



[1270]

## NATIONAL AND TRADE MEASUREMENT DECREE, 1989

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## GOVERNMENT OF THE REPUBLIC OF FIJI DECREE NO. 14 OF 1989

## NATIONAL AND TRADE MEASUREMENT DECREE, 1989

A DECREE TO REPEAL THE WEIGHTS AND MEASURES ACT, 1979 AND TO ESTABLISH A NATIONAL SYSTEM OF UNITS AND STANDARDS OF MEASUREMENT OF PHYSICAL QUANTITIES BASED ON THE INTERNATIONAL SYSTEM OF UNITS; TO PROVIDE FOR THE FAIR AND JUST USE OF UNITS OF MEASUREMENT, STANDARDS, MEASURING INSTRUMENTS AND PRE-PACKED ARTICLES; AND FOR RELATED PURPOSES

In exercise of the powers vested in me as the President and Commander-in-Chief of the Republic of Fiji and acting in accordance with the advice of the Prime Minister and the Cabinet, I hereby make the following Decree:—

## PART I—PRELIMINARY

*Short title*

1. This Decree may be cited as the National and Trade Measurement Decree, 1989.

*Commencement*

2. This Decree shall come into force on a date to be notified by the Minister in the *Gazette* and different dates may be so notified for the purpose of different provisions of this Decree or in respect of different areas of Fiji, classes of undertakings, classes of goods, classes of measuring instruments or packaging or classes of users of measuring instruments or packaging.

*Interpretation*

3.—(1) In this Decree, unless the contrary intention appears—

“article” includes liquids, foods, chattels, wares, merchandise and goods of every description and, where the context requires, an article and its package;

“certifying certificate” means a certificate in the prescribed form issued by an inspector in respect of any measuring instrument that is exempted from being stamped with a certifying stamp by reason of the impracticability of so stamping it, for the purpose of signifying that the measuring instrument has been found upon inspection to be in accordance with the requirements of this Decree;

“certifying stamp” means a stamp prescribed for use by an inspector for stamping under this Decree a measuring instrument for the purpose of signifying that the measuring instrument has been found on inspection to be in accordance with this Decree;

“Chief Inspector” means the Chief Inspector of Trade Measurement appointed or deemed to have been appointed under and for the purposes of this Decree;

“component” in relation to a thing (in this definition called the ‘basic thing’) by means of which a measurement of a physical quantity may be made, includes another thing (whether or not forming part of the basic thing) that is associated with the basic thing and that is designed or intended to do any or all of the following:

(a) carrying out a conversion of the result of a measurement made by the basic thing;

(b) calculating a number, tax or price by reference to the result of a measurement made by the basic thing;

(c) correcting any or all of the following:

(i) the result of a measurement made by the basic thing;

(ii) a conversion of the result of a measurement made by the basic thing;

(iii) a calculation of a number, tax or price calculated by reference to the result of a measurement made by the basic thing;

(d) providing or repeating information consisting of or relating to any or all of the following:

(i) the result of a measurement made by the basic thing;

(ii) a conversion of the result of a measurement made by the basic thing;

(iii) a calculation of a number, tax or price calculated by reference to the result of a measurement made by the basic thing;

(e) controlling the measurement process carried out by the basic thing;

“document” includes any record of information, whether or not the information is available only after the record is subjected to electronic or other process;

“Fiji legal unit of measurement” means a unit of measurement prescribed for the purposes of section 6;

“former Act” means the Weights and Measures Act, 1979;

“Gazette” means the *Fiji Republic Gazette* and includes any supplement thereto;

“inspection”, in relation to a measuring instrument, includes examination, testing, verification, re-verification, comparison, and stamping under this Decree by an inspector and “inspect” shall be construed accordingly;

“inspector” means the Chief Inspector or an inspector or assistant inspector appointed or deemed to have been appointed under and for the purposes of this Decree;

“International System of Units (SI)” means the system of units from time to time approved by the General Conference on Weights and Measures (CGPM) of member states of the Metre Convention;

“mass” means the amount of matter of an object, regardless of location;

“measuring instrument” means—

(a) a thing;

(b) a component of a thing; or

(c) a combination of things,

by means of which

(d) a measurement of physical quantity may be made; or

(e) grading may be effected by reference to the measurement of a physical quantity, and includes a mass, a measure or a weighing instrument;

“measurement” means the determination or statement of a physical quantity;

“owner” means the owner, whether singularly, jointly or severally and includes an authorised agent, manager, or superintendent of the owner, and a lessee or hirer from the owner;

“pack” means to—

(a) enclose an article (whether wholly or partly) in some other article or thing;

(b) put the article in some other article or thing; or

(c) attach the article to, or wind or wrap the article around some other article or thing;

"package" includes anything by means of which any one article is packed for sale, or any two or more articles are packed for sale as a single item, and, in particular and without prejudice to the generality of the foregoing, includes a wrapper, a container and a confining band;

"Permanent Secretary" means the Permanent Secretary to the Minister responsible for the administration of this Decree;

