

WEIGHTS AND MEASURES.

17° GEO. V., No. XLII.

No. 42 of 1926.

AN ACT to amend the *Weights and Measures Act, 1915.*

[Assented to 23rd December, 1926.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Weights and Measures Act Amendment Act, 1926*, and shall be read as one with the *Weights and Measures Act, 1915*, hereinafter referred to as the principal Act. Short title.

2. Section four of the principal Act is amended by adding to the interpretation of "Inspector" the following words:—"and includes the chief inspector of weights and measures." Amendment of sec. 4.

3. Section five of the principal Act is amended by inserting after the words "Commissioner of Police" the words "the chief inspector of weights and measures." Amendment of sec. 5.

4. A section is inserted in the principal Act as follows:— Appointment of inspectors.

5A. (1) The Governor may appoint a chief inspector of weights and measures and such inspectors as may be necessary.

(2) Whenever the chief inspector is absent from his duties by reason of illness or other cause the Minister may appoint a deputy, and during such absence such deputy shall have the powers and shall perform the duties of, and for the purposes of this Act be deemed to be, the chief inspector.

Amendment of
sec. 6.

5. Section six of the principal Act is amended by omitting the words "shall appoint the inspectors and" and by inserting after the word "control" the words "the chief inspector of weights and measures and."

Amendment of
sec. 20.

6. Section twenty of the principal Act is repealed, and a section is inserted in place thereof as follows:—

Sale by net weight
or measure, except
in the case of beer.

20. (1) No person shall sell by retail any article by weight or measure unless by net weight or measure.

Provided that in the case of beer (ale, porter, and stout), the undermentioned vessels shall contain not less than the quantities stated in the following schedule:—

Hogshead	....	....	52 gallons.
Barrel	....	....	35 gallons
Half Hogshead	....	....	26 gallons
Kilderkin	....	....	17 gallons.
10 gallon keg	....	....	9½ gallons.
9 gallon keg	....	....	8½ gallons.
5 gallon keg	....	....	4½ gallons.

(2) Every person delivering to a purchaser at any place other than the premises of the seller any article sold by retail by weight, measure, or number, shall deliver an invoice or delivery note showing the correct net weight, measure or number, as the case may require, of such article:

Provided that this subsection shall not apply to—

- (a) bread ;
- (b) any article weighed, measured, or counted on delivery at the premises of the purchaser ;
- (c) any article in a package on which the net weight, measure, or number is marked as prescribed.

(3) No person shall sell, offer, expose, or have in his possession for sale by retail in a package any article ordinarily sold by weight, measure, or number, or any article prescribed whether ordinarily sold by weight, measure, or number or not, unless the net weight, measure, or number of the article is legibly written or printed on the outside of such package :

Provided that this subsection shall not apply to any article weighed, measured, or counted in the presence of the purchaser.

(4) No person shall sell by wholesale any article in a package of a size or description ordinarily sold by retail unless the net weight, measure, or number of such article is marked on the package in the manner prescribed by the preceding subsection.

(5) Any article may, by regulation, be exempted from the requirements of this section, either wholly or in part.

(6) This section shall not take effect until the expiration of six months from the commencement of this Act.

7. Section twenty-one of the principal Act is repealed, and a section is inserted in place thereof as follows:—

Amendment of sec. 21.

21. When the weight, measure, or number of an article in a package is stated on such package, and is not correctly so stated, the seller or the person offering or exposing such article for sale, or having such article in his possession for sale, either wholesale or retail, shall be guilty of an offence against this Act, and any such article found in the possession of any person manufacturing or trading in such article shall be deemed to be in possession of such person for sale until the contrary is proved:

Where net weight or measure is not correctly stated.

Provided that in any prosecution for a contravention of this section it shall be sufficient defence if the seller—

- (a) produces from the person from whom he purchased such article a written guarantee that the weight, measure, or number written or printed on the package is correct; and
- (b) proves that he sold such article in the same state as when purchased by him;

subject to the following conditions—

- (c) that the person giving the guarantee must be a resident in Western Australia, or, if a company, must have a registered office in Western Australia; and

- (d) that the guarantee must state the name and place of business of the guarantor, and the name under which he trades.

