

Western Australia

Weights and Measures Act 1915

As at 11 May 2006

Version 03-d0-03

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Weights and Measures Act 1915

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Weights and Measures Act 1915

An Act to provide standards and units, and to amend and declare the law of weights and measures; for the verification and stamping of weights, measures, and weighing and measuring instruments; to regulate the sale of coal and firewood; and for the purposes consequent thereon or incidental thereto.

Part I — Preliminary

Preliminary and Repeal

1. Short title and commencement

This Act may be cited as the *Weights and Measures Act 1915*¹, and shall commence and take effect on and from a date to be fixed by proclamation¹.

[2. *Repealed by No. 10 of 1998 s.76.*]

3. Repeal

The *Weights and Measures Act 1899* is hereby repealed.

3A. Construction

A reference in a law of the State (whether that law was made before or is made after the commencement of the *Weights and Measures Act Amendment Act 1964*¹) to a unit of measurement

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of a physical quantity shall, if there is a Commonwealth legal unit of measurement of that physical quantity of the same name, be read and construed as a reference to that Commonwealth legal unit of measurement.

[Section 3A inserted by No. 78 of 1964 s.3.]

Definitions

4. Definitions

- (1) In this Act, unless the context or subject matter otherwise indicates —

“Chief executive officer” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act.

“Chief Inspector” means the chief inspector of weights and measures appointed under section 6.

“Coal” means all descriptions of coal, coke, and charcoal.

“Commission” means the National Standards Commission continued in existence by the Commonwealth Act.

“Commonwealth Act” means the *Weights and Measures (National Standards) Act 1960*², of the Commonwealth Parliament or any Act passed by that Parliament in amendment of or substitution for that Act.

“Commonwealth legal unit of measurement” means a unit of measurement prescribed by or under the Commonwealth Act.

“Commonwealth regulations” means the regulations made from time to time and in force under the Commonwealth Act.

“Driver” means any person driving or in charge of a vehicle.

“Drug” means any substance, organic or inorganic, used as medicine or in the composition or preparation of medicines, whether for external or internal use; and includes absorbent cotton wool, surgical dressings, and therapeutic substances.

“Inspector” means an inspector of weights and measures appointed under this Act, and includes the chief inspector of weights and measures.

“Instrument” means a thing (or a combination of things) by means of which a measurement of a physical quantity may be made and includes a thing (or a combination of things) by means of which grading may be effected by reference to the measurement of a physical quantity.

“Measuring instrument” means any instrument or machine, other than standard measures of extension or capacity, used for measuring any article or any liquid.

“Package” includes anything by means of which any article is packed for sale, or any articles are packed for sale as a single item, and in particular, and without prejudice to the generality of the foregoing, includes a wrapper and a confining band.

“Public weighing instrument” means any weighing instrument open for use by the public; or for the use of which a charge is made.

“Purchaser” includes person purchasing as agent for any other person.

“Schedule” means Schedule to this Act.

“Sell” includes —

- (a) offer or expose for sale;
- (b) keep or have in possession for sale;
- (c) barter or exchange;
- (d) deal in or agree to sell;
- (e) send, forward, or deliver for sale or on sale; and
- (f) authorize, direct, cause, permit or suffer any of those acts or things,

and **“sale”** and **“sold”** have corresponding meanings.

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“Subsidiary standard of measurement” means a standard of measurement that is a subsidiary standard of measurement within the meaning of the Commonwealth Act.

“The court” means the court in or before which the proceedings in question are had.

“To stamp” means to stamp or otherwise mark in such a manner as to be, as far as practicable, indelible.

“Vehicle” means any description of vehicle upon wheels.

“Weighing instrument” means weighbridge, weighing machine, scales, balance, steelyard, or other instrument for weighing, and includes the weights belonging thereto.

“Weighman” means the person in charge of a public weighing instrument.

“Working standard of measurement” means a standard of measurement that is a working standard of measurement within the meaning of the Commonwealth Act.

- (2) Except as otherwise prescribed, a reference in this Act to the weight or measure of an article shall be construed as a reference to the weight or measure of the article excluding the weight or measure of the package in which the article is contained.
- (3) A reference in this Act to the weight or measure of an article shall, in the case of an article of a kind that is ordinarily packed or sold by number, be construed as a reference to a quantity of that article counted by number.
- (4) Where, by or under this Act, any particulars or words are, or any statement or expression is, required, permitted, or forbidden to be marked on a package containing an article, the particulars, words, statement, or expression shall be deemed to be marked on the package if marked on a label attached to the package or to the article.
- (5) A reference in this Act (however expressed) to the marking of a package with a statement of the weight or measure of the article contained in the package shall be construed as including a

reference to the marking with such a statement of a label attached to the package or to the article.

- (6) A reference in this Act (however expressed) to —
- (a) a package containing an article, or a package in which an article is contained, shall be construed, where appropriate, as including a reference to a package to which an article is attached or around which an article is wound or wrapped; and
 - (b) an article contained in a package, shall be construed, where appropriate, as including a reference to an article that is attached to, wound around, or wrapped around, a package.
- (7) For the purposes of this Act the expression **“use for trade”** means use in connection with or with a view to a transaction for —
- (a) the transferring or rendering of money or money’s worth in consideration of money’s worth or money; or
 - (b) the making of a payment in respect of any tax, rate, toll, duty or impost where —
 - (i) the transaction is by reference to quantity in terms of measurement of a physical quantity, or is a transaction for the purposes of which there is made or implied a statement of the quantity in such terms of goods to which the transaction relates; and
 - (ii) the use is for the purpose of the determination or statement of that quantity,

and the expression **“have in possession for trade”** has a corresponding meaning.

- (8) A weight, measure, weighing instrument or measuring instrument that —
- (a) is used in relation to such a transaction referred to in subsection (7); or

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- (b) is made available for use by or on behalf of the public, whether on payment or otherwise, for making measurements of a physical quantity or for the grading of articles by reference to the measurement of a physical quantity,

shall for the purposes of this Act be deemed to be used for trade.

- (9) Where the use of an expression that includes the term “weight” is required, permitted, prohibited or regulated by any provision of this Act that use of the same expression subject only to the substitution of the term “mass” for the term “weight” shall be taken, in the case of a requirement to be sufficient compliance with the requirement and, in any other case referred to in this subsection, to be within the intendment and application of the provision, and the provision shall be construed accordingly.

[Section 4 amended by No. 42 of 1926 s.2; No. 26 of 1958 s.3; No. 78 of 1964 s.4; No. 64 of 1965 s.4; No. 34 of 1967 s.5; No. 31 of 1973 s.3; No. 64 of 1978 s.3; No. 63 of 1981 s.4; No. 73 of 1994 s.4; No. 57 of 1997 s.128(1).]

Administration

5. Administration of Act

Subject to the control of the Minister, this Act shall be administered by the chief executive officer, the chief inspector of weights and measures, and inspectors.

[Section 5 amended by No. 42 of 1926 s.3; No. 64 of 1965 s.5; No. 63 of 1981 s.4; No. 57 of 1997 s.128(2).]

6. Appointment of inspectors

- (1) The Governor may appoint a chief of 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.

[Section 6 inserted by No. 42 of 1926 s.4 as section 5A and subsequently renumbered as section 6.]

7. Control of inspectors

The chief executive officer shall control the chief inspector of weights and measures and the inspectors in the performance of their duties under this Act.

[Section 7 amended by No. 42 of 1926 s.5; No. 64 of 1965 s.5; No. 63 of 1981 s.4; No. 57 of 1997 s.128(3).]

8. Application of Act to Government Railways

The chief executive officer may, by arrangement with the Public Transport Authority of Western Australia established by the *Public Transport Authority Act 2003* section 5., from time to time examine and test any weighing instrument used on the Government Railways.

[Section 8 amended by No. 64 of 1965 s.5; No. 63 of 1981 s.4; No. 57 of 1997 s.128(3); No. 31 of 2003 s.155.]

[8A, 8B. Repealed by No. 64 of 1965 s.6.]

Part II — Standards and units

[Heading inserted by No. 64 of 1965 s.6.]

Standards

[Heading inserted by No. 64 of 1965 s.6.]

9. Standards of measurement to be provided

The Minister may arrange for the provision and maintenance of such working standards of measurement and subsidiary standards of measurement as are necessary to provide means by which, for the purposes of this Act, measurements may be made in terms of Commonwealth legal units of measurement.

[Section 9 inserted by No. 64 of 1965 s.6.]

10. Primary State Standards

- (1) Every working standard of measurement that is provided and maintained pursuant to section 9 is a standard weight or, as the case may be, a standard measure of the State, and shall for the purposes of this Act be known as a Primary State Standard.
- (2) The Minister shall cause to be published in the *Government Gazette* notice of any working standards of measurement that are provided pursuant to section 9.

[Section 10 inserted by No. 64 of 1965 s.6.]

Subsidiary Standards

[Heading inserted by No. 64 of 1965 s.6.]

11. Secondary State Standards

A subsidiary standard of measurement that is provided and maintained pursuant to section 9 and having a denomination referred to in the first column of Part I of Schedule A, the true value of which is calculated not to be greater or less than its value as ascertained on verification or reverification by an amount exceeding the amount of variation specified opposite to that

denomination in the second column of that Part, shall for the purposes of this Act be known as a Secondary State Standard.

[Section 11 inserted by No. 64 of 1965 s.6.]

12. Tertiary State Standards

A subsidiary standard of measurement that is provided and maintained pursuant to section 9 and having a denomination referred to in the first column of Part I of Schedule A, the true value of which is calculated not to be greater or less than its value as ascertained on verification or reverification by an amount exceeding the amount of variation specified opposite to that denomination in the third column of that Part, shall for the purposes of this Act be known as a Tertiary State Standard.

[Section 12 inserted by No. 64 of 1965 s.6.]

13. Inspector's Standards

A subsidiary standard of measurement, not being a Secondary State Standard or a Tertiary State Standard, that is provided and maintained pursuant to section 9 and having a denomination referred to in the first column of Part II of Schedule A that on verification or reverification is found not to be greater or less than its denomination by an amount exceeding the amount of permissible variation specified opposite to that denomination in the second column of that Part and deemed by the Commonwealth regulations to be of a value equal to its denomination, shall for the purposes of this Act be known as an Inspector's Standard.

[Section 13 inserted by No. 64 of 1965 s.6.]

14. Inspector's Standards to be stamped

- (1) Unless its size or nature renders stamping impracticable, or it is exempted by the regulations, every Inspector's Standard shall be stamped as prescribed.

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- (2) The impression of the stamp referred to in this section on a weight or measure is evidence that the weight or measure is an Inspector's Standard.

[Section 14 inserted by No. 64 of 1965 s.6.]

Verification of Standards

[Heading inserted by No. 64 of 1965 s.6.]

15. Use of standards prohibited unless verified

A standard of measurement provided and maintained pursuant to section 9 that has not been verified, or has not been reverified, as provided by the Commonwealth Act or, as the case may be, the Commonwealth regulations, shall not be used for the purposes of this Act.

[Section 15 inserted by No. 64 of 1965 s.6.]

Falsifying Standards

[Heading inserted by No. 64 of 1965 s.6.]

16. Falsifying standards an offence

Any person who falsifies or wilfully or maliciously damages or destroys any standard provided and maintained under this Act commits an offence against this Act.

Penalty: \$200.

[Section 16 inserted by No. 64 of 1965 s.6; amended by No. 113 of 1965 s.8.]

Units

[Heading inserted by No. 64 of 1965 s.6.]

17. Units of weight and measure

The units of weight and measure are the units of measurement prescribed by and under the Commonwealth Act from time to time.

[Section 17 inserted by No. 64 of 1965 s.6.]

Amending of Schedule A

[Heading inserted by No. 64 of 1965 s.6.]

17A. Governor may amend Schedule A by Order in Council

- (1) The Governor may from time to time by Order in Council amend Schedule A by adding to or deleting from any column of that Schedule any denomination, value or other item or by altering any denomination, value or other item in any such column.
- (2) Notice of every amendment made pursuant to subsection (1) shall be published in the *Government Gazette* and thereupon Schedule A, as so amended, shall have force and take effect as if the amendment effected by the Order in Council had been enacted in this Act.

