

1998

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**NATIONAL MEASUREMENT AMENDMENT
(UTILITY METERS) BILL 1998**

EXPLANATORY MEMORANDUM

Circulated with the authority of the
Minister for Industry, Science and Resources,
Senator the Honourable Nick Minchin

ISBN: 0642 378762

NATIONAL MEASUREMENT AMENDMENT (UTILITY METERS) BILL 1998

OUTLINE

This Bill amends the National Measurement Act 1960 to provide mandatory requirements for specified utility meters as recommended by the Review of Australia's Standards and Conformance Infrastructure (Kean Review).

The Bill provides for mandatory pattern approval of meter designs to ensure that the designs conform to acceptable standards, and verification of production meters to ensure that each meter conforms to the approved pattern and operates within the maximum permissible errors. It also provides for auditing of verified meters to ensure that they have been correctly verified. Arising from consultation by the National Standards Commission with State and Territory regulators, the bill does not provide for the reverification of utility meters, a function that will be retained by State and Territory authorities.

FINANCIAL IMPACT STATEMENT

Compliance with the proposed metrological control system for utility meters will cause additional costs for manufacturers but this will be more than compensated for by the efficiencies and benefits of scale associated with a single, national market for utility meters. International harmonisation of utility meter requirements will enhance the opportunity for entry to export markets. In addition the proposal has clear benefits for consumers, utility authorities and State and Territory regulators. However it is not possible to quantify these benefits.

There will be minor costs to the National Standards Commission associated with coordinating the system.

REGULATORY IMPACT STATEMENT

Problem

Trade measurement in reticulated water, electricity and gas falls within the ambit of the National Measurement Act 1960 (the Act). However the Act does not provide a detailed measurement control system to enable traders to easily comply with its broad requirements.

Trade measurement in reticulated water, electricity and gas is controlled in the States and Territories by their water, electricity and gas legislation. This is an extensive body of legislation but in general does not provide an adequate measurement control system for trade in these commodities. States and Territories also have trade measurement legislation which in almost all cases specifically exempts trade measurement in these commodities.

All but two jurisdictions have enacted the uniform trade measurement legislation (UTML), beginning in 1989. The agreement between the Commonwealth and the States in relation to the adoption of the UTML included a statement that the complete list of instruments used for trade measurement, including the special category of exempted instruments, would be progressively monitored within a ten year period.

While the trend towards the corporatisation and privatisation of public utilities has enhanced the opportunity for competition in the commodities themselves, the lack of uniform requirements for pattern approval, verification and reverification of utility meters provides no foundation on which fair and equitable competition in the commodities can be based. In the absence of an adequate measurement control system for utility meters it is possible for market participants to introduce lower cost meters that are sub-standard in that they are of a lower accuracy or will not maintain their calibration over time or in the presence of particular influence factors such as electromagnetic radiation. This in turn can undermine the basis for competition in the commodity itself.

Most utility authorities recognise the need for accurate and reliable meters as the basis for their profitability and at the present time may carry out testing themselves or recognise the testing of other authorities. A particular meter may be subjected to multiple partial testing by different authorities but still not be fully tested to internationally harmonised requirements. The present system is therefore wasteful and inadequate. Moreover, because it is completely controlled by one party to transactions in the commodity, it results in an asymmetry of information between consumers and utilities which gives rise to a lack of consumer confidence and increased transaction costs.

The 1995 Review of Australia's Standards and Conformance Infrastructure (the Kean Report) recognised these issues and noted industry's concerns about the effect on costs of having to meet differing requirements. It recommended:

6. *The National Measurement Act be amended to provide for mandatory requirements for specified utility meters and legal measuring instruments and that these requirements be based on those adopted by the International Organisation for Legal Metrology.*

When electricity utilities were large and vertically integrated, there was little need to monitor internal transfers of electricity. With the break-up and privatisation of these utilities, accurate measurement of electricity transfers from generators to distributors to retailers is of fundamental importance. Moreover the National Electricity Grid has now been created which will provide for a contestable market in electricity down to 160 MWh/year (small businesses). The need for accurate metering to provide a firm basis for enhanced competition is accordingly enhanced.

