



Australian Government  
Department of Industry, Science,  
Energy and Resources

National  
Measurement  
Institute

SUMMARY PAPER

# INDUSTRY CONSULTATION THIRD PARTY FORUMS

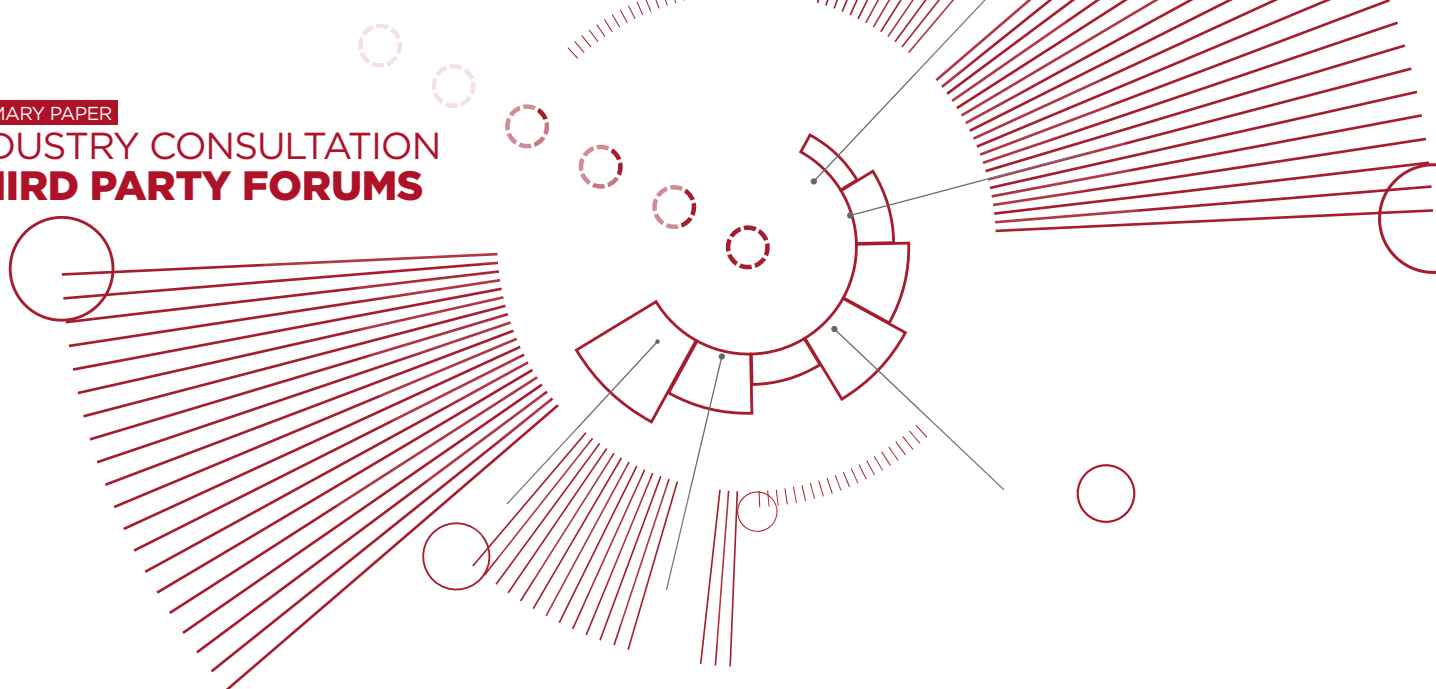
Measurement Law Review

14 November – 5 December 2019

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# INDUSTRY CONSULTATION THIRD PARTY FORUMS



## MEASUREMENT LAW REVIEW – DISCUSSION PAPERS



## 1. Overview and Attendees

During November and December 2019, the National Measurement Institute (NMI) held a number of workshops with servicing licensees,<sup>1</sup> public weighbridge licensees,<sup>2</sup> utility meter verifiers (UMVs),<sup>3</sup> and legal metrology authorities (LMAs)<sup>4</sup> to get their perspectives on the future of Australia's measurement laws.

The forums were held in five different locations - Melbourne, Adelaide, Sydney, Brisbane and Perth. At each of the five locations three forums were held, one each for:

- Servicing licensees
- Public weighbridge licensees
- UMVs and LMAs (these were combined because their appointments are based on NATA<sup>5</sup> accreditation).

<sup>1</sup> Servicing licensees support the trade measurement system by testing and verifying measuring instruments used for trade.

<sup>2</sup> Public weighbridge licensees make weighbridges available for public use. Public weighbridge licensees have obligations to comply with, including ensuring the weighbridge is operated in accordance with requirements in the legislation and complying with licence conditions.

<sup>3</sup> UMVs test and verify utility meters.

<sup>4</sup> LMAs include *verifying authorities* who verify standards of measurement and artefacts, *certifying authorities* who certify measuring instruments or reference materials and *approving authorities* who examine measuring instruments and approve patterns of measuring instruments.

<sup>5</sup> NATA (National Association of Testing Authorities, Australia) is the authority that provides independent assurance of technical competence.