"place" includes a shop, factory, dwelling house or other place, whether or not it is—

- (a) a building or in the open air;
- (b) open or enclosed; or
- (c) a public place or a place of public resort,

and includes any vehicle at such place;

"pre-packed article" means an article that is packed in advance ready for sale;

"primary standard of measurement" means a standard of measurement that is maintained, or caused to be maintained, by the Chief Inspector as a primary standard of measurement for the purposes of section 11;

"public measuring instrument" means a measuring instrument open for use by the public, or for the use of which a charge is made;

"purchaser" includes—

- (a) a person purchasing as agent for any other person;
- (b) an intending purchaser; and
- (c) a person making inquiries with a view to possible purchase;

"recognized-value standard of measurement" means a standard of measurement that the Minister has, under section 16(1), prescribed as a recognized-value standard of measurement;

"record" includes any document;

"reference standard of measurement" means a standard of measurement, other than a primary standard of measurement, a secondary standard of measurement or a recognized value standard of measurement that has been verified in accordance with this Decree;

"secondary standard of measurement" means a standard of measurement that is maintained, or caused to be maintained, by the Chief Inspector as a secondary standard of measurement for the purposes of section 12 and that has been verified in accordance with or by derivation from a primary standard of measurement;

"sell" includes—

- (a) barter or exchange;
- (b) deal in;
- (c) agree to sell;
- (d) offer or expose for sale;
- (e) keep or have in possession for sale;
- (f) send, forward or deliver for or on sale;
- (g) authorise, direct, cause, permit, suffer or attempt any of the acts described in paragraphs (a)–(f) of this definition;

"seller" includes a person who sells as agent for another person;

"stamp" means stamp, impress, engrave, etch, brand, seal or otherwise mark in such a manner as to be, as far as practicable, indelible or any such marking;

"this Decree" includes all subsidiary legislation in force under this Decree;

"unit of measurement" includes any word or expression that is used in conjunction with numerical values in order to describe the magnitudes of physical quantities;

"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 reimbursement for goods delivered, tax, rate, toll, duty, impost, or the assessment of any work done, wages due or services rendered;

where—

- (c) the transaction is by reference to a physical quantity or a number, or is a transaction for the purpose of which there is made or implied a statement of the physical quantity or the number of goods to which the transaction relates; and
- (d) the use is for the purpose of determination or statement of that quantity or number,

and the expression "have in possession for trade" has a corresponding meaning, and any measuring instrument used in relation to any such transaction shall for the purposes of this Decree be deemed to be used for trade;

"vehicle" means a conveyance, whether self-propelled or not, used to carry any thing, and includes an animal so used;

"weighing instrument" means an instrument which serves to determine the mass of a body using the action of gravity on this body and includes any weighbridge, scale balance, spring balance, steelyard, weighing-machine, counting-weighing machine, or other instrument for weighing and includes the masses belonging to the instruments.

(2) Except as otherwise prescribed, a reference in this Decree to the measurement of an article shall be construed as a reference to the measurement of the article excluding the measurement of the package in which the article is contained.

(3) A reference in this Decree to the measurement 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 Decree, 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 Decree (however expressed) to the marking of a package with a statement of the measurement 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 Decree, 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 Decree, time interval not related to the calendar is a physical quantity and time interval so related is not a physical quantity.

*Decree binds the State*

4.—(1) This Decree binds the State

(2) Nothing in this Decree renders the State liable to be prosecuted for an offence.

(1)

*Chief Inspector, other officers and staff*

5. The Public Service Commission shall appoint—

(a) a Chief Inspector of Trade Measurement who shall exercise the powers and discharge the duties conferred or imposed on him by or under this Decree or any other law; and

(b) such other inspectors, other officers and staff as may be necessary for the proper implementation of this Decree.

(2) An inspector shall be furnished with a certificate of appointment signed by the Permanent Secretary and, on entering a place, shall, if required, produce the certificate to the occupier of that place.

(3) No suit, prosecution or other legal proceedings shall lie personally against the Chief Inspector, any inspector or any other person authorised to exercise any power or perform any duty by or under this Decree or the former Act in respect of any act done in good faith under this Decree or the former Act.

## PART II—UNITS AND STANDARDS OF MEASUREMENT

*Units of measurement*

6.—(1) The regulations may prescribe the Fiji legal units of measurement of any physical quantity.

(2) The regulations may prescribe units of measurement of any physical quantity to be additional Fiji legal units of measurement for use for a particular purpose or for the purpose of a particular contract, dealing or other transaction or class of contracts, dealings or other transactions.

(3) Subject to sections 8(2) and 9, the Fiji legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity.

*Conversion factors*

7. Where, for any legal purpose—
- (a) it is necessary to convert a measurement of a physical quantity expressed in terms of a Fiji legal unit of measurement of that physical quantity to a measurement expressed in terms of another Fiji legal unit of measurement; or
  - (b) it is necessary to convert a measurement of a physical quantity expressed in terms of a unit of measurement (not being a Fiji legal unit of measurement) of that physical quantity to a measurement expressed in terms a Fiji legal unit of measurement,
- the prescribed conversion factors shall, where applicable, be used.

