



AUSTRALIAN HOTELS
ASSOCIATION



AHA NATIONAL MEASUREMENT GUIDE

BE SURE WHEN YOU POUR CAMPAIGN

BACKGROUND

This guide is intended to assist members to comply with the National Measurement Law. The National Measurement Act 1960 (Cth) and the National Trade Measurement Regulations 2009 regulate how our industry must sell alcohol using measurement.

Our members are directly affected as traders of products captured by the National Measurements systems and indirectly affected but directly accountable as purchasers and users of batch approved vessels, jiggers and electronic dispensers that are also captured by the National Measurements framework.

Regulating the sale of alcohol

The Act has been in force for over 60 years, with beer and certain prescribed spirits required to be sold by reference to measurement:

5.1 Beer, spirits etc must be sold by reference to volume

(1) For a sale of each of the following items, the item must be sold at a price determined by reference to volume:

- (a) beer;
- (b) stout;
- (c) ale;
- (d) brandy (including armagnac and cognac);
- (e) gin;
- (f) rum;
- (g) vodka;
- (h) whisky (including whiskey).

BE PREPARED FOR TRADE MEASUREMENT INSPECTIONS

What to Expect when Inspected

The National Measurement Institute ('NMI') employs trade measurement inspectors throughout Australia who regularly inspect alcohol being sold to ensure that sellers are following the correct process.

If an inspector finds that you are short-measuring your customers, you could be fined up to \$222,000 per offence.

Inspectors

The NMI employs inspectors to:

- inform, monitor and consult with businesses about their trade measurement obligations
- ensure all measuring instruments used for trade are verified and used correctly
- check pre-packaged articles for correct packer identification, measurement markings and accurate measure
- monitor the activities of servicing licensees
- investigate complaints
- take appropriate enforcement action where there have been breaches of the laws

Inspectors can visit a place of business at any reasonable time of day and do not have to give notice of entry. They base the frequency of their visits on their risk assessment of your operations.

Inspector powers

NMI inspectors have the power to:

- enter and search a building or place apparently used for business, but not residential premises unless the inspector has a warrant or the person in control of the residence consents
- record details of the building, place, or measuring instruments by filming, photographing or making sketches and notes
- test and verify measuring instruments
- check if servicing licensees' verification marks have been properly applied and the instrument's details have been provided to NMI
- examine a seller's records, and take copies of documents when necessary
- seize documents, records, packages or measuring instruments
- ask questions and require answers
- issue non-compliance notices

Inspector obligations

In exercising their powers, trade measurement inspectors must:

- identify themselves and produce their identity card on request
- tell the person in control of the premises that they are authorised to enter business premises or inspect a business
- when entering residential premises with a warrant, provide a copy of the warrant to the controller of the premises
- provide a copy of any seized document or record that can be readily copied, to the controller if requested
- provide a receipt for anything seized

Controllers – are licensees and their staff

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

Controller rights

The controller can:

- observe any tests of pre-packaged articles or measuring instruments, but only so long as the controller is not hindering the conduct of the test
- observe the search of the premises and inspection, but only so long as they are not hindering the search or inspection
- request a copy of any seized item that can be readily copied at the time of the seizure.

Controller responsibilities

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

Specifically, 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

Enforcing trade measurement laws

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

These options 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
- a written warning
- an infringement notice with associated fine
- an enforceable undertaking
- an injunction
- prosecution

SELLING ALCOHOL

Trade measurement laws regulate the retail and wholesale sale of alcohol.

If you sell beer, stout, ale, brandy, gin, rum, vodka, and whisky (or whiskey), you must sell at a price determined by volume.

If you sell alcohol in bottles, cans or casks, you must meet the pre-packaged goods requirements.



SELLING BEER, STOUT AND ALE

If you sell beer on tap, this usually involves serving it in an approved batch-tested glass or jug:

- with the volume marked in millilitres (mL) or litres (L)
- made from glass, acrylic or another approved material
- with the capacity of a glass defined by either the brim or a capacity (Plimsoll) line
- with the capacity of a jug defined by a capacity (Plimsoll) line

All batch-tested products have been approved by the NMI under category 4/1/OD and:

- checked by a servicing licensee
- verified against NMI's test procedures
- permanently marked or moulded with the manufacturer's identification, the capacity and the batch testing mark.

