

PROPOSALS FOR THE TRADE  
MEASUREMENT ACCREDITATION AND  
VERIFICATION SCHEME

DISCUSSION PAPER

October 2003

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MINISTRY OF CONSUMER AFFAIRS

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## **CALL FOR SUBMISSIONS**

### **OFFICIAL INFORMATION ACT 1982**

When making your submission, please tell us if you have any objections to the release of your submission, and if you do object the parts of your submission that you wish withheld, and the grounds for withholding. The Ministry will carefully review any representations that you make in this regard in preparing and releasing any summary, and when considering any formal Official Information Act requests that might be received in the future.

### **PRIVACY ACT 1993**

Any personal information that you supply to the Ministry in the course of making a submission will be used only by the Ministry and only when considering matters covered by this discussion paper.

When preparing any summary for public circulation of submissions on Ministry discussion papers, it is the Ministry's normal practice to set out the names of parties making submissions. Your name will be included in any such summary unless you inform the Ministry that you do not wish your name to be included. To indicate your wishes, or to view personal information held about you in regard to the matters covered by this discussion paper, or to request correction of that information, please contact the Ministry of Consumer Affairs (04) 474 2750.

## FOREWORD

I am pleased to present the Ministry of Consumer Affairs position paper on proposed changes to the Trade Measurement Accreditation and Verification Scheme.

This paper describes proposed changes to the Trade Measurement Accreditation Scheme based on submissions received on the paper "Review of the Trade Measurement Accreditation and Verification Scheme", dated May 2003.

That paper considered:

- four alternative options
- fit and proper persons
- registration scheme
- mandatory certification
- accreditation renewals (one, two or three yearly)
- a suspension/demerit points scheme.

Before proposed changes to the existing accreditation scheme can be recommended to the Minister of Consumer Affairs, the Ministry wishes to obtain comment from interested parties. These will be collated and where relevant included in the report to the Minister of Consumer Affairs on the final recommendation of the amended scheme.

Your comments are sought on whether the Ministry should consider the merits of the proposed accreditation scheme explained in this paper. The closing date for submissions is:

5 December 2003

Please include in your submission the following:

- your name, title (if applicable)
- your organisation name and contact details

Please send your submission to:

Terry Collins  
Senior Advisor Trade Measurement  
Ministry of Consumer Affairs  
PO Box 1743  
Wellington



John Barker  
Manager  
Trade Measurement Ministry of Consumer Affairs

## INTRODUCTION

This paper sets out the Ministry's preferred accreditation scheme to allow private organisations and individuals to verify, and certify weighing and measuring instruments that are used for trade in New Zealand.

The accreditation scheme was set up after a review of the administration of the Weights and Measures Service in 1991.

The review found that certification work was best carried out by the private sector, and the Weights and Measures Service (now the Trading Standards Service or TSS) should concentrate its efforts on consumer protection, where it was needed most.

At present the scheme is maintained according to the requirements of Schedule 7 of the Weights and Measures Regulations 1999 (the Regulations).

In May 2003 the Ministry sent out a discussion paper to interested organisations and individuals seeking comment and suggestions on their preferred scheme.

The purpose of this paper is to provide the reader with information regarding the proposed amendments to the current accreditation scheme.

### Background

In 1991 the Weights and Measures Accreditation Scheme was introduced in New Zealand. The scheme was initially based on the requirements of the Weights and Measures Regulations 1991. The requirements of Schedule 7, "Requirements for Quality Management System to Be Operated by Accredited Persons", were based on selected elements of the quality standards ISO 9002 and ISO 9003 that were current at the time for quality management systems. The regulations were amended in 1999.

A discussion paper was released in May 2003 to interested parties seeking their comments on the current scheme and comments on three alternative options.

### The options were:

- 1) Maintain the status quo: the existing accreditation scheme
- 2) Introduce an ISO 17025 system, or Level Two Recognition scheme audited by IANZ
- 3) Introduce ISO 9001
- 4) Introduce an alternative scheme known as the TSS Certification Verification Competency System (CVCS).

### Overview of submissions received on the Review of the Trade Measurement Accreditation Scheme

The discussion paper released in May 2003 was sent to 58 interested parties. Thirteen submissions were received.

Most commented that the current system worked well but could be improved. Suggested changes included more surveillance of traders and accredited persons, less emphasis on systems or procedures and more emphasis on competency and ensuring that weighing or measuring instruments were correctly calibrated. The status quo option was favoured by 85% of respondents.

