

20 September 2024

Consultation: Length measures Trading Standards
Te Whakatairanga Service Delivery
Ministry of Business, Innovation and Employment
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Kei te rangatira, tēnā koe

LENGTH OF MEASURES IN USE FOR TRADE

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for 70% of domestic retail turnover. New Zealand's retail sector comprises more than 30,000 businesses employing around 230,000 employees. We have consulted with our members in preparing this submission.
2. Retail NZ is not aware of any evidence that there is a problem with retailers short-measuring products sold by length. Our members advise us that when measuring items sold by length, unless a very specific irregular length is requested for specific purpose, they generally round-up or provide a margin above the standard measure at no additional cost to the customer. This is to avoid a risk of non-compliance with weights and measures law, but also to ensure customers are not short-changed to protect brand reputation and goodwill. Nonetheless, we are generally supportive of government introducing regulations to govern 'length measures used in trade' and agree there should be a standard such as a General Certificate of Approval for length measures to comply to.
3. In relation to the draft 'General Certificate of Approval', which outlines the types and specifications of length measures that government proposes are permitted for use in trade, feedback from members supplying items used in construction, and rope or chain used in the marine sector, suggests the proposal to restrict allowed length measures to two types - rigid stainless-steel measures up to 1 metre, and flexible tape measures up to 20 metres, is too restrictive, particularly for those selling extra-long lengths or long lengths of products with 'flex'. These members recommend provision for marked floor measures which are customarily used in these circumstances, as well as a solution to measure lengths of wood in a drop saw. Additionally, we have received advice that tape measures need to be able to be removed from their casing and lie flat to ensure accurate measurement. Our Association does not hold the technical expertise to provide further substantive comment about permitted materials; scales; numbering; and permissible errors in measurement. We anticipate those with more relevant expertise will provide input on these elements of the proposal.
4. In terms of those that should be responsible for ensuring length measures comply with the General Certificate of Approval, efficiency dictates that this should be the party that first markets the length measuring product for sale in the New Zealand market. This would be the domestic manufacturer or the importer. Once a length measure product has been verified as complying with the General Certificate of Approval, it should not have to be verified again by the person who purchases it. In this context, domestic wholesalers and retailers should not be required to obtain verification for the 'approved' length measures they purchase, unless they are the importer. On this basis, we agree that where a length measure is being sold, it should be clear to the purchaser that the length measure complies with the General Certificate of Approval. Additionally, we agree that non-approved measures should not be advertised, but go further and suggest there should be a total prohibition on the sale of non-approved measures, once the transition period ends.

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5. We agree that, once the regulations have taken effect, retailers selling goods by reference to length should be required to use complying length measures. To facilitate this, it would be helpful if MBIE maintained a public register of approved length measures.
6. Retail NZ does not support the proposal to require retailers to obtain verification for the length measures they currently own and use. We believe this would impose an unreasonable cost burden on small businesses and that the compliance risks can be managed at lower cost. In saying this we note that the regulatory risks around length measures are not the same as that for weighing instruments. Weighing instruments are highly tuned specialist equipment that require regular recalibration by trained technicians to maintain accuracy, so ongoing verification is needed and a verification service industry has evolved to provide this service. Length measures are static and do not change. Once regulations have been finalised a one-off check of existing length measures will be necessary, but we believe retailers should be able to undertake this check themselves.
7. Once the regulations are publicised (Retail NZ is willing to help with publicity), it will be easy enough for retailers to undertake their own compliance checks with reference to high-level guidance, such as a factsheet, and possibly aided by purchasing an approved measure for use as a comparative tool. Retailers who want to, could organise third party verification and would be free to do so, but we believe this should be voluntary rather than mandatory. We anticipate that Weights and Measures inspectors will undertake randomised compliance audits, which of itself should be sufficient incentive for retailers to ensure they comply.
8. We note that pre-packaged goods sold by length fall outside of the scope of the draft Certificate of Approval and support this approach. These goods will be subject to the general provisions of the Fair Trading Act and the brand-owner, rather than the retailer, should bear responsibility for the veracity of product claims.
9. In terms of a transition period, once the Certificate of Approval is finalised, we support an 18-month transition period for domestic manufacturers and importers of length measures to become compliant. Retailers using length measures in trade require a slightly longer transition timeframe - to train staff, check the compliances of their existing length measures, and replace those that are non-compliant, noting retailers cannot replace non-compliant length measures until length measures that are verified to comply with the General Certificate of Approval become available for purchase and this may not occur until the end of the transition period for manufacturers and importers. We recommend the length measures used by retailers need to be compliant three months after the date on which manufacturers and importers need to be selling compliant length measures.
10. We understand that MBIE will introduce regulations to accompany the General Certificate of Approval, and that these regulations will deal with many of the administrative issues raised in this submission i.e. scope, the responsibilities of the respective parties, transition timeframes, etc. Retail NZ would appreciate the opportunity to review and provide feedback on the draft regulations before gazettal. Review by industry will reduce the risk of unintended consequences of drafting.
11. In conclusion, we thank MBIE for the opportunity to provide feedback on the proposals and are willing to meet to talk through our position.

Nā māua noa, nā



Carolyn Young
Chief Executive