

To The Judge

27<sup>th</sup> February 2002

Case Number: (withheld)

&

Case Number: (withheld)

The County Court  
223 William Street  
Melbourne

Defendant: (withheld)

### THE CASE

LEGEND: Black & White & **Yellow Hi-Light Quotation NSC.** Blue & Red Printing My Words **Some Yellow Hi-Light**

## **TO PROVE THAT POLICE SPEED DETECTION DEVICES ARE NOT UNIFORMLY PATTERN APPROVED BY THE NATIONAL REGULATORY APPROVAL AUTHORITIES & ARE ILLEGALLY BEING USED BY STATE & TERRITORY GOVERNMENT REGULATORY ENFORCEMENT AGENCIES.**

In the particular case of all **SPEED DETECTION DEVICES**. They are **NOT PATTERN APPROVED** by the **National Standards Commission, (NSC)** the **Regulatory Approval Authority**. Because of not having a Pattern that has been Approved by an accredited organisation, the devices do not have Transparency nor Accuracy of measurement, nor do they have uniform Traceability to Australian hierarchy standards of measurements, ie: The Australian Legal units of measurement of a physical quantity. To ensure **Traceability & Accuracy**, the calibration at each level should be **carried out by an appointed, accredited organisation**, using approved equipment, traceable standards and appropriately trained personnel. Traceability is necessary both to ensure that all measurements are derived from and are consistent with the primary standards, as well as meet the legal requirements of **Section 10, of the National Measurement Act, (As seen in NSC Information Leaflets No 25 & No 4, Legal Metrology & Pattern Approval Design Criteria.)** **Therefore, devices used for regulatory purposes must be suitably Approved.**

**What's more, the Institution for Re-verification** of the instruments is not an appointed authority by The National Standards Commission and does not comply with the requirements of Section 10 of the Act, Traceability, or the Criteria of Pattern Approval?

This is obviously apparent according to the National Standards Commissions Leaflets, listed in the Appendix.

**It is particularly Evident in Leaflet No 4 LEGAL METROLOGY, Pages 1 through 5.**

**& Leaflet No 25 The National Measurement ACT. Pages 1 thru 4.**

### **A Recent Legal Decision**

In 1995, a Western Australian Fisheries prosecution concerning under size lobsters failed because the Magistrate Ruled that the evidence that the lobsters were under size, relying on the use of a Sheridan gauge, was inadmissible because it could not be shown that the measurements were taken in accordance with the National Measurement Act 1960. **Fisheries appealed** and on 4<sup>th</sup> April 1996, **Mr Justice Owen of the WA Supreme Court disallowed the appeal with the concluding remarks:** *"In my opinion section 10 of the Nation Measurement Act must be complied with when measurements are being taken for any legal purpose. The language of the section is in clear and imperative terms. The evidence was, in my opinion, properly excluded and I can discern no error in the Magistrate's decision to dismiss the complaint."*

**Section 10 of the National Measurement Act 1960 is explicit in its terms and the formalities which are to attend that performance.**

Measurements to be ascertained in accordance with appropriate standards of measurement, certified reference materials, or certified measuring instruments.

**SECTION 10 Quotes: - When, for any legal purpose, it is necessary to ascertain whether a measurement of a physical quantity for which there are Australian legal units of**

**measurement has been made or is being made in terms of those units, that fact shall be ascertained by means of, by reference to, by comparison with, or by derivation from:-**

See the complete Act on Page 8, of this defence or in the NSC Notes, or Appendix

## **THE KEY POINTS TO BE CONSIDERED IN THE DEFENCE OF THESE ALLEGED INFRINGEMENT NOTICES ARE:**

That the instruments are definitely not Pattern Approved for accurate or legal measurement at inception, by the National Standards Commission, to meet the Traceability provisions of section 10 of the National Measurement Act 1960. **AND NOT IN ANY OTHER MANNER.** *Leaflet No 4 Page 4 Box3*  
**The Instrument does not wear the National Standards Commission Approval number NSC**

For compliance to the NSC Pattern Approval process, the Approval Schedule would insist that the certificate of calibration show a minimum Requirement of Standard.

**Neither the Certificate of testing or the Requirements indicate, any standards of measurement used during testing, plus the testing procedure is incomplete. <<<<**

It is interesting to note the statement on the CERTIFICATE UNDER SECTION 83 of the Road Safety (General) Regulations 1999, as it states: "The test **(1 test only)** confirmed that the device **(not a measuring instrument)** was operating correctly in accordance with the requirements of those Regulations". **No** laboratory conditions were noted, at the time of the test, IE: ambient temperature, humidity, etc. Perfect conditions at all times? There is **No** Calibration mentioned, **No** Re-Certification or Re-Verification of any measurement used, what so ever. Only a test, **one test only** was done to see that the device was operating correctly, and that is all. What were the results of the test?

"WELL"

"The one test confirmed that the device was operating correctly, **but it does not say (ACCURATELY, just operating correctly)?** in accordance with the requirements of those Regulations", **that purports nothing. According to the requirements NO STANDARDS OF MEASUREMENTS are Mentioned or Required TO BE USED, TO TEST THESE INSTRUMENTS**  
**What sort of measurement system do we have here? It looks like "RAFERTYS RULES".**

Whether the instruments are also Electronically tested adequately, in consideration of adverse man made and environmental conditions that do exist. The Pattern Approval Process for Accurate Measurement does Electronically test for these conditions, which also meets the Legal & Traceability Requirements of Section 10 the National Measurement Act 1960. **RMIT does not do testing under these conditions. <<<<**

It follows that measurements made for law enforcement or other regulatory purposes, or which may become subject to legal proceedings, **have to be made in terms of the prescribed Australian Legal Units of Measurement to be accepted in a Court of Law.** Where Australian legal units of measurement have been defined for a physical quantity, then: *Leaflet No 4 Page 2 all*

1. **Contracts, dealings, etc, entered into with respect to the measurement of physical quantities shall only be valid** if expressed in Australian Legal units of measurement.
2. **and in order to show that a measurement has been made in terms of Australian Legal units of measurement, it is necessary to show that it is traceable.** (s12, see Box2 leaflet No4 Page 2)

**Traceability <<<<**

*Leaflet No 4 Page 3*

**Traceability** is the process whereby a measurement is referenced back to the appropriate Australian primary standard of measurement through a hierarchy of calibrations of increasingly higher accuracy (see Figure 1). **To ensure traceability, the calibrations at each level should be carried out by an accredited organisation, using approved equipment, traceable standards and appropriately trained personnel.** Traceability is necessary both to ensure that all measurements are derived from and are consistent with the primary standards, **as well as meet the legal requirements of s10 of the ACT (see Box 3 leaflet 4).** To facilitate this, Verifying

