

**To:**

The Portfolio Committee on Trade and Industry

**Re:**

The Legal Metrology Bill [B 34-2013]

**From:**

"South African Council of the Scale Industry" (SACS)  
hereinafter referred to as "The Scale Council"

**Represented by:**

Werner Barnard (Committee Member)  
and  
Philip Mercer (Committee Member)

**Contact Details:**

The Scale Council  
Email: [info@scalecouncil.com](mailto:info@scalecouncil.com)

Werner Barnard:

Email: [wernerb@massamatic.com](mailto:wernerb@massamatic.com)

Daytime contact: (021) 930 2510 or (082) 895 6993

Philip Mercer:

Email: [philip.mercer@avocetsa.co.za](mailto:philip.mercer@avocetsa.co.za)

Daytime contact: (011) 392 3781 or (072) 375 3060

**Appearance before the Portfolio Committee:**

YES

Werner Barnard (Committee Member and Speaker)  
and  
Philip Mercer (Committee Member)

### **The Scale Council Aims:**

- a. To promote and further the implementation and maintenance of the Legal Metrology Bill, in close cooperation and association with the NRCS or other institutions having been appointed by the department of trade and industry, central or local government;
- b. To create a better understanding amongst the public and scale users as to the activities of this council and the scale industry it represents;
- c. To encourage technological development of scales and weighing machines in order to provide our country with the best scale products to establish world leadership in correct mass measurement;
- d. To install the use of fair trading principles amongst members;
- e. To provide education and training for members, to enhance their professional involvement and personal benefit from scale council membership;
- f. To teach and train scale users at all levels of trade, industry and commerce as well as health organizations and individuals, in the proper selection, use & maintenance of scales and measuring equipment;
- g. To assist our manufacturers in developing and building scales to compete at world level, assist in export promotion and in the process create job opportunities for the people of South Africa;
- h. To establish a platform for exchange of ideas on better management, training, and technology between members and other associations or bodies with interests similar to the SACS;

### **Membership:**

The Scale Council has a confirmed membership commitment of 60 of the 73 listed Mass Accredited Verification Laboratories, thereby representing more than 80% of the industry.

### **Structure:**

The Scale Council is currently structured on the basis of a President, Mr. Pape Killian and 3 Committee Members being Mr. Werner Barnard, Mr. Donovan Pye and Mr Philip Mercer that are representative of both the industrial and retail sectors of the weighing industries.

### **Other Support of the Scale Council:**

The NRCS has over the years and at previous Sector Review meetings indicated that they would prefer to speak to a unified body and not individual Laboratories – so we have their support as well. This initiative has also received support from a lot of our customers both in the industrial and retail sectors.

## Our Submission:

The SACS would like to state in its opening statement that we have no problem with the modernization of the current Trade Metrology Act to the new Legal Metrology Bill. We are in favour of most of the changes and feel that some of the changes are needed in our new and modern society.

We therefor would like to make the following statements with regards to specific clauses in the Bill and give the relevant reasons for the recommended changes.

1. We feel that the NRCS (Regulator) should not be allowed to Verify ANY measuring instruments, as this can be seen as a conflict of interest. The Oxford dictionary explains Regulator as "*a person or body that supervises a particular industry or business activity*" we therefor request that the NRCS puts it's manpower and other resources into supervising the industry (ie laboratories and end users) and use that function to improve the level of service to the public.
  - a. Section 4(1)(f) the words "*and verify*" be removed.
  - b. Section 4(2)(d) the words "*or verify measuring instruments*" be removed.
2. Market Survey Inspectors and Inspections:- We feel that this new function can be very dangerous as the person appointed in Section 6 by the CEO of the NRCS, may not be related or even have an interest to the party or function it must inspect. We also feel that the complete function and purpose of the section must be re-negotiated.
  - a. E.g. if the inspector is employed or related to anyone that owns a Verification laboratory, and he/she enters another laboratory or suppliers premises and demands sensitive information or records pertaining to the costs and information etc. of the equipment, this can be a conflict of interest and we feel this is against the constitution and your right to free trade.

