifying authority of utility meters

(1) A person may apply for appointment as a verifying authority.

(2) An application must be:
   (a) made in the form approved by the Secretary; and
   (b) given to the Secretary.

18ZC  Appointment of verifying authorities following application for appointment

(1) The Secretary may, in writing, appoint a person who has applied under section 18ZB to be a verifying authority to verify utility meters.

(2) The appointment must specify the class or classes of utility meters that the verifying authority may verify under the appointment.

(3) An appointment is subject to:
   (a) the conditions set out in paragraphs 18ZD(a) to (g); and
   (b) any other conditions that the Secretary imposes.

(4) The Secretary may impose a condition referred to in paragraph (3)(b) at the time of making the appointment or after the appointment is made. The Secretary may vary or revoke a condition at any time.

(5) Except when acting under subparagraph 18ZJ(1)(a)(ii) (following a breach of conditions), the Secretary must not impose, vary or revoke a condition unless the verifying authority has first been consulted.

18ZD  Conditions on appointment of verifying authorities

The appointment of a person as a verifying authority under section 18ZC is subject to the following conditions:

(a) that the authority is accredited by the National Association of Testing Authorities to test the class or classes of utility meters specified in the authority’s appointment;
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(b) if the authority employs persons to verify utility meters—that the authority provide a list to the Secretary of the employees who will be verifying utility meters;
(c) that the authority, and its employees (if any), comply with the requirements of this Part;
(d) that the authority, and its employees (if any), comply with the requirements of authorised officers made under Division 5 (dealing with enforcement);
(e) that the authority maintain such reference standards of measurement as the Secretary specifies in writing;
(f) that the authority participate in such training in respect of the verification of utility meters as the Secretary requires in writing;
(g) that the authority report as required in writing by the Secretary concerning its role as a verifying authority.

18ZE Secretary must allocate verification marks

(1) When the Secretary appoints a verifying authority under section 18ZC, the Secretary must allocate the following verification marks for use by the authority, or its employees (if any), when verifying utility meters:

(a) if the authority will be personally undertaking the verification—a mark for use by the authority; and
(b) if the authority will be employing persons to undertake the verification—a separate mark for use by each employee.

(2) The Secretary must allocate a separate mark for use by each delegate of the Secretary who verifies utility meters when the delegate undertakes the verification of utility meters.

18ZF Secretary to keep register of verification marks

The Secretary must keep a register of verification marks allocated under sections 18ZE and 18ZKB.
18ZG  Notice to verifying authority of intention to take disciplinary action

If the Secretary is of the opinion that there may be grounds for taking disciplinary action under section 18ZJ against a verifying authority appointed under section 18ZC because it is in breach of a condition of its appointment, the Secretary must:

(a) give the authority written notice of the Secretary’s opinion specifying the reasons for the opinion; and

(b) invite the authority to make a written submission to the Secretary within 28 days.

18ZH  Secretary may seek further information

The Secretary may ask the verifying authority, in writing, to give to the Secretary, within the period specified in the request, information for the purpose of making a decision under section 18ZJ.

18ZI  Secretary must consider authority’s submission and information in making a decision under section 18ZJ

In making a decision under section 18ZJ in respect of a verifying authority, the Secretary must have regard to the matters raised in the authority’s submission (if any) and any information received by the Secretary under section 18ZH.

18ZJ  Taking of disciplinary action against a verifying authority

(1) If the Secretary is satisfied that a verifying authority appointed under section 18ZC has breached a condition of its appointment, the Secretary may decide:

(a) to take any or all of the following actions in respect of the breach:

(i) to reprimand the authority;

(ii) to vary or revoke a condition of the authority’s appointment imposed under paragraph 18ZC(3)(b) or to impose a further condition on the authority’s appointment;
(iii) to suspend the authority’s appointment for up to 12 months; or
(b) to revoke the authority’s appointment.

(2) The following actions take effect on a day specified in writing by the Secretary:
   (a) a variation or revocation of a condition of an authority’s appointment;
   (b) the imposition of a further condition on an authority’s appointment;
   (c) the revocation of an authority’s appointment.

(3) Written notice of a decision of the Secretary under this section must be given to the verifying authority concerned. The notice must also include reasons for the decision.