The following table provides information on the number of attendees at each location:

	Brisbane	Melbourne	Perth	Adelaide	Sydney	Total
<b>Servicing Licensees</b>	15	15	12	11	26	79
<b>Public Weighbridge Licensees</b>	1	4	1	5	1	12
<b>UMVs</b>	2	2	0	5	1	10
<b>LMAs</b>	5	6	2	4	5	22

This document captures the key feedback received from attendees at these workshops.

**The review will consider the different perspectives provided during consultations when developing options for reform. Further consultation will be undertaken on these options once developed.**

## 2. Servicing Licensees

- Servicing licensees play an important role to help underpin accurate measurement in trade transactions and maintain regulatory standards. Without the support of servicing licensees, it would be difficult for government to support industry and this could potentially erode the measurement framework. Industry would start cutting corners and it would produce a measurement system that was cost-based instead of performance and quality based.
- Some participants suggested that trade measurement legislation should include consumer protection provisions in order to support confidence in the measurement system.
  - Consumers expect accuracy and assume measuring instruments and measurement results are accurate. If the existing framework was to be taken away (or significantly relaxed), consumers and industry may express concern and request feedback as to the rationale behind the changes.
- It was suggested that NMI should play a greater role in educating traders about their obligations – the current perception is that this falls on servicing licensees given there is no requirement for mandatory re-verification (except for public weighbridges).
- Improved communication and collaboration between the NMI and servicing licensees is needed.
- The cost of maintaining equipment was raised in a number of the forums. The maintenance of specialty tools and equipment used to test instruments comes at significant expense to industry.

### 2.1 Verification and Re-verification

- The greatest area of concern voiced in the servicing licensee forums was a lack of mandatory re-verification<sup>6</sup> or expiry date on verification for measuring instruments since transition to the national system (some state and territories previously mandated re-verification periods).
- A few participants felt strongly that the requirements for verification should extend beyond measuring instruments used for trade purposes to other non-trade applications, including health, environment and safety.
- Many participants raised issues with the “Form 6” verification reporting system and supported the proposal to explore applications or other digital solutions for instrument reporting (e.g. verification). Some concerns raised with the Form 6 system included:
  - The Form 6 system is cumbersome and difficult to understand.
  - There are no tools available to servicing licensees for managing information when something is certified.
  - The NMI does not provide access to their database information. Information gets sent to NMI and servicing licensees have no visibility.
  - Technology should be used more effectively to improve access to information.

<sup>6</sup> The periodic verification of a trade measurement instrument.

## 2.2 Competency

- Statements of attainment<sup>7</sup> (SoA) to demonstrate individual's competencies were considered appropriate but there was support to extend competency audits in the field (field based assessments).
- General acceptance that licence classes should be looked at to consider alternative approaches, e.g. competence could be assessed with reference to instrument methodology, rather than the current approach of instrument classes.

## 2.3 Prescriptiveness

- There was support for the National Instrument Test Procedures<sup>8</sup> (NITPs) to remain prescriptive but participants acknowledged that NITPs need to be updated and could be simplified.
- In support of prescriptive NITPs, participants indicated they want clear rules. They support the justification to a client as to why an instrument has failed an NITP test. The prescriptiveness of the current test procedure supports consistency, clarity and fairness.

## 2.4 Compliance and Enforcement

- The perception is that the NMI does not have enough inspectors undertaking compliance inspections of measuring instruments.
- A number of participants wanted NMI to do more about non-compliant measuring instruments in the marketplace, however servicing licensees were reluctant to report non-compliance, particularly when it involved their own clients and the risk of losing business.
- Online purchases of unapproved measuring instruments was highlighted as an area of emerging risk for NMI, industry and consumers.
  - One stakeholder advised they are not on a level playing field because unverified and inaccurate measuring instruments are being imported and used for trade (at a lower upfront purchase and install cost).
- Self-regulation is encouraged in the fuel industry. However, independent players are not as proactive as major players. This should be addressed in the fuel industry as a whole and with the manufacturers of these instruments.

# 3. Public Weighbridge Licensees

- It was observed that the current licensing framework promotes confidence in the measurement system through the licence approval and verification / re-verification process.
- Most public weighbridge licensees were concerned that the integrity of the system may be eroded over time as a result of administrative allowances being made.
- Participants indicated licensing costs are of concern, leading to an uneven playing field. This is because non-public weighbridges do not have similar re-verification periods and licensing costs. There was also a perception from some stakeholders that non-public weighbridges are being used illegally for public use.
- Public weighbridge licensees commented that the costs associated with licensing, maintaining and operating a public weighbridge are not sufficiently profitable to maintain viability.

## 3.1 Re-verification

- Participants identified re-verification as being important to help ensure accuracy of their instrument but suggested there could be some flexibility in how often public weighbridges are required to be re-verified.

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<sup>7</sup> Nominated verifiers must hold a statement of attainment (SoA) for the relevant licence (instrument) subclass they verify.

