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6 July 2018

Measurement Law Review
Department of Industry, Innovation and Science
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REVIEW OF AUSTRALIA'S MEASUREMENT LAWS – SCOPE

The Australian Industry Group (Ai Group) welcomes the opportunity to provide a submission to the Department of Industry, Innovation and Science ('the Department') on the Scope of Australia's Measurement Laws Discussion Paper – May 2018.

Ai Group represents thousands of businesses of all sizes across an expanding range of sectors, from manufacturing to construction, defence, energy, technology, transport, waste and more. In preparing this submission, Ai Group has drawn on views from across this membership base.

Ai Group supports the Department in conducting the review, acknowledging the need for a legislative framework for measurement that accounts for changes in technology, while continuing to support the Australian economy.

General comment

In discussion with members it has become apparent to Ai Group that awareness of the National Measurement Act 1960 is low and the administration of the Act by NMI is not well understood. This has limited our response to four questions in the Discussion Paper. We recommend that NMI embark on an extensive education campaign to lift industry's awareness of the Act and the role of NMI, once the review is completed.

Specific comment

Our comments on the initial paper are as follows:

Are there ways in which the current scope of Australia's measurement laws could be expanded or limited?

Ai Group believes that the existing Act operates reasonably well and we are not currently aware of arguments to alter the scope.

An Ai Group member stated:

“From here the Law would be concerned with ensuring that 'Joe citizen' gets a fair deal. ... yes there needs to be a Law (Act) but what that needs to be is difficult for me to say. The patterning of meters, is for example, a good thing as generally no one doubts the accuracy of their meter on the side of their house, or do they? When you go to the shop and buy a kilo of tomatoes you do not doubt the accuracy of the scale, or do you? When someone has a DNA test you would like to think that the machines that do that are working to the correct accuracy I'm sure!”

We believe that the focus of any changes should be to restructure the Act to improve ease of use so the law can be easily understood and implemented. Ultimately, measurement law must meet the needs and expectations of society to provide fairness to all citizens.

In considering the scope of the Act, the review should aim to avoid duplication between Australia’s Measurement Laws and other State and Federal legislation, where practicable.

Are there benefits from directly regulating an area of measurement as opposed to providing broad principles of good measurement practice without direct intervention?

While there are clear benefits to a principles-based approach, including greater flexibility for business, we caution that this approach must be combined with clear, concise, plain-language guidance materials, for business confidence and compliance. A principles-based system that leaves too much room for ambiguity could result in uncertainty and unintended non-compliance from business.

The National Construction Code (NCC) administered by the Australian Building Codes Board is a good example of legislation that achieves a balance between flexibility in compliance with prescription. The NCC outlines certain performance (or principles) requirements that can be satisfied by a “performance solution” and/or “deemed-to-satisfy” (DTS) solution. Assessment criteria are provided for both, however the DTS is a prescribed approach typically using Australian/New Zealand standards. This dual approach allows for innovative solutions, including application of new technologies, while also providing for those who wish to follow a known and trusted prescribed practice. Figure 1 below illustrates the NCC approach.

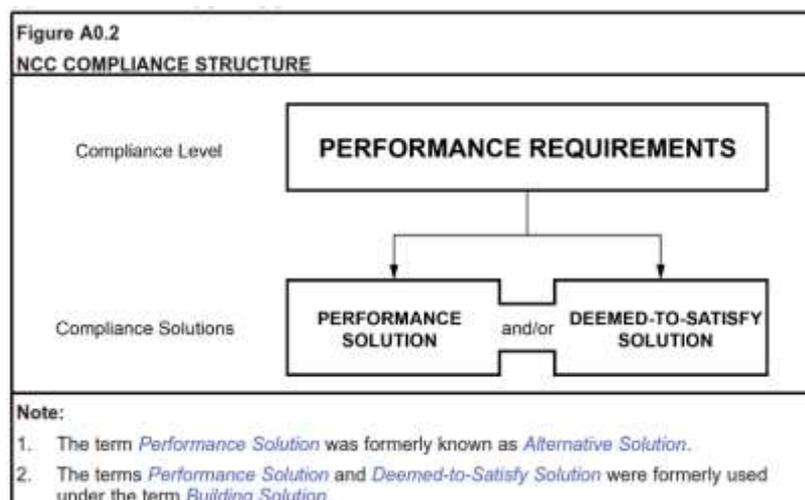


Figure 1 – NCC compliance structure

A member made the following statement:

“How one gets from the Law to the Secondary standards is another question and it is here that I think much innovation can be brought to the table. With this set up we have the carrot and stick method of compliance, the NMI is the carrot and the Law is the stick but to sweeten the carrot I would suggest that the NMI become more accessible in that I mean providing great expertise and lowering the cost of access.”

As mentioned in our opening comments, NMI, as part of this review, needs to focus on demystifying the Measurement Act, the practice of metrology more generally and promoting the role of the administrator. Accessibility to information is a key issue and we argue that this also assists with increasing awareness.

Would you be confident of operating in a principles-based regulatory environment for measurement? Why or why not?

As discussed above Ai Group supports a dual approach in terms of restructuring the National Measurement Act using a combination of performance and prescription.

Would the need for detailed guidance material limit the value and flexibility of a principles-based approach to measurement laws?

Detailed guidance material is essential for a dual approach to applying a restructured Act.

Once again, Ai Group commends the Department for taking the decision to review and refresh Australia’s Measurement Laws to ensure they are fit for a modern economy characterised by rapidly changing technologies.

Ai Group looks forward to further consultation with the Department on the remaining papers.

If you have any further questions, please do not hesitate to contact James Thomson, Senior Adviser, at james.thomson@aigroup.com.au or on (02) 4925 8313.

Sincerely,

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Ai Group