Authorities appointed by the Commission are empowered to issue certificates under reg13 that will be accepted as evidence in a Court of Law. **(RMIT has no such appointment)**

**Whether the Road Safety (General) Regulations 1999, provide Adequate and Satisfactory measurement requirements allowing for the testing of adverse man made and environmental effects, for the measurement process to be legal for the testing of Speed Measuring Instruments. Whether the process to be followed, is followed (whereby a measurement is referenced back to the appropriate Australian Primary Standards of Measurement through a hierarchy of calibrations of increasingly higher accuracy, for the instruments reading to be used as legal evidence in a Court of Law), and if not the instrument is unlawful and in accurate. <<<<**

**Whether the “testing authority” (RMIT) of the Instruments is in fact an authorised appointed authority, by the National Standards Commission, and that they (RMIT) are authorised to facilitate the requirements of Verifying Authorities. Appointed Verifying Authorities by the Commission ARE empowered to issue certificates under the requirements of the National Measurement Act 1960. Those who are not Appointed by the NSC as Verifying Authorities, are not authorised and should not issue certificates of accuracy. <<<<**

**Whether the “testing officer” in this case the “Technical Officer” of RMIT is authorised to issue a certificate of accuracy of the Instruments, and if he is not Authorised by the NSC, (according to the provisions of the Traceability requirements of the National Measurement Act 1960,) it is illegal for him to issue certificates of accuracy.**

**(The certificate indicates no Standards used) <<<<**

**Whether the Technical Officer of RMIT has the necessary approved equipment to adequately test the instrument for interference from man made and environmental effects on the instrument and is appropriately trained to facilitate the requirements of the Traceability provisions of section 10 of the National Measurement Act 1960. <<<<**

**That, the State Government Regulations as seen in The Road Safety (General) Regulations by the Roads Corporations, clearly conflict with the National Measurement Act. Section 109 of the Constitution provides that the National Measurement Act Prevails. This means, for example, that declarations of measuring instruments as being accurate for the purposes of State legislation cannot negate the requirements of the National Measurement Act,**

**“ which covers the field” <<<<**

*Leaflet No 4 Page 1*

### **A short example of a Pattern Approved Instrument/Device.**

I am the inventor & manufacturer of a Patented and **Pattern Approved Measuring Device** myself, which has given me a thorough understanding of the Trade Measurement System, & Legal Metrology. My device was manufactured and transported to the National Standards Commission For Pattern Approval. It was tested by the Trade Measurement Department of the A.C.T. and endorsed by them. It was then Tested by the National Standards Commission and Pattern Approved (Number NSC – S379) by them on 24<sup>th</sup> November 2000, issued under Regulation 63 of the National Measurement Regulations 1999. It is recognised by the Weights & Measures(Trade Measurement) Departments Australia Wide, as an Approved Instrument for use in Trade Measurement applications. Devices for regulatory purposes are no different, other than coming under the heading of Legal Metrology. They still have to be legal and accurate to be used in a Court of Law.

**If I may ask, Sir, I would like Your Honour to look at the Pattern Approval documents for my own device, in the Appendix, to see what is exactly involved in a Pattern Approval Document, of a very simple mechanical measuring device.**

As you can see Your Honour, even the Pattern Approval of this very simple device is quite complex. The Pattern Approval of an electronic device would be very elaborate, but it would also be very accurate, under all conditions. **Currently they are not Accurate or Legal.**

After the Pattern Approval was granted for my Device by the National Standards Commission, the Trade Measurement Department of the ACT enacted, the implemented Legislation immediately. The Oil Companies conformed to the legislation in the ACT on the 01-04-2001. Trade Measurement Departments in all the other States & Territories are drafting similar Legislation for immediate implementation and enactment. However this process will take several months to implement, and then enforce.

*The point in question here Sir, is that if I have to have my Device Pattern Approved, to be used as a legal measuring Device, to be used in a Court of Law, therefor, the Police Devices must have to be Pattern Approved, to be used in a Court of Law?*

*They have not been sufficiently tested or Approved to be used as a legal measuring Device, therefor, their accuracy in all conditions, in particular, adverse man made & environmental conditions have not been proven, and should not be used until they are Approved.*

*I firmly believe that these American built Police Speed Measuring Instruments/Devices will not pass the stringent testing by the National Standards Commission, that is required, and that this is the reason why they have not been submitted by the Police for Approval by the NSC.*

*EG : Herald Sun editorial on mobile phones and how they effect the operation of speed measuring devices. The Devices were removed from Service. Another Example.*

This document was prepared by my self, Ken Harris using the National Standards Commission notes, The National Measurement Act and Regulation Requirements. Other information was confirmed by telephone from the National Standards Commission. I also received some advice from a Mr Wolfgang Garwoli, a Police Speed Measuring Instrument Expert.

I requested the N.S.C. and Mr Garwoli to attend this hearing but they informed me that it would be at my cost. I could ill afford the fees or costs for either of these expert witnesses.

## **The National Measurement Act <<<<**

From NSC Leaflet No 25 page No 1

***“Australia must ensure that measurements are what they purport to be and give legal sanction to its National Standards of Measurement”***

Hon. J.J. Dedman, House of Representatives, 9<sup>th</sup> June 1948

**Introduction** As per Leaflet No 25.

### **Objects of the Act.**

The Objects of the Act Are:

- (a) **to establish a national system of units and standards of measurement of physical quantities**
- (b) **to provide for the uniform use of those uniform units and standards of measurement throughout Australia;**
- (c) **to coordinate the operation of the national system of measurement;**

**(d) to bring about the use of metric system of measurement in Australia as the sole system of measurement of physical quantities**

## **The Role of the National Standards Commission.**

Leaflet No 25 March 1995 & Leaflet No 9. April 1996 (Pages 2 & 3)

The National Standards Commission is a Commonwealth Statutory Authority established in 1950 and operating under the National Measurement Act 1960. It has responsibility for advising the Government on the scientific, technical and legislative requirements of the Australian National Measurement System. It has specific responsibilities for coordinating the National Measurement System, for legal metrology and for trade measurement. The Commission's role is to Co-ordinate the National Measurement System so that the necessary measurement infrastructure is available to support the development and expansion of high technology industries and to provide confidence in the validity of measurements used in industry, commerce and the community. Measurement has been a pervasive and significant factor in innovation and industrial development. It has been estimated that measurement related activities each year contribute about four percent to the value of the gross national product of modern industry societies. One of the responsibilities of the Commission under the National Measurement Act is the pattern approval of trade measuring instruments.