(4) The day specified by the Secretary under subsection (2) must not be a day earlier than the seventh day after the day on which written notice of the Secretary’s decision under this section is given to the authority.

18ZK Review of decisions

A person whose interests are affected may apply to the Administrative Appeals Tribunal for review of a decision of the Secretary:
   (a) under section 18ZC to refuse to appoint the person as a verifying authority; and
   (b) under paragraph 18ZC(3)(b) to impose a condition on a verifying authority’s appointment; and
   (c) under subsection 18ZC(4) to vary or revoke a condition on a verifying authority’s appointment; and
   (d) under section 18ZJ to take disciplinary action in respect of a verifying authority.
18ZKA Appointment of Commonwealth or State officials etc. as verifying authorities

(1) The Secretary may, in writing, appoint one or more of the following persons to be a verifying authority to verify utility meters:
   (a) an APS employee (whether or not in the Department);
   (b) a Commonwealth authority;
   (c) an employee (whether or not an APS employee) of a Commonwealth authority;
   (d) the holder of an office established by or under a law of the Commonwealth;
   (e) a body corporate established for a public purpose by or under a law of a State or Territory;
   (f) a State or Territory officer.

(2) The Secretary may appoint a body or person mentioned in paragraph (1)(e) or (f) only if the State or Territory concerned agrees to the appointment.

(3) The appointment must specify:
   (a) the class or classes of utility meters that the verifying authority may verify under the appointment; and
   (b) the period of the appointment.

(4) An appointment is subject to conditions that the Secretary imposes.

(5) The Secretary may impose a condition at the time of making the appointment or after the appointment is made.

18ZKB Secretary must allocate verification marks to verifying authorities appointed under section 18ZKA

When the Secretary appoints a verifying authority under section 18ZKA, the Secretary must allocate the following verification marks for use by the authority, or its employees (if any), when verifying utility meters:
   (a) if the authority will be personally undertaking the verification—a mark for use by the authority; and
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(b) if the authority will be employing persons to undertake the verification—a separate mark for use by each employee.
Division 5—Enforcement

18ZL  Overview of Division

Overview of Division

(1) This Division deals with authorised officers and the enforcement and monitoring powers available to authorised officers in respect of utility meters.

(2) Subdivision A deals with the appointment of authorised officers and identity cards.

(3) Subdivision B sets out the general powers of authorised officers under this Part.

(4) Subdivision C sets out the obligations of authorised officers.

(5) Subdivision D sets out the rights and responsibilities of occupiers.

(6) Subdivision E deals with warrants.

Subdivision A—Appointment of authorised officers and identity cards

18ZM  Appointment of authorised officers

(1) The Secretary may, in writing, appoint one or more of the following persons to be an authorised officer for the purposes of exercising the powers of an authorised officer under this Part:

(a) an APS employee in the Department;

(b) an employee (whether or not an APS employee) of a Commonwealth authority;

(c) the holder of an office established by or under a law of the Commonwealth;

(d) a State or Territory officer.
(1A) The Secretary may appoint a person mentioned in paragraph (1)(d) only if the State or Territory concerned agrees to the appointment.

(2) In exercising powers or performing functions as an authorised officer, an authorised officer must comply with any directions of the Secretary.

18ZN  **Identity cards**

(1) The Secretary must issue an identity card to an authorised officer in the form prescribed by the regulations. The identity card must contain a recent photograph of the authorised officer.

(2) A person is guilty of an offence if:
   (a) the person has been issued with an identity card; and
   (b) the person ceases to be an authorised officer; and
   (c) the person does not, immediately after so ceasing, return the identity card to the Secretary.

   Penalty: 1 penalty unit.

   Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(3) An authorised officer must carry the identity card at all times when exercising powers or performing functions as an authorised officer.

**Subdivision B—Powers of authorised officers**

18ZO  **Powers available to authorised officers for monitoring compliance**

(1) For the purpose of finding out whether this Part or the regulations made under this Part have been complied with, an authorised officer may:
   (a) enter any business premises at any reasonable time of the day; and
   (b) exercise the powers set out in section 18ZQ.

(2) An authorised officer is not authorised to enter premises under subsection (1) unless:
(a) the occupier of the premises has consented to the entry and
the officer has shown his or her identity card if required by
the occupier; or
(b) the entry is made under a warrant issued under
section 18ZZD.