Manufacturing industry through the Australian Electrical and Electronic Manufacturers' Association (AEEMA) have consistently argued for the introduction of a single, national set of requirements for utility meters which would reduce their costs and enhance export opportunities.

Both the present and the previous governments in their responses to the Kean Report have accepted its recommendation 6.

In summary there are considerable losses in the present arrangements in terms of the costs to manufacturers in meeting differing standards, the costs to utilities in carrying out multiple approval testing, the undermining of the basis for fair and equitable competition in the commodities themselves, the asymmetry of information between utilities and consumers leading to increased transaction costs through complaint handling, and the impairment of export opportunities.

Objectives

To introduce national metrological controls for specified utility meters that will:

- Increase confidence of consumers and other market participants in measurements made by utility meters by reducing the information asymmetry;
- deliver efficiencies and benefits of scale of a single national market to Australian manufacturers, which will also enhance export opportunities for Australian manufacturers through international harmonisation of metering requirements; and
- enhance competition for utility commodities and for utility meters by providing standard metering requirements as the basis for competition in utility meters.

Options

Trade measurement is controlled by regulation throughout the world. Australia is a signatory to the Convention on Legal Metrology and participates in the work of the International Organisation on Legal Metrology (OIML) which develops regulatory standards for the performance of measuring instruments used for legal purposes and for trade. OIML has prepared standards for utility meters.

The options considered were:

1. Self-regulation by industry with industry developing its own approval and verification systems harmonised to international standards.
2. Amendment of the National Measurement Act as recommended by the Infrastructure Review in order to provide a national system for metrological control of specified utility meters comprising mandatory national pattern approval and verification systems harmonised to international standards.
3. Amendment of the trade measurement legislation in all States and Territories to lift the exemption on utility meters. This approach would require State and Territory trade measurement authorities in each jurisdiction to undertake extensive negotiations with other portfolios that currently have responsibility in their jurisdiction for regulating the metering of water, electricity and gas. Were the exemption to be lifted then mandatory national pattern approval would be one result.
4. Amend legislation that regulates water, electricity and gas metering in each jurisdiction to reference internationally harmonised standards for utility meters.

Impact analysis

Option 1.

Many tens of billions of dollars in commodities are traded on the basis of utility meter measurements per annum. The experience of the Commission during consultation with utilities and existing regulators is that there are very strong but misinformed forces willing to sacrifice the integrity of utility measurements for the sake of small reductions in unit meter costs which, because of the large number of meters, translates into large apparent savings. The problem is therefore one of

high risk and it is unrealistic to expect the self-regulatory approach of option 1 to be viable. It would not satisfy consumers, manufacturing industry or most State and Territory regulators and will not be discussed further.

Option 2.

Option 2 would affect consumers, manufacturing industry, utility authorities, State and Territory regulators and/or trade measurement authorities and the National Standards Commission.

Consumers and other market participants would be provided with confidence that a system exists to ensure the accuracy of the utility meters and thereby reduce transaction costs. Increased competition arising from internationally harmonised standards and the likely entry of new importers should cause a reduction in the cost of metering which would provide a small benefit to consumers.

Manufacturers have strongly supported the introduction of national requirements as stated in the Infrastructure Review. While manufacturers would incur additional costs associated with the cost of obtaining pattern approval and verification, there would be compensatory benefits of scale in having to meet only one set of metrological requirements. Competition between test houses should minimise the additional costs to manufacturers.

Utility authorities routinely carry out pattern approval testing of utility meters that have already been tested by other authorities. Option 2 would eliminate the need for this multiple testing and remove the cost of this burden from authorities.

State and Territory regulators would retain the responsibility for in-field re-verification, but would benefit from the provision of standardised procedures and performance criteria.

The Commission would sustain additional costs in operating the pattern approval system, carrying out pattern compliance and verification auditing, and monitoring the operation of the system. The Commission would charge for some of this work on a cost recoverable basis.

Option 3.