Only three submissions favoured mandatory inspection of weighing and measuring instruments. These came from organisations that serviced weighing instruments. Seven submissions, from the grocery industry, other weighing and measuring instrument servicing organisations and an auditing body favoured the current system of mandatory verification and voluntary certification.

On balance, the arguments for maintaining the present system were stronger than those advocating change. Consideration was given to costs of such a scheme, the necessity for accredited persons to report non-complying instruments and the possible adverse affect this would have on the client/accredited person relationship. Submissions in favour of voluntary certification generally stated that the compliance rates were acceptable, it allowed industry to choose it's own needs and were cost effective.

Most submissions supported lengthening the accreditation period from the current annual requirement to renew. Although some submitters sought an unlimited time period this was perceived as unworkable by the TSS, as the issue of continued competency would not be addressed.

A number of submissions from companies using ISO quality management systems also sought to make the auditing requirements of the present scheme more compatible with ISO audits. Although the concept of accepting ISO audits is not new, submitters felt improvements here could create efficiencies and lower costs. However other submitters commented that the costs associated with operating a quality management system to a relevant ISO standard was expensive and not suited to smaller organisations. It is within this environment of different needs and desires that a balance between the two has been mooted in the proposed accreditation scheme.

## PROPOSED ACCREDITATION SCHEME

### Summary of proposed accreditation scheme

The proposal is to maintain the current accreditation scheme, with some minor amendments, and to accept an organisation's existing ISO 9001 certification or ISO 17025 accreditation as compliance with Weights and Measures requirements.

TSS realises that a number of organisations run an ISO 17025 or ISO 9001 quality management system in parallel with the requirements of Schedule 7, but as entirely separate quality management systems within their organisation. The proposal is to integrate these two systems, a move that would ease the cost and administrative burden on an organisation.

Changes therefore are required to make the current scheme more flexible so as to accommodate organisations that have, or are thinking of achieving ISO 17025 accreditation or ISO 9001 certification.

Where organisations are currently accredited to ISO 17025, only those with signatory status will be considered for accreditation under the Act. The scope of accreditation for the organisation must include the classes of weighing and measuring instruments sought for accreditation under the Act. International Accreditation New Zealand (IANZ) would be responsible for both the quality systems audit and the technical competency audit.

Organisations certified to ISO 9001 standard would be audited against that standard. The persons operating and certified under the scheme would be considered for accreditation under the Act. Ongoing auditing of the quality management system would be the responsibility of the organisation's quality auditors. For the initial audit a technical competency audit would still be required on the individual applicant, and TSS would undertake this as technical auditors. After each successful audit, the auditing body for the system audit and TSS for the technical audit would prepare their respective reports.

The main difference from the current system is that the auditing body would be responsible for all ongoing systems audits of the accredited persons with TSS conducting ongoing surveillance and a technical audit every three years.

### Application

Currently an application for accreditation begins when the applicant completes and sends a form, including a copy of the organisation's quality management system (QMS) manual to TSS who determines compliance with the regulated requirements. When the QMS manual meets the requirements, a compliance audit is conducted covering the categories and scope of accreditation sought. A compliance audit is a physical examination where the applicant demonstrates competency with certification procedures. When the TSS officer is confident that the applicant has satisfactorily met all the requirements of a system and compliance audit, accreditation is granted under delegated authority from the Chief Executive of the Ministry of Economic Development (MED).

The proposed scheme will recognise organisations which are currently certified to the ISO 9001 standard as complying with the documentation requirements of Schedule 7. As ISO 9001 is not a competency based standard, the organisation would still

have to undergo a technical audit conducted by TSS to ensure that testing complied with the Act and Regulations.