**Pattern approval** aims to ensure that instruments will maintain their measurement accuracy in use and will not be unduly influenced by environmental conditions (such as temperature, humidity or electromagnetic interference, etc. The Commission's pattern approval procedures are carried out in accordance with international standards, developed by the International Organisation of Legal Metrology (OILML). The National Standards Commission provides Australian representation on OILML. Following testing and approval of trade measuring instruments to the international specifications, **the Commission issues a Certificate of Approval.** Thereafter, instruments of that design may be used for trade after verification (eg a calibration check) by State or Territory Trade Measurement inspector or certification by a registered service organisation. <<<<

To ensure legislative and administrative uniformity in the National Trade Measurement System, the Commission chairs a committee consisting of representatives from All State and Territory Trade Measurement Authorities. This committee is known as the Standing Committee on Trade Measurement (SCTM). It meets twice yearly to discuss the operation of the trade measurement system.

To allow for information flow throughout the system, the Commission also chairs a trade industry standing committee, the Trade Measurement Consultative Committee (TMCC) where matters of a technical nature are discussed in greater depth with:

- ◆ Industry organisations, manufacturers and importers involved with or in the trade measurement industry:
- ◆ Trade Measurement representatives: and
- ◆ Consumer representatives

The TMCC thus provides a forum where interested parties can contribute to technical and other specifications being prepared by Commission personnel.

### **Australian Trade Measurement**

The primary function of any trade measurement system is **to ensure “good measure”** for all parties to transactions. In any transaction, good measure is the other side of the coin to “good money”. Good measure is a complex concept involving the expectations of the parties and their confidence in the measurements without which a market could not exist. If confidence does not exist, parties to transactions must expend extra resources searching, negotiating, disputing and transacting. Good measure embraces the ideas that measurement is fit for its purpose, that a balance has been struck between the costs and practicalities of the measurement and the need for accuracy and reliability: that the quality being measured is related in some definite way to the quality that the parties value: and that the parties are familiar with the measurement and have confidence in it for their purposes.

Good measure also includes **equity, fairness and transparency.** This means that all parties should be treated equally so far as the measurement is concerned, that there are no systematic biases favouring one party over another, and that all parties are equally informed as to factors which affect the quantity or amount of the commodity they value which they will actually exchange. Good measure should not be susceptible to fraud and it should conform to expectation that the measurement is what it is purported to be and what the parties expect it to be.

-----End Leaflet 9 (Pages 2 & 3)-----

## **Continuing The National Measurement Act <<<<**

From Leaflet No 25 page 1

### **The Role of the National Standards Commission**

Page 2

- (a) to furnish advice to the minister on matters relating to the administration of the Act;
- (b) to promote and coordinate the use in Australia of a uniform system of units and standards of measurement of physical quantities;
- (c) to consult and cooperate with appropriate State and Territory authorities on matters relating to legal metrology and the use of units of measurements in the packaging of articles for sale;
- (d) to consult and cooperate with the International Organisation of Legal Metrology and other appropriate international organisations on matters relating to legal metrology;
- (e) to examine and approve patterns of measuring instruments; <<<<
- (f) to take appropriate steps to ascertain whether measuring instruments with an approved pattern are in accordance with the pattern;
- (g) to promote the adoption in the States and Territories of uniform legislation related to :
  - (1) patterns of measuring instruments for use for trade; and
  - (2) the use of units of measurements in the packaging of articles for sale;
- (h) to provide information relating to units of measurement and standards of measurement;

- (i) to bring about progressively the use of the metric system of measurement in Australia as the sole system of measurement of physical quantities.

## The National Measurement Act and the National Measurement Regulations

Federal Government legislation in the form of the Act and the National Measurement Regulations (the Regulations) in power under the Act, apply to the measurement of all Physical quantities throughout Australia in commerce, industry, government, science and the community.

Under section 7A of the Act, Australian legal units of measurement are defined in the Regulations for 35 physical quantities including length, area, mass, volume, angle, time interval, frequency, electrical quantities, photometric quantities and radiation quantities. The Act also provides for the combination of legal units, not otherwise prescribed, to be legal units of measurement.

Regulations made under force of the Act may prescribe Australian legal units of measurement of any physical quantity. Such units are the sole legal units of measurement of those physical quantities, with the exception of certain additional units, which have been prescribed for particular purposes. These non-SI units include the inch for the use in the electronics and computer industries, the kilocalorie to measure food energy values, the millimetre of mercury to measure blood pressure and the horsepower to measure engine rating in the aviation industry.

**In order to ensure national uniformity, section 19A of the Act empowers the National Measurement (patterns of Measuring Instruments) Regulations. These Regulations specify that all new patterns of measuring instruments intended for trade use must be submitted to the Commission for examination. Pattern approval aims to ensure that instruments will maintain their accuracy between verifications and will not be adversely affected by changes in environmental conditions such as temperature, humidity, electromagnetic interference etc. Once a pattern is approved any instrument complying with the pattern can, after successful verification and marking by a trade measurement authority, be used for the purpose of trade throughout Australia.**

Page 3 Leaflet No25

## Traceability and Legal Measurement <<<<

**Legal metrology comprises all measurements carried out for any legal purpose and includes measurements that are subject to regulation by law or government decree. In addition to those measurements administered by trade measurement authorities, it also includes trade measurement of electricity, gas, water, telephone and taxi meters as well as measurements in areas such as occupational health and safety (eg: acoustic power and ionising radiation) and traffic control (vehicle speed and breathalysers).** <<<<

**The Act requires that where Australian legal units of measurement have been defined for a physical quantity, then measurements of that physical quantity shall only be legal when they are traceable to the Australian primary standards of measurement.** <<<<

**Traceability is the process whereby a measurement is referenced back to the appropriate Australian primary standard of measurement through a hierarchy of calibrations of increasingly higher accuracy. To ensure traceability, the calibrations at each level should be carried out by an accredited organisation, using approved equipment, traceable standards and appropriately trained personnel. Traceability is necessary both to ensure that all measurements are**

**derived from, and are consistent with, Australian primary standards as well as meet the legal requirements of section 10 of the Act. <<<<**

**Traceability also has economic importance for all trade measurements, measurements made for government regulatory purposes** and also in international dealings such as off set and joint venture contracts, where it is necessary to demonstrate traceability to the national standards and through then to international standards.

