

- when entering residential premises without a warrant, seek consent from the controller of the premises and inform the controller that the controller can refuse consent
- if requested, provide a copy of any seized document or record that can be readily copied to the controller
- provide a receipt for anything seized.

WHO IS A CONTROLLER?

A controller is a person who apparently is in control of business premises, residential premises or a business vehicle during an NMI inspection.

WHAT ARE THE RIGHTS OF A CONTROLLER?

The controller can:

- observe any tests of pre-packed articles or measuring instruments, but only so long as the controller is not hindering the search or inspection
- observe the search of the premises and inspection of the business vehicle, but only so long as the controller is not hindering the search or inspection
- request a copy of any seized item that can be readily copied at the time of the seizure
- ask the inspector to leave residential premises during the search, when the search has been obtained by consent of the controller.

WHAT ARE THE RESPONSIBILITIES OF A CONTROLLER?

The controller of a business premises or vehicle must provide the inspector, or any person assisting the inspector, with all reasonable facilities and assistance.



The controller must:

- answer any questions by an inspector
- produce any record or document requested by an inspector
- provide details written in English of records or documents that were not written in English

except where it might tend to incriminate the controller or expose the controller to a penalty.

HOW ARE THE TRADE MEASUREMENT LAWS ENFORCED?

NMI has a range of enforcement options for offences under trade measurement legislation.

Actions which may be taken include:

- a verbal warning
- a notice of non-compliance at the end of an inspection – this notice may include remedial actions that have to be carried out by the packer, importer, possessor or seller

- a written warning
- an infringement notice
- an enforceable undertaking
- an injunction
- prosecution.

FOR MORE INFORMATION ...

See the NMI website

www.measurement.gov.au/trademeasurement

The main provisions covering the role of a trade measurement inspector and the rights and responsibilities of a controller are in Part IX of the *National Measurement Act 1960*.

For more on compliance and enforcement refer to the NMI's Compliance and Enforcement Policy.

Trade Measurement – it all adds up!



THE ROLE OF THE TRADE MEASUREMENT INSPECTOR



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The purpose of this publication is to provide you with general information only and should not be relied upon for any legal, business or personal purpose. Nothing in this publication shall be taken in any way to replace the provisions of the *National Measurement Act 1960* (Cth), the National Trade Measurement Regulations 2009 (Cth) and any other legislative instruments made pursuant to the *National Measurement Act 1960*.

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measurement.gov.au

The National Measurement Institute (NMI) is Australia's peak measurement organisation, a division of the Department of Industry, Innovation, Science, Research and Tertiary Education in the Australian Government.

The NMI is responsible for maintaining the primary standards of measurement and providing the legal and technical framework for the dissemination of measurement standards.

The trade measurement laws administered by NMI cover:

- definition of Australia's legal units of measurement
- the use of measuring instruments for trade
- testing and verification of these measuring instruments
- transactions by measurement
- pre-packed articles (known as prepackages)
- licensing of the businesses that verify trade measuring instruments (these are known as servicing licensees)
- licensing of public weighbridges.



WHAT IS THE ROLE OF A TRADE MEASUREMENT INSPECTOR?

The NMI employs trade measurement inspectors throughout Australia. Their role is to:

- educate, monitor and consult with businesses about their trade measurement obligations
- ensure that all measuring instruments used for trade are verified and used correctly
- monitor the activities of servicing licensees and public weighbridge licensees
- check pre-packed articles for correct packer identification, measurement markings and accurate measure
- check public weighbridges for their conditions and accuracy
- investigate complaints and resolve questions with trade measurement matters
- take appropriate enforcement action where there have been breaches of the laws.

A visit by an inspector may be a response to a complaint or enquiry from a consumer, or part of a trade measurement compliance inspection program.

Inspectors can visit a place of business 'at any reasonable time of day', and the inspector does not have to give notice of entry. The frequency of visits may be based on a risk assessment by NMI.

We recommend that businesses work closely with their NMI inspectors, who are available to help and answer any enquiries by phone, fax, email or by letter.

WHAT ARE THE POWERS OF A TRADE MEASUREMENT INSPECTOR?

The powers of inspectors include:

- entering and searching a building, place or vehicle apparently used for business, but not residential premises unless the inspector has a warrant or the person in control of the residence (the 'controller') consents
- recording details of the building, place, vehicle, packages or measuring instruments by filming, photographing or making sketches and notes



- testing packages by examining or measuring which may require breaking them open
- testing and verifying measuring instruments
- checking the verification marks of servicing licensees have been properly applied to a measuring instrument and details of verification have been notified to NMI
- examining a packer's, importer's, possessor's or seller's records, and taking copies of documents when necessary



- seizing documents, records, packages or measuring instruments
- getting records or documents translated into English where needed
- asking questions and requiring answers
- requiring facilities and assistance
- issuing non-compliance notices.

WHAT ARE THE OBLIGATIONS OF A TRADE MEASUREMENT INSPECTOR?

In exercising their powers, trade measurement inspectors must:

- identify themselves and produce their identity card on request
- when entering business premises or inspecting a business vehicle, tell the controller of the premises or vehicle that they are authorised to do this
- when entering residential premises with a warrant, provide a copy of the warrant to the controller of the premises