Other vessels or containers

If you sell beer in non-verified or non-standard vessels or containers—such as mason jars, growlers or squealers—you must still sell it using accurate volume measurements.

If you're not using batch approved glassware, you must advertise the actual capacity of the glass or container. You can do this using a:

- printed or written menu clearly visible at the point of sale
- receipt or swing tag on the bottle for takeaway containers.

Tip: Test measure the capacity of the container and be aware of the fill line for consistency and accuracy to be compliant. There is no prescribed volume you must sell by, for example a jar could be 393 mL, but you must ensure that you serve that amount.

The same rules apply for 'beer towers'.

SELLING SPIRITS

You must sell brandy (including cognac and armagnac), gin, rum, vodka or whisky (or whiskey) by reference to volume. This usually involves using an NMI-approved spirit measure. Spirit measures include:

- thimble measures
- jiggers
- more complex dispensers that require verification by servicing licensees.

Simple spirit measures must be:

- in capacities of 15 mL, 30 mL or 60 mL
- marked with either batch-testing markings or a verification mark
- made of a rigid or semi-rigid material.

Tip: Train staff to take the time to measure accurately, holding the measurer over the glass and filling accurately all the way to the top of the measure. Be mindful of short-measure, NMI inspectors expect 30 mL not 29 mL, and venues have been breached for these short falls in the past.

Spirit dispensers must:

- be of a pattern approved under categories 4/5/ or 5/6S/ and bear a verification mark applied by a servicing licensee
- deliver fixed quantities of 15mL, 30mL or 60mL.

You must sell specified spirits by volume when you serve them with a mixer such as soft drink, milk or water.

Using spirit dispensers

If you sell alcohol using spirit dispensers, you must ensure that:

- NMI has approved your type of dispenser and any attached modules (i.e. point of sale system)
- a servicing licensee has verified your dispenser and any attached modules
- you and your staff use the instrument in the correct manner
- you keep the dispenser clean and in good working order
- a servicing licensee verifies the dispenser after each repair or adjustment

We recommend that you have all your dispensers checked regularly by a technician licensed by NMI (servicing licensee). For a list of servicing licensees, email tmlicensees@measurement.gov.au.

Exemptions

Spirits not specified in the regulations, including liqueurs, do not have to be sold by volume.

You do not need to use spirit measures when you mix these spirits with other spirits or alcoholic liquors to produce cocktails.

SELLING WINE

If you sell wine (unless pre-packaged in bottles or casks), you do not have to sell it by volume – you may sell wine in an unmarked glass or carafe.

If you do sell wine by volume, then that volume must be accurate – for example, if you state a ‘200mL glass of wine’ on the menu, then you must serve that amount and can be audited in an inspection to ensure that accurate serve.

Tip: on wine lists or menus refer to a ‘small’ or ‘large’ glass without specifying an actual quantity.

For consistency, staff should know the ‘fill line’ and have an idea of how many standard drinks that serve represents, for example, 200 mL of wine is 2 standard drinks.

ALCOHOLIC GINGER BEER

The AHA acknowledges alcoholic ginger beer as a product which can be classified as beer when dispensed on tap.

The advice to members is that this product is intended to be served with ice and a fruit garnish. Consumer consent provides the option to accept this as the default service manner.

However, any patron requests for service without ice or garnish, or with ice and/or garnish served on the side, should be accepted.

CONCLUSION

The industry strongly supports the standards of measurement of physical quantities for selling alcohol and ensuring our valued customers get what they pay for.

The industry strongly supports the Responsible Service of Alcohol within our venues and to achieve this we understand that the correct and accurate measurement of alcohol dispensation is critical. Through correct measurement practices both the venue and the consumer can have confidence in the number of standard drinks being consumed and responsible service is greatly assisted.

Members are encouraged to train their staff and be prepared for NMI inspections – previous audits from NMI have highlighted two main areas:

- the incorrect (short) measuring and dispensing of spirits, and
- when advertising the service size of wine (example a 200mL glass of wine), not serving that amount (short measure).

Use this guide to assist and train staff in preparation for NMI inspections and to comply with the National Measurement Law.