

WEIGHTS AND MEASURES.

No. 64 of 1978.

**AN ACT to amend the Weights and Measures Act,
1915-1976.**

[Assented to 26th September, 1978.]

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

1. (1) This Act may be cited as the *Weights and Measures Act Amendment Act, 1978.*

Short title
and citation.

(2) In this Act the Weights and Measures Act, 1915-1976 is referred to as the principal Act.

Approved
for Reprint
21st July,
1971 and
amended
by Acts Nos.
31 of 1973;
4 of 1974;
48 of 1975;
3 of 1978.

(3) The principal Act as amended by this Act may be cited as the Weights and Measures Act, 1915-1978.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 4
amended.

3. Section 4 of the principal Act is amended by adding after subsection (8) the following subsection—

(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 27A
amended.

4. Subsection (1) of section 27A of the principal Act is amended—

- (a) by deleting the words “In this Part”, in line one, and substituting the words “For the purposes of this Part and of the regulations in force thereunder”;
- (b) by deleting the passage “thereof.” at the end of the interpretation “brand” and substituting the passage “thereof;”; and
- (c) by adding after the interpretation “brand” the following interpretation—

“mandatory marking” in relation to a pre-packed article to which section twenty-seven E of this Act 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”.

5. Section 27E of the principal Act is amended—

Section 27E
amended.

- (a) as to subsection (1), by deleting the passage “regulations, with a statement of the true weight or measure of the article”, in lines six and seven, and substituting a new passage as follows—

“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” ;
- (b) as to subsection (2), by deleting the word “description” in line six and substituting a new passage as follows—

“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” ;
- (c) as to subsection (4), by deleting the word “description” in line six and substituting a new passage as follows—

“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” ; and
- (d) as to subsection (6), by deleting the passage “descriptions,” in line three and substituting the passage “descriptions and different days in respect of any article for the purposes of paragraph (a) and of paragraph (b), respectively, of subsection (1) of this section.”.

Section 27G
amended.

6. Section 27G of the principal Act is amended—

- (a) by repealing subsection (4) and substituting the following subsection—

(4) For the purposes of subsection (1) of this section 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. ;

- (b) as to subsection (5), by deleting the words “taken at random by an inspector” in line three of paragraph (b) and substituting the words “selected by an inspector without prior measurement thereof” ;

- (c) by repealing subsection (6) and substituting the following subsections—

(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: Four hundred dollars.

(6a) For the purposes of subsection (6) of this section 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) of this section 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. Subsection (5) of section 27H of the principal Act is amended by deleting the words "taken at random by an inspector" in line three of paragraph (b) and substituting the words "selected by an inspector without prior measurement thereof".

Section 27H
amended.

8. Subsection (3) of section 27HA is amended by deleting the words "taken at random by an inspector" in lines five and six of paragraph (b) and substituting the words "selected by an inspector without prior measurement thereof".

Section
27HA
amended.

Section 27J
amended.

9. Section 27J of the principal Act is amended—

(a) by repealing subsection (3) and subsection (3a) and substituting the following subsections—

(3) The provisions of subsections (1) and (2) of this section 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 twenty-seven E of this Act 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) of this paragraph; 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 subparagraph (a) of subsection (3) of this section 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. ;

- (b) as to subsection (4), by deleting the interpretation "prohibited expression" and substituting the following interpretation—"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 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. .

Section 27R amended.

10. Subsection (1) of section 27R of the principal Act is amended by adding after paragraph (g) the following paragraph—

- (ga) requiring that pre-packed articles to which section twenty-seven E of this Act applies be marked on the package containing the article with a mandatory marking in the form prescribed; .

Miscellaneous amendments.

11. The principal Act is amended as set out in the Schedule to this Act.

SCHEDULE.

Provision Amended	Amendment
Section 21 (1)	Delete "Two hundred dollars", in the last line, substitute "Four hundred dollars".
Section 27C (1)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 27C (4)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 27C (6)	Delete "Two hundred dollars", in the last line, substitute "Four hundred dollars".
Section 27C (8)	Delete "two hundred dollars" in line seven, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines eight and nine, substitute "eight hundred dollars".
Section 27D (1)	Delete "two hundred dollars" in line eight, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines nine and ten, substitute "eight hundred dollars".

Provision Amended	Amendment
Section 27D (3)	Delete "two hundred dollars" in line five, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines six and seven, substitute "eight hundred dollars".
Section 27E (1)	Delete "two hundred dollars" in line eight, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines nine and ten, substitute "eight hundred dollars".
Section 27E (3)	Delete "two hundred dollars" in line six, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines seven and eight, substitute "eight hundred dollars".
Section 27F (3)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 27F (4)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 27G (1)	Delete "two hundred dollars" in line eight, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines nine and ten, substitute "eight hundred dollars".
Section 27G (2)	Delete "two hundred dollars" in line fourteen, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines fifteen and sixteen, substitute "eight hundred dollars".
Section 27G (9)	Delete "Four hundred dollars" in the last line, substitute "Eight hundred dollars".
Section 27H (3)	Delete "two hundred dollars" in line sixteen, substitute "four hundred dollars".
	Delete "four hundred dollars" in lines seventeen and eighteen, substitute "eight hundred dollars".

Provision amended	Amendment
Section 27H (4)	Delete "two hundred dollars" in line ten, substitute "four hundred dollars". Delete "four hundred dollars" in lines eleven and twelve, substitute "eight hundred dollars".
Section 27HA (2)	Delete "two hundred dollars" in line eleven, substitute "four hundred dollars". Delete "four hundred dollars" in lines twelve and thirteen, substitute "eight hundred dollars".
Section 27J (1)	Delete "two hundred dollars" in line seven, substitute "four hundred dollars". Delete "four hundred dollars" in lines eight and nine, substitute "eight hundred dollars".
Section 27N (3)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 27N (4)	Delete "Two hundred dollars" in the last line, substitute "Four hundred dollars".
Section 40 (2)	Delete "two hundred dollars" in lines three and four, substitute "four hundred dollars".