Experience with the introduction of the uniform trade measurement legislation would suggest that option 3 would be unlikely to provide a nationally uniform approach in the short to medium term, particularly as there would be a need to uniformly amend the legislation from time to time. More important than the lack of legislative uniformity and synchronism is the lack of administrative uniformity amongst the States and Territories which would see manufacturers having to comply with differing procedures, systems and forms. It was these differences in interpretation and administration amongst States and Territories that resulted in the Kean Report's recommendation that the Commonwealth assume full responsibility for trade measurement (Recommendation 5).

While direct costs of pattern approval and verification should be similar to option 2, option 3 would result in increased indirect compliance costs for manufacturers. A fragmented market for utility meters would reduce efficiency and economies of scale and impair export opportunities.

Option 4

This option would suffer from the same drawbacks of non-uniform legislation and administration as option 3 but in addition would be more complex in that there would be separate systems for water, electricity and gas in each jurisdiction. In addition there is little likelihood that national pattern approval could be achieved. There is no basis to expect this option to be viable.

Consultation

The Commission has held numerous consultative meetings with utilities, State and Territory regulators and meter manufacturing industry in the water and electricity sectors to develop metrological frameworks for these sectors. In the case of water meters, consultations began in October 1993, prior to the Kean Report, whereas consultations on electricity metering began in October 1996. Consumers have previously written to the Commission asking for the

problem to be addressed. In addition some direct consultations have been held with regulators in particular jurisdictions in conjunction with the Department of Industry, Science and Tourism. These consultations are essentially complete.

Recently, initial contact has been made with the gas regulators and the Commission addressed an industry conference, "The Northern Conference" of the Australian Gas Association, in May 1998 on regulatory developments. Further consultation with gas regulators, utilities and manufacturing industry is planned.

One of the first issues discussed with the water and electricity representatives was the legislative options, listed above, to achieve metrological control. A survey was conducted in which opinions on the three possible legislative models were canvassed. The survey revealed an overwhelming (if not unanimous) preference for national legislation.

Extensive consultation has been undertaken with utilities and industry to develop the necessary standards, internationally harmonised to the greatest possible extent, and significant contributions have been made, and will continue to be made, to the revision of the relevant international standards.

Conclusion and recommended option

Four options to achieve the objectives were considered. Option 1, industry self-regulation was found not to be viable because of the significant risk and impact of the problem. Option 2 achieves the objectives and reduces costs to industry. Option 3 was found not to be able to achieve all the objectives and be more costly to industry than option 2. Option 4 would achieve few if any of the objectives and is not consider viable.

The proposal contained in option 2 is recommended. Of the options considered, it produces the greatest net benefits to consumers, manufacturing industry, utilities and State and Territory regulators.

Option 2 has now been agreed with State and Territory regulators, electricity and water utilities, meter manufacturers and consumers. The proposal is essential to underpin a significant micro-economic reform proposed by the Kean Report in its recommendation 6. This recommendation has received the support of both the present and previous Governments.

Implementation & review

It is proposed that the amendments to the national Measurement Act 1960 will provide for the exemption of prescribed classes of utility meters and initially all classes of utility meters will be exempted. Following satisfactory completion of consultations and an agreed introductory period, the exemption will be lifted for a particular class of utility meter.

The amendments will also provide that utility meters already existing in the field may remain provided that they are able to measure to sufficient accuracy, but no new meters of these types may be installed after the expiry of the introductory period without full pattern approval and verification.

Manufacturers will be encouraged to obtain pattern approval for their meters on a voluntary basis prior to the expiry of the introductory period in order to minimise the possibility of disruption should they be unable to meet some of the requirements when they become mandatory. Because of the small number of manufacturers and importers, all would be already aware of the proposed changes. However, all will be notified in writing prior to the commencement of the legislation.

Utilities will be encouraged to inform consumers of the changes as this should enhance consumer confidence in meter readings, reduce the level of consumer complaints and thereby reduce transaction costs.

The effectiveness of the proposal will be assessed by sampling the production of manufacturers and importers for pattern compliance

testing and auditing of verifications. In addition the test houses will be accredited by the National Association of Testing Authorities (NATA) and regularly assessed by NATA. The effectiveness of the Commission's role will be overseen by the board of Commissioners which comprises members with expertise and experience in the manufacturing of utility meters and administration of trade measurement.