*Trade contracts, etc., to be expressed in Fiji legal units of measurement*

8.—(1) On and after the date from which the Fiji legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity, every contract, dealing or other transaction made or entered into for any work, goods or other thing that is to be done, sold, carried or agreed for by measurement of that physical quantity shall, subject to section 9, be made or entered into by reference to Fiji legal units of measurement of that physical quantity.

(2) Nothing in sub-section (1) shall be taken to affect the validity of a contract, dealing or other transaction that at the time when it was made or entered into, was made or entered into by reference to a unit of measurement that was a unit of measurement which was legally in use in Fiji.

(3) Where, in a contract, dealing or other transaction made or entered into for any work, goods or other thing that is to be done, sold, carried or agreed for by measurement of a physical quantity—

- (a) a reference is made to a unit of measurement of a physical quantity; and
  - (b) there is a Fiji legal unit of measurement of that physical quantity of the same name,
- the reference shall, unless the contrary intention appears, be deemed to be a reference to that Fiji legal unit of measurement.

*Contracts, etc., for the export of goods*

9. Sections 6(3) and 8(1) do not apply to or in relation to any provision of a contract, dealing or transaction to the extent that such provision is made or entered into solely for the export of goods from Fiji.

*References in laws to units of measurement*

10.—(1) On and after the date from which the Fiji legal units of measurement of a physical quantity are the sole legal units of measurement of that physical quantity, a reference in a written law (whether the law was made before or after the commencement of this Decree) to a unit of measurement of that physical quantity shall, if there is a Fiji legal unit of measurement of that physical quantity of the same name and unless the contrary intention appears, be read as a reference to that Fiji legal unit of measurement.

(2) The Minister responsible for the administration of a particular Act or Decree may, in respect of that Act or Decree, by Order, provide for the adaptation, alteration, conversion or modification of any of the provisions thereof as may be to him appropriate for the purpose of replacing references to units of measurement other than Fiji legal units of measurement contained therein by references to Fiji legal units of measurement which are either equivalent thereto or such approximations thereto as appear to him desirable to ensure that the written law as adapted, altered, converted or modified is expressed in convenient terms.

*Primary standards of measurement*

11.—(1) Subject to subsection (2), the Chief Inspector shall maintain, or cause to be maintained, such primary standards of measurement as are necessary to provide means by which measurements of physical quantities for which there are Fiji legal units of measurement may be made in terms of those units.

(2) The Minister may prescribe—

- (a) measurement laboratories authorised to verify primary standards of measurement; and
- (b) persons other than the Chief Inspector authorised to maintain or cause to be maintained primary standards of measurement.

*Secondary and reference standards of measurement*

12. The Chief Inspector shall maintain, or cause to be maintained, such other standards of measurement (not being Fiji primary standards of measurement) as he considers necessary or desirable to maintain as secondary or reference standards of measurement in order to provide additional means by which measurements of physical quantities may be made in terms of units of measurement of the International System of Units (SI).

*Verification of standards of measurement*

13. The Chief Inspector may require any standard of measurement purporting to be a primary, secondary or reference standard of measurement to be verified or re-verified—
- (a) in the case of a primary standard of measurement, by a prescribed measurement laboratory; or
  - (b) in the case of a secondary or reference standard of measurement, by a person within or outside Fiji approved by the Chief Inspector.

*Certificates of verification*

- 14.—(1) Where the Chief Inspector is satisfied that a primary standard of measurement has been verified or re-verified, or that a secondary or reference standard of measurement has been verified or re-verified in accordance with this Decree, he may sign and issue—
- (a) a covering certificate indicating that a standard is a primary standard of measurement; or
  - (b) a certificate of verification of a secondary or reference standard of measurement.
- (2) The Chief Inspector shall keep and maintain a register of all certificates issued in accordance with subsection (1).

*Measurements to be ascertained in accordance with appropriate standards of measurement*

15.—(1) When, for any legal purpose, it is necessary to ascertain whether a measurement of a physical quantity for which there are Fiji legal units of measurement has been made or is being made in terms of those units, that fact shall be ascertained by means of, by reference to, by comparison with or by derivation from—

- (a) an appropriate primary standard of measurement;
- (b) an appropriate secondary standard of measurement;
- (c) an appropriate recognized-value standard of measurement;
- (d) an appropriate reference standard of measurement; or
- (e) 2 or more standards of measurement, each of which is a standard of measurement referred to in paragraph (a), (b), (c), or (d),

and not in any other manner.

- (2) A measuring instrument or class of measuring instrument, not being for use for trade may—
- (a) be verified by an inspector at the request of any person in accordance with subsection (1); or
  - (b) be declared by the Minister by notice in the *Gazette* to be an instrument or class of instrument to which Part IV of this Decree shall apply as though that instrument or class of instrument were for use for trade.