(3) If the authorised officer is on premises with the consent of the
occupier, the authorised officer must leave the premises if the
occupier asks the authorised officer to do so.

18ZP Offence powers

(1) This section applies if an authorised officer has reasonable grounds
for suspecting that there may be evidential material on any
business premises.

(2) The authorised officer may:
   (a) enter the premises:
      (i) with the consent of the occupier after producing his or
          her identity card for the inspection of the occupier; or
      (ii) under a warrant issued under section 18ZZE; and
   (b) exercise the powers set out in section 18ZQ in relation to
      looking for the evidential material; and
   (c) seize the evidential material, if the authorised officer finds it
      on the premises.

(3) If the evidential material referred to in subsection (1) is or includes
information in a written or electronic form, an authorised officer
may operate equipment on the premises to see whether:
   (a) the equipment; or
   (b) a disk, tape or other storage device that:
      (i) is on the premises; and
      (ii) can be used with or is associated with the equipment;
      contains the information.

(4) If the authorised officer, after operating equipment at the premises,
finds that the equipment, or that a disk, tape or other storage device
at the premises contains the information, he or she may:
   (a) seize the equipment or the disk, tape or other storage device;

   or
(b) if the information can, by using facilities at the premises, be put in documentary form—operate the facilities to put the information in that form and seize the documents so produced; or
(c) if the information can be transferred to disk, tape or other storage device that:
   (i) is brought to the premises; or
   (ii) is at the premises and whose use for the purpose has been agreed to in writing by the occupier of the premises;
operate the equipment or other facilities to copy the information to the storage device and remove the storage device from the premises.

(5) An authorised officer may seize equipment under paragraph (4)(a) only if:
   (a) it is not practicable to put the relevant information in documentary form as mentioned in paragraph (4)(b) or to copy the records as mentioned in paragraph (4)(c); or
   (b) possession by the occupier of the equipment could constitute an offence.

(6) If:
   (a) in the course of searching for a particular thing, an authorised officer finds another thing that the authorised officer believes on reasonable grounds to be evidential material; and
   (b) the authorised officer believes, on reasonable grounds, that it is necessary to seize that other thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating an offence against this Part or the regulations;
the authorised officer may seize that other thing.

(7) If the authorised officer is on premises with the consent of the occupier, the authorised officer must leave the premises if the occupier asks the authorised officer to do so.
18ZQ  General powers of authorised officers under this Part

The powers that an authorised officer may exercise in relation to premises under section 18ZO and 18ZP are as follows:

(a) to search the premises and any thing on the premises;
(b) to take photographs or make video or audio recordings or sketches of the premises or any thing on the premises;
(c) to take samples of utility meters;
(d) to inspect any book, record or document on the premises;
(e) to take extracts from or make copies of any such book, record or document;
(f) to take onto the premises such equipment and materials as the authorised officer requires for the purpose of exercising powers in relation to the premises.

18ZR  Authorised officer may request persons to answer questions

(1) If the authorised officer was only authorised to enter business premises because the occupier of the premises consented to the entry—the authorised officer may ask the occupier to:

(a) answer any questions put by the authorised officer; and
(b) produce any book, record or document requested by the authorised officer.

(2) If the authorised officer was authorised to enter the premises by a warrant under section 18ZZD or 18ZZE—the authorised officer has power to require any person in or on the premises to:

(a) answer any questions put by the authorised officer; and
(b) produce any book, record or document requested by the authorised officer.

(3) A person is guilty of an offence if the person refuses or fails to comply with a requirement under subsection (2).

Penalty: 200 penalty units.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

(4) A person is excused from complying with a requirement of subsection (2) if the answer to the question or the production of the
document might tend to incriminate the person or expose the person to a penalty.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4), see subsection 13.3(3) of the Criminal Code.

(5) A person is guilty of an offence if the person:
(a) gives information to an authorised officer, either orally or in writing; and
(b) gives the information knowing that it is false or misleading in a material particular.

Penalty: 12 months imprisonment.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Subdivision C—Obligations of authorised officers

18ZS Authorised officer must produce identity card on request

An authorised officer is not entitled to exercise any powers under this Part in relation to premises if:
(a) the occupier of the premises requires the authorised officer to produce his or her identity card for inspection by the occupier; and
(b) the authorised officer fails to comply with the requirement.