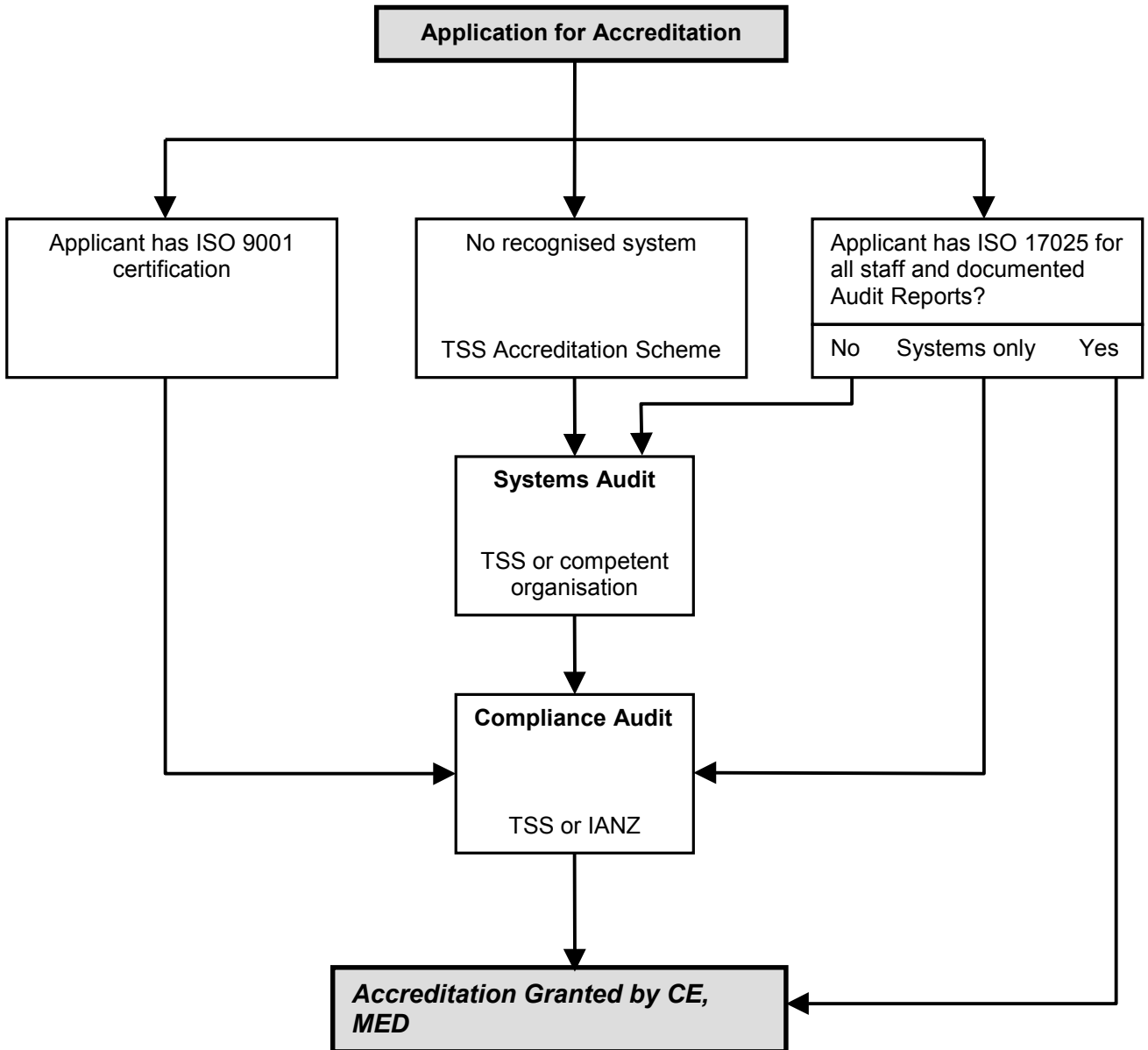
Organisations currently accredited to ISO 17025 could apply for accreditation under the Act, for personnel who are signatories. A compliance audit would have been conducted by IANZ as ISO 17025 is a competency based standard. It is very likely that IANZ could appoint TSS as a technical auditor for this purpose. IANZ would be responsible for ongoing annual systems and three yearly compliance assessments. If an organisation requires accreditation for staff who are not signatories they would be required to either have their ISO 17025 accreditation extended or seek accreditation to Schedule 7.

The scope of the accreditation for these organisations must include the classes of weighing and measuring instruments sought for accreditation under the Act.

TSS would receive reports from the auditing bodies confirming the level of compliance by the organisation seeking accreditation. A letter of accreditation would be issued by the Chief Executive of MED. If categories sought were not covered in the report, TSS would conduct an audit for those categories to determine if the applicant is competent.

Alternatively TSS could still assess an organisation without a recognised ISO system, against the requirements of Schedule 7. Those organisations would still deal directly with TSS as currently occurs.