*Recognized-value standards of measurement*

- 16.—(1) The Minister may prescribe—
- (a) specific magnitudes of physical quantities; or
  - (b) magnitudes of physical quantities as ascertained in accordance with a prescribed formula,
- as recognized-value standards of measurement.
- (2) In maintaining a secondary standard of measurement the Chief Inspector may adopt a recognized-value standard of measurement.
- (3) A recognized-value standard of measurement is not subject to verification.

## PART III—ADMINISTRATION

*Power to authorise inspector to adjust measuring instruments*

17. Where the Chief Inspector is of opinion that it is necessary so to do, he may authorise an inspector in writing to adjust any measuring instrument on payment of the prescribed fee by the person presenting such measuring instrument.

*Disposal of fees and charges*

18. Except as may be prescribed in relation to fees and charges received by any person, other than the State or a public officer, fees and charges received under this Decree shall be paid into the Consolidated Fund.

*Powers of inspection, etc.*

19.—(1) For the purpose of investigating an offence against this Decree that the inspector reasonably believes has been committed, or for the purpose of exercising any function of an inspector under this Decree, an inspector may at any reasonable time:

- (a) enter and search a place apparently in use for the carrying on of a business;
- (b) require a person in charge of a vehicle to stop it, or move it a reasonable distance to a place specified by the inspector, to enable the inspector to enter and search it;
- (c) require a person in possession of a pack, basket or other receptacle containing articles that are apparently for sale to permit the inspector to examine its contents:

Provided that an inspector is not entitled to enter a part of premises used for residential purposes, except:

- (a) with the consent of the occupier; or
- (b) under the authority of a search warrant.

(2) If an inspector reasonably believes that a measuring instrument is used for trade, the inspector:

- (a) may examine and test the instrument;
- (b) may require a person in the building, place or vehicle where the instrument is found to answer questions, or produce records under the person's control, concerning the instrument; and
- (c) may make copies of or take extracts from records so produced,

and, if the inspector reasonably believes that an offence against this Decree has been committed involving the measuring instrument, may seize and retain the instrument and any records so produced.

(3) If an inspector reasonably believes that an article is for sale by reference to measurement of the article, or is a pre-packed article, the inspector may:

- (a) examine the article or a package containing the article;
- (b) break open a package containing the article and remove the article from it;
- (c) require a person in the place where the article is found to answer questions, or produce records under the person's control, concerning the article;
- (d) make copies of or take extracts from records so produced, and

if an inspector reasonably believes that an offence against this Decree involving an article has been committed, the inspector may:

- (e) seize and retain the article, samples from the article, any package containing the article and any records concerning the article or package;
- (f) seize and retain any number of packages required to follow the procedures and make any determinations prescribed by this Decree as a condition precedent to the bringing of proceedings for any offence concerned; and
- (g) measure anything seized, whether at the time and place of seizure or later and elsewhere.

(4) Measurement of an article or sample may be carried out even though it results in the destruction of the article or sample.

(5) If a name is marked on the package containing a pre-packed article, an inspector may require the person named to state in writing, within a reasonable time specified by the inspector:

- (a) the name and address of the person who packed the article; and
- (b) the address of the premises at which the article was packed, and

if a person sells a pre-packed article, an inspector may require the person to state in writing, within a reasonable time specified by the inspector, the name and address of the person who supplied the pre-packed article to that person.

(6) If an inspector seizes a measuring instrument, article or package and—

- (a) proceedings for an offence against this Decree in connection with the instrument, article or package are not instituted within 6 months after seizure; or
- (b) proceedings for such an offence are instituted within that period but the defendant is not convicted of an offence,

the person from whom it was seized is, on application to the Chief Inspector, entitled to its return.

(7) If an application for return of the measuring instrument, article or package is not made within 3 months after the entitlement to its return arises, the Chief Inspector may dispose of it as he thinks fit.

(8) A person is not excused from answering any question, if required to do so under this section, on the ground that the answer might tend to incriminate the person or make the person liable to a penalty:



Provided that information given by a person in response to a question the person was required to answer under this section is not admissible against the person in any criminal proceedings other than proceedings for an offence under this Decree.

- (9) An inspector exercising or proposing to exercise a function under this Decree shall—
- (i) on request, produce the inspector's certificate of appointment issued under section 5(2); and
  - (ii) upon seizing anything under this section, supply to the person from whom such thing was seized, a voucher, in the prescribed form, stating the description of the thing seized and such other details as may be prescribed.

(10) If a resident magistrate is satisfied by information on oath given by the Chief Inspector or person authorised by the Chief Inspector to act for the purposes of this section that there is reasonable suspicion that an offence against this Decree has been, or is being, committed and that evidence of the commission of the offence is to be found at any premises, or any part thereof, used for residential purposes, he may grant a search warrant authorising any police officer together with any other person named in the warrant to enter the premises specified, at any time within one month from the date of the warrant, and to search the premises for any measuring instrument, record or thing.