[Section 17A inserted by No. 64 of 1965 s.6.]

Part III — The law of weights and measures

Sale of Goods

18. Contracts and sales to be according to standard weights and measures

- (1) Every contract, bargain, sale, purchase, or dealing made or had in Western Australia for any work, goods, wares, or merchandise, or other thing which has been or is to be done, sold, purchased, delivered, carried, or agreed for by weight or measure, shall be deemed to be made and had according to the standard weights or measures ascertained by this Act, or to some multiple or part thereof, and if not so made or had shall be void. All tolls or duties charged or collected according to weight or measure shall be charged and collected according to one of the above-mentioned standards, or to some multiple or part thereof.
- (2) No person shall sell or buy by any denomination of weight or measure other than the standard weights or measures, or some multiple or part thereof.
- (3) This section shall not apply to a contract, bargain, sale, purchase, or dealing in connection with the importation or export of goods, wares, or merchandise from or to a country where other than the standard weights and measures, ascertained by this Act, are used.

[Section 18 amended by No. 31 of 1973 s.4.]

19. Articles to be sold by Commonwealth legal unit of measurement

- (1) An article sold by weight or measure shall be sold only by reference to a Commonwealth legal unit of measurement the use of which in respect of that article is permitted by the regulations.
- (2) All contracts, bargains, sales, and dealings in relation thereto shall be deemed to be made and had by such weights or measures and, where so made or had, shall be valid.

[Section 19 amended by No. 78 of 1964 s.7; No. 64 of 1965 s.7; No. 34 of 1967 s.6.]

[20. *Repealed by No. 4 of 1974 s.3.*]

21. Sales by net weight or measure

- (1) Except as otherwise prescribed by this or any other Act, a person shall not —
- (a) sell an article by weight or measure otherwise than by net weight or measure; or
 - (b) mark a package containing an article, or cause, permit, or suffer such a package to be marked, with the words “Gross weight” or words to the like effect.

Penalty: \$400.

- (1a) The provisions of subsection (1)(b) do not apply to a package containing an article when that package is used for the purpose of transporting the article and is marked as prescribed in the regulations.
- (2) A person by whom an article is sold shall, if the article is sold by weight or measure and is delivered to the purchaser at a place other than the premises of the seller, deliver with the article an invoice or delivery note showing the weight or measure of the article so delivered.
- (3) Subsection (2) does not apply to or in relation to bread or —
- (a) a pre-packed article within the meaning of section 27A contained in a package on which is marked the net weight or measure of the article; or
 - (b) an article that is, otherwise than at the request of the purchaser, weighed or measured before or at the time of sale and in the presence of the purchaser, or to a package containing such an article.
- (4) For the purposes of subsection (3)(b), an article shall be deemed not to be weighed or measured in the presence of the purchaser unless the instrument by which the article is weighed or measured is so constructed, placed in such a position, and so

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used as to enable the purchaser to have a clear and unobstructed view of and to see easily —

- (a) the weight or measure, or indication of the weight or measure, of the article; and
 - (b) the operation of the weighing or measuring of the article.
- (5) Where beer, including ale, porter and stout is sold in a vessel specified in the first column of the table to this subsection, the vessel shall contain not less than the quantity set out in the second column of that table opposite to that vessel —

Kilderkin	77 litres
45 litre keg	43 litres
40 litre keg	38.5 litres
22.5 litre keg	20.5 litres

- (6) Any article may, by regulation, be exempted from all or any of the provisions of this section.

[Section 21 inserted by No. 34 of 1967 s.7; amended by No. 31 of 1973 s.5; No. 4 of 1974 s.4; No. 64 of 1978 s.11.]

[22. Repealed by No. 34 of 1967 s.8.]

[23. Repealed by No. 34 of 1967 s.9.]

24. Provision for weighing or measuring

- (1) Any person who offers or exposes for retail sale by weight or measure any article in a shop or other place, or in a vehicle, pack, basket or other receptacle, shall —
- (a) have a suitable weighing or measuring instrument that is placed in such a position, and is capable of being so used in that position, as to enable a purchaser to have a clear and unobstructed view of, and to see easily —
 - (i) the weight or measure, or indication of the weight or measure, of any article weighed or measured on the instrument; and

- (ii) the operation of the weighing or measuring of the article;
 - (b) where the instrument is a weighing instrument, keep thereby such weights, if any, as are necessary for weighing articles thereon; and
 - (c) at the request of the purchaser of any article sold by retail, by weight or measure, weigh or measure the article in the presence of the purchaser on a weighing or measuring instrument that complies with the requirements of paragraph (a).
- (2) If the article is less than the due weight or measure, the person selling the same shall be guilty of an offence against this Act.

[Section 24 amended by No. 64 of 1965 s.10; No. 34 of 1967 s.10.]

25. False declaration as to measures, weights, etc.

No person shall, by means of words, description, or other indication, direct or indirect, make any false declaration or statement, or wilfully mislead any person as to the number, quantity, measure, gauge, or weight of any articles sold or delivered by him, or sell or cause to be sold or delivered anything by weight or measure short of the quantity ordered or purchased.

[Section 25 amended by No. 42 of 1926 s.9.]

26. Offence of false representation

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 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.

[Section 26 inserted by No. 42 of 1926.]

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26A. Certain provisions of this Part not to apply to certain articles and packages

The provisions of sections 25 and 26 do not apply to or in relation to an article or package to which the provisions of Part IIIA apply.

[Section 26A inserted by No. 34 of 1967 s.11.]

27. Fraud in using weight or measure

Where any fraud is wilfully committed in the using of any weight, measure, or weighing or measuring instrument, the person committing such fraud, and every person party to the fraud, shall be guilty of an offence against this Act, and the weight, measure, or instrument may be seized.

[Section 27 amended by No. 42 of 1926 s.11.]

Part IIIA — Pre-packed articles

[Heading inserted by No. 34 of 1967 s.12.]

27A. Interpretation

- (1) For the purposes of this Part and of the regulations in force thereunder —

“approved brand” means a brand approved by the chief inspector;

“brand” includes any mark, device, name, word, letter, numeral or symbol, or any combination thereof;

“mandatory marking” in relation to a pre-packed article to which section 27E applies, means the statement of true weight or measure of the article which is required by the regulations to be marked on the package containing the article, and where the regulations so require includes the word “net”.

- (2) For the purposes of this Part —

- (a) an article shall be deemed to be pre-packed if it is packed in advance ready for sale; and
- (b) on premises where articles of any description are so packed, or are kept or stored for sale after being so packed, any article of that description found on those premises (being an article that is contained in a package) shall be deemed to be pre-packed within the meaning of this Part unless the contrary is proved, and it is not sufficient proof to the contrary to show that the package has not been marked in accordance with the provisions of this Act with respect to the marking of packages containing articles of that description.

[Section 27A inserted by No. 34 of 1967 s.12; amended by No. 64 of 1978 s.4.]

s. 27B

27B. Exemptions

- (1) Nothing in this Part or in the regulations in force thereunder applies to or in relation to —
 - (a) an exempted article; or
 - (b) a package that contains an exempted article only or 2 or more exempted articles only.
- (2) Nothing in this Part or in the regulations in force thereunder with respect to the packing of an article for sale or the marking of a package containing an article applies to or in relation to an article that is, otherwise than at the request of the purchaser, weighed or measured before or at the time of sale and in the presence of the purchaser, or to a package containing such an article.
- (3) For the purposes of subsection (2), an article shall be deemed not to be weighed or measured in the presence of the purchaser unless the instrument by which the article is weighed or measured is so constructed, placed in such a position, and so used as to enable the purchaser to have a clear and unobstructed view of and to see easily —
 - (a) the weight or measure, or indication of the weight or measure, of the article; and
 - (b) the operation of the weighing or measuring of the article.
- (4) In subsection (1), “**exempted article**” means —
 - (a) bread other than pre-packed sliced bread; and
 - (b) an article of any description that is wholly exempted by the regulations from the operation of this Part and the regulations in force thereunder.

[Section 27B inserted by No. 34 of 1967 s.13; amended by No. 31 of 1973 s.6.]

27C. Names, etc., of packer, etc., to be marked on packages

- (1) A person shall not pack an article for sale or cause, permit or suffer an article to be packed for sale unless the package in which the article is contained is marked —
- (a) where the article is packed by the packer other than for or on behalf of another person who has an address within the State — with the name and address of the packer or with an approved brand approved for use by the packer; or
 - (b) where the article is packed by the packer for or on behalf of another person who has an address within the State — with either the name and address of that other person or the name and address of the packer, or, in either case, an approved brand approved for use by that other person or such a brand approved for use by that packer, as the case may be,

and, where the regulations make provision with respect to the marking of packages for the purposes of this section, in accordance with those regulations.

Penalty: \$400.

- (1a) The provisions of subsection (1) do not apply —
- (a) in relation to the packing of an article that is packed outside the Commonwealth;
 - (b) to an outer package used for the purpose of transporting an article contained in a package if the second mentioned package is marked in accordance with this section.
- (2) Where an article is packed by a person as an employee of another person, the name and address required by subsection (1) to be marked as the name and address of the packer are those of the employer of that person.

s. 27C

- (3) Where the name required to be marked on a package is —
- (a) that of a corporation — the name so required to be marked on the package is that under which the corporation is incorporated; or
 - (b) that of a person or persons carrying on business under a business name registered under the *Business Names Act 1962* — the name so required to be marked on the package is the business name so registered.
- (4) A person shall not sell a pre-packed article unless the package containing the article is marked —
- (a) as required by subsection (1); or
 - (b) where the article was packed outside the State but within the Commonwealth, as required by the corresponding law in force in that part of the Commonwealth in which the article was packed.

Penalty: \$400.

- (4a) The provisions of subsection (4) do not apply in relation to a package that was packed outside the Commonwealth.
- (5) In this section, “**corresponding law**” means a law, or a specified provision of a law, of a State other than this State or of a Territory of the Commonwealth that is declared by the Minister, by order published in the *Gazette*, to be a corresponding law for the purposes of this section.
- (6) A person shall not mark his name and address or his approved brand, or cause, permit or suffer his name and address or his approved brand to be marked, pursuant to subsection (1) on a package containing a pre-packed article unless he has means of identifying at the time of marking and thereafter the place where the article is packed.

Penalty: \$400.

- (7) In any proceedings for an offence against subsection (6), evidence of the failure of the person referred to in that subsection, at the request of an inspector, to inform the inspector

of the place referred to in that subsection is evidence that at the time of the marking and thereafter, that person did not have the means of identifying that place.

- (8) A person whose name and address or approved brand is, pursuant to subsection (1), marked on a package containing a pre-packed article shall, when so requested by an inspector, inform the inspector of the place where the article was packed.
Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.
- (9) The address of a person or persons required to be marked on a package pursuant to subsection (1) is —
- (a) where that person is a natural person — the address of his sole or principal place of business in the State;
 - (b) where that person is or those persons are a person or persons carrying on business as a firm under a business name registered under the *Business Names Act 1962*— the address of the sole or principal place of business of the firm in the State;
 - (c) where that person is a corporation — the address of the registered office of the corporation in the State,

and shall in any case include a reference to the State.

[Section 27C inserted by No. 64 of 1969 s.4; amended by No. 31 of 1973 s.7; No. 64 of 1978 s.11.]

27D. Certain articles to be packed and sold only in certain denominations

- (1) A person shall not, on or after the appointed day, pack for sale, or cause, permit, or suffer to be packed for sale, an article of any description to which this section applies except in a weight or measure of such denomination as may be prescribed in relation to articles of that description.
Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

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- (2) For the purposes of subsection (1), the appointed day in relation to articles of any particular description is such day as the Minister may, by order published in the *Gazette*, declare to be the appointed day in relation to articles of that description.
- (3) A person shall not, on or after the appointed day, sell an article of any description to which this section applies if the article is packed otherwise than as required by subsection (1).
Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.
- (4) For the purposes of subsection (3), the appointed day in relation to articles of any particular description is such day as the Minister may, by order published in the *Gazette*, declare to be the appointed day in relation to articles of that description.
- (5) Nothing in subsection (3) prohibits the sale, pursuant to a permit under section 27F, of an article to which the permit relates.
- (6) An order made by the Minister under this section —
- (a) may declare different days as the appointed day for the purposes of subsections (1) and (3), respectively; and
 - (b) may declare different days as the appointed day in relation to articles of different descriptions,
- but a day so declared shall be a day not earlier than one year after the date of coming into operation of this section and not earlier than the day on which the order is published in the *Gazette*.
- (7) Notwithstanding any other Act relating to the denominations of weight or measure in which an article of any description to which this section applies may be packed for sale, on and after the date of the passing of the *Weights and Measures Act Amendment Act 1967*¹, a person may pack for sale, or cause, permit, or suffer to be packed for sale, or sell, an article of any description to which this section applies in a weight or measure of a denomination prescribed for the purposes of this section in relations to articles of that description.