**SECTION 10 <<<<**  
***Of the National Measurement Act 1960,  
 is explicit in its terms, and the formalities  
 which are to attend that performance.***

States and Territories may enact legislation in respect of the verification of means of measurements **provided that there is no inconsistency with section 10 of the Act.**  
**Section 10 of the Act requires that a legally traceable measurement of a physical quantity may only be made by means of,** by reference to, by comparison with, or by derivation from:

- (a) an appropriate Australian primary standard of measurement;
- (b) an appropriate Australian secondary standard of measurement;
- (c) an appropriate State primary standard of measurement;
- (d) an appropriate recognised-value standard of measurement;
- (e) an appropriate reference standard of measurement;
- (f) two or more standards of measurement, each of which is a standard of measurement referred to in (a), (b), (c), (d) or (e);
- (g) a certified reference material;
- (h) a certified measuring instrument;
- (i) one or more standards of measurement, each of which is a standard of measurement referred to in (a), (b), (c), (d) or (e); and a certified reference material;
- (j) one or more standards of measurement, each of which is a standard of measurement referred to in (a), (b), (c), (d) or (e) and a certified measuring instrument; or
- (k) one or more standards of measurement, each of which is a standard of measurement referred to in (a), (b), (c), (d) or (e) a certified reference material and a certified measuring instrument.

**and not in any other manner. <<<<**

Page 4 leaflet No 25

**The definition of legally traceable measurement is very broad. In the present climate of increasing litigation, it is timely to consider whether measurements that are physically traceable need also to be legally traceable.**

**However measurement made that are physically traceable must meet the requirements of Section 10 of the National Measurement Act 1960. <<<<**

**Uniformity**

**Prior to the mid-1960s' the pattern approval of measuring instruments was carried out by the States and Territories. At the request of the trade measuring industry for uniformity,**

**this activity was centralised at the Commission.** More recently the Commission has chaired a working party that has developed Uniform Trade Measurement Legislation that is being enacted by All State and Territory Governments.

### **Verifying Authorities**

**Australia has two principal methods of disseminating standards of measurement to prove traceability to Australian primary standards of measurement held and maintained by the National Measurement Laboratory at the CSIRO Division of Applied Physics in Sydney. One method is through the National Association of Testing Authorities, Australia (NATA), and the other is through the appointment of verifying authorities by the Commission.**

Reg 77 is now Reg 74

**The Commission appoints verifying authorities under Regulation 77 of the Regulations in force under the Act. Verifying authorities are appointed where there is a need for legally traceable measurement, such as measurements that form the basis for government regulation, agreements, contracts and court proceedings. <<<<**

Currently, the only approval authority is the NSC.  
reg 13

Reg 80 is out of date. Now

**A verifying authority is empowered to issue certificates under regulation 80 that attest to the verification of a standard of measurement. Such a certificate is evidence of the matters stated in it and may be received as evidence in any court of law.**

**An increasing number of measurements are being made for regulatory purposes, and these require traceability within the meaning of section 10 of the Act, eg. vehicle speed, breathalyser measurements and measurements for environmental monitoring. Many of the measurements are made by laboratories that have not been appointed as verifying authorities, but which may be able to demonstrate a chain of calibrations to Australian primary standards.**

**Advice from the Attorney General indicates that measurements from a particular laboratory, although being able to demonstrate a chain of calibrations, may not comply with section 10 of the Act, and could be excluded from legal proceedings on the basis of the hearsay rule of evidence. <<<<** Certificates issued under regulation 80 of the Regulations are always admissible as evidence in legal proceedings. Reg 80 is out of date Now Reg 13 as per the NSC

Reg 77 is now Reg 74

**In order to be appointed as a verifying authority under Regulation 77, an applicant must satisfy the following conditions: <<<<**

- (a) there is a reasonable need to verify standards of measurement for purposes of administering a State or Federal law;**
- (b) adequate test facilities are available;**
- (c) competent staff, who can be identified, are employed; and**
- (d) valid standards of appropriate accuracy are held and maintained**

**The applicant laboratory shall also enter into agreement with the Commission upon;**

- (a) the manner of expressing and calculating the accuracy of a measured value;**
- (b) the least uncertainty to be expressed in Regulation 80 certificates; and**

Reg 80 is out of date Now Reg 13

**(c) the form of certificate that the appointee proposes to issue in accordance with Regulation 80.** Reg 80 is out of date Now Reg 13

**End leaflet No 25**

**Trade Measurement in Australia.**

From Leaflet No 14

**Trade Measurement Legislation**

Trade Measurement in Australia is controlled by complementary Commonwealth and State Laws. The Commonwealth law is the National Measurement Act 1960 and the State and Territory Law is the Uniform Trade Measurement Legislation currently being enacted in all States and Territories throughout Australia. The starting point for understanding how these laws together control Trade Measurement is the definition of “use for trade”, contained in both pieces of legislation. The definition contained in the National Measurement Act states:

“use for trade” in relation to a measuring instrument, means use of the measuring instrument for either or both of the following purposes:

- (a) determining the consideration in respect of a transaction;
- (b) determining the amount of tax.

**Therefore, where money changes hands based on the measurement of a physical quantity made by a measuring instrument, that measuring instrument is in use for trade.**

**Verification & Certification**

Before a measuring instrument can be used for trade, it must be verified by a State Trade Measurement Inspector or a licensed certifier and marked with an inspector’s mark or certifier’s mark. Section 13 (1) of the Uniform legislation states:

**The requirements for verification or certification of a measuring instrument are as follows:**

**(a) the instrument must operate within the appropriate limits of error that may be tolerated under the National Measurement Act at verification; <<<<**

**(b) the instrument must be of an Approved Pattern; and <<<<**

**(c) the instrument must have no graduations in the unit of measurement other than a unit of measurement under the metric system of measurement within the meaning of the National Measurement Act (except in circumstances that are prescribed as exempt from this paragraph or in a case determined by the administering authority to be a special case).**

-----end page1-----

**Pattern Approval <<<<**

**The Commonwealth has the responsibility to ensure that the design of the measuring instrument meets certain criteria to ensure accurate measurement. This is known as Pattern Approval.**

**The Commission carries out this responsibility for the Commonwealth by examining the designs of measuring instruments and testing sample instruments, for accuracy.**

The specifications against which a sample instrument is tested agree to the greatest possible extent with international specifications. **Once the pattern (design) of an instrument has been approved, the Commission issues a certificate of approval and subsequent production instruments made to the pattern must be marked with the NSC number contained in that certificate. The marking of this number on a production instrument is the primary indication to a State inspector or a licensed certifier that the measuring instrument is of an Approved Pattern.** <<<<

## Offences Under Commonwealth and State Laws

### (1) Under Commonwealth Law:

**19B A person shall not falsely represent – <<<<**

- (a) that a pattern of an instrument is in accordance with a pattern approved by or on behalf of the Commission as a pattern of an instrument suitable for use for trade; or
- (b) that an instrument is in accordance with a pattern so Approved. <<<<  
(Penalty: \$6,000-00 or \$30,000-00 for a Company.)