*Matters may be completed by different inspectors*

20. Notwithstanding anything to the contrary in this Decree, if an inspector has issued any order or given any direction or notice or made any request under this Decree, he or any other inspector who is empowered by this Decree to issue, give, or make a like order, direction, notice, or request, may at any time withdraw or revoke or from time to time vary the order, direction, notice, or request, or take further steps thereon.

*Powers of inspectors with respect to unjust measuring instruments*

21.—(1) If upon inspection at any time of any measuring instrument, it appears to the inspector that the measuring instrument is incorrect or otherwise unjust the inspector may—

- (i) give to the owner of or to the person found in possession of the same, notice in writing to have the same corrected and made true and just within fourteen days of the date of the giving of such notice or within such shorter period as the inspector deems fit and in the meantime to cease to use the same; or
- (ii) upon payment of the prescribed fee, adjust the same.

(2) The giving of a notice under subsection (1) shall not affect any proceeding or any action authorised by this Decree which has been or may be taken for the non-compliance which resulted in the order but, subject to subsection (3) and any conditions contained in the order, the person to whom the notice is given shall not be liable under this Decree in respect of that non-compliance during the time allowed by the notice.

(3) A person to whom a notice under subparagraph (i) of subsection (1) is given and who does not comply with it is guilty of an offence.

*Power of Chief Inspector to prohibit use of measuring instruments for certain purposes*

22.—(1) If the Chief Inspector is of opinion that any measuring instrument used or for use for any purpose is not suitable to be used or for use for that purpose, or that its use for that purpose facilitates or will facilitate fraud, he may, by order in writing given to the person using or in possession of that measuring instrument, prohibit the use or, as the case requires, further use of the measuring instrument for the purpose specified in the order.

(2) A person to whom an order under subsection (1) has been given and who does not comply with it is guilty of an offence.

*Power of inspector to order cause of  
contravention to be remedied*

23.—(1) Subject to section 21, where any measuring instrument, or any article, package, or label does not comply in every respect with the provisions of this Decree, or where any provision of this Decree has not been complied with in relation to any measuring instrument, article, package, or label, an inspector may order in writing any person who has offended against this Decree by such non-compliance, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the non-compliance has occurred.

(2) The giving of an order under subsection (1) shall not affect any proceeding or any action authorised by this Decree which has been or may be taken for the non-compliance which resulted in the order but, subject to subsection (3) and any conditions contained in the order the person to whom the order is given shall not be liable under this Decree in respect of any continuation of that non-compliance during the time allowed by the order.

(3) A person to whom such order has been given and who does not comply with it is guilty of an offence.

*Obstruction of inspectors, etc.*

24. Any person who—
- (a) molests, assaults, uses threatening or insulting language, intimidates, offers to bribe or unlawfully resists, obstructs or hinders any inspector or other officer in the exercise of his powers or in the discharge of his duties under this Decree, or attempts to do so;
  - (b) fails, when requested by an inspector, to produce for inspection all measuring instruments used or in his possession for trade;
  - (c) refuses to permit any inspector to inspect any measuring instrument or to examine, select, test or measure any article;
  - (d) fails to comply with the lawful order, direction, notice, demand, or requisition or any part of the lawful order, direction, notice, demand, or requisition of any inspector;
  - (e) refuses or to allow to be taken any article lawfully demanded in accordance with this Decree;
  - (f) retakes or attempts to retake any measuring instrument, or article lawfully in the possession of an inspector; or
  - (g) impersonates an inspector,
- is guilty of an offence.

*Prohibited conduct by inspectors*

- 25.—(1) An inspector shall not—
- (a) except in the course of his duties under this Decree, directly or indirectly disclose, or cause to be disclosed, a matter relating to the business of a person that comes to his knowledge in the course of those duties;
  - (b) derive a profit from or be employed in making or selling any measuring instrument;
  - (c) adjust any measuring instrument, except as expressly required or permitted by this Decree;
  - (d) accept a gratuity or reward from a trader or manufacturer; or
  - (e) except in the course of his duties under this Decree, recommend a particular manufacturer or tradesman for the supply, repair or adjustment of measuring instruments.
- (2) Any inspector who stamps, or issues a certifying certificate in respect of any measuring instrument in contravention of any provision of this Decree or otherwise misconducts himself in the execution of his office is guilty of an offence.