Flowchart



## **Compliance costs**

Fees for ongoing audits on new or current organisations considering integrating their current ISO systems with the requirements of the Weights and Measures Act and Regulations would be levied by the appropriate competent organisation, not TSS. This would involve a technical audit (for ISO 17025) and a re-assessment every three years. Organisations certified to ISO 9001 would also be audited annually by their auditing body. A full technical audit would occur on the initial audit and every three years prior to renewal, with TSS responsible for conducting ongoing surveillance. It should be noted that IANZ reserve the right to call upon technical experts during any audit if they believe it necessary. Any quality management system has costs associated with its implementation, administration and maintenance. Readers may find the *Specific Criteria for Accreditation (Metrology and Calibration Laboratories 5)*, published by IANZ, useful. This is available from [info@ianz.govt.nz](mailto:info@ianz.govt.nz)

Because IANZ and other auditing bodies are based in major cities, travel, audit and annual renewal costs would have to be met by accredited persons if this option was chosen.

It is clear from reading the Specific Criteria for Accreditation that if the Ministry was to exclusively adopt ISO 17025 or ISO 9001 as a prerequisite to becoming an accredited person, the continued operation of many of the current small operators would be doubtful due to the inherent operational and compliance costs.

The Ministry therefore considers that it will need to continue to provide the option of the Ministry conducting audits to compliance with Schedule 7.

## **Granting accreditation**

The decision to grant or decline accreditation will be considered by a Trading Standards Officer under delegated authority of the Chief Executive of MED. Consideration will be given to the suitability of the quality management system, competency and the requirements to be a fit and proper person.

## **Fit and proper person**

Under the proposed scheme, TSS would assess an application to determine if the applicant is a fit and proper person for carrying out accreditation duties.

## ***Background comment***

A recent investigation by TSS highlighted a problem in relation to revocation of the accreditation of an accredited person who had been convicted of an offence against the Weights and Measures Act 1987 (the Act).

After the accredited person was convicted the Ministry considered whether revocation was appropriate given the nature of the offence. During a period of correspondence between the Ministry and the accredited person, the accredited person's accreditation expired and was not renewed. The Ministry became aware that in cases where accreditation has expired or been revoked under the Act and that person or organisation re-applies for accreditation, the Chief Executive cannot consider any previous history, specifically prosecution under the Act, when in deciding whether to accredit on a re-application. The Ministry believes the Chief Executive should be able to take such issues into consideration will be recommending a change along these lines to the Minister. The Ministry does not

support an automatic ban on applicants who have been previously convicted of an offence under the Act, as the circumstances may vary in each individual case.

### **Surveillance**

A review of the Ministry of Consumer Affairs was initiated in 2002 at the request of the former Minister of Consumer Affairs that focused on what the Ministry is trying to achieve, how it delivers its services and what consumers expect. The review was concluded in August 2003.

One outcome of the review is that the TSS will, from 3 November 2003, be called the Measurement and Product Safety Service (MAPSS). Trading Standards Officers will be called Measurement and Product Safety Officers.

The review also recognised that TSS needed extra resources and funding in order to provide a better service to clients and more surveillance activities in the market place. Submissions received on the Review of the Weights and Measures Accreditation Scheme also commented that the current level of surveillance was inadequate and strongly advocated increased surveillance was necessary.

The Ministry recognises the need for more surveillance of accredited persons and weighing and measuring instruments used for trade. To do this, the Ministry will be seeking extra funding to increase TSS staffing.

### **Renewals of accreditation**

The Act currently requires accredited persons to apply to renew their accreditation annually. The drawback of this is that if an accredited person forgets and does not re-apply, their accreditation lapses. Once lapsed, accreditation does not exist and can't be renewed, which means that the accreditation process must be started again.

TSS does not send reminders to organisations advising that their letter of accreditation is due for renewal, relying instead on organisations to effectively manage the administration of their QMS to identify renewal dates.

The majority of submissions favoured a change to a longer accreditation period. It is clear that the situation where an organisation's accreditation lapses due to failure to apply for renewal has been unpopular. The current renewal process does not take into consideration the ability of the accredited person to maintain their quality management system, or their continued suitability to be an accredited person. The Ministry considers that renewal should be about continued suitability, but that this should be judged on at least three year's activity.

We therefore propose the duration of a letter of accreditation should increase from an annual to a three year interval. It is necessary to maintain a finite period of accreditation so as to allow accredited persons to leave the scheme voluntarily at the expiry of their letter of accreditation. The alternative, an unlimited time period, would have provided revocation as the only exit mechanism and this was felt to be inappropriate.

