



Australian Government
Department of Industry,
Innovation and Science

National Measurement Institute

Charging Arrangements for Pattern Approval and Licensing and Appointments

2017-18

1. INTRODUCTION

1.1 Context

This document provides information on how the National Measurement Institute (NMI), a division of the Department of Industry, Innovation and Science (the Department), implements its charging arrangements for the administration of Pattern Approval (PA) and for Licensing & Appointments (LA). It also reports financial and non-financial performance information and contains financial forecasts for 2017-18 and three forward years for PA and LA.

1.2 Description of the activities

NMI contributes to Australia's prosperity by leading a national system of measurement that is fit for purpose and trusted both nationally and internationally. NMI's regulatory charging activities are undertaken as key elements within the wider national system of measurement. Charging activities include approving the design or pattern of measuring instruments and activities which allow for third parties to verify measuring instruments and verify reference standards.

Pattern Approval

Manufacturers and importers of measuring instruments (e.g. retail scales, weighbridges, petrol dispensers, breath alcohol analysers etc.) are generally required to have a PA certificate from NMI before instruments can be used for trade or other regulatory purposes in Australia. PA may be based on testing recognised within the scope of international mutual acceptance arrangements. Where appropriate compliance certificates are not available, Australian testing of the instrument is undertaken under a range of conditions to ensure that it can measure accurately under the conditions in which it is likely to be used. This provides confidence in domestic and international trade and other functions and benefits the whole economy.

Measuring instrument manufacturing is an international industry. Due to population, geography and politico-economic factors including regional trading arrangements, the effective market size for instruments assessed by overseas PA authorities is much greater than for Australia, so instrument manufacturers may spread the costs of PA in those jurisdictions over a greater number of instruments. By comparison, Australian PA costs may seem disproportionately high in the context of the international industry. As PA acts as part of the fundamental infrastructure for supporting reliable and accurate trade measurement, it is important that Australia is able to benefit from innovations in this field. High PA fees may act as a barrier to uptake of innovation in this field within Australia. Partial cost recovery reduces this barrier and, when combined with mutual acceptance arrangements, also promotes Australian industry participation in the production of measuring instruments used for trade.

Licensing and Appointments

NMI licences 3rd parties as follows:-

- servicing licensees to verify measuring instruments used for trade
- public weighbridge licensees to operate public weighbridges

A licence is granted unless there are grounds for refusal under the *National Measurement Act 1960*. Servicing licensee fees are prescribed under Division 2.4 and Public Weighbridge licence fees are prescribed under Division 3.2 of the National Trade Measurement Regulations 2009.

In addition, NMI appoints:

- Approving authorities to conduct PA testing of electricity meters, water meters and evidential breath-alcohol analysers
- Certifying authorities to certify measuring instruments (evidential breath-alcohol analysers and grain protein measuring instruments) and Australian certified reference materials (aqueous ethanol solutions and whole grain barley and wheat)
- Verifying authorities to verify reference standards of measurement and physical quantities of an artefact
- Utility meter verifiers to verify electricity meters and water meters.

Key stakeholders are traders and consumers. Private sector operators play an important role in delivering a robust trade measurement system across Australia. Licensees return data on verification of instruments to NMI which supports efficient delivery of NMI compliance activities and lowers the overall regulatory burden. Immediate stakeholders include individuals and organisations involved in verifying measuring instruments used for trade owners and operators of public weighbridges.

2. STATUTORY AUTHORITY TO CHARGE

2.1 Background information

Pattern Approval

Prior to NMI's formation in 2004, the National Standards Commission charged fees for this activity.

PA fees are set by regulation, with annual indexation provided for from July 2014. The fee structure and indexation method is detailed in Schedule 13 of the National Measurement Regulations 1999 which can be accessed at:
<https://www.legislation.gov.au/Details/F2015C00296>

Licensing and Appointments

Following a 2007 decision of the Council of Australian Governments, a national system for trade measurement administered by NMI commenced from July 2010 with previous charging regimes harmonised to a single set of national charges for issuing licences and making appointments.

Licensing Fees are set by the National Trade Measurement Regulations 2009. The application fee for a new servicing licence or public weighbridge licence is \$500. Regulation 2.41 prescribes fees for new and renewing servicing licences that are determined by the number of classes being applied for under the licence, the number of verifiers in nominated in the application and the number of years applied for under the licence. Regulations 3.12 and 3.16 also prescribe application fees of \$350 for each year of the licence.