18ZT Details of warrant to be given to occupier etc.

(1) If a warrant in relation to business premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the authorised officer must make available to that person a copy of the warrant.

(2) The authorised officer must identify himself or herself to that person.

(3) The copy of the warrant referred to in subsection (1) need not include the signature of the magistrate who issued the warrant.

Note: Warrants are issued under sections 18ZZD and 18ZZE.
18ZU  Consent

(1) Before obtaining the consent of a person for the purposes of paragraph 18ZO(2)(a) and subparagraph 18ZP(2)(a)(i), the authorised officer must inform the person that he or she may refuse consent.

(2) An entry of an authorised officer by virtue of the consent of a person is not lawful unless the person voluntarily consented to the entry.

18ZV  Announcement before entry

An authorised officer must, before entering premises under a warrant:

(a) announce that he or she is authorised to enter the premises; and

(b) give any person at the premises an opportunity to allow entry to the premises.

18ZW  Compensation for damage to electronic equipment

(1) This section applies if:

(a) as a result of equipment being operated as mentioned in section 18ZP:

(i) damage is caused to the equipment; or

(ii) the data recorded on the equipment is damaged; or

(iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and

(b) the damage or corruption occurs because:

(i) insufficient care was exercised in selecting the person who was to operate the equipment; or

(ii) insufficient care was exercised by the person operating the equipment.

(2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.
(3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.

(4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier’s employees or agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.

(5) For the purposes of subsection (1):

\textit{damage}, in relation to data, includes damage by erasure of data or addition of other data.

18ZX Copies of seized things to be provided

(1) Subject to subsection (2), if an authorised officer seizes, under a warrant in relation to premises:

(a) a document, film, computer file or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied;

the authorised officer must, if requested to do so by the occupier of the premises or another person who apparently represents the occupier and who is present when the warrant is executed, give a copy of the thing or the information to that person as soon as practicable after the seizure.

(2) Subsection (1) does not apply if:

(a) the thing that has been seized was seized under paragraph 18ZP(4)(b) or (c); or

(b) possession by the occupier of the document, film, computer file, thing or information could constitute an offence.

18ZY Receipts for things seized under warrant

(1) If a thing is seized under this Part, the authorised officer must provide a receipt for the thing.
(2) If 2 or more things are seized or moved, they may be covered in the one receipt.

18ZZ. Retention of seized things

(1) Subject to any contrary order of a court, if an authorised officer seizes a thing under this Part, an authorised officer must return it if:
   (a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or
   (b) the period of 60 days after its seizure ends;
whichever first occurs, unless the thing is forfeited or forfeitable to the Commonwealth.

(2) At the end of the 60 days specified in subsection (1), an authorised officer must take reasonable steps to return the thing to the person from whom it was seized, unless:
   (a) proceedings in respect of which the thing may afford evidence were instituted before the end of the 60 days and have not been completed (including an appeal to a court in relation to those proceedings); or
   (b) the authorised officer may retain the thing because of an order under section 18ZZA; or
   (c) an authorised officer is otherwise authorised (by a law, or an order of a court, of the Commonwealth or of a State or Territory) to retain, destroy or dispose of the thing.

(3) The thing may be returned under subsection (2) either unconditionally or on such terms and conditions as the Secretary sees fit.

18ZZA. Magistrate may permit a thing to be retained

(1) An authorised officer may apply to a magistrate for an order that he or she may retain the thing for a further period if:
   (a) before the end of 60 days after the seizure; or
   (b) before the end of a period previously specified in an order of a magistrate under this section;
proceedings in respect of which the thing may afford evidence have not commenced.
Section 18ZZB

(2) If the magistrate is satisfied that it is necessary for an authorised officer to continue to retain the thing:
   (a) for the purposes of an investigation as to whether an offence against this Part has been committed; or
   (b) to enable evidence of an offence against this Part to be secured for the purposes of a prosecution;
the magistrate may order that an authorised officer may retain the thing for a period (not being a period exceeding 3 years) specified in the order.

(3) Before making the application, the authorised officer must:
   (a) take reasonable steps to discover who has an interest in the retention of the thing; and
   (b) if it is practicable to do so, notify each person whom the authorised officer believes to have such an interest of the proposed application.