- (8) This section applies to articles of such descriptions as may be prescribed.

[Section 27D inserted by No. 34 of 1967 s.15; amended by No. 64 of 1978 s.11.]

27E. Packages, etc., to be marked with particulars of the quantity of the articles contained therein

- (1) A person shall not, on or after the appointed day, pack for sale, or cause, permit, or suffer to be packed for sale, an article of any description to which this section applies unless the package containing the article is marked, in accordance with the regulations —

- (a) with a statement of the true weight or measure of the article; and
- (b) with such statement of particulars as may be prescribed by the regulations.

Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

- (2) For the purposes of subsection (1), the appointed day in relation to articles of any particular description is such day as the Minister may, by order published in the *Gazette*, declare to be the appointed day in relation to articles of that description —

- (a) as regards the statement of the true weight or measure of the article; or
- (b) as regards such other particulars as may be prescribed; or
- (c) as regards both such statement and such other particulars.

- (3) A person shall not, on or after the appointed day, sell an article of any description to which this section applies unless the package in which the article is contained is marked as required by subsection (1).

Penalty: For a first offence \$400; for a second or subsequent offence, \$800.

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- (4) For the purposes of subsection (3), the appointed day in relation to articles of any particular description is such day as the Minister may, by order published in the *Gazette*, declare to be the appointed day in relation to articles of that description —
- (a) as regards the statement of the true weight or measure of the article; or
 - (b) as regards such other particulars as may be prescribed; or
 - (c) as regards both such statement and such other particulars.
- (5) Nothing in subsection (3) prohibits the sale, pursuant to a permit under section 27F, of an article to which the permit relates;
- (6) An order made by the Minister under this section may declare different days as the appointed day in relation to articles of different descriptions and different days in respect of any article for the purposes of paragraph (a) and of paragraph (b), respectively, of subsection (1), but a day so declared shall be a day not earlier than one year after the date of coming into operation of this section and not earlier than the day on which the order is published in the *Gazette*.
- (7) Notwithstanding any other Act relating to the marking of a package containing an article with particulars of the weight or measure of the article, on and after the date of the passing of the *Weights and Measures Act Amendment Act 1967*¹, a person may pack for sale, or cause, permit, or suffer to be packed for sale, or sell, an article of any description to which this section applies, if the package in which the article is contained is marked in accordance with subsection (1).
- (8) This section applies to articles of such descriptions as may be prescribed.

[Section 27E inserted by No. 34 of 1967 s.16; amended by No. 64 of 1978 ss.5 and 11.]

27F. Permits for sale of articles that do not comply with the prescribed requirements

(1) Where, in relation to any pre-packed articles, there has been a contravention of or failure to comply with any of the provisions of this Act with respect to the packing of the articles or the marking of the packages in which the articles are contained, and the Minister is satisfied that —

- (a) the articles were, when packed, intended to be exported from Australia and considers that it is just or reasonable that the sale of the articles in the State should be permitted;
- (b) the articles were packed outside Australia and were brought into the State in such circumstances as, in the opinion of the Minister, render it just and reasonable that the sale of the articles in the State should be permitted; or
- (c) the articles were packed within Australia and he considers that, having regard to the date when the articles were so packed or to any other relevant circumstances, it is just and reasonable that the sale of the articles in the State should be permitted,

the Minister may, on the application of a person, grant to that person a permit authorizing the sale of the articles in the State by that person.

(2) A permit under this section may be granted upon and subject to —

- (a) such conditions as are specified in the permit with respect to —
 - (i) the number of individual articles the sale of which is authorized by the permit;
 - (ii) the form and manner in which the weight or measure of the articles contained in each package shall be indicated; and

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- (iii) the weight or measure of the articles contained in each package;
 - and
 - (b) such other conditions (if any) as the Minister determines and specifies in the permit.
- (3) A person who sells an article the sale of which is authorized by a permit under this section to another person for the purpose of resale shall, before or at the time of the sale of the article to that other person, inform that other person in writing of the conditions specified in the permit.
Penalty: \$400.
- (4) A person shall not —
 - (a) sell an article the sale of which is authorized by a permit under this section otherwise than in accordance with the conditions specified in the permit;
 - (b) falsely represent that a permit has been granted under this section or that such a permit has been granted in relation to any particular article;
 - (c) purport to sell any article the sale of which is authorized by a permit under this section at any time after the permit ceases to be in force, whether by reason of its cancellation or of the effluxion of time; or
 - (d) being the holder of a permit under this section, purport to sell pursuant to the permit any greater number of individual articles than the number (if any) of articles to which the permit relates.Penalty: \$400.
- (5) A person to whom a permit under this section is granted shall, while the permit is in force, deliver or forward by post to the chief inspector, on or before the 15th day of each month, particulars, in a form approved by the Minister, of all articles sold by him under the authority of the permit during the preceding month.

- (6) Unless sooner cancelled pursuant to subsection (7), a permit under this section continues in force for such period as is specified in that behalf in the permit, but may be renewed by the Minister for such further period or periods as the Minister may think fit.
- (7) The Minister may, at any time, by notice in writing to the holder of a permit under this section, cancel the permit if the Minister is satisfied that it is desirable in the public interest so to do.
- (8) Where a permit under this section is cancelled pursuant to subsection (7), the holder thereof shall forthwith deliver up the permit to the chief inspector.

[Section 27F inserted by No. 34 of 1967 s.17; amended by No. 64 of 1978 s.11.]

27G. Incorrect weight or measure

- (1) Subject to this section, where the true weight or measure of a pre-packed article is less than the weight or measure of the article stated on the package containing the article the person who packed the article, or who caused, permitted, or suffered the article to be packed, is guilty of an offence.
Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.
- (2) Subject to this section, a person who —
 - (a) sells a pre-packed article the true weight or measure of which is less than the weight or measure of the article stated on the package containing the article; or
 - (b) delivers or sends to a purchaser an invoice or delivery note relating to an article sold to the purchaser (whether a pre-packed article or not) which states as the weight or measure of the article a weight or measure that is greater than the true weight or measure of the article so sold,is guilty of an offence.
Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

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- (3) Subsection (1) and subsection (2)(a) have effect in relation to any pre-packed article whether or not the package containing the article is required, by or under this Act, to be marked with a statement of the weight or measure of the article.
- (4) For the purposes of subsection (1) the true weight or measure of a pre-packed article shall be taken to be less than the weight or measure of the article stated, on the package containing the article if that true weight or measure is less than the weight or measure stated in any statement marked on the package of the weight or measure of the article contained therein.
- (5) Notwithstanding the provisions of subsections (1) and (2), a pre-packed article shall, for the purposes of this Act, be deemed to be of a true weight or measure equal to the weight or measure stated on the package in which the article is contained if —
 - (a) any deficiency of weight or measure of the article does not exceed 5 parts per centum of that stated weight or measure or, where the article is contained in a glass bottle the stated contents of which do not exceed 8 ounces, 250 grams, 8 fluid ounces or 250 millilitres, as the case may be, $7\frac{1}{2}$ parts per centum of the stated contents; and
 - (b) there is no average deficiency in the contents of 12 packages containing the article selected by an inspector without prior measurement thereof or, when there are less than 12 such packages available, in the contents of all the available packages, being not fewer than 6.
- (6) Where a pre-packed article is sold at a stated price per unit of weight or measure and the statement of the price of the article marked on the package containing the article is inconsistent with the price correctly computed from the stated weight or measure of the article and the stated price per unit of weight or measure each of the following persons is guilty of an offence against this Act, namely —
 - (a) the person who marked the package with the statement of price that is inconsistent;

- (b) any person who caused, permitted or suffered the package to be so marked;
- (c) the person who sells the article contained in a package so marked

Penalty: \$400.

- (6a) For the purposes of subsection (6) a statement of the price of a pre-packed article marked or otherwise indicated on or immediately adjacent to the receptacle in or on which the package containing the article sold is or was displayed shall be deemed to be a statement of the price of the article sold marked on the package containing the article.
- (6b) Where the statement of weight marked on a package containing a pre-packed article is expressed in terms of the minimum weight of the article or by reference to a range of weights between a minimum and a maximum weight within which the weight of the article lies or, pursuant to this Act or the regulations such statement is to be understood to be so expressed, subsection (6) shall apply in respect of that article as if the expression “stated weight or measure of the article” were omitted and the expression “weight that is stated on the package as the minimum weight of the article contained therein or that is to be understood, pursuant to this Act or the regulations, to be such minimum weight” were substituted therefore.
- (7) In proceedings in respect of an offence against subsection (2)(a), it is a defence for the person charged to prove —
 - (a) that —
 - (i) the person from whom he purchased the article or who packed the article furnished him with a written guarantee that the weight or measure of the article stated on the package containing the article was correct; and
 - (ii) he sold or delivered the article in the same state as it was when delivered to him;

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- (b) that —
- (i) he purchased the article in a package that was marked as required by section 27C and by section 27E;
 - (ii) he sold or delivered the article in the same state as it was when delivered to him; and
 - (iii) the person who packed the article or the agent of that person or of the manufacturer of the article from which agent the person charged purchased the article is resident in the State,

but the marking on the package of the weight or measure of the article contained therein constitutes a warranty by the person who packed the article or, as the case requires, by that agent that the true weight or measure of the article is as marked on the package.

- (8) Where the true weight or measure of an article contained in such a package as is referred to in paragraph (b)(i) of subsection (7) is found by an inspector to be less than the weight or measure stated on the package containing the article, any person who appears from the marking on the package to have packed the article or, if that person is not resident in the State, the agent referred to in that subsection —
- (a) shall be deemed to have sold the article to the inspector on the day when, and at the place where, the inspector weighed or measured the article or caused it to be weighed or measured; and
 - (b) is liable to the same penalty as if he had actually sold the article to the inspector on that day and at that place.
- (9) A person who gives such a guarantee as is referred to in subsection (7)(a) that is false or misleading in a material particular is guilty of an offence.
- Penalty: \$800.

- (10) In proceedings against a person in respect of an offence against subsection (9), it is a defence for the person charged to prove that any discrepancy between the true weight or measure of the article to which the proceedings relate and the weight or measure of the article as stated in the guarantee —
- (a) arose after the giving of the guarantee and was attributable wholly to factors for which reasonable allowance was made in stating the weight or measure of the article;
 - (b) was attributable wholly to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in the weight or measure of that article or of any other article; or
 - (c) is due to the act or default of some other person after the article had passed from the control of the person charged.
- (11) Subsections (7) and (10) do not apply unless the person charged has, not less than 2 days before the date set down for the hearing of the proceedings, notified the prosecutor that he intends to avail himself of the protection of subsection (7) or, as the case may be, subsection (10), giving the reasons relied on for claiming that protection.

[Section 27G inserted by No. 34 of 1967 s.18; amended by No. 31 of 1973 s.8; No. 64 of 1978 ss.6 and 11; No. 84 of 2004 s. 80.]

27H. Articles that may be marked “Net weight when packed”

- (1) Where an article of any description to which this section applies (being a pre-packed article) is of such a nature and is so packed that the weight of the article is or is likely, by reason of climatic conditions or evaporation, to be subject to variation after the packing of the article, the regulations may prescribe that packages containing articles of that description may be marked, in the prescribed form and manner, with the words “Net weight when packed” or words to the like effect.