During the accreditation period the TSS will conduct surveillance audits on weighing and measuring instruments tested by an accredited person. This is similar to the existing situation. Three months prior to the renewal date, a full quality system and

technical audit will be conducted.<sup>1</sup> A charge would be made for the system and compliance audits by TSS. We envisage that the renewal audit would be instigated by the auditing organisation or TSS if it is a TSS audited system.

Quality systems of organisations with ISO 9001 certification or ISO 17025 accreditation would be audited annually by their auditing organisation. Accredited persons who are ISO 17025 accredited would undergo a full IANZ technical audit every three years, prior to their renewal date. It is envisaged that audits would be timed to occur approximately three months prior to the expiry date of the letter of accreditation. Accredited persons who are audited to ISO 9001 would require a technical audit every three years, conducted by TSS.

As trade measurement accreditation is not automatic, TSS would assess the reports from auditing bodies to determine compliance before accreditation is granted. However this is envisaged as being a relatively minor administrative matter, as compliance with these standards will be recognised as compliance with the requirements of schedule 7.

In summary the main change with this proposed system is that TSS will not conduct quality management systems audits where this has already been carried out by a competent auditing body. This will eliminate duplication and allow TSS to focus on surveillance and competency. Accredited persons who do not operate an ISO quality management system will still have audits conducted by TSS.

### **Suspension scheme**

In the May 2003 discussion paper we discussed the possibility of introducing a suspension/demerit points system for non-performing individuals or organisations. Only three replies were received supporting the possibility of introducing such a system.

TSS recognises that if a suspension scheme was to be introduced, it has to be transparent, have a robust system of checks, and be set out in a clear and structured format with rights of appeal and review.

Since the demerit point system was mooted further consideration has been given to how such a scheme would be operated. It is felt that it would be difficult to administer and the possibility of review or litigation on every point issued raised doubts about its effectiveness and cost. However the concept of suspension (as operated in the United Kingdom) does have some merit.

Currently the only sanction under the accreditation scheme is revocation. This has only occurred in one case of an accredited person being declared bankrupt and is considered to be an option of last resort where other courses of action have failed or an offence has occurred. The introduction of a suspension period would allow an accredited person to be suspended from stamping weighing or measuring instruments or issuing certificates of accuracy for a period of 28 days. It is a lesser sanction than revocation and would allow a time period for the accredited person to receive further training or instigate other remedial changes. An accredited person would also be able to apply to the Chief Executive of the MED to review the suspension within 21 days of it being issued.

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<sup>1</sup> The requirements to audit may vary depending on the final design of the accreditation scheme.

Your comments on this proposal are sought.

### **Mandatory certification**

The Act currently requires any weight, measure, weighing or measuring instrument used for trade to be stamped with the mark of verification before it can be used. Once stamped the weighing or measuring instrument can be used until such time an Inspector of Weights and Measures rejects it or it is repaired or calibrated.

The annual certification (re-test) of weighing or measuring instruments is voluntary. However, the certification process is encouraged in that section 24 of the Act offers a statutory defence to the user of an instrument. A defence is provided where there is a current certificate of accuracy as it shows that the trader has taken responsible precautions to avoid an offence. The offence of having in possession “for use for trade” a false or unjust weighing and measuring instrument is punishable on conviction to a maximum fine of \$5000. Alternatively it can be dealt with by the issuing of an infringement offence notice for which the fee is \$500.

Three submissions received favoured mandatory certification, while seven submissions preferred the present voluntary certification requirements. Submissions in favour of mandatory certification were received from scale servicing organisations. The only reason stated in these submissions for adopting mandatory certification was that it would be similar to requirements for vehicle warrants of fitness and electrical safety. In our view, as these regimes are based on safety, the argument for inclusion into legal metrology is not strong. The adoption of mandatory certification would clearly provide a benefit to a number of scale servicing organisations in that it would increase the number of weighing instruments tested and probably serviced.

In contrast, submissions in favour of maintaining the present voluntary scheme from accredited persons, industry and an auditing body commented on trader and consumer confidence in the system. Submissions raised the issue of the cost of maintaining such a system and the possible friction that could occur between traders and accredited persons if non-compliance was reported. The current system was seen as preferable as it allowed traders to determine the appropriate testing periods for their equipment based on usage and economic risk. However the issue of low surveillance levels from TSS, especially in regard to regional visits, was also raised. As discussed previously the Ministry will be developing a case for increased surveillance capability.

