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Measurement Law Review  
Department of Industry, Innovation and Science  
GPO Box 2013  
Canberra, ACT, 2601

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## **REVIEW OF AUSTRALIA'S MEASUREMENT LAW MEASUREMENT-BASED TRANSACTIONS (Paper 4)**

With a vision for a *Thriving industry and a prosperous community*, the Australian Industry Group (Ai Group) is a peak employer organisation representing traditional, innovative and emerging industry sectors. We are a national organisation which has been supporting businesses across Australia for more than 140 years.

Ai Group is representative of Australian industry. Together with partner organisations we represent the interests of more than 60,000 businesses employing more than one million staff. Our members are small and large businesses in sectors including manufacturing, construction, engineering, transport & logistics, labour hire, mining services, the defence industry, civil airlines and ICT.

Ai Group welcomes the review of *The National Measurement Act 1960* ("the Act") and the *National Trade Measurement Regulations 2009* (NTMR) and for the opportunity to provide a submission to the Department of Industry, Innovation and Science ("the Department") on the discussion paper *Measurement Based Transactions (2019)* ("the Paper").

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.

In preparing this submission, Ai Group has drawn on views from across this membership base.

Ai Group recommends that any proposed changes to the Act consider:

- Impacts on trade competitiveness. Australian businesses need to be able to compete internationally and should not be disadvantaged by measurement provisions applied unevenly between domestic and imported goods.
- Delay to market for new and emerging technology. Possible risks associated with rapid uptake of technology should be weighed against the possible costs to market competitiveness in delaying access to new innovation.
- Improvement in accessibility. The law should be easy to understand and implement.

- Cost versus benefit as a topic open for discussion between business and the regulator.

### **Specific comment**

*Question 3.2.2 – is the current system of zero tolerance shortfall appropriate? How could this be approached differently?*

Regulators must be seen to be enforcing the law through visible surveillance and meaningful penalties. However, when a penalty is not applied fairly or fittingly, it becomes less meaningful. The zero tolerance shortfall principle is not appropriate where a regulator is comfortable that a business took all available steps to avoid a shortfall.

#### *Consumer shortfall coverage*

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

#### *Shortfall and sustainability*

An Ai Group member highlighted the tension between flexibility and reliability in regulation for incorporating sustainable packaging and produce purchase into their business. Due to amplified awareness of the impact of plastics on the environment, consumers are increasingly motivated to bring their own produce and carry bags. As stated by the member:

*“Our checkouts do not tare, and the current legislation is preventing moves towards more sustainable options for purchasing produce (e.g. BYO bags for produce), as complying with the current shortfall provisions would necessitate multi-million-dollar investments in our checkout systems which would be prohibitive.*

*It would also potentially create an offence whereby a customer brings in their own bag and uses it for produce, and then pay more for the produce as their bag weighs more than our standard bag which the system is tared to...[More] flexibility is needed to allow for customers to choose to bring in containers and to prevent businesses being penalised for shortfall offences in relation to this.”*

#### *Sale of non-packaged goods*

Regulatory burden, particularly on SMEs, should be considered when reviewing the level of prescriptiveness for the sale of non-packaged goods.

This may be an area to consider introducing more principles-based options, like those employed in the Canadian example provided in the Paper.

## General comment

Through discussions with members it is apparent to Ai Group that awareness of the National Measurement Act 1960 is low and the administration of the Act by the National Measurement Institute (NMI) is not well understood. We believe that the focus of any changes should be to restructure the Act to improve ease of use, so the law can be more easily understood and implemented.

It is noted that NMI has removed their dedicated website, [measurement.gov.au](http://measurement.gov.au) and the information is now presented on [industry.gov.au](http://industry.gov.au) in what an Ai Group member has described to be “a very difficult to view/locate manner.” The member also notes:

*“The new website’s format and design is not user friendly and is already creating issues for us, as documents we used to reference can no longer be found...NMI need their own website, and one that is easy to locate important information on”.*

While the notion of a ‘one stop shop’ for industry information is attractive, in practice the audiences for different kinds of data are diverse and information provision needs care to meet their needs.

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](mailto:james.thomson@aigroup.com.au) or on (02) 4925 8313.

Sincerely,

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