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- (2) The regulations may provide that a package containing an article of a specified kind (in this section referred to as **“a specified article”**), being an article of a description to which this section applies, may, in lieu of being marked with the words referred to in subsection (1), be marked with such other words as may be prescribed (in this section referred to as **“the alternative words”**).
- (3) A person shall not pack for sale, or cause, permit, or suffer to be packed for sale —
- (a) an article of any description to which this section applies in a package marked with a statement of the weight of the article together with the words “Net weight when packed” or words to the like effect; or
 - (b) a specified article in a package marked with a statement of the weight of the article together with the alternative words,

unless the true weight of the article is, at the time when the article is packed and at all times thereafter during the day on which the article is packed, equal to or greater than the weight stated on the package.

Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

- (4) A person shall not mark, or cause, permit, or suffer to be marked —
- (a) the words “Net weight when packed” or words to the like effect on a package containing any article other than an article to which this section applies; or
 - (b) the alternative words on a package containing any article other than a specified article.

Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

- (5) For the purposes of this section, but subject to subsection (6), an article of any description to which this section applies contained in a package marked pursuant to this section with the words

“Net weight when packed” or words to the like effect or, in the case of a specified article, with the alternative words, shall be deemed to have been, at the time when the article was packed and at all times thereafter during the day on which the article was packed, of a true weight equal to the weight stated on the package if —

- (a) any deficiency of weight of the article does not exceed 5 parts per centum of that stated weight; and
 - (b) there is no average deficiency in the contents of 12 packages containing the article selected by an inspector without prior measurement thereof or, where there are less than 12 such packages available, in the contents of all the available packages, being not fewer than 6.
- (6) Notwithstanding anything in section 27G(5) or in subsection (5), where —
- (a) an article is contained in a package marked, pursuant to this section, with the words “Net weight when packed” or words to the like effect or, in the case of a specified article, with the alternative words;
 - (b) the article is declared by the regulations to be an article to which this subsection applies; and
 - (c) at any time subsequent to the day when the article was packed —
 - (i) there is a deficiency of weight of the article exceeding such number of parts per centum (being greater than 5 parts per centum) of the weight stated on the package as is prescribed for the purposes of this subsection in relation to that article; or
 - (ii) there is an average deficiency exceeding such number of parts per centum of the weight stated on the package as is prescribed as the permissible average deficiency for the purposes of this

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subsection in relation to that article in the contents of 12 packages containing the article taken at random by an inspector or, where there are less than 12 such packages available, in the contents of all the available packages, being not fewer than 6,

the article shall, for the purposes of this section, be deemed not to have been, at the time when the article was packed and at all times thereafter during the day on which the article was packed, of a true weight equal to the weight stated on the package.

- (7) The regulations may require that, in addition to any other particulars required by or under this Act to be marked on the package containing an article to which subsection (6) applies, the package shall be marked with the date when the article was packed or with an approved brand indicating that date.
- (8) This section applies to articles of such descriptions as may be prescribed.

[Section 27H inserted by No. 34 of 1967 s.19; amended by No. 64 of 1978 ss.7 and 11.]

27HA. Articles that may be marked “Net weight at standard condition”

- (1) A package (not being a hermetically-sealed package) containing an article of a description to which this section applies may be marked, in the prescribed form and manner, with the words “Net weight at standard condition” or words to the like effect.
- (2) No person shall mark, or cause, permit, or suffer to be marked, the words “Net weight at standard condition” or words to the like effect on a package containing an article unless —
 - (a) the article is an article of a description to which this section applies; and

- (b) where the regulations so provide, there is also marked on the package such a statement as is referred to in subsection (4)(b).

Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

- (3) Notwithstanding anything in section 25G(5), an article of a description to which this section applies that is contained in a package marked as provided in subsection (1) shall be deemed to be of a true weight equal to the weight marked on the package if —
 - (a) any deficiency of weight of the article does not exceed such number of parts per centum as is prescribed in relation to articles of that description; and
 - (b) where the regulations prescribe a permissible average deficiency in relation to articles of that description, the average deficiency in the contents of 12 packages containing the article selected by an inspector without prior measurement thereof or, where there are less than 12 such packages available, in the contents of all the available packages, being not less than 6, does not exceed the permissible average deficiency so prescribed.
- (4) The regulations may —
 - (a) generally, or in relation to an article of any particular description, or in relation to articles that are composed of 2 or more different materials, prescribe and regulate the manner in which any deficiency referred to in subsection 3(a) or (b) shall or may be determined; and
 - (b) either generally or in relation to an article of any particular description, provide that where a package containing an article is marked as provided in subsection (1) the package shall also be marked with a correct statement of the proportion by weight of the several types of material of which the article is composed.

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- (5) This section applies to articles of such descriptions as may be prescribed.

[Section 27HA inserted by No. 64 of 1969 s.5; amended by No. 64 of 1978 ss.8 and 11.]

27HB. Method of determining true weight of certain frozen articles, etc.

- (1) Notwithstanding any other provision of this Act, the true weight for the purposes of this Act of an article to which this section applies shall be the weight that is ascertained in accordance with the regulations prescribing the manner in which the weight of such an article is to be ascertained.
- (2) This section applies to articles of such descriptions as may be prescribed.

[Section 27HB inserted by No. 31 of 1973 s.9.]

27J. Prohibition and restriction of use of certain expressions on packages

- (1) Subject to this section, if a prohibited expression or a restricted expression is marked on a package containing a pre-packed article, the person who packed the article, or who caused, permitted, or suffered the article to be packed, is guilty of an offence.

Penalty: For a first offence, \$400; for a second or subsequent offence, \$800.

- (2) Subject to this section, a person who sells a pre-packed article contained in a package on which a prohibited expression or a restricted expression is marked is guilty of an offence.
- (3) The provisions of subsections (1) and (2) do not apply in respect of an article contained in a package on which a restricted expression appears if —
- (a) on every portion of the package on which the restricted expression appears there is marked immediately adjacent to the restricted expression a statement of the weight or

- measure of the article contained in the package, whether or not the article is of a description to which section 27E applies;
- (b) the restricted expression and the statement of weight or measure are so placed and so marked that both may be seen clearly at the same time and may be read in the same direction; and
 - (c) each of the letters and figures included in the statement of weight or measure —
 - (i) complies with the requirements as to the mandatory marking having regard to the dimension of the package on which the restricted expression appears;
 - (ii) is of a height not less than the tallest letter included in the restricted expression, where the height of that letter is greater than the minimum height of print referred to in subparagraph (i); and
 - (iii) is in the same style of print and on the same colour contrast to its background as the letters comprising the restricted expression.
- (3a) In the case of a package that includes a panel on which a restricted expression appears more than once it shall be sufficient compliance with subsection (3)(a) if a statement of the weight or measure of the article contained in the package is marked immediately adjacent to that expression once at least on each panel on which that expression appears.
- (4) In this section —
- “prohibited expression”** means —
- (a) any expression (whether consisting of a single word or of more words than one and whether in an abbreviated form or not) that directly or indirectly relates to or qualifies a unit of measurement of a physical quantity and, without prejudice to the

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generality of the foregoing, includes any expression that so relates and is declared by the regulations to be a prohibited expression for the purposes of this section;

- (b) any statement that relates to or touches on the weight or measure of a pre-packed article or of a source from which the article is derived the truth whereof cannot be tested by any process applied to the article.

“restricted expression” means any expression not being a prohibited expression (and whether consisting of a single word or of more words than one or of any word or words in combination with any figure or figures and whether in an abbreviated form or not) that directly or indirectly relates to the size of the package containing the article (not being such a statement as to the weight or measure of the article as is required by section 27E(1)) or to the weight or measure of the whole contents of the package and, without prejudice to the generality of the foregoing, includes any expression that so relates and is declared by the regulations to be a restricted expression for the purposes of this section.

- (5) Where there is more than one article in a package an expression marked on the package relating to the size of each of the articles is not a restricted expression for the purposes of this section.

[Section 27J inserted by No. 34 of 1967 s.20; amended by No. 31 of 1973 s.10; No. 64 of 1978 ss.9 and 11.]

27K. Proceedings for offences in certain cases

Where it appears to the chief inspector that an offence against this Part or the regulations in force thereunder has been committed by a person and the chief inspector is of the opinion that the offence was due to an act or default of some other person and that the first-mentioned person could establish a defence under this Act applicable to the offence, the chief inspector may take or authorize the taking of proceedings against that other person without first taking or authorizing the

taking of proceedings against the first-mentioned person, and in any such proceedings that other person may be charged with and, on proof that the commission of the offence was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged, and in any proceedings against that other person the first-mentioned person is a competent and compellable witness.

[Section 27K inserted by No. 34 of 1967 s.21.]

27L. Defences

- (1) In proceedings in respect of an offence against section 27C, it is a defence for the person charged to prove that the article to which the proceedings relate was packed on any premises for sale on those premises to a person for the purpose of consumption or use and not for the purpose of re-sale.
- (2) In proceedings in respect of an offence against section 27D(1), or section 27E(1), it is a defence for the person charged to prove that the article to which the proceedings relate was packed for export from Australia and that the marking on the package containing the article clearly so indicated.
- (3) In proceedings in respect of an offence against section 27C(4), section 27D(3), section 27E(3), section 27F(4)(a), section 27G(2) or (6), or section 27J(2), in relation to a pre-packed article, it is a defence for the person charged to prove —
 - (a) that the commission of the offence was due to a cause or to causes beyond his control;
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence in respect of the article to which the proceedings relate; and
 - (c) that he purchased the article from another person and sold or delivered it in the same state as it was when delivered to him.

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- (4) A cause beyond the control of a person charged with an offence against section 27C(4), section 27D(3), section 27E(3), section 27F(4)(a), section 27G(2) or (6) or section 27J(2), is not a defence under subsection (3) if the court before which the proceedings are brought is of the opinion that the cause was one that the person charged could reasonably have foreseen or for which he could reasonably have made allowance.
- (5) In proceedings against a person who packed an article, or who caused, permitted or suffered an article to be packed, in respect of an offence against section 27G(1) or (2), being an offence in relation to an alleged deficiency in the true weight or measure of the article, it is a defence for the person charged to prove —
- (a) that the deficiency —
 - (i) arose after the packing of the article and the marking of the package and was attributable wholly to factors for which reasonable allowance was made in stating the weight or measure of the article; or
 - (ii) was attributable wholly to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in the weight or measure of that article or of any other article;
 - (b) that the commission of the offence was due to a cause or to causes beyond his control; and
 - (c) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence in respect of the article to which the offence relates,

but a cause beyond the control of the person charged is not a defence under paragraph (b) if the court before which the proceedings are brought is of the opinion that the cause was one that the person charged could reasonably have foreseen or for which he could reasonably have made allowance.

- (6) Subsections (3) and (5) do not apply unless the person charged has, not less than 2 days before the date set down for the hearing of the proceedings, notified the prosecutor that he intends to avail himself of the protection of this section, giving the reasons relied on for claiming that protection,

[Section 27L inserted by No. 34 of 1967 s.22; amended by No 84 of 2004 s. 80.]

27M. Certificate of incorrect guarantee or warranty

- (1) When a person is charged with an offence against section 27G(2), being an offence in relation to an alleged deficiency in the true weight or measure of a pre-packed article, and the court before which the proceedings are brought is satisfied that —
- (a) the article to which the alleged offence relates was packed by a person other than the accused;
 - (b) the accused was furnished with such a guarantee as is referred to in section 27G(7)(a), or the marking on the package containing the article constitutes a warranty pursuant to that subsection;
 - (c) the accused sold or delivered the article in the same state as it was when delivered to him; and
 - (d) the guarantee or warranty, as the case may be, was false or misleading in a material particular,

the court may, on the application of the prosecutor, grant a certificate as to its findings.

- (2) In proceedings in respect of an offence against section 27G(1), (2) or (8), being an offence in relation to an alleged deficiency in the true weight or measure of a pre-packed article, a certificate purporting to have been granted under subsection (1) or under a corresponding law is evidence of the matters stated therein.
- (3) In this section, “**corresponding law**” means a law, or a specified provision of a law, of a State other than this State or of a Territory of the Commonwealth that is declared by the

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Minister, by order published in the *Gazette* to be a corresponding law for the purposes of this section.

[Section 27M inserted by No. 34 of 1967 s.23; amended by No. 84 of 2004 s. 80 and 82.]