Subdivision D—Occupier’s rights and responsibilities

18ZZB Occupier entitled to be present during search

(1) If a warrant in relation to business premises is being executed and the occupier of the premises, or another person who apparently represents the occupier is present at the premises, the person is entitled to observe the search being conducted.

(2) The right to observe the search being conducted ceases if the person impedes the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

18ZZC Occupier to provide authorised officer with all facilities and assistance

The occupier, or another person who apparently represents the occupier, of business premises to which a monitoring warrant or an offence warrant relates must provide the executing officer in relation to the warrant and any person assisting that officer with all reasonable facilities and assistance for the effective exercise of their powers.
Subdivision E—Warrants

18ZZD Monitoring warrants

(1) An authorised officer may apply to a magistrate for a warrant under this section in relation to business premises.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that one or more authorised officers should have access to the premises for the purposes of finding out whether this Part or the regulations under this Part have been complied with.

(3) The magistrate must not issue the warrant unless the authorised officer or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant must:
(a) authorise one or more authorised officers (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable:
(i) to enter the premises; and
(ii) to exercise the powers set out in section 18ZQ in relation to the premises; and
(b) state whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
(c) specify the day (not more than 6 months after the issue of the warrant) on which the warrant ceases to have effect; and
(d) state the purpose for which the warrant is issued.

18ZZE Offence related warrants

(1) An authorised officer may apply to a magistrate for a warrant under this section in relation to business premises.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are
reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in or on the premises evidential material.

(3) The magistrate must not issue the warrant unless the authorised officer or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant must:
   (a) name one or more authorised officers; and
   (b) authorise the persons so named, with such assistance and by such force as is necessary and reasonable:
      (i) to enter the premises; and
      (ii) to exercise the powers set out in sections 18ZP and 18ZQ; and
      (iii) to seize the evidential material; and
   (c) state whether the entry is authorised to be made at any time of the day or during specified hours of the day; and
   (d) specify the day (not more than one week after the issue of the warrant) on which the warrant ceases to have effect; and
   (e) state the purpose for which the warrant is issued.

18ZZF Offence related warrants by telephone

(1) If, in an urgent case, an authorised officer considers it necessary to do so, the person may apply to a magistrate by telephone for a warrant under section 18ZZE in relation to business premises.

(2) Before applying for the warrant, the person must prepare an information of the kind mentioned in subsection 18ZZE(2) in relation to the premises that sets out the grounds on which the warrant is sought.

(3) If it is necessary to do so, the person may apply for the warrant before the information is sworn.

(4) If the magistrate is satisfied:
   (a) after having considered the terms of the information; and
(b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; that there are reasonable grounds for issuing the warrant, the magistrate may complete and sign the same warrant that the magistrate would issue under section 18ZZE if the application had been made under that section.

(5) If the magistrate completes and signs the warrant:
   (a) the magistrate must:
       (i) tell the authorised officer what the terms of the warrant are; and
       (ii) tell the authorised officer the day on which and the time at which the warrant was signed; and
       (iii) tell the authorised officer the day (not more than one week after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
       (iv) record on the warrant the reasons for granting the warrant; and
   (b) the authorised officer must:
       (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
       (ii) write on the form the name of the magistrate and the day on which and the time at which the warrant was signed.

(6) The authorised officer must also, not later than the day after the day of expiry or execution of the warrant, whichever is the earlier, send to the magistrate:
   (a) the form of warrant completed by the person; and
   (b) the information referred to in subsection (2), which must have been duly sworn.

(7) When the magistrate receives those documents, the magistrate must:
   (a) attach them to the warrant that the magistrate completed and signed; and
   (b) deal with them in the way in which the magistrate would have dealt with the information if the application had been made under section 18ZZE.
(8) A form of warrant duly completed under subsection (5) is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.

(9) If:

(a) it is material, in any proceedings, for a court to be satisfied that an exercise of a power was authorised by this section; and

(b) the warrant signed by the magistrate authorising the exercise of the power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of the power was not authorised by such a warrant.