### (2) Under State and Territory Law:

- (a) Could Apply as per leaflet No 14
- (b) “ “
- (c) “ “
- (d) “ “
- (e) “ “

-----end page 2 Leaflet 14-----

## **Leaflet No 4 LEGAL METROLOGY <<<<**

### Scope of Legal Metrology

**Legal metrology comprises all measurements carried out for any legal purpose and includes measurements that are subject to regulation by law or government decree. It has its historical origins in the need to ensure fair trade, but also includes measurements in areas such as health and safety (sound level meters and radiation dosimeters), and traffic control (vehicle speed and breathalysers).** <<<<

The Commonwealth Constitution empowers the Federal Parliament to make laws with respect to “Weights and Measures” (s51(x v)). In 1948 the Commonwealth used this power to enact the National Measurement ACT 1948, and in 1950 established the National Standards Commission to advise the Government on measurement related issues and to coordinate the National Measurement System. Subsequently, the 1948 act was replaced by the current legislation, the National Measurement Act 1960 (the Act), which expanded the scope of the Act.

It concludes that:

**Where State and Territory laws conflict with the National Measurement Act, the Constitution provides (s109) that the National Measurement Act Prevails. This means, for example, that declarations of measuring instruments as being accurate for the purposes of State legislation cannot negate the requirements of the National Measurement Act.** <<<<

### Australian Legal Units of Measurement <<<<

The Act provides for regulations to prescribe Australia's legal units of measurement of physical quantities (s7, 7a, see Box 1)

### Australian Legal Units of Measurement <<<<

See Box 1 on Leaflet No 4 ( Page 1)

-----end page 1 Leaflet No 4-----

Leaflet No 4 (Page 2)

**It follows that measurements made for Law Enforcement or other regulatory purposes, or which may become subject to legal proceedings, have to be made in terms of the prescribed Australian legal Units of Measurements to be accepted in a Court of Law. <<<< Where Australian legal units of measurement have been defined for a physical quantity, then:**

- (1) **contracts, dealings etc entered into with respect to the measurement of physical quantities shall only be valid if expressed in Australian legal units of measurement <<<<** (s12, see Box 2); and

See Leaflet 4 (Page 2) for Box 2 Section 12

- (2) **in order to show that a measurement has been made in terms of Australian legal units of measurement, it is necessary to show that it is traceable. <<<<**

-----end page 2-----

Leaflet No 4 (Page 3)

### Traceability <<<<

Traceability is the process whereby a measurement is referenced back to the appropriate Australian primary standard of measurement through a hierarchy of calibrations of increasingly higher accuracy (see Figure 1). **To ensure traceability, the calibrations at each level should be carried out by an accredited organisation, using approved equipment, traceable standards and appropriately trained personnel.** Traceability is necessary both to ensure that all measurements are derived from and are consistent with the primary standards, **as well as meet the legal requirements of section 10 (see Box 3). To facilitate this, Verifying Authorities appointed by the Commission are empowered to issue certificates under regulation 80 that will be accepted as evidence in a Court of Law.** (RMIT has no such appointment) Traceability also has economic importance for all trade measurements; **measurements made for government regulatory purposes** and also in international dealings such as offset and joint venture contracts, where it is necessary to demonstrate traceability to the national standards and through them to international standards.

The Pyramid displays: - See Leaflet 4 Page 3 Figure 1 <<<<

**Figure 1 Displays: Australia's hierarchy of physical units and standards.**

**Note: that the NSC, National Measurement Act Only, Displays AUSTRALIAN LEGAL UNITS. <<<<**

Because of its role in the origins of legal metrology, the trade measurement area has long had legislation ensuring the traceability of its measurements. This State and Territory "weights and measures" legislation (the Uniform Trade Measurement Legislation in most jurisdictions) **requires**

trade measurements to be made with Commission Approved Measuring Instruments which are verified by trained personnel using approved test methods and traceable measurement standards. Thus the State and Territory trade measurement legislation forms a metrological control system to ensure that the broad provisions of (s10) of the Act are adhered to.

-----end page 3-----

#### Leaflet No 4 ( Page 4 )

**Other fields of legal metrology do not as yet have Specific State or Commonwealth legislative provisions to ensure that measurements meet the traceability provisions of section 10 of the Act. Recent court cases have however confirmed that this provision applies equally to all measurements, which become subject to legal action. Two cases are discussed briefly in the next section. <<<<**

**See Leaflet 4: Box 3 Page 4: Section 10 for complete version.**

And I Quote:

**Measurements to be ascertained in accordance with appropriate standards of measurement, certified reference materials or certified measuring instruments.**

**10. When, for any legal purpose, it is necessary to ascertain whether a measurement of a physical quantity for which there are Australian Legal Units of Measurement has been made or is being made in terms of those units, that fact shall be ascertained by means of, by reference to, by comparison with or derivation from:**

**(a) through to (k) (see Leaflet 4 Page 4 Box 3)**

**and not in any other manner. <<<<**

#### **Recent Legal Decisions <<<<**

In 1995, a West Australian Fisheries prosecution concerning under size lobsters failed because the magistrate ruled that evidence that the lobsters were under size, relying on the use of a Sheridan gauge, was inadmissible because it could not be shown that the measurements were taken in accordance with the National Measurement Act 1960. Fisheries appealed and on 4 April 1996, Mr Justice Owen of the WA Supreme Court disallowed the appeal with the concluding remarks:

***"In my opinion section 10 of the Act must be complied with when measurements are being taken for any legal purpose. The language of the section is in clear and imperative terms. The evidence was, in my opinion, properly excluded and I can discern no error in the Magistrate's decision to dismiss the complaint"*** <<<<

-----end page 4-----

#### Leaflet No 4 ( Page 5 )

In Queensland in 1995 a defendant was convicted in the magistrates court of a drink driving charge. In the course of his defence, he had raised doubts as to the admissibility of the breathalyser reading, based in part on evidence that the instrument had not been calibrated in accordance with Section 10 of the National Measurement Act. The defendant appealed and on 27 March 1996 QLD District Court Judge Morley allowed the appeal in a long and closely reasoned judgement which said in part that:

**“Already stated in my conclusion that the National Measurement Act (Cth) s10 is mandatory rather than directory. Section 10 is another example of a statute which has been enacted for the purpose of enabling something to be done and it prescribes, in imperative terms, the formalities which are to attend that performance” <<<<**

### **Certified Measuring Instruments**

The Commission already has the power to **approve the design** of measuring instruments **used for legal purposes** and, in the absence of complementary legislation similar to the States, present trade measurement legislation, has instigated amendments to the National Measurement Regulations to provide for the metrological control of specified classes of legal measuring instruments.