27N. Approval of brands

- (1) On the application of a person whose business consists of or includes the packing of articles for sale, the chief inspector may approve in writing of a brand for use by that person for the purpose of marking on packages —
 - (a) the name and address required by paragraph (a) of subsection (1) of section 27C to be marked on packages;
 - (b) the name and address required by paragraph (b) of that subsection to be marked on packages; or
 - (c) where the regulations so require, the dates when the articles contained in the packages were packed,

and a package on which such a brand is marked in accordance with the approval shall, for the purposes of this Act, be deemed to be marked with the name and address as required by paragraph (a) of subsection (1) of section 27C, or paragraph (b) of that subsection, or with the date when the article contained therein was packed, as the case requires.

- (2) An approval under subsection (1) may be granted subject to such conditions (if any) as the chief inspector determines and specifies in the approval, and may be cancelled by the chief inspector at any time by notice in writing to the person to whom the approval was granted.
- (3) A person to whom an approval under subsection (1) has been granted subject to conditions shall not mark a package containing an article, or cause, permit, or suffer such a package to be marked, with the brand specified in the approval otherwise than in compliance in all respects with those conditions.

Penalty: \$400.

- (4) Where an approval has been granted to a person under subsection (1) of a brand for use by that person for the purposes of marking on packages the name and address referred to in paragraph (a) of that subsection, or the name and address referred to in paragraph (b) of that subsection, no person other than the person to whom that approval was granted or a person having his authority so to do shall mark a package containing an article with the brand specified in the approval or with any other brand so closely resembling the brand specified in the approval as to be likely to lead to the belief that it is the brand specified in the approval.

Penalty: \$400.

[Section 27N inserted by No. 34 of 1967 s.24; amended by No. 64 of 1978 s.11.]

27P. Evidentiary provisions

In proceedings in respect of an offence against this Act in relation to a pre-packed article —

- (a) the marking on the package in which the article is contained indicating the name of the person who packed the article is evidence that the article was packed by that person;
- (b) the marking on the package in which the article is contained indicating the name and address of a person for or on behalf of whom the article was packed is evidence that the article was packed for or on behalf of that person and that the article was so packed in the State or Territory indicated by that address;
- (c) the marking on the package in which the article is contained indicating the place where the article was packed is evidence that the article was packed at that place;
- (d) the marking on the package in which the article is contained indicating the date when the article was

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packed is evidence that the article was packed on that date;

- (da) the fact that an article contained in a package is found exposed for sale or in the possession of any person for sale is evidence that the person who packed the article in that package packed it for sale;
- (e) a document purporting to be certified by the chief inspector to be a copy of a permit granted by the Minister under section 27F is evidence of the grant of the permit and of the conditions (if any) specified in the permit;
- (f) a certificate purporting to be signed by the chief inspector and stating —
 - (i) that the particulars required by section 27F(5) to be supplied to him have not been so supplied;
 - (ii) that a permit granted by the Minister under section 27F(1) has been cancelled;
 - (iii) that a permit cancelled under section 27F(7) has not been delivered up to him;
 - (iv) that an approval granted by him under section 27N(1) has been cancelled,is evidence of the matters stated in the certificate; and
- (g) a document purporting to be certified by the chief inspector to be a copy of an approval granted by him under section 27N(1) of a brand for use by a person for the purpose of marking on packages —
 - (i) the name and address required by paragraph (a) of subsection (1) of section 27C to be marked on packages;
 - (ii) the name and address required by paragraph (b) of that subsection to be marked on packages; or
 - (iii) the date when the articles contained therein were packed,

is evidence of the approval and of the conditions (if any) subject to which the approval was granted, and the fact

that such a brand is marked on a package containing an article is evidence that —

- (iv) the article was packed by the person to whom the approval was granted and at the place the address of which is specified in the approval as the address indicated by the brand;
- (v) the article was packed for or on behalf of the person whose name and address are indicated by the brand; or
- (vi) the article was packed on the date indicated by that brand,

as the case requires.

[Section 27P inserted by No. 34 of 1967 s.25; amended by No. 64 of 1969 s.6.]

27Q. Powers of inspectors

- (1) Without affecting the generality of sections 36, 37 and 38, an inspector may at all reasonable times either in the daytime or at night —
 - (a) search for and examine any pre-packed article and for that purpose enter any place where he has reasonable cause to believe there is any pre-packed article, and, in the presence of the person in charge, select and weigh or measure or cause to be weighed or measured any pre-packed article and, if necessary, break open the package containing any such article; and
 - (b) on payment or tender to the person in charge thereof of the current market value of a pre-packed article, demand, select, and take any such article.
- (2) If a person in whose presence any article referred to in paragraph (a) of subsection (1) may be selected and weighed or measured, when requested by the inspector to be present at that selection and weighing or measuring refuses or fails to be present then, notwithstanding the provisions of that paragraph,

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the inspector may select and weigh or measure the article in the absence of any person referred to in that paragraph.

- (3) Notwithstanding the provisions of subsection (1)(b), an inspector may seize any pre-packed article in respect of which a contravention of this Act appears to him to have been committed.

[Section 27Q inserted by No. 34 of 1967 s.26.]

27R. Regulations

- (1) The Governor may make regulations for the purposes of this Part, and in particular and without prejudice to the generality of the provisions of this section, may make regulations —
- (a) for or with respect to the form and manner in which packages required or permitted by any provision of this Part to be marked with any particulars, statement, or approved brand, shall or may be so marked;
 - (b) for or with respect to the denominations of weight or measure in which articles of any prescribed description shall or may be packed or sold;
 - (c) regulating, controlling, and restricting the sale or supply of articles by means of a vending machine (as defined in the regulations) and prohibiting the sale or supply of articles by means of such a machine otherwise than in accordance with the regulations;
 - (d) for securing that articles that are sold by means of a vending machine (as defined in the regulations) are so sold only if there is displayed in or on the machine such particulars or statements, with respect to such matters, as may be prescribed, and the manner in which the particulars or statements so prescribed shall be so displayed;
 - (e) for or with respect to the units of weight or measurement to be used in marking or displaying on packages or vending machines (as defined in the regulations) any

particulars or statements required to be marked or displayed thereon, either generally or in respect of any prescribed description of articles, and the manner in which those units of weight or measurement shall or may be expressed (whether in figures or words or figures and words) and the abbreviations that may or may not be used for the purposes of expressing those units;

- (f) for or with respect to the method in which, and the conditions under which, the weight or measure of articles is to be determined in connection with the marking or displaying on packages or on vending machines (as defined in the regulations) of any particulars or statements referred to in the foregoing provisions of this subsection;
- (g) permitting, in the case of such articles and in such circumstances as may be specified in the regulations, the weight or measure of any articles used in packing the first-mentioned articles for sale as may be so specified to be included in the net weight or measure of the first-mentioned articles;
- (ga) requiring that pre-packed articles to which section 27E applies be marked on the package containing the article with a mandatory marking in the form prescribed;
- (h) exempting (either wholly or to such extent as may be prescribed) or authorizing a prescribed person to exempt (either unconditionally or subject to such conditions and restrictions as that person may determine) from all or any of the provisions of this Part —
 - (i) articles of any description prescribed or referred to in the regulations and packages containing any such articles; and
 - (ii) prescribed transactions and classes of sales;
- (i) prescribing standard specifications of capacity for or in relation to packages used in the packing or sale of

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- prescribed articles, prescribing distinctive marks for packages made to those specifications, and providing that any such articles, when packed, shall be sold only in prescribed packages made to those specifications and bearing the prescribed distinctive marks;
- (j) requiring packages containing articles of a prescribed description to be marked with a statement of the sale price per unit of weight or measure of the articles;
 - (k) generally regulating and controlling the packing of articles or of articles of prescribed descriptions and the marking of packages in which pre-packed articles are contained; and
 - (l) imposing penalties, not exceeding \$100, for offences against regulations made under this subsection.
- (1a) Regulations may be made under this section prohibiting, regulating and otherwise relating to deceptive packaging of pre-packaged articles and without prejudice to the generality of the provisions of this subsection regulations may be made —
- (a) prescribing articles and classes of articles and packages and classes of packages to which regulations made under this subsection apply;
 - (b) prescribing standard specifications relating to the maximum permissible free space in cavities or recesses of prescribed articles and classes of articles and packages and classes of packages and the method for ascertaining the maximum permissible free space in prescribed articles and prescribed classes of articles and prescribed packages and prescribed classes of packages;
 - (c) exempting (either wholly or to such extent as may be prescribed) or authorizing a prescribed person to exempt (either unconditionally or subject to such conditions and restrictions as that person may determine) from all or any of the provisions of regulations made under this subsection —

- (i) articles of any description prescribed or referred to in the regulations and packages containing any such articles; and
 - (ii) prescribed transactions and classes of sales;
 - (d) imposing penalties, not exceeding \$200 for a first offence and not exceeding \$400 for a second or subsequent offence against regulations made under this subsection.
- (2) The regulations —
- (a) may make different provision in respect of different descriptions of articles, packages, transactions, and classes of sales;
 - (b) may be made so as to apply generally or only in respect of the packing or sale of articles of denominations of weight or measure greater than or less than some other prescribed multiple of a prescribed denomination;
 - (c) may be of general or specially limited application; and
 - (d) may differ according to differences in time, locality, place, or circumstance.
- (3) The regulations shall not be regarded as invalid on the ground that they delegate to or confer on a person a discretionary authority.

[Section 27R inserted by No. 34 of 1967 s.27; amended by No. 48 of 1975 s.3; No. 64 of 1978 s.10.]

27S. Provisions of this part to prevail

Where there is any inconsistency between the application of any provision of this Part or the regulations in force thereunder and the application of any other provision of this Act, or the regulations in force thereunder, to or in relation to a pre-packed article, or to or in relation to any act done or required to be done, or not done or forbidden to be done, in relation to such an article, the former provision shall prevail and the latter provision

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shall, in its application to or in relation to that pre-packed article or that act, be of no effect.

[Section 27S inserted by No. 34 of 1967 s.28.]

Part IV — Verification and stamping

28. Verification and stamping

- (1) Every weight, measure, and weighing or measuring instrument used for trade, not being a weight, measure, or instrument exempted by the regulations, shall be stamped with a mark of verification in pursuance of this Act.
- (2) After the date of the commencement of regulations made under the Commonwealth Act relating to the approval of patterns of instruments as patterns of instruments suitable for use for trade, a weight or measure or a weighing or measuring instrument shall not be verified or stamped pursuant to this Act unless —
 - (a) it is of a pattern approved by or on behalf of the Commission under those regulations; or
 - (b) it is of a type and design in respect of which there is in force an approval given before that date, or in the case of an application for approval that at that date was pending, given after that date, by the Secretary for Labour³ under the regulations made under this Act.

[Section 28 amended by No. 42 of 1926 s.12; No. 7 of 1941 s.2; No. 64 of 1965 s.11; No. 31 of 1973 s.11.]

29. Reverification and restamping

- (1) Every weight, measure, and weighing or measuring instrument used for trade shall be verified and stamped every 2 years, and if required shall be produced at the office of an inspector for that purpose.
- (2) Provided that the Governor, by regulation, may exempt from the operation of this section, subject to such conditions as he may impose, prescribed weights or measures, or weighing and measuring instruments, or weights, measures, or weighing instruments at any places named therein which are situated at a greater distance than 30 kilometres from the office of an inspector.

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- (3) Provided also that the Governor may make regulations for the more frequent reverification and stamping of prescribed weights or measures, or weighing or measuring instruments. Such regulations may require the owners of such weighing instruments to provide such stamped weights and such labour as the inspector considers necessary for the proper conduct of such verification.
- (4) In the case of a weighing or measuring instrument which, by reason of its being fixed or of its being so heavy that it cannot conveniently be moved, it shall be a sufficient compliance with this section if arrangements are made to the satisfaction of an inspector for the reverification and stamping of the instrument within the period prescribed.

[Section 29 amended by No. 42 of 1926 s.13; No. 64 of 1965 s.12; No. 4 of 1974 s.5.]

30. Penalty for using unstamped weights, etc.

No person shall use, or have in his possession for use for trade, any weight, measure, or weighing or measuring instrument which is not stamped as required by this Act, or which is incorrect or unjust.