NMI also performs and charges for a number of other minor administrative functions for which there are prescribed fees. These include applications to amend conditions of a servicing licence and verification of measuring instruments which are performed by trade measurement inspectors. Similar prescribed fees apply for public weighbridge licences and there is also a prescribed fee for an application to contract out a public weighbridge operation.

Fees have not been prescribed under the regulations for applications for appointment of verifying, certifying or approving authorities or for utility meter verifiers. Appointments are generally made for three years and the fee of \$1100 (GST exempt) has been set administratively. Average revenue is less than \$50,000 per annum.

2.2 Statutory authority to charge

The statutory authority for NMI to charge fees is detailed below.

The National Measurement Act

Under section 17, the National Measurement Act 1960 (the Act) establishes the NMI within the Department. Section 18 confers the 'metrological functions of the Commonwealth' on the Secretary of the Department:

18 Metrological functions

- (1) The Secretary has metrological functions of the Commonwealth.
- (2) Those functions include, but are not limited to, the following:
 - (a) adopting the International System of Units, and developing and adopting additional units of measurement for use in Australia;
 - (b) realising units of measurement through the development and maintenance of standards of measurement, reference materials and reference techniques;
 - (c) assisting industry, scientific organisations and government to develop and utilise measurement techniques, including by technology transfer;
 - (d) promoting best practice in measurement in industry and the scientific and wider community, including by training;

- (e) providing measurement services to industry, scientific organisations and government, including by:
 - (i) measuring physical, chemical and biological quantities; and
 - (ii) providing calibration services; and
 - (iii) examining and approving patterns for measuring instruments;
 - (f) providing expertise in support of Australia's measurement standards and conformance infrastructure;
 - (g) promoting uniformity in national trade measurement policy and practice, including through work with Commonwealth, State and Territory agencies;
 - (h) facilitating international trade to the extent that it is affected by measurement;
 - (i) fulfilling Australia's international obligations with respect to measurement;
 - (j) conducting research in support of the functions mentioned in paragraphs (a) to (i).
- (3) The fact that the Secretary has the functions mentioned in this section does not limit the power of the Commonwealth to charge fees for things done in performing those functions.

Subsection 18(3) of the Act clarifies that the Commonwealth may make charges for services (in the form of fees) in connection with the functions given to the Secretary. Subsection 18C (1) of the Act states that: "The Secretary may delegate all or any of his or her functions or powers under this Act or the Regulations to:

- (a) an SES employee or acting SES employee in the Department; or
- (b) the Chief Metrologist; or
- (c) an APS employee within the National Measurement Institute who has the expertise appropriate to the function or power delegated.

Accordingly, as fees under 18(3) are chargeable for the functions or powers, the Commonwealth may charge fees for the functions or powers whether performed by the Secretary or the Secretary's delegate.

The Act also establishes the position of the 'Chief Metrologist', whose functions are conferred on him or her by the Act and Regulations (s 18A). An assignment of duties, dated 4 April 2013, assigned to Dr Peter Fisk the powers and functions of the Chief Metrologist.

Subsection 18A(3) provides that "the fact that the Chief Metrologist has the functions conferred on him or her under this Act and the Regulations does not limit the power of the Commonwealth to charge fees for things done in performing those functions." As such, subsection 18A(3) clarifies that the Commonwealth may charge services (in the form of fees) in connection with the functions given to the Chief Metrologist.

Subsection 18D(1) provides that the Chief Metrologist may delegate all or any of his or her functions or powers under the Act or the Regulations to an APS employee within the

National Measurement Institute who has the expertise appropriate to the function or power delegated. Accordingly, as fees under 18A(3) are chargeable for the functions or powers, the Commonwealth may charge fees for the functions or powers, whether performed by the Chief Metrologist or the Chief Metrologist's delegate.

Regulations

Additionally the Commonwealth has the power to charge fees as outlined in the National Measurement Regulations 1999 and the National Trade Measurement Regulations 2009 (the Regulations).