In addition, the Commission will obtain detailed verification and re-verification data from verifiers and regulators respectively to continuously monitor and assess the effectiveness of the system and make recommendations on re-verification procedures.

NOTES ON CLAUSES

Clause 1: Short Title

1. Provides for the proposed Act to be cited as the National Measurement Amendment (Utility Meters) Act 1998.

Clause 2: Commencement

2. Subclause 2(1) provides for the proposed Act to come into operation on the day on which it receives the Royal Assent, subject to subclause 2(2).

3. Proposed subsection 2(2) provides that subject to proposed subsection 2(3), Schedule 1 to the proposed Act commences on a day to be fixed by Proclamation.

4. Proposed subsection 2(3) provides that if Schedule 1 does not commence under proposed subsection 2(2) within 6 months of the day on which this proposed Act receives Royal Assent, it commences on the first day after the end of that period.

Clause 3: Schedules

5. Proposed clause 3 provides that each Act that is specified in a schedule to this Bill is amended or repealed as set out in the proposed

applicable items in the Schedule concerned, and any other proposed item in a Schedule to this Bill has effect according to its terms.

**Schedule 1 - Amendment of National Measurement Act 1960
relating to utility meters**

1 Subsection 3(1)

6. This item amends subsection 3(1) of the Act to insert a definition of “utility meter”. This definition provides for classes of utility meters to be exempted from the operation of proposed Part VA by the regulations. Initially all classes of utility meters will be exempted by this mechanism.

2 Subsection 3(1)

7. This item amends subsection 3(1) of the Act to insert a definition of “verification”.

3 Subsection 3(1)

8. This item amends subsection 3(1) of the Act to insert a definition of a “verifying authority” of utility meters.

4 After subsection 3(3)

9. This item inserts a new subsection 3(3A) to ensure that the amended Act will not affect the reverification of utility meters under the control of State and Territory authorities.

5 At the end of paragraphs 4(1)(a), (b), and (d)

10. This item improves the syntax of subsection 4(1) and provides for an additional paragraph to be added.

6 After paragraph 4(1)(d)

11. This item inserts a new paragraph that extends the objects of the Act to embrace the verification of utility meters.

7 After subsection 4(1)

12. Subsections 4(2) and 4(3) of the Act define the extent to which the Act excludes or preserves State and Territory laws. This item inserts a new provisions that removes from the ambit of these subsections the use of utility meters for trade so that this may be dealt with separately.

8 After section 4

13. This item provides for the Act to apply to the exclusion of any State or Territory law dealing with the use of utility meters for trade, except in regard to improper practices where there is no inconsistency between these laws and the Act or the regulations. The item specifically excludes the Act from applying to the reverification of utility meters which will remain under the control of State and Territory authorities.

9 After paragraph 18(1)(ea)

14. This item inserts two new paragraphs that extend the functions of the National Standards Commission (“the Commission”) to embrace the verification of, and proper application of the new Part VA to, utility meters used for trade.

10 At the end of paragraphs 18AAA(a), (b), (c) and (d)

15. This item improves the syntax of the subsection and provides for an additional paragraph to be added.

11 After paragraph 18AAA(b)

16. This item inserts new paragraph (ba) that extends the powers of the Commission for the purposes of new Part VA to enter into contracts and to appoint agents. This is necessary so that the Commission can appoint authorised officers under Division 5 of Part VA to audit the verification of utility meters for trade.

12 After Part V

17. This item inserts a new Part VA comprising five divisions containing sections 18G to 18ZZB.

Part VA - Utility Meters

Division 1 - Preliminary

18 G Overview of Part

18. This section describes the application of new Part VA and the matters dealt with by the five Divisions.

18H Definitions

19. Proposed subsection 18H(1) defines a number of terms for use within this part. In particular, while the Act already contains a definition of “measuring instrument with an approved pattern” in subsection 3(1), it is necessary to define “approved pattern” in relation to a utility meter in order not to invalidate meters that were installed with an approved pattern where subsequently the pattern has expired or been cancelled.

20. Recognising that all measurements are inaccurate to some extent, proposed subsection 18H(2) defines measurements made by utility meters for trade as inaccurate only if the measurement is inaccurate by more than the maximum permissible errors contained in the regulations.