31. Using defective or repaired weights, etc., until restamped

No person shall use for trade any weight, measure, or weighing or measuring instrument which has become defective in consequence of wear or accident, or has been mended or repaired, or being a fixed weighing or measuring instrument has been removed for installation at another site, until the same has been restamped. Any person mending or repairing such defective weight, measure, or instrument, or removing or causing to be removed a fixed weighing or measuring instrument for installation at another site, shall destroy any existing stamp thereon.

[Section 31 amended by No. 64 of 1965 s.13.]

32. Fees for verifying and stamping

The fees for testing, verifying, or stamping weights, measures, and weighing or measuring instruments shall be those prescribed.

[Section 32 amended by No. 42 of 1926 s.14; No. 64 of 1965 s.14.]

Part V — Sale of coal and firewood

33. Sale to be by weight or measure

- (1) All coal and firewood shall be sold by weight, 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 local government district, townsite, or other place where a weighing instrument is provided.
- (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.

[Section 33 amended by No. 42 of 1926 s.15; No. 14 of 1996 s.4.]

34. Fraudulent sales

No person shall —

- (a) sell coal or firewood by description which is false as to the sort of coal or firewood sold; or
- (b) sell or deliver wet coal or firewood with intent to defraud the purchaser as to the weight of coal or firewood sold or delivered; or
- (c) sell or deliver coal or firewood short of the quantity purchased, or of the quantity purported to be sold or delivered; or
- (d) make any false statement as to the weight of any coal or firewood; or
- (e) being in charge of a vehicle, wilfully make any false statement as to the tare weight of the vehicle, or wilfully do any act by which either the seller or purchaser of any coal or firewood is defrauded.

35. Regulations

The Governor may make regulations for any of the subjects following —

- (a) The sale, weighing, and delivery of coal and firewood, and the provision and use of weighing instruments in connection therewith.
- (b) The issue by sellers, to drivers of vehicles conveying coal or firewood, of weight tickets, and the carrying and production of such tickets and delivery of same to purchasers.
- (c) The weighing of any vehicle conveying coal or firewood, or the load thereon, or any part of such load, on demand by a purchaser or an inspector.
- (d) The sale of all grain, and the mill products of such grain.
- (e) Generally for other matters for carrying out the provisions of this Part.
- (f) For imposing a penalty not exceeding \$200 for any breach of any regulation.

[Section 35 amended by No. 64 of 1965 s.15; No. 113 of 1965 s.8.]

Part VI — General and supplemental

Inspection

36. Inspection of weights, measures, and instruments

- (1) Any inspector may at all reasonable times —
 - (a) enter any building or place, or stop and inspect any vehicle wherein or in connection with which weights, measures, or weighing or measuring instruments are used for trade;
 - (b) inspect any weights, measures, or weighing instruments in the possession of any person having a pack, basket, or other receptacle containing articles for sale; and
 - (c) examine and test such weights, measures, and weighing or measuring instruments.
- (2) Any weight, measure, or weighing or measuring instrument which is not stamped as required by this Act, or which is incorrect or unjust, may be seized by an inspector.

37. Inspection of articles in packages

Any inspector may at all reasonable times enter any building or place, and stop and inspect any vehicle, or inspect any pack, basket, or other receptacle, and any article therein kept or exposed for sale in a package, and weigh or cause the article to be weighed or measured in the presence of the person in charge of the same, and may seize any article in respect of which a contravention of this Act has been committed.

38. Obstruction of inspector

Any person who hinders or obstructs any inspector in the execution of his duty under this Act, or who does not, when requested by such inspector, produce all weights, measures, or weighing or measuring instruments in his possession for examination or testing, shall be guilty of an offence against this Act.

Unjust weights, measures, or weighing instruments

39. Forged stamp

- (1) No person shall —
 - (a) forge or counterfeit or unlawfully have in his possession any stamp used for stamping under this Act or under the Act hereby repealed any weight, measure, or weighing or measuring instrument, or in any way alter or tamper with any weight, measure, or weighing or measuring instrument which has been so stamped, so as to cause it to weigh or measure unjustly;
 - (b) knowingly use, sell, dispose of, or expose for sale any weight, measure, or weighing or measuring instrument, with such forged or counterfeit stamp thereon, or any weight, measure, or weighing or measuring instrument so altered or tampered with;
 - (c) wilfully or knowingly make, or sell, or cause to be made or sold, any weight, measure, or weighing or measuring instrument which is false or unjust;
 - (d) increase or diminish any stamped weight or measure, or use, sell, dispose of, or expose for sale any such increased or diminished weight or measure: Provided that nothing herein shall apply to any person who increases or diminishes any stamped weight or measure when he adjusts the same to standard, and entirely obliterates the stamp thereon.
- (2) Any bargain, sale, or contract made in reference to any false or unjust weight, measure, or weighing or measuring instrument shall be void.

39A. Standards damaged and repaired to be reverified

A standard of measurement provided and maintained under this Act that has become defective through use or accident, or that has been broken or repaired, shall not be used for the purposes

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of this Act unless and until it has been reverified in manner referred to in section 15.

[Section 39A inserted by No. 64 of 1965 s.16.]

40. General provisions relating to offences

- (1) Where by or under this Act any act is directed or forbidden to be done, or authority is given to any person to direct or forbid any act to be done, a person who offends against any such direction or prohibition is guilty of an offence against this Act.
- (2) A person who is guilty of an offence against this Act for which no specific penalty is provided elsewhere in this Act is liable to a penalty of \$400.
- (3) Where a person (in this subsection referred to as “**the accused**”) is convicted of an offence against this Act and the court by which he is convicted is of the opinion that some other person was defrauded or suffered pecuniary loss by reason of the commission of the offence, the court may, in addition to imposing a penalty for the offence, order the accused to pay to that other person, by way of recoupment of his loss, such sum as the court thinks fit and as may be specified in the order.
- (4) Proceedings for an offence against Part IIIA or the regulations in force thereunder may be commenced only by the chief inspector or by any person authorized by the chief inspector.
- (5) A prosecution for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the person instituting the prosecution, whichever is the later period.

[Section 40 inserted by No. 34 of 1967 s.29; amended by No. 64 of 1978 s.11; No. 59 of 2004 s. 141; No. 84 of 2004 s. 80 and 82.]

41. Forfeiture

Any weights, measures, or weighing or measuring instruments in connection with which any contravention of or offence against this Act was committed may on conviction of any person guilty of such contravention or offence be forfeited to Her Majesty, and may be disposed of as the court directs.

42. Imprisonment for fraud

Where a person is convicted of a second or subsequent contravention of or offence against this Act, and the court by which he is convicted is of opinion that such contravention or offence was committed with intent to defraud, he shall be liable, in addition to or in lieu of any other penalty, to a fine not exceeding \$1 000.

[Section 42 amended by No. 78 of 1995 s.147.]

Procedure

[43. Repealed by No. 34 of 1967 s.30.]

44. Conviction not to affect civil remedy

No proceeding or conviction for any offence punishable under this Act shall prejudice any civil proceedings.

45. This Act not to exempt person from indictment

This Act shall not exempt any person from any indictment or other proceeding for an offence which is punishable under the Criminal Code, or some other Act, but so that no person be punished twice for the same offence.

46. Evidence as to possession

Where —

- (a) any weight, measure, weighing, or measuring instrument is found in the possession of any person carrying on trade or on any premises which, whether a building or in the open air, are used by any person for carrying on trade; or

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- (b) any weighing or measuring instrument of the kind mentioned in section 4(8)(b) is found in the possession of any person in circumstances which indicate that the instrument is open for the use of the public,

the person in whose possession the weight, measure, weighing, or measuring instrument is so found shall be deemed, for the purposes of this Act, to have such weight, measure, weighing, or measuring instrument in his possession for use for trade.

[Section 46 inserted by No. 31 of 1973 s.12.]

46A. Liability of principal for acts of agent

- (1) Notwithstanding any other law or rule of law, where any person (in this section referred to as “**the agent**”) acting, otherwise than as an employee, for or on behalf of another person (in this section referred to as “**the principal**”) packs an article for sale, marks a package containing an article, or sells an article, and commits an offence against this Act in relation to that packing, marking, or sale, the principal is guilty of an offence against this Act in like manner as the agent and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and that he took all reasonable precautions and used all due diligence to avoid the commission of the offence in relation to the article to which the proceedings relate.
- (2) The principal may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the agent has not been proceeded against or has not been convicted under this Act.
- (3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 46A inserted by No. 34 of 1967 s.31.]

46B. Liability of employer for offence by employee

- (1) Notwithstanding any other law or rule of law, where any person, as the employee of another person (in this section referred to as “**the employer**”), packs an article for sale, marks a package containing an article, or sells an article, and commits an offence against this Act in relation to that packing, marking, or sale, the employer is guilty of an offence against this Act in like manner as the employee (whether or not the offence was committed without his authority or contrary to his orders or instructions) and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.
- (2) The employer may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the employee has not been proceeded against or has not been convicted under this Act.
- (3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 46B inserted by No. 34 of 1967 s.32.]

47. Offences by corporations

- (1) Where a corporation is convicted of an offence against this Act, every person who at the time of the commission of the offence was a director or member of the governing authority of the corporation or an officer concerned in the management of the corporation and who authorized or permitted the commission of the offence is guilty of the like offence.
- (2) A person referred to in subsection (1) may, on the request of the prosecutor, be convicted on the proceedings on which the corporation is convicted if the court is satisfied that the person had reasonable notice that the prosecutor intended to make that request.

[Section 47 inserted by No. 34 of 1967 s. 33; amended by No. 84 of 2004 s. 80.]

48. Costs on failure of prosecution

If a prosecution is commenced by any person other than an inspector, and the proceedings are withdrawn or dismissed, the court may, if it thinks fit, order that the said person pay to the accused such compensation for costs and loss of time as seems reasonable.

[Section 48 amended by No. 84 of 2004 s. 80 and 82.]

49. Costs on conviction

In any conviction under this Act, the court may order such payment as it thinks fit as compensation for loss of time or expense incurred in consequence of the offence of which the accused was convicted, or in connection with the proceedings to secure such conviction.

[Section 49 amended by No. 84 of 2004 s. 80.]

50. Evidence of regulations

In any proceedings under this Act, any printed paper purporting to be regulations made by the Governor under this Act, and to be printed by the Government Printer, shall be evidence that the regulations in the words printed in such paper were duly made and published under this Act.

Fees

51. Fees to be paid into Treasury

All fees received by an inspector in pursuance of this Act shall be accounted for by him, and paid into the Treasury and credited to the Consolidated Account.

[Section 51 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

Regulations

52. Regulations

The Governor may make regulations for any of the subjects following —

- (a) The guidance of inspectors in the performance of their duties.
- (b) Prescribing the denominations of weights and measures permissible for use or trade.
- (c) The fixing of times and places for the submitting for verification and the verifying and stamping of weights, measures, and weighing or measuring instruments.
- (d) The supply, custody and care of standards of measurement under this Act, the giving of certificates of verification or reverification of any of those standards, and the fees chargeable for verification and for reverification.
- (da) Exempting inspector's standards or classes of inspector's standards from stamping under section 14.
- (e) The amount of error which may be tolerated in weights, measures, and weighing or measuring instruments.
- (f) The shapes, dimensions, and proportions to be required in weights, measures, and weighing or measuring instruments, and the materials of which they shall be made.
- (g) Defining and specifying what weights, measures, and weighing or measuring instruments shall, or shall not be admitted to verification, and the tests to be applied to ascertain their accuracy and efficiency.
- (h) Limiting the purposes or trades for or in which certain weights, measures, weighing or measuring instruments may lawfully be used, and prescribing the class of weighing or measuring instruments which are to be used or shall not be used either generally or in certain trades.