Under subsection 20(1) of the Act, the Regulations may prescribe matters which are necessary and convenient to be prescribed for carrying out or giving effect to the Act. Of note, paragraph 20(1)(l) allows for the Regulations to prescribe fees for activities undertaken in respect of:

- (i) the examination and certification of patterns of measuring instruments;
- (ii) the verification of measuring instruments used for trade;
- (iii) the issue of a certificate in relation to the verification of a measuring instrument used for trade; and
- (iv) the issue of a permit for a packed article under Division 5 of Part VI of the Act.

Further, paragraph 20(1)(k) allows for the Regulations to include the prescribing of fees for applications.

In relation to the National Measurement Institute's regulatory services, subsection 20(2) of the Act provides that "the Regulations may set a fee mentioned in subsection (1) by setting the amount of the fee or a way of working out the fee". Subsection 20(3) of the Act provides that the fee must not amount to taxation.

Under regulation 90B of the National Measurement Regulations 1999, the fees for activities undertaken by the Chief Metrologist (or a delegate of the Chief Metrologist) in respect of the examination and certification of patterns of measuring instruments are set out in Schedule 13.

The National Trade Measurement Regulations 2009 prescribes fees for the following matters:

- verifying measuring equipment;
- the application for servicing licences;
- the application for public weighbridge licences; and
- general applications.

An extract of the relevant regulations are provided below:

Division 2.4—Servicing licences and licensees

2.41..... Prescribed fee—application for servicing licence (Act s 18NA (3) (b))

2.44..... Prescribed fee—application to amend condition of servicing licence (Act s 18NI (2) (b))

2.45..... Prescribed fee—application to amend servicing licensee due to change of partnership (Act s 18NJ (3) (d))

2.46..... Prescribed fee—application for renewal of servicing licence (Act s 18NK (2) (b))

2.47..... Prescribed fee—verifying measuring equipment

Division 3.2—Public weighbridges

3.12..... Prescribed fee—application for public weighbridge licence (Act s 18PA (3) (b))

3.13..... Prescribed fee—application to amend condition of public weighbridge licence (Act s 18PI (2) (b))

3.14..... Prescribed fee—application to amend public weighbridge licence due to change of partnership (Act s 18PJ (3) (d))

3.15..... Prescribed fee—application to contract out public weighbridge operation (Act s 18PK (3) (d))

3.16..... Prescribed fee—application for renewal of public weighbridge licence (Act s 18PL (2) (b))

Part 5—Miscellaneous

5.5..... Fees for general applications

3. CHARGING MODEL

3.1 Outputs and business processes of the activities

Pattern Approval

The number of certificates prepared varies with demand. Between 200 and 300 certificates were prepared in each of the last three years. Between 60% and 80% of these certificates were for product lifecycle modifications and upgrades and the remainder were for new instruments.

The steps in the PA process are:

- A. Application processing – administrative review, file creation and acknowledgement
- B. Application assessment - review the documentation supplied, determine what testing needs to be done (if any)
Note: mutual acceptance agreements are in place with some international bodies
- C. Testing (if required) – undertake testing, using one or more modules
Note: the process may stop during testing if significant problems are found
- D. Reporting to client - collating results and advising results of assessment and/or testing
- E. Certificate preparation - Communications with client to arrive at issuing of suitable agreed document

Licensing and Appointments

Private sector operators support delivery of a robust trade measurement system for Australia. There are more than 600 licensees and more than 50 legal metrology authorities. Servicing licensees employ around 1,200 verifiers.

The business process for these activities includes:

- A. Application receipt and processing - file creation and acknowledgement
- B. Application evaluation - review the documentation supplied, make further enquiry or seek clarification if necessary, determine whether relevant criteria are satisfied

- C. Make decision and advise applicant of outcome
- if the application is successful issue the license or make the appointment
 - otherwise advise applicant of refusal and review rights

Related customer service activities include a licensee 'Hotline' (1300 686 664) for licence administration or technical inquiries, a dedicated email service, web content, technical newsletters and an annual national roadshow of seminars for face-to-face consultation with licensees.

NMI leverages broader trade measurement compliance activities to identify areas for improvement and to provide appropriate feedback to verifiers, licensees and appointees. Where ongoing non-compliance is identified, enforcement action including revocation may be taken.