21. Proposed subsection 18H(3) defines the term “marking a utility meter with a verification mark” to encompass both marking the meter directly and attaching a marked label to the meter.

18J Application of Criminal Code

22. This section references Chapter 2 of the Criminal Code and makes it applicable to all offences in this Part.

Division 2 - Requirements for use of utility meters for trade

18K Overview of Division

23. This section provides an overview of the division. Throughout this Part, the person who uses a utility meter for trade is the person who controls the utility meter and uses it to determine the price paid for the commodity.

18L Utility meters used for trade to be verified

24. Proposed section 18L provides that a person is guilty of an offence if the person uses a utility meter for trade and the utility meter is not verified.

A penalty of 50 penalty units is imposed .

18M Installing unverified utility meters

25. Proposed section 18 M provides that a person is guilty of an offence if the person installs in or on any premises a utility meter for use for trade and the meter is not verified.

A penalty of 200 penalty units is imposed.

18N Supplying unverified utility meters

26. Proposed section 18N provides that a person is guilty of an offence if the person sells or otherwise supplies a utility meter for use for trade and the meter is not verified.

A penalty of 200 penalty units is imposed.

18P Inaccurate use of utility meters

27. Proposed subsection 18P(1) provides that a person is guilty of an offence if the person uses a utility meter for trade and does so in such a way that the meter gives an inaccurate measurement or other information inaccurately. A penalty of 200 penalty units is imposed.

28. Proposed subsection 18P(2) provides that a person is guilty of an offence if the person does, or fails to do something in relation to a utility meter and the person's act or omission causes, or is likely to cause, the meter to give an inaccurate measurement or other information.

A penalty of 200 penalty units is imposed

18Q Using or supplying inaccurate utility meter

29. Proposed subsection 18Q(1) places the responsibility on the user of a verified utility meter to ensure that it operates within the prescribed maximum permissible errors at all times and that all derived data is accurate.

A penalty of 200 penalty units is imposed for an offence against proposed subsection 18Q(1).

30. Proposed subsection 18Q(2) makes it an offence to sell or supply a verified utility meter that does not operate within the prescribed maximum permissible errors.

A penalty of 200 penalty units is imposed for an offence against proposed subsection 18Q(2).

18R Transactions by utility meters to be in prescribed units of measurement

31. Proposed section 18R provides that a person is guilty of an offence if the person sells a quantity of gas, electricity or water for a price and the price is not a price determined by reference to a measurement of a quantity in the unit of measurement required by the regulations.

A penalty of 50 penalty units is imposed.

Division 3 - Verification of utility meters

18S Overview

32. Proposed section 18S provides an overview of Division 3

18T Meaning of verification

33. Verification is defined in proposed section 18T.

18U Who is permitted to verify utility meters?

34. Section 18U deals with the matter of who is permitted to verify utility meters.

18V Requirements for verification

35. This proposed section specifies how a utility meter is verified, that to be verified the utility meter must be of a pattern approved by the Commission and that it must operate within the prescribed maximum permissible errors.

18W Standards of measurement to be used for verification

36. This proposed section specifies that standards of measurement used for the verification of utility meters must be traceable according to section 10.

18X Offences relating to verification

37. This proposed section provides for offences for placing a verification mark on a utility meter when not permitted to do so, for placing a fraudulent verification mark on a utility meter, for having possession of an implement for making a verification mark when not permitted to use it, for having possession of an implement for making a fraudulent verification mark, and for selling or supplying a utility meter that has been marked in one of these ways.

For each offence, a penalty of 200 penalty units is imposed.

18Y Repairer to obliterate verification mark

38. This proposed section makes it mandatory for a repairer to obliterate a verification mark on a utility meter if anything is done to change its metrological performance. This ensures that such repaired utility meters must be verified again.

A penalty of 200 penalty units applies for an offence against this proposed section.

Division 4 - Verifiers of utility meters

18Z Overview

39. Proposed section 18Z provides an overview of Division 4.

18ZA Commission is a verifying authority

40. Proposed section 18ZA provides that the Commission is a verifying authority.

18ZB Application for approval as a verifying authority

41. Proposed section 18ZB provides that other persons may apply for appointment as verifying authorities

18ZC Appointment of verifiers

42. Proposed section 18ZC provides that the Commission may appoint another person as a verifying authority providing the conditions in this proposed section and proposed section 18ZD, or any other conditions that the Commission imposes, are met.