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- (i) The testing, verifying, and stamping of weights, measures, and weighing or measuring instruments, and the adjusting of weights.
- (j) Prescribing the instruments for testing and verifying weights, measures, and weighing or measuring instruments.
- (k) The marking on weights and measures of their several denominations, and on weighing and measuring instruments of their capacities and other markings. The obliteration of stamps on weights, measures, and weighing or measuring instruments found to be incorrect or not in accordance with these regulations.
- (l) Prescribing the fees for testing, verifying, and stamping weights, measures, and weighing instruments.
- (m) Prescribing the method by which specified articles shall be sold.
- (ma) Prohibiting or restricting the use of a unit of measurement of a physical quantity prescribed by the Commonwealth regulations either generally or in respect of a transaction or a class of transactions.
- (mb) Requiring a transaction or a class of transactions to be made or entered into in terms of a unit of measurement of a physical quantity prescribed by the Commonwealth regulations.
- (n) Prescribing the weights, measures, or sizes in which packages of specified goods shall be sold.
- (o) The payment of the fees prescribed for the testing, verifying, adjusting, or stamping of weights, measures, and weighing or measuring instruments.
- (p) The classes of weights to be used on certain weighing instruments.
- (q) The registration by owners or lessees of public weighing or measuring instruments, and the examination and

licensing of weighmen, and generally for their supervision and control.

- (r) The regulation of the taking of tare weights of any vehicle used for the conveyance of goods sold or carried by weight; the issue and production of tickets showing such weight, or the weight of the loading on such vehicle, or the weight of the loading and the vehicle; providing for such weighing by an inspector, and for preventing frauds in connection with goods conveyed on vehicles and sold or carried by weight.
- (s) Prohibiting the sale of certain goods by measure of capacity.
- (t) Providing for exemptions in pursuance of this Act.
- (u) The method of marking upon articles their weight or measure.
- (v) Providing for the examination and licensing of scale repairers, and petroleum product measuring instrument repairers, other than persons employed by and working under the direct supervision of a licensed scale repairer or a licensed petroleum product measuring instrument 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.
- (va) Requiring the prescribed units of measurement to be used in the sale and in the offering, exposing and advertising for sale, of prescribed goods or articles or classes of goods or articles, either in specified parts of the State or generally throughout the State.
- (w) Generally for other matters for carrying out the provisions of this Act.
- (x) For imposing any penalty not exceeding \$200 for any breach of any regulation.

[Section 52 amended by No. 42 of 1926 s.17; No. 64 of 1965 s.18; No. 113 of 1965 s.8; No. 3 of 1976 s.2.]

53. Regulations and by-laws

- (1) Any regulation or by-law made or purporting to be made under or by virtue of this Act shall —
 - (a) be published in the *Gazette*;
 - (b) take effect from the date of publication or from a later date to be specified therein; and
 - (c) be judicially noticed, and unless and until disallowed as hereinafter provided, or except in so far as in conflict with any express provision of this or any other Act, be conclusively deemed to be valid.
- (2) Such regulations and by-laws shall be laid before both Houses of Parliament within 14 days after publication if Parliament is in session, and if not, then within 14 days after the commencement of the next session.
- (3) If either House of Parliament pass a resolution at any time within one month after any such regulation or by-law has been laid before them disallowing such regulation or by-law, then the same shall thereupon cease to have effect, subject, however, to such and the like savings as apply in the case of the repeal of a statute.

Schedule A

Part I

Denomination of Standard			Maximum range within which values of the Standard as determined on verification or reverification may be expected to lie	
First Column			Second Column	Third Column
Standards in the form of rigid bars (scales)			Secondary State Standard	Tertiary State Standard
Denominations not exceeding 1 yd. but exceeding 1 ft.			± 0.0005 in.	. . . . .
Denominations not exceeding 1 ft. but exceeding 1 in.			± 0.0003 in.	. . . . .
Denominations not exceeding 1 in.			± 0.0002 in.	. . . . .
Denominations not exceeding 1 m. but exceeding 30 cm.			± 0.012 mm.	. . . . .
Denominations not exceeding 30 cm. but exceeding 25 mm.			± 0.0075 mm.	. . . . .
Denominations not exceeding 25 mm.			± 0.005 mm.	. . . . .
Standards in the form of flexible tapes			Parts per hundred thousand of the nominal value	
Denominations exceeding 33 ft.	Denominations exceeding 10 m.		± 2	. . . . .
Denominations not exceeding 33 ft. but exceeding 10 ft.	Denominations not exceeding 10 m. but exceeding 3 m.		± 5	. . . . .
Denominations not exceeding 10 ft.	Denominations not exceeding 3 m.		± 2	. . . . .
Metric Denominations			Secondary State Standard	Tertiary State Standard
			Parts per million of the nominal value	
Denominations exceeding 5 kg.			± 9	. . . . .
Denominations not exceeding 5 kg. but not less than 1 kg.			± 3	± 6
Denominations less than 1 kg. but not less than 100 g.			± 3	± 10
Denominations less than 100 g. but not less than 10 g.			± 5	± 20
			Milligrammes	
Denominations less than 10 g. but not less than 1 g.			± 0.05	± 0.2
Denominations less than 1 g. but not less than 100 mg.			± 0.03	± 0.1
Denominations less than 100 mg. but not less than 10 mg.			± 0.02	± 0.04
Denominations less than 10 mg.			± 0.02	. . . . .
Systems in terms of which denominations are expressed			Secondary State Standard	Tertiary State Standard
Avoirdupois	Troy	Grain	Parts per million of the nominal value	
Exceeding 14 lb.	Exceeding 100 oz. tr.	. . . . .	± 3	. . . . .
Not exceeding 14 lb. but not less than 2 lb.	Not exceeding 100 oz. tr. but not less than	. . . . .	± 3	± 6

Schedule A

Denomination of Standard			Maximum range within which values of the Standard as determined on verification or reverification may be expected to lie	
First Column			Second Column	Third Column
	20 oz. tr.			
Less than 2 lb. but not less than 2 oz.	Less than 20 oz. tr. but not less than 2 oz. tr.	Not exceeding 10 000 gr. but not less than 1 000 gr.	± 3	± 10
Less than 2 oz but not less than 4 dr.	Less than 2 oz. tr. but not less than 0.2 oz. tr.	Less than 1 000 gr. But not less than 100 gr.	± 5	± 20
			Grains	
Less than 4 dr.	Less than 0.2 oz. tr. but not less than 0.02 oz. tr.	Less than 100 gr. but not than 10 gr.	± 0.0005	± 0.002
.....	Less than 0.02 oz. tr. but not less than 0.002 oz. tr.	Less than 10 gr. but not less than 1 gr.	± 0.0003	± 0.001
.....	.....	Less than 1 gr. but not less than 0.1 gr.	± 0.0002	± 0.0004
.....	Less than 0.002 oz. tr.	Less than 0.1 gr.	± 0.0002	.....
Denominations expressed in metric units			Secondary State Standard	Tertiary State Standard
Denominations exceeding 1 000 cc.			± 1 ten-thousandth of the nominal value	± 2.5 ten-thousandths of the nominal value
Denominations not exceeding 1 000 cc. but exceeding 50 cc.			± 1 ten-thousandth of the nominal value	± 5 ten-thousandths of the nominal value
Denominations not exceeding 50 cc. but exceeding 20 cc.			± 0.005 cc.	± 5 ten-thousandths of the nominal value
Denominations not exceeding 20 cc.			± 0.005 cc.	± 0.01 cc.
Denominations expressed in gallons, quarts, pints or gills				
Denominations exceeding 1 qt.			± 1 ten-thousandth of the nominal value	± 2.5 ten-thousandths of the nominal value
Denominations not exceeding 1 qt. but exceeding 2 fl. oz.			± 1 ten-thousandth of the nominal value	± 5 ten-thousandths of the nominal value
Denominations not exceeding 2 fl. oz. but exceeding 2 fluid drachms			0.1 min.	± 1 thousandth of the nominal value
Denominations not exceeding 2 fluid drachms			± 0.1 min.	± 0.15 min.
Metric Carat Denominations			Secondary State	Tertiary State

Schedule A

Denomination of Standard	Maximum range within which values of the Standard as determined on verification or reverification may be expected to lie	
First Column	Second Column	Third Column
	Standard	Standard
	Parts per million of the nominal value	
Denominations less than 5,000 CM. but not less than 500 CM.	± 3	....
Denominations less than 500 CM. but not less than 50 CM.	± 5	....
	Milligrammes	
Denominations less than 50 CM. but not less than 5 CM.	± 0.05 (± 0.25 CM.)	....
Denominations less than 5 CM. but not less than 0.5 CM.	± 0.02 (± 0.1 CM.)	....
Denominations less than 0.5 CM. but not less than 0.05 CM.	± 0.01 (± 0.05 CM.)	....

Part II

Denomination of Standard	Maximum permissible variation of Inspector's Standard from denomination on verification or reverification
First Column	Second Column
Standards of measurement of length expressed in terms of the metre or units related to the metre	Maximum variation in millimetres
Denominations exceeding 32 m.	One-tenth of the denomination in metres.
Denominations exceeding 15 m. but not exceeding 32 m.	Five-hundredths of the denomination in metres.
Denominations exceeding 2 mm. but not exceeding 15 m.	Two-tenths of the square root of the denomination in metres.
Denominations not exceeding 2 mm.	0.01.
Standards of measurement of length expressed in terms of the yard or units related to the yard	Maximum variation in inches
Denominations exceeding 35 yd.	Four-thousandths of the denomination in yards.
Denominations exceeding 50 ft. but not exceeding 35 yd.	Two-thousandths of the denomination in yards.
Denominations exceeding 0.07 in. but not exceeding 50 ft.	Five-thousandths of the square root of the denominations in feet.
Denominations not exceeding 0.07 in.	0.0004.
Standards of measurement of mass and weight that are not constructed of iron expressed in terms of the kilogramme or units related to the kilogramme	Maximum variation in milligrammes
Denominations exceeding 10 kg.	Eight times the denomination in kilogrammes.
Denominations exceeding 1 mg. but not exceeding 10 kg.	Eight-tenths of the square root of the denomination in grammes
Denominations not exceeding 1 mg.	0.025.

Schedule A

Denomination of Standard	Maximum permissible variation of Inspector's Standard from denomination on verification or reverification
First Column	Second Column
Standards of measurement of mass and weight that are not constructed of iron expressed in terms of the pound or units (other than the grain) related to the pound	Maximum variation in grains
Denominations exceeding 50 lb.	Six-hundredths of the denomination in pounds.
Denominations exceeding 3 dr. but not exceeding 50 lb.	Four-tenths of the square root of the denomination in pounds.
Denominations not exceeding 3 dr.	0.05
Standards of measurement of mass and weight expressed in terms of the grain	Maximum variation in grains
Denominations exceeding 0.01 gr.	Three-thousandths of the square root of the denomination in grains.
Denominations not exceeding 0.01 gr.	0.0003.
Standards of measurement of mass and weight expressed in terms of units related to the grain	Maximum variation in grains
Denominations exceeding 300 oz. tr.	Four-thousandths of the denomination in troy ounces.
Denominations exceeding 0.01 gr. but not exceeding 300 oz. tr.	Three-thousandths of the square root of the denominations in grains.
Denominations not exceeding 0.01 gr.	0.0003.
Standards of measurement of mass and weight expressed in terms of the metric carat	Maximum variation in milligrammes
Denominations exceeding 0.02 CM.	Eight-hundredths of the square root of the denomination in metric carats.
Denominations not exceeding 0.02 CM.	0.01.
Standards of measurement of volume expressed in terms of the cubic metre or units related to the cubic metre	Maximum variation in cubic centimetres
Denominations exceeding 0.05 cu.m.	Six hundred times the denomination in cubic metres
Denominations exceeding 0.05 cc. but not exceeding 0.05 cu.m.	Two-hundredths of the cube root of the square of the denomination in cubic centimetres.
Denominations not exceeding 0.5 cc.	0.01
Standards of measurement of volume expressed in terms of the gallon or units (other than the fluid ounce, fluid drachm and minim) related to the gallon	Maximum variation in minims
Denominations exceeding 10 gal.	Fifty times the denomination in gallons
Denominations not exceeding 10 gal.	One hundred times the cube root of the square of the denomination in gallons.
Standards of measurement of volume expressed in terms of the fluid ounce, drachm or minim	Maximum variation in minims

Schedule

Denomination of Standard	Maximum permissible variation of Inspector's Standard from denomination on verification or reverification
First Column	Second Column
Denominations exceeding 20 min.	Twice the cube root of the square of the denomination in fluid ounces
Denominations not exceeding 20 min.	0.2.
Standards of measurement of area expressed in terms of the square metre or units related to the square metre	Maximum variation in square metres
Denominations exceeding 0.6 sq.m.	Three-thousandths of the denomination in square metres
Denominations not exceeding 0.6 sq.m.	0.0018.
Standards of measurement of area expressed in terms of the square yard or units related to the square yard	Maximum variation in square feet
Denominations exceeding 6 sq. ft.	Three-thousandths of the denomination in square feet.
Denominations not exceeding 6 sq. ft.	0.018.
Standards of measurement of mass and weight that are constructed of iron and expressed in terms of the kilogramme or units related to the kilogramme	Maximum variation in grammes
Denominations exceeding 25 kg.	Seven-hundredths of the denomination in kilogrammes.
Denominations exceeding 1 kg. but not exceeding 25 kg.	Thirty-five-hundredths of the square root of the denomination in kilogrammes.
Standards of measurement of mass and weight that are constructed of iron and expressed in terms of the pound or units related to the pound	Maximum variation in drams
Denominations exceeding 50 lb.	Eighteen-thousandths of the denomination in pounds.
Denominations exceeding 2 lb. but not exceeding 50 lb.	Thirteen-hundredths of the square root of the denomination in pounds.