## PART IV—CONTROL AND USE FOR TRADE OF MEASURING INSTRUMENTS

*Use of certain measuring instruments prohibited*

- 26.—(1) Any person who uses or has in his possession for trade any measuring instrument—
- (i) which is not of the denomination of some unit, or of some part or multiple of some unit, which is a Fiji legal unit of measurement;
  - (ii) which is incorrect or otherwise unjust; or
  - (iii) which has become defective in consequence of wear or accident or has been mended or repaired, until the same has been verified pursuant to this Decree,
- is guilty of an offence.
- (2) Notwithstanding subsection (1) a person may, in accordance with a permit issued as prescribed, temporarily use any such measuring instrument which has been mended or repaired but not verified.
- (3) In any case referred to in paragraph (i) of subsection (1) it shall be a defence to prove that any such measuring instrument was used or in possession for trade solely in connection with the exportation from Fiji of articles to a country outside Fiji.
- (4) Any person mending or repairing a defective measuring instrument shall obliterate any and every existing stamp thereon, and destroy any certifying certificate issued in relation thereto, and shall within 7 days thereafter either submit such mended or repaired measuring instrument to an inspector for verification or notify the Chief Inspector that the stamp or certificate has been destroyed, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence.
- (5) A person guilty of an offence under paragraphs (ii) or (iii) of subsection (1), or subsection (4), relating to or in connection with the use of the unit of measurement metric carat is liable on conviction in lieu of the fines provided for by section 54(1), and without prejudice to the provisions of section 54(2) to a fine not exceeding \$25,000 for a first offence and \$50,000 for a second or subsequent offence.

*Measuring instruments to be inspected periodically*

27.—(1) Every measuring instrument used or for use for trade shall, subject to subsections (2) and (3), be produced to an inspector for inspection—

- (a) in the case of any measuring instrument used for trade, at least once in every twelve months; or
- (b) in the case of any measuring instrument for use for trade, before use.

(2) The Minister may by regulations—

- (a) exempt, subject to such conditions as may be prescribed, wholly or in part from the operation of subsection (1) specified classes of measuring instruments or of any of them; and
- (b) extend the period referred to in paragraph (a) of subsection (1) with respect to the whole or any specified part of Fiji; or
- (c) provide for the more frequent inspection of any prescribed class of measuring instruments.

(3) Notwithstanding subsections (1) and (2), an inspector may require or permit to be produced for his inspection and inspect any such measuring instrument when and so often as in his opinion it is necessary to do so.

(4) Every inspection, as required by subsection (1), of any measuring instrument shall include a comparison with a reference standard and the inspector shall when making the inspection—

- (a) obliterate any and every existing certifying and other stamp upon the measuring instrument; and
- (b) if the measuring instrument is found to correspond with the appropriate reference standard and to be in accordance in every other respect with the requirements of this Decree, stamp with a certifying stamp the measuring instrument unless it is exempted by the regulations from being so stamped; or
- (c) if the measuring instrument is found to be not in accordance in every respect with the requirements of this Decree, refrain from stamping or restamping with any certifying stamp the measuring instrument, reject it and, where practicable, stamp it with a rejection stamp, or as may be prescribed, issue in respect of it a rejection certificate.

(5) Where any measuring instrument which is exempted by the regulations from being stamped with a certifying stamp by reason of the impracticability of stamping it, is found upon inspection to be in accordance in every respect with the requirements of this Decree, then the inspector shall issue in respect thereof a certifying certificate.

(6) Every measuring instrument stamped under this Decree by an inspector shall be stamped in such a manner as best to prevent fraud.

(7) Except as may be prescribed, it shall be sufficient compliance with this section if, instead of being produced at the office of an inspector any measuring instrument used for trade is within the period required in respect thereof by or under this section inspected in accordance with arrangements approved by an inspector at some place other than that office.

(8) Subject to section 31 (13), a measuring instrument may be inspected in accordance with this section although approval to its pattern has been withdrawn or cancelled.

*Using unstamped measuring instruments*

28. Every person who uses or has in his possession for use for trade any measuring instrument not inspected as required by section 27, and—

- (a) where that measuring instrument is not exempted by the regulations from being so stamped, not stamped by an inspector with a certifying stamp; or
- (b) where that measuring instrument is exempted by the regulations from being stamped with a certifying stamp, in respect of which no certifying certificate has been issued by an inspector,

is guilty of an offence.

*Dismantling and re-installing measuring instruments*

29.—(1) If, after a measuring instrument has been inspected, and either it has been stamped with a certifying stamp, or if it is exempted by the regulations from being so stamped, a certifying certificate has been issued with respect thereto, it is dismantled and re-installed, whether in the same or some other place, it shall not be used for trade after being so re-installed until it has, subsequent to the re-installation, been inspected by an inspector and either it has been re-stamped with a certifying stamp or, if it is exempted by the regulations from being so stamped, another certifying certificate has been issued with respect thereto.

- (2) Any person who—
- (a) where a measuring instrument has been dismantled and re-installed, uses for trade or causes or permits any person to use for trade that measuring instrument in contravention of subsection (1); or
  - (b) where a measuring instrument has been dismantled, disposes of it to a person without informing that person that it cannot lawfully be used for trade after re-installation except in compliance with subsection (1),
- is guilty of an offence.

*Specifications*

30—(1) The Chief Inspector, or such other person as may be prescribed, may designate the specifications for the construction and performance of measuring instruments for use for trade, and may at any time and from time to time alter, amend or cancel such specifications.

(2) The Minister may in the regulations prescribe the manner in which specifications may be designated, altered, amended or cancelled.

(3) A designation under this section may specify conditions which must be complied with if any measuring instrument of a description specified in the designation is to be regarded, for any purposes so specified, as conforming to the specifications to which the designation relates.