The legislative changes instigated by the Commission have recently been given further impetus by the Report of the Inquiry into **Australia's Standards** and Conformance Infrastructure (the Kean Report), released in 1995. In addition to recommending National Trade Measurement Legislation (Recommendation 5) to be incorporated in the Act, the report recommended that the Act be amended to provide for **mandatory requirements for specified** (eg water, gas, electricity) **and legal measuring instruments** (Recommendation 6). Legal measuring instruments include those used for medical and forensic use, **in addition to police, fisheries and other regulatory areas discussed earlier. In fact, any measurement which becomes the subject of legal proceedings would be considered a legal measurement and evidence of compliance with the requirements of the Act could be required.** <<<< End of Leaflet No 4

(Other Leaflets listed but not specifically mentioned in this Case Defence, are available for scrutiny under Appendix, at the rear of this document.) These include all of the below.

#### **Appendix:**

Charge and Summons

Letter to the Attorney Generals Department Victoria. <

**The Pattern Approval Certificate of my own Device, and Accompanying Documents** <

**Speed Device Test Certificate Under Section 83 Road Safety Regulations.**

**Road Safety (General) Regulations 1999**

**Section 10 of the National Measurement Act 1960.** <<<<

**Sections No's 1 through 20 National Measurement ACT.**

**OIML Document Dated 1994. General Requirements for Electronic Measuring Instruments.**<

Leaflet No 0 National Standards Commission.

Leaflet No 1 Pattern Approval Laboratory.

Leaflet No 2 Verifying Authorities.

**Leaflet No 4 Legal Metrology.** <<<<

Leaflet No 9 The Role of the National Standards Commission.

Leaflet No 14 Trade Measurement in Australia.

Leaflet No 24 Australia's National Measurement System.

**Leaflet No 25 The National Measurement ACT. <<<<**

Leaflet No 26 Metrological Control of Measuring Instruments.

**Primary Case History, Judge Owen WA Supreme Court. <<<<**

**Speed Fines put in doubt. Herald Sun Article. <<<<**

## **(SELF APPROVAL IS UNLAWFUL)**

**The Road Safety (General) Regulations 1999 provides for the Roads Corporation to be the Testing Authority (See Regulation 105 " Definitions ")**

**And the expression " testing authority ". SIR, In my defence submission, this plainly contravenes S109 of the Constitution in purporting to displace the National Measurement Act, which " covers the field " <<<<**

**Now we have a situation where a Government Corporations Regulations allow for:**

- (1) Approving their own device as a Speed Measuring Instrument,
- (2) Can Verify/Certify their own device as an Accurate Speed Measuring Instrument,
- (3) Can operate their own Self Approved, supposedly Accurate Speed Measuring device and collect revenue for the government, from a non approved or accurate or non compliance device.

**Where is the Transparency & Traceability of Measurement Standards or Justice?  
in these regulation procedures?**

**The Roads Corporation Devices effected by these non-compliances are:**

1. Speed Camera's
2. Digitector,
3. Radar Device's
4. Laser Device's
5. Portable Weighing Device's
6. Dynamic Axle weighing Device's
7. Environmental Regulatory Device's

**The Victorian State Government Regulatory Devices listed above are Inconsistent with Pattern Approval Designs and require Transparency of their Calibration, which requires them to be Traceable using Australian legal Units of Measurements of a physical quantity to be accurate & legal. To be legally used as evidence in a court of law instrument must meet the Traceability Requirements of (s10) of the National Measurement Act, **which they clearly do not.****

**I say to Your Honour,  
If the Instruments are not Pattern Approved,  
Their use is illegal. <<<<**

**The National Standards Commission have been requesting Police to have Speed Detection Instruments Pattern Approved for some years and they have declined. << Why is this? I say again to Your Honour, why do they refuse to have these Instruments Pattern Approved.**

**I believe that the Roads Corporation Devices listed above 1 through 7 will not pass the stringent testing of Pattern Approval. Therefor their use is illegal. <<**

The Police are still talking to the NSC, Re Pattern Approval of speed measuring devices. The NSC, reported (this, to me, by phone, on Thurs. 11<sup>th</sup> Oct 2001)

**Police Breathalyser Instruments have only recently been Pattern Approved by the National Standards Commission. (As recent as late December 2000)  
Why approve this device and not all the others?**

## **A GENERAL OVERVIEW OF THE NATIONAL STANDARDS COMMISSION PATTERN APPROVAL LABORATORY AND CRITERIA <**

**The National Standards Commission, Pattern Approval** is performed in accordance with Australian Standards and International Standards. Pattern Approval is a standard in itself. It is performed to uphold Uniformity of the Standards of Measuring Instruments through out the country. **Australian Standards are set in accordance with International Standards to uphold uniformity worldwide.**

The Commissions facilities allows for stringent testing of electronic measuring instruments that are effected by **environmental conditions** such as : (high & low **temperature, humidity, sunlight, electromagnetic interference**, (high voltage powerlines) **static electricity** (created by friction,) (electrostatic discharge, electrical bursts & power reduction tests at low frequencies)), **vibration, and human abuse.**

**Since first writing this defence, there has been another anomaly effecting speed measuring devices, that has not been tested for in Australia, or Overseas. This is the effect of radiation from mobile phones, and they're transmitting towers.**

These testing procedures are carried out on new equipment to ensure measuring instruments are accurate and that they will maintain their accuracy between verifications, and will not be adversely effected by these man made and environmental conditions. <<<<

On conclusion of successful testing, the instrument must then under go: Description of Pattern, design specification, certification/verification procedures, the maximum permissible errors, instrument sealing, procedures for testing. All of these specifications come under the heading of the Technical Schedule.

### **Technical Schedule, A Broad Outlook.**

- (1) The Name of the instrument and its application.
- (2) The Submitters name and address.
- (3) A detailed description of the Instrument and the application it is going to be used for, together with any other approved equipment and formula, or thing that are required to be done. The scale of graduation, the adjustment, it's sealing & position
- (4) Verification/Certification. Provision for mark, verified & marked by a State trade measurement inspector, or by an appointed, approved organisation using certified equipment, approved procedures and accredited staff.
- (5) Sealing Provisions are ensured and adjustments are sealed.
- (6) Markings: that the instrument is appropriately marked with the Commissions approved markings including NSC Pattern Approval Number.
- (7) Testing Procedure: That the Instrument has been tested to the Commissions approved level of calibration (section 10 of the Act), according to Australia's hierarchy of physical units and standards, and to ensure that the instrument is operating within the maximum permissible errors, with strict operating procedures.

Now that the Technical Schedule is completed, the Commission would issue an Interim Supplementary Certificate of Approval. After final drafting of the Technical Schedule, the

Commission would issue the Final Certificate of Approval of a Pattern. This Certificate of Approval is renewable in 5 years.