[Schedule A inserted by No. 64 of 1965 s.19; amended by Gazette 19 May 1972 pp.1171-2.]

[Schedule B. Deleted by No. 64 of 1965 s.20.]

[Schedule C. Deleted by No. 64 of 1965 s.21(1)]

[Schedule D. Deleted by No. 4 of 1974 s.6.]

Weights and Measures Act 1915

Notes

¹ This is a compilation of the *Weights and Measures Act 1915* and includes the amendments made by the other written laws referred to in the following tables ^{1a}.

Compilation table

Part I — Acts

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Weights and Measures Act 1915</i>	50 of 1915	20 November 1915	1 July 1927 (see section 1 and <i>Gazette</i> 3 June 1927 p.1399)	
<i>Weights and Measures Act Amendment Act 1926</i>	42 of 1926	23 December 1926	23 December 1926	
<i>Weights and Measures Act Amendment Act 1941</i>	7 of 1941	13 October 1941	13 October 1941	
<i>Weights and Measures Act Amendment Act 1958</i>	26 of 1958	11 November 1958	16 August 1963 (see section 2 and <i>Gazette</i> 16 August 1963 p.2376)	
<i>Weights and Measures Act Amendment Act 1964</i>	78 of 1964	14 December 1964	1 May 1965 (see section 2 and <i>Gazette</i> 30 April 1965 p.1269)	
<i>Weights and Measures Act Amendment Act 1965</i>	64 of 1965	19 November 1965	Section 21(1) deemed operative 4 March 1949 (see section 21(2)); balance of Act other than section 9 operative	Section 9 was repealed by No.34 of 1967 section 3

Weights and Measures Act 1915

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Weights and Measures Act Amendment Act 1965</i> (continued)			1 January 1966 (see section 2(1) and <i>Gazette</i> 31 December 1965 p.4359)	
<i>Weights and Measures Act Amendment Act 1967</i>	34 of 1967	21 November 1967	Sections 1-6, 10-13, 15-18 and 21-33, operative 1 October 1968; sections 9, 19 and section 20 (insofar as it enacted section 27J(1), (3) and (4)) operative 1 November 1969; section 7 and section 20(2) (insofar as it enacted section 27J(2)) operative 1 May 1970; (see section 2 and <i>Gazette</i> 13 September 1968 p.2748); section 8 operative 24 July 1970; (see section 2 and <i>Gazette</i> 24 July 1970 p.2156)	Section 14 repealed by No.64 of 1969 section 3

Weights and Measures Act 1915

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Weights and Measures Act Amendment Act 1969</i>	64 of 1969	14 October 1969	Sections 1, 2, 3, 5 and 6 and section 4 (insofar as it enacted section 27C (1)-(3) and (5)-(9)) operative 1 November 1970; section 4 (insofar as it enacted section 27C (4)) operative 1 May 1971; (see section 2 and <i>Gazette</i> 24 July 1970 p.2156)	
<i>Weights and Measures Act Amendment Act 1973</i>	31 of 1973	27 August 1973	1 June 1974 (see section 2 and <i>Gazette</i> 8 February 1974 p.310)	
<i>Weights and Measures Act Amendment Act 1974</i>	4 of 1974	19 September 1974	22 November 1974 (see section 2 and <i>Gazette</i> 22 November 1974 p.5090)	
<i>Weights and Measures Act Amendment Act 1975</i>	48 of 1975	18 September 1975	28 May 1976 (see section 2 and <i>Gazette</i> 28 May 1976 p.1558.)	
<i>Weights and Measures Act Amendment Act 1976</i>	3 of 1976	25 May 1976	25 May 1976	
<i>Weights and Measures Act Amendment Act 1978</i>	64 of 1978	26 September 1978	1 January 1979 (see section 2 and <i>Gazette</i> 1 December 1978 p.4492)	

Weights and Measures Act 1915

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Statutory Designations) and Validation Act 1981, section 4</i>	63 of 1981	13 October 1981	13 October 1981	
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 August 1993	1 July 1993 (see section 2(1))	
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994 (see section 2)	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	16 June 1996	1 July 1996 (see section 2)	
<i>Sentencing (Consequential Provisions) Act 1995, section 147</i>	78 of 1995	16 January 1996	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 128</i>	57 of 1997	15 December 1997	15 December 1997 (see section 2)	

Weights and Measures Act 1915

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> , section 76	10 of 1998	30 April 1998	30 April 1998 (see section 2(1))	
<i>Public Transport Authority Act 2003</i> s. 155	31 of 2003	26 May 2003	1 July 2003 (see s. 2(1) and <i>Gazette</i> 27 June 2003 p. 2384)	
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)	
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))	

Part II — Amendments published in *Gazette*

Gazettal	Commencement Date
4 March 1949 pp.414-6	4 March 1949
19 May 1972 pp.1171-2	19 May 1972

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Trade Measurement Administration Act 2006</i> s. 36 and Sch. 1 ⁴	12 of 2006	11 May 2006	Sch. 1 cl. 7: 11 May 2006 (see s. 2(1); s. 36 and Sch. 1 cl. 1-6 and 8-9: to be proclaimed (see s. 2)

² Now see the *National Measurement Act 1960* of the Commonwealth.

³ The office referred to is obsolete.

⁴ On the date as at which this compilation was prepared, the *Trade Measurement Administration Act 2006* s. 36, had not come into operation. It read as follows:

“

36. Repeal, and savings and transitional provisions

- (1) The *Weights and Measures Act 1915* is repealed.
- (2) Schedule 1 has effect to make savings and transitional provisions.

”

Section 36(2) which gives effect to Sch. 1 reads as follows:

“

Schedule 1 — Savings and transitional provisions

[s. 36]

1. Terms used in this Schedule

In this Schedule —

“**commencement day**” means the day on which this Schedule comes into operation;

“**repealed Act**” means the Act repealed by section 36(1).

2. Interpretation Act 1984 not affected

Nothing in this Schedule limits the application of the *Interpretation Act 1984* to the repeal effected by section 36(1).

3. Office-holders under the repealed Act

- (1) The person who, immediately before the commencement day, held office as the chief inspector of weights and measures under section 6 of the repealed Act is taken, on and from that day, to have been designated as the Commissioner under section 6(2).
- (2) A person who, immediately before the commencement day, held office as an inspector of weights and measures under section 6 of the repealed Act is taken, on and from that day, to have been designated as an inspector under section 9(1).
- (3) The operation of this clause in relation to a person does not —
 - (a) unless the person agrees otherwise, affect the person’s remuneration or terms and conditions of employment;
 - (b) prejudice the person’s existing or accruing rights;
 - (c) affect any rights under a superannuation scheme; or

- (d) interrupt continuity of service.

4. Permits for sale of pre-packed articles

A permit —

- (a) granted under section 27F of the repealed Act; and
- (b) in force immediately before the commencement day,

is taken, on and from that day, to be a permit issued under section 49 of the principal Act.

5. Marks of verification

A mark of verification stamped on a measuring instrument under section 28(1) or 29(1) of the repealed Act —

- (a) is taken, on and from the commencement day, to be an inspector's mark for the purposes of the principal Act; and
- (b) continues in effect as provided by section 21(4) or (5) of the principal Act, as the case may be.

6. Identifying marks under *Weights and Measures (Exemptions) Regulations 1997*

An identifying mark applied to a measuring instrument by an approved person in accordance with regulation 4 or 5 of the *Weights and Measures (Exemptions) Regulations 1997* —

- (a) is taken, on and from the commencement day, to be a licensee's mark for the purposes of the principal Act; and
- (b) continues in effect as provided by section 21(4) or (5) of the principal Act, as the case may be.

7. Provisions for licensing before commencement of sections 53 and 54 of the principal Act

- (1) In this clause —

“**chief inspector**” means the chief inspector of weights and measures under section 6 of the *Weights and Measures Act 1915*;

“**licence**” means a servicing licence or a public weighbridge licence provided for by Part 6 of the principal Act;

“**pre-commencement period**” means the period from the day on which the principal Act receives the Royal Assent until the first day on which both sections 53 and 54 of the principal Act have come into operation.

- (2) The purpose of this clause is to enable —

- (a) applications for licences to be made and decided; and

- (b) licensing decisions to be reviewed, during the pre-commencement period.
- (3) During the pre-commencement period the provisions mentioned in the Table to this subclause are taken to apply for the purposes of this clause, to the extent so mentioned, as if they had come into operation.

Table

- 1. the definitions in section 4, and in section 3 of the principal Act, so far as is necessary for the purposes of this clause
- 2. sections 55, 56, 58, 60, 63, 64 and 70 of the principal Act
- 3. section 81 of the principal Act so far as it applies to a decision described in paragraph (a) or (c) of that section
- 4. section 93 of the principal Act so far as it applies to an application for a licence
- (4) The Governor may make regulations of the kind mentioned in section 15(a), (b), (c), (g) and (h) to have effect for the purposes of this clause during the pre-commencement period.
- (5) Despite section 6, during the pre-commencement period the chief inspector has the powers and duties expressed to be vested in the Commissioner by the provisions referred to in the Table to subclause (3), and to that extent is taken to be the Commissioner.
- (6) The chief inspector may delegate to any other officer employed in the Department any power or duty referred to in subclause (5), and section 8(2) to (6) apply, with all necessary changes, as if references to the Commissioner were references to the chief inspector.
- (7) If a servicing licence is granted for the purposes of section 53 of the principal Act during the pre-commencement period it comes into force on the commencement of that section, or on such later day as may be specified in the licence.
- (8) If a public weighbridge licence is granted for the purposes of section 54 of the principal Act during the pre-commencement period it comes into force on the commencement of that section, or on such later day as may be specified in the licence.

8. Continuation of things done and commenced

- (1) If anything done or commenced under the repealed Act before the commencement day —
 - (a) still has effect or has not been completed immediately before that day; and

- (b) could have been done or commenced under this Act or the principal Act if it had been in force at the time the thing was done or commenced,

then —

- (c) the thing done continues to have effect; or
- (d) the thing commenced may be completed,

as if it had been done or commenced under this Act or the principal Act, as the case requires.

- (2) Subclause (1) does not apply to anything in relation to which other provision is made by or under this Schedule.

9. Further transitional provisions may be made

- (1) If there is no sufficient provision made in this Schedule for any matter or thing necessary or convenient to give effect to the transition from the repealed Act to this Act and the principal Act, that provision may be made by regulations under section 35.
- (2) If regulations under subclause (1) provide that a state of affairs is taken to have existed, or not to have existed, on and from a day that is —
 - (a) earlier than the day on which the regulations are published in the *Gazette*; but
 - (b) not earlier than the day on which this Schedule came into operation,

the regulations have effect according to their terms.

- (3) A provision referred to in subclause (2) does not operate so as —
 - (a) to affect in a manner prejudicial to any person (other than the State) the rights of that person existing; or
 - (b) to impose liabilities on any person (other than the State) in respect of anything done or omitted to be done,

before the day of publication of the regulations.

”.