*Approval of patterns*

31.—(1) Any pattern of a measuring instrument for use for trade shall be submitted to the Chief Inspector, or such other person as may be prescribed (in this section called "the Approval Authority"), for the purpose of approval of that pattern, and the Chief Inspector, or, as the case may be, the Approval Authority shall on payment of the prescribed fee, determine in such manner as he thinks fit, or if prescribed, in the prescribed manner, the suitability for use for trade of a measuring instrument of that pattern, having regard in particular to the principles, materials and methods used or proposed to be used in its construction.

(2) The Chief Inspector or, as the case may be, the Approval Authority may, notwithstanding that no person has submitted to him for approval the pattern of any measuring instrument for use for trade if he thinks it suitable for use for trade approve the use of measuring instruments of any pattern for use for trade, and may at any time and from time to time alter, amend, cancel or withdraw any approval so given.

(3) An approval given under this section shall be in such form as may be prescribed.

(4) An approval under this section may apply either to a particular measuring instrument or to any measuring instrument of a description specified in the approval and may so apply either for the purpose of the particular use or uses specified or for any use.

(5) A person applying for an approval under this section may be required by the Chief Inspector or, as the case may be, the Approval Authority to comply with such requirements as he or it may think appropriate and those requirements may include a requirement to satisfy some other person with respect to any matter.

(6) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified in the approval, to any measuring instrument which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given or any person using such approved instrument for trade a requirement from time to time to satisfy the Chief Inspector, the Approval Authority or any other person with respect to any matter.

(7) Nothing in this section shall preclude a person (not being the Chief Inspector) by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) from charging any fee in respect of the carrying out of any test or other assessment made by him.

(8) The Chief Inspector or, as the case may be, the Approval Authority shall keep a register of approvals given (in this section referred to as "the register of pattern approvals") and a register of designations made under section 30 (in this section referred to as "the register of specifications") at such premises and in such manner as may be prescribed.

(9) The Chief Inspector or, as the case may be, the Approval Authority shall cause particulars of every such approval or designation, and of every variation, cancellation or withdrawal of such an approval or designation, to be entered in the appropriate register.

(10) The register of pattern approvals and the register of specifications shall be open to public inspection during such hours and subject to payment of such fee as may be prescribed.

(11) Any person may, on payment of such fee as may be prescribed, require the Chief Inspector or, as the case may be, the Approval Authority to supply to him a copy of or extract from any part of the register of pattern approvals or the register of specifications, certified by the Chief Inspector or, as the case may be, the Approval Authority to be a true copy or extract.

(12) Subject to section 27(8) and subsection (13) of this section no measuring instrument in use for trade shall be stamped with a certifying stamp or, if it is exempted by the regulations from so being stamped, no certifying certificate shall be issued in relation thereto unless it is of a pattern approved under this section and conforms with the specifications designated under section 30.

(13) Where a measuring instrument is legally in use for trade prior to the commencement of this Decree, the Chief Inspector may, with the concurrence of the Permanent Secretary and in such manner and subject to such conditions as may be prescribed, notwithstanding that it is not of a type approved under this section or not in accordance with the specifications designated under section 30, permit such instrument to be stamped with a certifying stamp or, to have issued in respect of it a certifying certificate:

Provided that no instrument shall be stamped under this subsection at any time three years after the commencement of this provision.

(14) The Minister may in the regulations exempt from the requirement of approval under this section, any measuring instrument or class of measuring instrument of any description and may prescribe conditions for such exemption.

*Measuring instruments with removable parts*

32. Except as may be prescribed, no measuring instrument with removable parts, the removal of which would affect the accuracy of the instrument, shall be stamped with a certifying stamp under this Decree unless the parts are such that the instrument cannot be used without them.

(2) A person shall not use to make balance any measuring instrument used for trade, anything which is not ordinarily part of that measuring instrument.

*Measurement of capacity stamped on packages to be true and correct*

33.—(1) A person shall not manufacture or sell for use for containing any article, any package constructed of rigid material and stamped with a measurement of capacity which is not the true and correct measurement of the capacity of that package.

(2) In and for the purposes of this section "true and correct measurement of the capacity" shall, in addition to the ordinary meaning thereof, mean, unless otherwise prescribed, a measurement of capacity corresponding with a Fiji legal unit of measurement prescribed by or in accordance with this Decree, or some multiple or part thereof.

*Purchase by standard measure*

34.—(1) Any person buying by reference to any vessel represented as containing the quantity of any standard measure or measures may require the contents of such vessel to be ascertained by comparison with a measure, duly inspected and stamped with a certifying stamp under and as required by this Decree, to be provided by the seller.

(2) If the seller refuses or otherwise fails to make such comparison, or if upon such comparison such vessel is found to be deficient in capacity, the seller is guilty of an offence.

(3) Nothing contained in this section shall affect or prejudice the provisions of section 35(1).