### **TO SUMMARISE, THE EVIDENCE GIVEN TO DATE**

The Police Speed Detection Instruments (Devices) do not meet the stringent Laboratory Approval Testing Criteria for Pattern Approval, as in the National Standards Commission Approval of a Pattern so designed to meet the Traceability Requirements of Section 10 of The National Measurement Act, in Victoria, and possibly, Australia wide.

These Instruments that are being used for regulatory purposes, lack adequate testing and accuracy, and do not meet the Legal Requirements of the Traceability provisions of s10 of the National Measurement Act 1960. Instruments in use for regulatory purposes require measurements to be made by an appointed authority with Commission Approved measuring instruments which are verified by trained personnel, using approved test methods and traceable measurement standards, to be used as legal measuring instruments, in a Court of Law. As stated in the National Measurement Act.

The instruments measurements lacks Transparency in that they are not tested for adverse man made or environmental effects on the Instrument. They are not Pattern Approved by any Australian accredited body corporate or by the National Standards Commission from new. They do not meet the Legal Requirements of the Traceability provisions of Section 10 of the National Measurement Act. The instruments have not been calibrated to the legal standards required by the National Measurement Act. <<<<

**Traceability** is the process whereby a measurement is referenced back to the appropriate Australian primary standards of measurement through a hierarchy of calibrations of increasingly higher accuracy. To ensure traceability, the calibrations at each level should be carried out by an accredited organisation, using approved equipment, traceable standards and appropriately trained personnel. Traceability is necessary both to ensure that all measurements are derived from, and are consistent with, the Australian Primary Standards of Measurements as well as meet the legal requirements of section 10 of the National Measurement Act 1960. <<<<

**For an Instruments Measurement to be used as evidence, and be legal in a Court of Law, the measuring instrument must demonstrate Traceability!**

The National Measurement Act 1960 requires that where Australian legal units of measurement have been defined for a physical quantity, then measurements of that physical quantity **SHALL ONLY BE LEGAL** when they are traceable to the Australian primary standards of measurement. Leaflet 25, Page 3, Para 2. <<<<

The Inadequate Calibration of these Instruments has no Traceability what so ever, as the organisation who test these instruments (RMIT) is not accredited by the National Standards Commission to test them. This would therefor indicate to me that the Instrument itself could not be used to produce evidence in a Court of Law, as they do not meet the Traceability or Legal Requirements of Section 10 of the National Measurement Act. <<<<

The Road Safety (General) Regulations 1999, by the Roads Corporation are not the Approval Authority for testing organisations for the use of Australian Standards, nor are they the Approval Authority for Measuring Instruments, or Measuring Devices. Their **Certificate under section 83 of the Road Safety (General) Regulations**, of Certification or Re-verification of Speed Measuring Instruments does not meet the requirements (The Australian legal Standards) of the National

Standards Commission, or as in **Pattern Approval Requirements**. Nor does the **CERTIFICATE UNDER SECTION 83** meet the Traceability Requirements of Section 10 of the National Measurement Act 1960, as there is **no mention of any standards used for testing, or written proof on the certificate or in the Road Safety (General) Regulations**. These instruments are tested in accordance with the requirements of those State Regulations. <<<<

**“testing authority” authorised by Roads Corporation?** The Approved Testing Authority /Institution in this case RMIT, for Re-verification of the Instruments / Devices is not an Appointed Authority by the National Standards Commission and therefor does not comply with the Traceability Requirements of Section 10 of the National Measurement Act 1960. <<<

**“testing officer” In this case C BURDEN Technical Officer**, as authorised by the Road Safety (General) Regulations 1999 of these devices, was not approved by the NSC and was obviously unaware of the fact that, RMIT and Staff should have been aware that if there is no Pattern Approval number by the NSC on the instrument, that the Instrument is not of an Approved Pattern. If the Testing Authority and officer were an appointed authority by the NSC, they would have known not to Re-verify an illegal or unapproved instrument. <<<<

**Finally, the Commonwealth Constitution provides (section 109) that where State and Territory laws conflict with the National Measurement Act, the National Measurement Act Prevails. This means, for example, that declarations of measuring instruments as being accurate for the purposes of State legislation cannot negate the requirements of the National Measurement Act.** <<<<

**The Testing Certificate** <<<<

In this particular case, and others similar, the CERTIFICATE UNDER SECTION 83 of the Road Safety (General) Regulations 1999 (calibration check) or certification by a registered or appointed service organisation, indicates NO Australian Standards were observed or indicated on the certificate of testing. Nor do the Road Safety (General) Regulations 1999; indicate any Australian Standards of Measurement to be used to re-verify the device. Nor is the organisation (RMIT) an appointed or registered, re-calibration authority by the NSC. **In other words RMIT is not an appointed, or an accredited organisation, (by the NSC) using approved equipment, traceable standards or appropriately trained personnel. They do not have the authority or the credentials to calibrate or re-verify or test any instruments for accuracy.**

**It has been reported to me by Mr Wolfgang Garwoli (A Speed Measuring Instrument Expert) that RMIT Testing of these Instruments only relates to Doppler frequency testing.**

**Other tests and measurements for interference from adverse external conditions are not carried out by RMIT. All other measurements or things that are required to be done to make these instruments legal, must be made, tested or measured in physical quantities of the Australian legal units of measurement of those measurements. All other testing for calibration, certification or re-verification of the instruments should be noted on the certificate, for Transparency purposes. The conversion factor from Doppler Frequencies to kilometres per hour, should also be noted on the certificate, in the physical quantity for which there are Australian legal unit of measurement. All of these measurements should be able to be verified on the certificate of accuracy, for transparency purposes, and are not. Mr Garwoli totally agree’s with me, that all of the Evidence that I have supplied is true and correct. That the Police Speed Measuring Devices are inaccurate and illegal because of inadequate testing and measurement requirements not meeting the Traceability provisions of Section 10 of the National Measurement Act 1960, (the Act.)** <<<<

**This would therefore indicate that the calibration certificates issued by RMIT, are illegal certificates as are the Instruments illegally and inconclusively calibrated, therefor; they can**

not be produced as evidence in a Court of Law. Both the Instrument and the Certificate indicate inadequate, inaccurate, illegal Measurement. <<<<

As I have previously quoted:

**Under Commonwealth Law: 19B A person shall not falsely represent –  
that an instrument is in accordance with a pattern so Approved.  
(Penalty: \$6,000-00 for a person or \$30,000-00 for a Company.)**

Although RMIT may be able to demonstrate a chain of calibration to the Doppler Frequencies of measurement standards. **The calibration of measurements are incomplete and inaccurate and illegal, as are the testing of performance of the Instrument to Manufacturers Durability Specifications under certain extreme adverse man made & environmental conditions. RMIT are neither, authorised, appointed, accredited nor are they legally capable of performing the duties required.**

Those duties are:

<<<<

Performing, the Pattern Approval procedures for the requirements of Legally accurate Measuring Instruments.

