

Queensland



Explanatory Notes for SL 2003 No. 24

Trade Measurement Act 1990

TRADE MEASUREMENT (MISCELLANEOUS) AMENDMENT REGULATION (No. 1) 2003

SHORT TITLE

Trade Measurement (Miscellaneous) Amendment Regulation (No. 1) 2003.

AUTHORISING LAW

Section 80(2)(o) of the *Trade Measurement Act 1989*.

OBJECTIVE OF THE LEGISLATION

The legislation will amend the Trade Measurement (Miscellaneous) Regulation 1991 by the inclusion of a new section 6 to regulate the sale of petrol and diesel fuel by reference to measurement of volume at 15° Celsius.

REASONS FOR THE SUBORDINATE LEGISLATION

The key benefits of the amendment are as follows—

- It will address the existing financial disadvantage experienced by independent operators who consider that they are paying for fuel they do not receive, because it is currently measured at high temperatures when the fuel has more volume.
- It will improve transparency and certainty within the industry, as well as enhance competitiveness. Currently, the most significant impact of “hot fuel” is that it reduces the competitiveness of independent distributors and retailers. The legislation will redress this.

- This change will deliver benefits to service stations and distributors, in particular independent operators, producing benefits that may flow onto consumers.

CONSISTENCY WITH AUTHORISING LAW

The proposed regulation is consistent with the authorising law.

ESTIMATED COST OF GOVERNMENT IMPLEMENTATION

Costs in the area of government have been identified as relating mainly to inspection costs, drafting of regulations and marketing strategy.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

The proposed regulation is consistent with fundamental legislative principles.

CONSULTATION

Consultation occurred with the following community and industry organisations and government agencies.

1 Consumer and Industry

Victorian Consumer Affairs consulted nationally with industry and consumer groups prior to the preparation of the RIS. A letter advising the release of the Regulatory Impact Statement (RIS) was sent to a wide range of consumer and industry organisations, including: the Australian Competition and Consumer Commission, National Standards Commission, BP Australia Limited, Caltex Australia Petroleum Limited, Mobil Oil Australia Pty Ltd, the Shell Oil Company of Australia Limited, Liberty Oil Australia, Australian Petroleum Agents and Distributors Association, Victorian Automobile Chamber of Commerce, Independent Petroleum Marketers Association of Australia, Royal Automobile Club of Victoria, Major Independent Wholesalers and Retailers in Victoria, Motor Traders Association of Australia and other major industry stakeholders.

The RIS was advertised in the Australian, The Australian Financial Review, The Age and the Herald Sun in Victoria and State-based newspapers in other jurisdictions.

2 Government

Fair trading and trade measurement officials in each jurisdiction and the Commonwealth, as well as representatives from the Department of Industry, Science and Resources have been consulted.

Results of Consultation

The submissions generally supported Option 1 which required all petrol and diesel fuel directly delivered from refineries and terminals to wholesalers/retailers to be temperature compensated. Three submissions supported Option 1 but in an amended form which would restrict compensation requirements for deliveries from refineries and refinery-connected terminals only.

Option 2 – The status quo. Neumann Petroleum Terminal alone argues for retaining the status quo as no price advantage will be gained by retailers and motorists.

Option 2(b) – Two submissions advocate a voluntary approach. Shell for instance proposes that such an approach would provide flexibility and choice, while Gull Petroleum is concerned with the cost of compliance and the impact on independent importers. It must be noted that correct volume measurement has been an issue for some time, however the industry has failed to introduce voluntary measures and in most cases resellers have been unable to negotiate a satisfactory resolution.

Option 3 – Temperature compensation of all wholesale sales, including sales from depots, is the preferred option in five submissions. This option is not inconsistent with Option 1. The mandatory introduction of temperature compensation from refineries and terminals would not in any way impede a later decision to support the extension of temperature compensation to the depot and retail level.

Option 5 – Temperature compensation through to retail level is proposed in two submissions. The Australian Consumer's Association supports temperature compensation at bowsers being phased-in as part of normal equipment replacement schedule. While this may reduce capital cost of equipment installation, as stated in the RIS, it would still represent a significant increase in operating costs.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Tourism, Racing and Fair Trading.