- b. Finally we agree that if an offence was committed by the owner of the instrument or the laboratory that did the verification, then the relevant records referred to in section 20 must be handed over.
  - c. Section 20(1)(a)(ii) – the words “*stored, kept for sale*” must be removed, as it cannot be an offense to store or keep an instrument – it only becomes an offence once you sell it or verify it for a prescribed purpose.
  - d. Section 20(1)(c) - should be removed, as you cannot be allowed to enter a premises just because there are records kept on the premises.
3. Segregation of the repair and verification function:- here we feel that the South African demographics and client base cannot afford this change of operation.
- a. Verification Body (Section 7,8,24 & 25) – We feel that if you are designated as a Verification body, you must be allowed to Repair instruments as well. This means that section 25(2) needs to be removed and section 26(1)(e) also needs to be amended. I will give an example of a problem scenario later.
  - b. Repair body (Section 9,10 & 27) – We agree that if you are designated as a repairer ONLY, then you may not verify, but if you are designated as both a repairer and a verifier, then you must be allowed to perform the verification after the repair. We do however feel that the interaction must not be just left to the discretion of the minister, but rather to the technical regulations pertaining to the Bill.
  - c. An example. A customer (Post Office, Convenience store, scrap yard or petrol filling station) has a depot in Springbok. This means that his nearest main centre is Cape Town or Kimberley. Traveling distance of more than 500km to the nearest (Cape Town). Now the 24 month

verification period has expired and the customer contracts an accredited verification laboratory to re-verify his instrument. You travel all the way by LDV (R4.50/km) and/or Truck (R20/km) to perform the verification. During the test the instrument is found to be out of tolerance and that can be as little as 1kg in 60 000kg. You have to abort the verification, reject the instrument and close the client's business activities. Now he has to wait for a repairer to come out, once again from Cape Town and make the necessary adjustments, test the instrument and issue a guarantee, just so that the verifier can return to do the same again. We feel that this is impractical and the costs to the end user will be 3 times what they are currently paying, keeping in mind the many instruments in the field.

- d. The same will happen if the client has a breakdown on an instrument and he requires that someone comes to repair the instrument in question. After the parts are fitted or adjusted, the repairer must test the instrument fully and give a guarantee of its accuracy so that the client may use it. Now the client must get the services of an independent verifier to come out and do the verification within the prescribed period. If the verifier comes out and checks the instrument and it is out of tolerance, then the whole problem as mentioned above starts again.
- e. It is our opinion that the regulator (NRCS) feels they can solve some of their issues out in the field, but we feel this will make no difference of what is happening out there currently. Our solution to this segregation is the following:
  - i. Allow the Verification bodies to repair and verify.
  - ii. Allow the Repair body to only repair.
  - iii. The Minister and DTI needs to put a lot more inspectors on the road than just the 26 they currently can afford. We feel that the

inspectors should be enough to allow them to “follow” the repair and verification bodies out on the road on a regular basis and witness more of the repair and verification work that is being done out there. Remember that in volume and mass alone there is more than 180 registered verification laboratories currently and this excludes “repairers”

4. Information required by the regulator. In various sections it is required that the verification or repair body must give information to the regulator ie passing on the lists of verified, rejected and repaired instruments.

This information will now be in the hands of the NRCS or anyone that the CEO designates to do a certain function. We feel that some of this information is confidential information and the “property” of the private company and cannot be divulged to anyone else for example clients names will be passed on to other laboratories or used by the NRCS in a competitive manner to compete against the many other organisation involved in the verification of instruments etc.

- a. If however the NRCS does not verify instruments for gain (See point #1 above) we are prepared to pass on the information required to them. Section 25(3)(c) , Section 27(5) and various others needs to be amended.
  - b. If the NRCS does verify for gain, we will only pass on the number of verified instruments in each area with limited information to allow the NRCS and DTI to be able to get statistical information for their use.
5. Section 39 needs a bit of refinement, as rapists and serial killers get less. We might end up with all our shop owners sitting behind bars. The first draft had a warning system based on offences and maybe that should be reconsidered.

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