Calibrate or certify instruments adequately or conclusively to be accurate to be used as Legal Evidence in a Court of Law.

Re-verify or Re-certify Instruments adequately or conclusively to be accurate to be used as Legal Evidence in a Court of Law.

Write Calibration Certificates to be used as accurate Legal Evidence in a Court of Law.

Calibrate or Re-verify Instruments with out the necessary approved equipment, approved testing methods, and appropriately trained personnel.

To Authenticate the Essential True and Uniform, Legal Accurate Measurement of these Police Speed Measuring Instruments.

Perform, to Achieve Specific Testing Requirements as seen in (O.I.M.L, D11) for Electronic Measuring Instruments under certain conditions. Test and or Re-Calibrate, adequately or conclusively to the Manufacturers Durability Specifications, for accuracy, when adverse man made or environmental conditions, have hostile inaccurate consequence on the electronic measurement of the Instrument, under those conditions in the field.  
(See D11 Below) & in appendix

**Because of all of the above, the Measurements of the Instrument will be inaccurate and illegal, therefor the certificate of accuracy cannot be used as evidence in a Court of Law.**

It has been brought to my attention only in the last few hours of me preparing this defence document, that there are Specific Testing Requirements for Electronic Measuring Instruments. The Recommendations (D11) came from the International Organisation of Legal Metrology. (OIML) Approved & Dated 1994. OIML Recommendations are generally adopted by the National Standards Commission and in turn the Standards Association of Australia, and in this case, were adopted and enforced accordingly.

(D11) To Establish Metrological Characteristics, Stability, Performance and Uniformity of the Accuracy of  
Electronic Measuring Instruments.

<<<<

Electrical Testing of the Electronic Measuring instrument is required to meet the General Requirements for Electronic Measuring Instruments. (OIML) D11.

The Requirements for these Performance tests, should be carried out under Laboratory conditions using specific procedures, methods and approved equipment to ensure the Instrument Measurement Conformity is to Manufacturers Durability Specifications and are maintained in the field, regardless of all adverse man made and environmental Conditions. These Requirement Qualifications meet equivalent Pattern Approval Recommendations/Requirements.

**The Recommendations (D11) are General Requirements which Specify Electrical Testing of Electronic Measuring Instruments to operate correctly in the field, under certain extreme conditions, according to the Manufacturers Durability Specifications. The Requirements are for the electronic instruments to be tested under extreme adverse conditions such as High and Low Temperatures, Humidity, Sunlight, Electromagnetic Field Interference, (high voltage power lines) Static Electricity, (friction from vehicle motion) Vibration, Mechanical Shock, Power Supply Variation, Short-time power reduction, Radiated, radio Frequencies & Effects from Mobile Phones and their Transmitting Towers, and Signals from TV Transmitting Towers.**

**I know that I have already made you aware that these tests should be conducted on Police Speed Measuring Instruments, but these are actual Requirements already in force in the Measurement System and should have been observed by RMIT.**

**This is just another example of neglect of the accuracy of the Measurement Systems Requirements by the so-called Testing Authority and observations ignored by the powers to be of the Roads Corporations, and head of Police, for what ever reasons. <<<<**

**There is an injustice of non-uniformity and unfair inaccurate measurement being <<<< carried out by the State Government Regulatory Authority, using these Instruments Measurements illegally in a Court of law, to prosecute unsuspecting motorists.**

**The Commonwealth Government sets guidelines and makes the rules, only for the State Government to come along and break them. This now makes this case a Constitutional issue, which is beyond my comprehension, other than being able to quote section 109 of the Commonwealth Constitution which I have already done.**

**THESE INSTRUMENTS MUST BE PATTERN APPROVED TO BE ACCURATE & LEGAL.**

**“This is the end of the evidence I have to offer you, Your Honour, but in closing may I say Sir that in the interest of the measurement system, the justice system, and the law, your ruling should include”:**

***“That the Speed Measuring Instrument readings, (laser- radar) as evidence be ruled as inadmissible, on the grounds that it could not be shown that the instruments measurements were accurate, nor were they calibrated in accordance with the legal provisions or Traceability Requirements of Section 10 of the National Measurement Act 1960. S10 is mandatory rather than directory. S10 is an example of statute which has been enacted for the purpose of enabling something to be done and it prescribes, in imperative terms, the formalities which are to attend that performance.”*** And not in any other manner.

**Therefore, may I say to Your Honour, that this case against me be dismissed without conviction or record, or penalty, with my costs being awarded to me.**

## Appendix:

2<sup>nd</sup> Charge and Summons document. I haven't received a copy of the 1<sup>st</sup>.

**Letter to the Attorney Generals Department Victoria.**

**The Pattern Approval of my own Device**

Test Certificate under Section 83  
Road Safety (General) Regulations 1999      S.R. 27 / 1999  
Regulations 311, 406, 412

Road Safety (General) Regulations 1999.

**Section 10 of the National Measurement Act.**

**National Measurement Act 1960.**

**OIML Document Dated 1994. General Requirements for Electronic Measuring Instruments.**

NSC Leaflet No 0 National Standards Commission.

NSC Leaflet No 1 Pattern Approval Laboratory.

NSC Leaflet No 2 Verifying Authorities.

**NSC Leaflet No 4 Legal Metrology.**

NSC Leaflet No 9 The Role of the National Standards Commission & Australian Trade Measurement.

NSC Leaflet No 14 Trade Measurement in Australia.

NSC Leaflet No 24 Australia's National Measurement System.

**NSC Leaflet No 25 The National Measurement Act.**

NSC Leaflet No 26 Metrological Control of Measuring Instruments.

**One Primary Case History, Judge Owen WA Supreme Court.**

Speed Fines put in doubt. Herald Sun Article.

TO PROVE THAT POLICE SPEED  
DETECTION DEVICES ARE NOT  
UNIFORMLY PATTERN APPROVED  
BY THE NATIONAL REGULATORY  
MEASUREMENT APPROVAL  
AUTHORITY FOR AUTHENTICITY  
OF ACCURACY. THE THEN  
ILLEGAL & INACCURATE  
MEASUREMENT FROM THE  
DEVICE, IS USED IN THE LEGAL  
SYSTEM TO COLLECT REVENUE &  
CONVICT UNSUSPECTING  
MOTORISTS FOR ALLEGEDLY  
SPEEDING. ALL STATE AND  
TERRITORY GOVERNMENTS ARE  
PERFORMING THIS ILLEGAL  
PROCEDURE.