18ZD Conditions on appointment of verifying authorities

43. This section sets out the basic conditions for appointment as a verifying authority. In particular the authority must be competent to carry out the verification activity as evidenced by accreditation by the National Association of Testing Authorities for the appropriate testing activity.

18ZE Commission must allocate verification marks

44. Proposed section 18ZE provides that the Commission allocates verification marks for use by verifiers.

18ZF Commission must keep register of verification marks

45. This proposed section requires the Commission to keep a register of verification marks that it allocates to the verifying authorities that it appoints.

18ZG Notice to verifying authority of intention to take disciplinary action

46. Proposed section 18ZG provides for the Commission to notify a verifying authority if the Commission intends to take disciplinary action against that authority. The proposed section sets out the procedure the Commission must follow if the Commission considers that there may be grounds for taking disciplinary action.

18ZH Commission may seek further information

47. Proposed section 18E enables the Commission to seek further information from a verifying authority for the purposes of making a decision under subsection 18ZG.

18ZI Commission must consider authority's submission and information in making a decision under section 18ZG

48. Proposed section 18ZI provides that in making a decision to take disciplinary action against a verifying authority, the Commission must take into account any matters raised in the authority's submission and any other information found under proposed section 18ZH.

18ZJ Taking disciplinary action against a verifying authority

49. This proposed section specifies the range of disciplinary actions that may be taken by the Commission against a verifying authority that has breached a condition of appointment and the procedures to be followed in taking those actions.

18ZK Review of decisions

50. This proposed section provides for the Administrative Appeals Tribunal ("the AAT") to review Commission decisions made under proposed sections 18ZC or 18ZJ.

Division 5 - Enforcement

18ZL Overview of Division

51. This division describes the Commissions powers to appoint authorised officers and the powers of those officers to search for and seize evidential material including utility meters or information relating to the verification of utility meters.

Subdivision A - Appointment of authorised officers and identity cards

18ZM Appointment of authorised officers

52. This proposed section provides for the appointment of authorised officers and the requirement for authorised officers to comply with the directions of the Commission.

18ZN Identity cards

53. This proposed section provides that the Commission should issue all authorised officers with identity cards, and specifies the requirements on authorised officers with respect to identity cards.

Subdivision B - Powers of authorised officers

18ZO Powers available to authorised officers for monitoring compliance

54. This proposed section provides for the powers available to authorised officers for monitoring compliance with the Act.

18ZP Offence powers

55. This proposed section provides for powers of an authorised officer if an authorised officer has reasonable grounds to suspect that there may be evidential material on any premises.

18ZQ General powers of authorised officers under this Part

56. This proposed section details the powers that an authorised officer may exercise in relation to premises under section 18ZO and 18ZP.

18ZR Authorised officer may request persons to answer questions

57. The sections of subdivision B provide above standard Commonwealth powers to enter business premises, to search such premises for evidential material, to request information and to seize evidential material. Proposed section 18ZR sets out the powers of an authorised officer to request persons to answer questions.

Subdivision C - Obligations of authorised officers

58. The sections of subdivision C provide standard Commonwealth requirements on the manner in which the powers of authorised officers are exercised and the obligations of authorised officers.

18ZS Authorised officer must produce identity card on request

59. Proposed section 18ZS provides that an authorised officer must produce his or her identity card on request.

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

60. Proposed section 18ZT provides for the procedures to be followed when a warrant in relation to premises is being executed.

18ZU Consent

61. Proposed section 18ZU provides for the procedures to be followed by an authorised officer before obtaining consent of a person for the purposes of proposed paragraph 18ZO(2)(a) and subparagraph 18ZP(2)(a)(i).

18ZV Announcement of entry

62. Proposed section 18ZV provides for the procedures to be followed by an authorised officer before entering premises under a warrant.