While accredited person's have indicated they can police a mandatory scheme, the Ministry has concluded that there are considerable public policy issues weighing against this. These are:

- TSS would be obliged to address complaints from accredited persons against traders. This would create ill feeling between traders and accredited persons.
- A complaint response only enforcement regime would be open to criticism that other traders who are in breach, but have not been complained about, have no action taken against them.
- If TSS did not react to complaints due to other considerations then it would be open to criticism for not enforcing the provisions.
- Enforcement by complaint would be random and not an efficient use of resources.
- To administer the system properly, it would require a register or other form of trader record that would be expensive to administer and doubtful whether it added any benefits to consumers and traders.

- Mandatory certification would substantially raise the risk of prosecuting traders who have accurate weighing and measuring instruments but are not certified within the prescribed time period. This would shift resources away from targeting offences that result in a financial loss to consumers.
- TSS would be obliged to undertake certifications of weighing and measuring equipment if asked, thereby competing directly against accredited persons and undermining the viability of the scheme. If TSS refused to undertake such inspections it is doubtful if any enforcement action would be successful, as the offence would have occurred because the enforcement agency (TSS) had failed to act and prevent the offence.

After weighing the submissions received against policy objectives it has been decided to maintain the current system of voluntary certification and mandatory verification.

### **Self Verification of Standards of Measurement**

One submission was received proposing that accredited persons with standards testing laboratories accredited to ISO 17025 be permitted to verify their own standards. Currently, standards of measurement used by accredited persons must be verified annually against TSS standards or those of the Measurement Standards Laboratory.

The Weights and Measures Act and Regulations are principle pieces of legislation designed to protect traders and consumers. The purpose is to allow traders and consumers to transact with confidence that the quantity stated in a contract is correct. The Ministry is concerned that allowing self-verification of accredited persons standards would diminish this confidence. It is a fundamental principle that persons with a vested interest in a matter should not oversee such a matter when independence is necessary.

The Ministry believes allowing self-verification of measurement standards could be seen as an abrogation of its responsibility to maintain a national legal metrology infrastructure and substantially weaken the accountabilities built into the present system. The Ministry laboratories are accredited to ISO 17025, to maintain confidence in its activities. However, a special condition of our accreditation is our ability to issue verification reports for standards tested to within a maximum permissible error. This is outside the normal scope of accreditation and applies for legal metrology purposes only. After considering the submission, we are of the view that the public policy consideration outweighs any benefits that would occur from lower compliance costs and propose to maintain the current testing regime.

### **Conclusion**

TSS intends to recommend to the Minister of Consumer Affairs that the proposed accreditation scheme maintain most of the provisions of the current accreditation scheme, as required in Schedule 7 of the Weights and Measures Regulations 1999 (Requirements for Quality Management System to be Operated by an Accredited Persons).

Proposed changes would allow for greater integration of an organisation's existing ISO quality systems with Schedule 7. Further changes would allow for accredited persons to have their accreditation suspended for a 28-day period, subject to review by the Chief Executive of MED. The accreditation period would be extended to three years and a fit and proper person would be re-defined.

Thirteen submissions were received on the discussion paper released in May 2003, nine were from weighing and measuring service agencies, two from the grocery and supermarket industry, one from an auditing organisation and one from a consumer group.

In summary the advantages they saw of staying with the current scheme are:

- the systems are already documented, proven, and are suitable for carrying out certification work on weighing and measuring instruments
- some organisations are already ISO accredited, and have integrated both current and ISO systems
- an increase in capital investment on calibration equipment and greater technical expertise from industry than under the previous regime
- the current scheme is reasonably easy to understand and comply with
- greater industry efficiency as service persons are often accredited persons. This allows the service person to repair then verify an instrument therefore reducing downtime for the user and duplication of visits by an Inspector
- a greater range of instruments are now verified or certified than under the previous regime
- the system is designed specifically for trade measurement with requirements based on quality management principles
- low entry costs for accreditation, as there are no application fees only the cost of the audits that are contestable with other auditing bodies
- competition between suppliers of the verification/certification service has helped reduce costs to users
- international recognition of the scheme has seen other countries adopt a similar scheme.

TSS has recognised that some changes are required to make the current scheme more flexible to accommodate the following issues:

- granting accreditation
- fit and proper person
- surveillance of accredited person's
- surveillance of traders
- renewal period for letters of accreditation
- suspension scheme.

**Comments on the contents of this paper are sought from by 5 December 2003.**