3.2 Costs of the activities

The costs of the activities are determined using contemporary accounting methods to identify both direct costs and indirect costs of the activities which can be identified, specifically with or traced to the activity in an economically feasible way. These include:

Direct Costs:

- Employee costs – for staff directly involved in the activity
- Operational costs – including laboratory consumables, contractors, repairs and maintenance for laboratory equipment and administrative expenses

Indirect Costs:

- Property charges – lease costs for laboratory and administrative offices IT, corporate support and overhead charges
- Depreciation – depreciation on assets used in the activity

Cost estimates for the 2017-18 financial year are:

2017-18 Cost Estimates \$m	Pattern Approval	Licensing & Appointments
Employees	0.72	0.59
Operational	0.22	0.07
Property and Overhead	0.50	0.12
Depreciation	0.19	0.00
Total	1.64	0.76
Capital	0.00	0.00

Note: Since laboratories are not required for LA, laboratory related expenses such as consumables, equipment, repairs and depreciation only apply for PA.

Public consultation on cost recovery for regulatory charging activities undertaken by NMI is planned during the 2017-2018 financial year and will assist future determination of appropriate cost recovery arrangements. Consultation information will be available on NMI's website.

3.3 Design of cost recovery charges

Fees are set by regulation as detailed in section 2.1 of this CRIS.

4. FINANCIAL ESTIMATES

Financial projections for 2017-18 and three forward years

Pattern Approval	\$ m	2017-18	2018-19	2019-20	2020-21
Expenses* = X		1.64	1.65	1.65	1.66
Revenue = Y		0.43	0.44	0.45	0.45
Balance = Y – X		-1.21	-1.21	-1.21	-1.22
Cumulative balance		-1.21	-2.42	-3.62	-4.83
Explain material ^a variance		Not applicable			
Explain balance management strategy		Management is through regular review of costs and revenues for the activity. The balance of costs is met from within the Department of Industry's resources.			

Licensing and Appointments	\$ m	2017-18	2018-19	2019-20	2020-21
Expenses [^] = X		0.76	0.77	0.77	0.77
Revenue = Y		0.43	0.43	0.43	0.44
Balance = Y-X		-0.33	-0.34	-0.34	-0.33
Cumulative balance		-0.33	-0.67	-1.01	-1.34
Explain material ^a variance		Not applicable			
Explain balance management strategy		Management is through regular review of costs and revenues for the activity. The balance of costs is met from within the Department of Industry's resources.			

^a As defined by AASB1031 and Section 7 of the Financial Reporting Rule .

[^]Expense includes property expense. Depreciation expense is nil as this activity does not require capital equipment.

Note: Due to rounding totals may not sum.

5A. FINANCIAL PERFORMANCE

Pattern Approval: Past financial performance

\$m	2012-13	2013-14	2014-15	2015-16	2016-17
Expenses* = X	1.65	1.75	1.66	1.75	1.60
Revenue* = Y	0.57	0.53	0.60	0.52	0.51
Balance = Y-X	-1.08	-1.22	-1.06	-1.23	-1.10

* These figures exclude government client revenues and pro rata expenses as they are not subject to the Australian Government Charging Framework. Expenses include depreciation for laboratory equipment.

PA fees are set by regulation with annual indexation provided for from July 2014. This activity is partially appropriation funded to support the national interest and also covers international representation and associated advice on technical matters to industry and government.

Licensing and Appointments: Past financial performance

\$ m	2012-13	2013-14	2014-15	2015-16	2016-17
Expenses* = X	0.55	0.50	0.52	0.54	0.64
Revenue = Y	0.46	0.47	0.45	0.40	0.43
Balance = Y-X	-0.09	-0.03	-0.07	-0.14	-0.21

* These figures exclude government client revenues and pro rata expenses as they are not subject to the Australian Government Charging Framework.

5B. NON-FINANCIAL PERFORMANCE

Pattern Approval

The number of certificates prepared varies with demand. Between 200 and 300 certificates were prepared in each of the last three years.

Laboratory accreditation through the National Association of Testing Laboratories has been maintained.

Suitable bilateral and multilateral arrangements are in place to support mutual recognition of testing performed within the scope of agreements with international partners and to enhance alignment with international specifications, where possible.

Licensing and Appointments

There are over 600 licensees and over 50 legal metrology authorities. Servicing licensees employ around 1200 verifiers.