The form of guarantee under this section may be prescribed by regulation.

Any person who gives a guarantee which is false shall, in addition to the penalty for the sale of any articles in contravention of this Act, be guilty of an offence against this Act.

8. A section is inserted in the principal Act as follows:—

Label for articles subject to climatic influence.

21A. (1) When any package containing an article which is subject to diminution in weight by reason of climatic influences bears a conspicuous label or inscription showing the words "net weight when packed," followed by a correct statement of such weight, such package shall be deemed to have been marked in accordance with the provisions of this Act:

Provided that in the case of specified articles a permissible percentage of diminution from the stated weight may be prescribed by regulation, and when such diminution is exceeded the net weight of the article shall be considered to be incorrectly stated.

(2) Weights, measures, and numbers closely approximating those stated on an invoice or delivery note, or on a package, will be allowed when, and as prescribed by regulation, either generally or with respect to particular articles.

Amendment of sec. 23.

9. Section twenty-three of the principal Act is amended by omitting the words "with intent to mislead."

10. A section is inserted in the principal Act as follows:—

Offence of false representation.

23A. When any article is purchased by weight, measure, or number, and the weight, measure, or number thereof is determined by the purchaser, any such purchaser or person on his behalf making a false representation to the seller or his agent, either directly or indirectly, of the weight, measure, or number of such article, shall be guilty of an offence against this Act.

11. Section twenty-four of the principal Act is amended by substituting the word "may" for "shall" in the last line thereof. Amendment of
sec. 24.

12. A subsection is added to section twenty-five of the principal Act as follows:— Amendment of
sec. 25.

(3) For the purpose of this and the next three succeeding sections, every weighing or measuring instrument open for use by the public, or for the use of which a charge is made, shall be deemed to be in use for trade.

13. Section twenty-six of the principal Act is amended as follows:— Amendment of
sec. 26.

In subsection (1) the words "not being a measure made of glass" are omitted;

In subsection (2), after the word "impose," the words "prescribed weights or measures, or weighing and measuring instruments, or weights, measures, or weighing instruments at" are inserted;

In subsection (3) the words "spring balances, computing scales and weighbridges, and of weighing or measuring instruments, for which a charge is made for use by the public, and of weighing instruments used at collieries" are omitted, and the words "prescribed weights or measures, or weighing or measuring instruments" are substituted therefor.

14. Section twenty-nine of the principal Act is amended by adding thereto a proviso as follows:— Amendment of
sec. 29.

Provided that the Governor may, by regulations under this Act, amend such schedule, and prescribe new types of weighing and measuring appliances, and prescribe the fees relating thereto.

15. (1) Section thirty of the principal Act is amended by omitting all words after the words "sold by weight" and inserting in place thereof the words "and not otherwise, except when and as sale by other method is prescribed or permitted by regulation: Provided that it shall be lawful to sell coal or firewood by measurement elsewhere than within any municipal district, townsite, or other place where a weighing instrument is provided." Amendment of
sec. 30.

(2) Section thirty is further amended by inserting a subsection as follows:—

(2) Proof that coal or firewood is conveyed on any vehicle shall be *prima facie* evidence that such coal or firewood is for sale or delivery to a purchaser.

Repeal of secs. 31
and 32.

16. Sections thirty-one and thirty-two of the principal Act are repealed.

Amendment of
sec. 51.

17. Section fifty-one of the principal Act is amended by inserting the following paragraphs:—

- (a1) Prescribing the denominations of weights and measures permissible for use or trade.
- (j2) Prescribing the fees for testing, verifying, and stamping weights, measures, and weighing instruments.
- (j3) Prescribing the method by which specified articles shall be sold.
- (j4) Prescribing the weights, measures, or sizes in which packages of specified goods shall be sold.
- (q2) Providing for the examination and licensing of scale repairers, other than persons employed by and working under the direct supervision of a licensed scale repairer, and generally for their supervision and control, including prohibition of the use of the designation "scale adjuster," or any like designation by persons other than those licensed under the regulations.