(10) A reference in this Part to a warrant under section 18ZZE includes a reference to a warrant signed by a magistrate under this section.
Part VI—Miscellaneous

19 Maintaining of standards of measurement etc. before regulations prescribing units take effect

Where regulations that prescribe units of measurement of physical quantities are made under section 7A, but the regulations are not, or part of the regulations is not, to take effect immediately upon the date of notification of the regulations in the Gazette:

(a) standards of measurement of those physical quantities may be maintained under section 8;
(b) the powers conferred by section 8A may be exercised; and
(c) State primary standards of measurement, and reference standards of measurement, of those physical quantities may be verified, and certificates issued in respect of the verification;

at any time after the date of notification of the regulations in the Gazette, as if the whole of the regulations had taken effect on that date.

19A Patterns of instruments

(1) The regulations may make provision for or in relation to:
(a) the examination of patterns of measuring instruments;
(b) the approval and verification of patterns of measuring instruments as patterns of measuring instruments suitable for:
   (i) use for trade; and
   (ii) any other legal purpose;
(c) the issuing of certificates in respect of the approval and verification of patterns of measuring instruments; and
(d) the reception in evidence of a document purporting to be such a certificate and the admissibility of the matters certified to as evidence.

(2) The regulations made under subsection (1) may provide that:
(a) examinations may be carried out;
(b) approvals may be given; and
Section 19AAA

(c) certificates may be issued;
by the Chief Metrologist, a delegate of the Chief Metrologist or
another person on behalf of the Chief Metrologist.

(4) Without limiting the matters that may be provided for in
regulations made for the purposes of subsection (1), the regulations
may provide that the granting of approval of a pattern of a
measuring instrument as a pattern suitable for use for trade may be
made subject to the retention of the measuring instrument or a part
of the measuring instrument by the Chief Metrologist.

(6) Before the Governor-General makes a regulation for the purposes
of subsection (1), the Minister must consult appropriate State
authorities.

(7) Before the Governor-General makes a regulation for the purposes
of subsection (1), the Minister must also either:
(a) be satisfied that the regulation is not inconsistent with a
specification published by the International Organisation of
Legal Metrology regarding the examination and approval of
patterns of measuring instrument; or
(b) if the regulation is inconsistent with a specification—be
satisfied that:
(i) the inconsistency is in the national interest; or
(ii) it is not practicable to comply with the specification
because of particular circumstances applying in
Australia.

19AAA Tolerances

(1) The regulations may provide that a certificate issued under
paragraph 19A(1)(c) in respect of a pattern of a measuring
instrument (original instrument) must specify:
(a) the limits of error that may be tolerated in a measuring
instrument of the same kind as the original instrument:
(i) when the instrument is tested for the purposes of this
Act; and
(ii) if a law of a State or Territory requires that, at
verification or re-verification of the instrument, it must
operate within the limits of error that may be tolerated

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under this Act at verification or re-verification—when the instrument is verified or re-verified for the purposes of that law; and

(b) the procedures to be followed to ascertain whether the instrument operates within those limits of error.

(2) If a certificate issued under paragraph 19A(1)(c) and in force immediately before the commencement of this section specifies an amount as the amount of error that may be tolerated when an instrument of the same kind as the original instrument is verified for the purposes of a law referred to in subparagraph (1)(a)(ii), the certificate has effect after the commencement of this section as if the amount were specified as being the limits of error that may be tolerated when the instrument is:

(a) verified for the purposes of that law; or

(b) tested for the purposes of this Act.

19AAB Measuring instrument—accordance with pattern

(1) The regulations may provide for:

(a) the requirements that are to be satisfied before a measuring instrument with an approved pattern is taken, for the purposes of this Act, to be in accordance with the pattern; and

(b) the procedures to be followed to ascertain whether measuring instruments with an approved pattern are in accordance with the pattern.

(2) The regulations may provide that the procedures referred to in paragraph (1)(b) may be carried out:

(a) by the Chief Metrologist; or

(b) by a delegate of the Chief Metrologist; or

(c) by another person on behalf of the Chief Metrologist.

(3) Before the Governor-General makes a regulation for the purposes of subsection (1), the Minister must consult appropriate State authorities.

(5) Any regulations made under this section must provide adequate safeguards for the rights of persons affected.
Section 19B

19B  Offences

A person shall not falsely represent:

(a) that a pattern of a measuring instrument is in accordance with a pattern approved under the regulations as a pattern of a measuring instrument suitable for use for trade; or

(b) that a measuring instrument is in accordance with a pattern so approved.