<sup>8</sup> <https://www.industry.gov.au/data-and-publications/test-procedures>

### 3.2 Competency

- Participants generally stated that they did not think it was particularly burdensome to acquire a SoA.
- A few issues with the current SoA requirement were noted by various participants, including:
  - Concerns around the appropriateness of the requirement for at least one operator to hold a SoA, even though that operator may not be an active operator.
  - There is disconnect between the SoA and an experienced operator training staff on the job.
  - The cost of training does not seem commensurate to the package being offered by the NMI.

### 3.3 Prescriptiveness

- There was general agreement that the legislation for public weighbridges is highly prescriptive. There were mixed views as to whether this is deemed positive or negative.
- Concerns were raised that the legislation does not have sufficient flexibility to keep pace with technological advancements in weighbridge systems. For example, weighbridge automation and digital ticketing.
- Overall, participants did not feel that the regulatory requirements for public weighbridges were particularly burdensome.

### 3.4 Compliance and Enforcement

- Participants indicated they were satisfied with the compliance framework for public weighbridges and did not consider the auditing process burdensome.
- Participants were concerned with competition from unlicensed weighbridges and wanted NMI to do more inspections.
- There is a general perception that the licensing requirements for public weighbridges has created an uneven playing field.
  - Weighbridges outside of the public weighbridge licensing framework do not have mandatory re-verification periods.
  - It was suggested that some unlicensed weighbridges may be opened for public weighing which could operate at a lower cost base.
  - Participants expressed concern that if these weighbridges are being used for trade purposes, they should have to comply with similar requirements. It was suggested that it's equally important that weighbridges used for trade are accurate.

## 4. Utility Meter Verifiers and Legal Metrology Authorities

- UMV participants generally supported the status quo and don't see benefits in amending the current framework. There is confidence in the test laboratories where UMVs are accredited for certain instruments and sizes.
  - They rely on other UMVs for verifications of meters outside the scope of their own UMV appointment.
  - When utility meters are to be verified there is currently a need for an approving authority to be involved, however there aren't many approving authorities in Australia.
- Participants noted UMVs are slightly different to other third parties as there are multiple regulators they interact with in their sector.
- LMA participants generally saw value in the appointment process, even if it did not form a large part of their business. The appointment provided confidence and supported legal traceability.
- Participants suggested better communication between NMI and third parties so NMI's expectations of third parties is clearer.

## 4.1 Competency

- The role of the Chief Metrologist / NMI in approving appointments should continue for LMAs and UVMs.
- Participants considered that NATA accreditation (which forms part of the assessment process) is an appropriate mechanism to determine competency. Some thought it should only provide a base level for competency and that additional assessment tools were appropriate.
- The topic of the NMI and NATA sharing information about audit results and non-conformance was discussed at most of the forums.
- Participants encouraged an increase in collaboration between NATA and NMI in terms of information sharing.

## 4.2 Prescriptiveness

- Generally, participants said current levels of prescription applicable to UVMs and LMAs are appropriate and there is value in the current framework (noting the framework for UVMs and LMAs is less prescriptive than most other areas of the current framework).
  - The level of prescription provides confidence that the proper process is being followed and ensures confidence in the outcome.
  - The NATA framework contributes to confidence in the assessment outcome.
- Some participants expressed concern that a principles-based approach may increase regulatory burden. Others indicated prescriptiveness can be problematic where it creates a barrier to technology advancements or doesn't keep pace with changes in technology.
  - Ultrasonic water meters were raised as an example of new technology encountering limitations with the current framework.
- One participant noted that the testing process is lengthy for the pattern approval of water meters.
  - The pattern approval process often lasts six months and two-three months for water marks. Many UVM customers who are manufacturers from the Asia Pacific region raise this as an issue because there is considerable lead time before they are able to sell their meters into the Australian market.

## 4.3 Compliance and Enforcement

- Participants indicated they were confident in NATA initiating compliance action. They have seen some accreditations suspended or cancelled by NATA.
- Participants were satisfied with NATA to handle low level administrative non-conformance but if there was continuous non-conformance then perhaps that needs to be escalated to NMI for higher level enforcement action.
- Participants commented that aligning third party compliance would be good (servicing licensees, public weighbridge licensees, UVMs and LMAs). There was support for updating compliance arrangements for UVMs and LMAs to include additional regulatory response options (extra warnings and reprimands).
- In a hypothetical situation where there were no regulation 13 certificates,<sup>9</sup> attendees stated that UVMs and LMAs would only be able to provide confidence to their clients by refining processes from the feedback from their clients and providing information on traceability derived from manufacturers with their test equipment.
- Participants expressed concerns regarding relying on overseas calibrations or industry self-regulation for utility meters. It was suggested that issues could arise similar to those in the building industry, including:
  - A reduction in standards.
  - A lack of ownership (no one taking responsibility).

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<sup>9</sup> NATA accredited facilities that have been appointed as Verifying Authorities by the National Measurement Institute of Australia (NMI) must comply with reporting, calibration and test method requirements of NMI where relevant, and hold Regulation 13 certificates for their reference equipment.





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