18ZW Compensation for damage to electronic equipment

63. Proposed section 18ZW provides for an entitlement to compensation to the owner of damaged electronic equipment.

18ZX Copies of seized things to be provided

64. Proposed section 18ZX provides for copies of things seized by an authorised officer to be provided.

18ZY Receipts for things seized under warrant

65. Proposed section 18ZY provides for the authorised officer to provide receipts for things seized under warrant.

18ZZ Retention of seized things

66. Proposed section 18ZZ provides for retention of things seized by an authorised officer under this Part.

18ZZA Magistrate may permit a thing to be retained

67. Proposed section 18ZZA provides for an authorised officer to apply for an order to retain a thing that he or she has seized.

Subdivision D - Occupier's rights and responsibilities

18ZZB Occupier entitled to be present during search

68. Proposed section 18ZZB provides the right for an occupier of a premises to be present during a search and observe the search, but this right ceases if the person impedes the search.

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

69. Proposed section 18ZZC provides for the occupier or the occupier's representative to furnish the executing officer with all reasonable assistance with the conduct of the search..

Subdivision E - Warrants

70. The proposed sections of subdivision E provide standard Commonwealth requirements on the application for warrants by authorised officers and issuing of warrants by magistrates.

18ZZD Monitoring warrants

71. Proposed section 18ZZD provides for the application for a monitoring warrant by an authorised officer, the requirements to be satisfied by the magistrate in issuing the warrant and the requirements for the contents of the warrant.

18ZZE Offences related to warrants

72. Proposed section 18ZZE provides for the application for an offence related warrant by an authorised officer, the requirements to be satisfied by the magistrate in issuing the warrant and the requirements for the contents of the warrant.

18ZZF Offence related to warrants by telephone

73. Proposed section 18ZZF provides that in urgent cases an authorised officer may apply to a magistrate for an offence related warrent by telephone. The proposed section provides for requirements additional to those of proposed section 18ZZE that must be met by the authorised officer in applying for the warrant and the by the magistrate in issuing the warrant.

13 At the end of section 20

74. This item extends the regulation making power of section 20 to include regulation-making powers in respect of utility meters. In

particular the proposed subsection 20(f) is required by the new definition of “utility meter”, described in the 6th note on clauses, in order to exempt certain classes of utility meter.

14 Application

75. This item provides for existing utility meters in use for trade at the time of commencement of Part VA to continue in use for trade. However any new meters of the same or other types must be verified under Part VA.

Schedule 2 - Miscellaneous amendments of the National Measurement Act 1960

76. The amendments in this schedule arise because references in paragraphs 12(4), 12A(3), 12A(4), 13 and 13A(1) to subsections 7(1), 7(2) and 7(3) became incorrect following an amendment of the Act in 1991 that repealed section 7 and inserted new sections 7, 7A and 7B. The consequential amendments to update the references in paragraphs 12(4), 12A(3), 12A(4), 13 and 13A(1) were not made at the time. That omission is being remedied in this schedule.

Clause 1: Subsection 12(4)

77. This clause replaces an incorrect reference to paragraph 7(3) which no longer exists with the correct reference to paragraph 7A(2).

Clause 2: Subsection 12(4)

78. Proposed clause 2 removes an incorrect reference to paragraphs 7(2) and 7(1) which no longer exist without altering the effect of subsection 12(4).

Clause 3: Subsection 12A(3)

79. Proposed clause 3 replaces an incorrect reference to paragraph 7(3) which no longer exists with the correct reference to paragraph 7A(2).

Clause 4: Subsection 12A(3)

80. Proposed clause 4 removes an incorrect reference to paragraphs 7(2) and 7(1) which no longer exist without altering the effect of subsection 12A(3).

Clause 5: Subsection 12A(4)

81. Proposed clause 4 amends paragraph 12A(4) to remove an incorrect reference to paragraphs 7(2) and 7(1) which no longer exist without altering the effect of subsection 12A(4).

Clause 6: Section 13

82. Proposed clause 6 amends paragraph 13 to replace an incorrect reference to subsection 7(2) with the correct reference to section 7.

Clause 7: Section 13A(1)

83. Proposed clause 7 amends paragraph 13A(1) to replace an incorrect reference to subsection 7(2) with the correct reference to section 7.