Penalty: $6,000.

20  Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular:

(aa) providing for the verification of standards of measurement; and

(a) providing for or in relation to the issuing of certificates in respect of the verification of standards of measurement, for the reception in evidence of a document purporting to be such a certificate and for such a certificate to be evidence of the matters stated in it; and

(b) providing that a reference standard of measurement of a particular denomination that was found, upon verification, not to be greater or less than that denomination by an amount exceeding an amount specified in the regulations is, unless otherwise stated in the certificate issued in respect of the verification of the standard, to be deemed to be of a value equal to its denomination; and

(c) providing for the certification of reference materials; and

(d) providing for the certification of measuring instruments; and

(e) providing for or in relation to the issuing of certificates in respect of the certification of reference materials or measuring instruments, for the reception in evidence of a document purporting to be such a certificate and for such a certificate to be evidence of the matters stated in it; and
(f) providing for the exemption from the operation of Part VA of classes of gas, electricity and water meters; and

(g) providing for sampling plans for utility meter verification and the verification marking of utility meters used for trade; and

(h) providing for the positioning of, and access to, utility meters in order to facilitate their use for trade and their verification; and

(i) providing for the Commonwealth to audit the verification of utility meters used for trade undertaken by verifying authorities and the provision of labour, facilities and equipment for those purposes; and

(j) providing for the verification of utility meters used for trade; and

(k) providing for a unit of measurement for the sale of a quantity of gas, electricity or water; and

(l) prescribing a fee for activities undertaken in respect of:
   (i) the examination and certification of patterns of measuring instruments; and
   (ii) the verification of utility meters used for trade.

(m) providing for the time for payment of a fee.

(2) The regulations may set a fee mentioned in subsection (1) by setting the amount of the fee or a way of working out the fee.

(3) A fee mentioned in subsection (1) must be reasonably related to the expenses incurred or to be incurred for the activities undertaken and must not be such as to amount to taxation.
Notes to the *National Measurement Act 1960*

**Note 1**

The *National Measurement Act 1960* as shown in this compilation comprises Act No. 64, 1960 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *National Measurement Amendment Act 2004*, see Act No. 27, 2004.

All relevant information pertaining to application, saving or transitional provisions prior to 31 March 1999 is not included in this compilation. For subsequent information see Table A.

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Notes to the *National Measurement Act 1960*

**Act Notes**

(a) The *National Measurement Act 1960* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsections 2(1) and (30) of which provide as follows:

   (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

   (30) The amendment of subsection 3(3) of the *National Measurement Act 1960* made by this Act shall be deemed to have come into operation immediately after the commencement of the *Weights and Measures (National Standards) Amendment Act 1984*.


(b) The *National Measurement Act 1960* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsection 2(1) of which provides as follows:

   (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(c) The *National Measurement Act 1960* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsections 2(1) and (25) of which provide as follows:

   (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

   (25) The following amendments of the *National Measurement Act 1960* made by this Act shall come into operation on 1 January 1988:

   (a) the insertion of the definition of *interest in land* in subsection 3(1);

   (b) the amendment of section 12;

   (c) the insertion of section 12A.

(d) The *National Measurement Act 1960* was amended by Schedule 4 (items 104, 105) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:

   (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(e) The *National Measurement Act 1960* was amended by Schedule 1 (item 21) only of the *Industry, Science and Tourism Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:

   (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(f) The *National Measurement Act 1960* was amended by Schedule 2 (items 995–1003) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:

   (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.

(g) The *National Measurement Act 1960* was amended by Schedule 10 (item 101) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:

   (2) The following provisions commence on a day or days to be fixed by Proclamation:

   (c) the items in Schedules 10, 11 and 12.

(h) Subsection 2(1) (items 2, 4 and 6) of the *National Measurement Amendment Act 2004* provides as follows:

   (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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Notes to the *National Measurement Act 1960*

Table of Amendments

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Table A

Application, saving or transitional provisions

National Measurement Amendment (Utility Meters) Act 1999 (No. 9, 1999)

Schedule 1

14 Application

Gas, electricity and water meters in use for trade on the commencement of this Schedule are taken to be verified under Part VA and the National Measurement Act 1960 as in force on and after that commencement applies to them accordingly.


4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001 (No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.