*Measuring instruments to be provided*

35.—(1) Subject to subsection (3), every person who sells by measurement any article in a shop or bakehouse, or any other place whatsoever, or in or from any vehicle or any pack, basket, or other receptacle shall—

(a) have a suitable measuring instrument with any necessary ancillary equipment for measuring such article; and

(b) at the request of a purchaser of such article measure the same in the sight and presence of the purchaser.

(2) If any such person fails to comply with the provisions of either paragraph (a) or paragraph (b) of subsection (1) he shall be guilty of an offence.

(3) Subsections (1) and (2) shall not apply to—

(a) bread when sold and delivered elsewhere than at a bakehouse or shop; or

(b) any other articles which may be exempted from this subsection by the regulations.

(4) A person shall be deemed not to comply with any provision of subsection (1) unless the measuring instrument is—

- (a) constructed;
- (b) placed in such a position; and
- (c) used,

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

- (d) the measurement or the register of the measurement of the article; and
- (e) the operation of the measuring of the article.

*Measuring instruments for agricultural or dairy produce*

36.—(1) The owner of every mill, refinery, creamery, factory, produce store, market, building, or other place for the treatment, purchase or sale of agricultural or dairy produce shall provide, in such place or in a place convenient to such place, a suitable measuring instrument and shall—

- (a) cause the same to be placed, erected, and covered in, or otherwise protected, and to be from time to time inspected and, if necessary, adjusted in accordance with this Decree;
- (b) when requested so to do, and without undue delay, and without charge, cause to be measured thereon all such produce which he has purchased or sold, or with respect to which he has entered into any contract qualified or conditioned in any way with respect to the measurement of such produce; and
- (c) give facilities to any person from whom he has purchased or is receiving any such produce, or to whom he has sold or is delivering the same, to observe and check the measuring of such produce.

(2) Any person entitled to observe and check the measuring of such produce shall also be entitled and permitted, at his own cost, to station a person (called a "check-weigher") at the place of measuring such produce in order to check and take an account of the measurement thereof.

(3) Where a check-weigher is appointed to perform his duties on behalf of several such persons, these persons may agree with the owner for the payment of the check-weigher by the owner and the deduction of all such payments from moneys payable by the owner to such persons respectively in such proportions as may be agreed on.

PART V—SALE OF ARTICLES

*Sales by Fiji legal units of measurement*

37. Articles of any description that are sold by measurement shall be sold by reference to such Fiji legal units of measurement as may be prescribed in relation to articles of that description.

*Sales by net measurement*

38.—(1) Except as otherwise prescribed by or under this Decree or any other Decree or any Act, a person shall not—

- (a) sell an article by measurement otherwise than by net measurement;
- (b) mark a package containing an article, or cause, permit, or suffer such a package to be marked, with the words "gross measure", "gross mass", "gross weight" or words to the like effect; or
- (c) sell by number an article which purports to be or contain gold, silver, platinum or such other precious metal or precious stone as may be prescribed unless there is attached thereto a label indicating such particulars of that article as may be prescribed.

(2) Subject to subsection (3), a person who sells an article by measurement shall, forthwith upon the delivery of the article to the purchaser, deliver or send to the purchaser an invoice or delivery note showing the true net measurement of the article.

(3) Subsection (2) does not apply to or in relation to—

- (a) an article that is exempted by the regulations from the operation of subsection (2);
- (b) an article measured before or at the time of sale and in the presence of the purchaser;
- (c) a pre-packed article contained in a package marked, in accordance with this Decree, with the true net measurement of the article; or
- (d) a pre-packed article of any description to which section 48 applies.

*Incorrect statement of measurement*

39. Subject to section 47 a person who delivers or sends to a purchaser an invoice or delivery note relating to an article (whether a pre-packed article or not) sold to the purchaser which states as the measurement of the article a measurement that is greater than the true measurement of the article so sold is guilty of an offence.

*False indication as to true measurement*

- 40.—(1) Any person who—
- (a) by means of words, description or other indication, direct or indirect, makes any false declaration or statement, or misleads any person, as to the true measurement or number of any article sold or delivered by him;
  - (b) makes any false representation (whether verbally or in writing or otherwise howsoever) to any other person as to the true measurement, or number, of any article delivered to or received by the first named person upon sale or for the purpose of sale or in pursuance of any contract whatever;
  - (c) sells any article by measurement or number short of the quantity purporting to be sold or delivered;
  - (d) being the purchaser of any article purchased by measurement, or number where such measurement, or number is determined by that purchaser, makes or gives any incorrect statement (whether verbally or in writing or otherwise howsoever) of the true measurement, or number of such article;
  - (e) makes any false statement as to the tare mass of any vehicle, or does any act by which either the seller or purchaser of any article carried on any vehicle is defrauded;
  - (f) for purposes of sale, mixes or causes or permits to be retained or to remain with any article any foreign matter, or, if a proportion of foreign matter is by the regulations permitted to be retained or remain with any article, any foreign matter beyond the proportion so permitted by the regulations to be retained or to remain; or
  - (g) sells or delivers any article wet with intent to defraud the purchaser as to the true measurement of that article,

is guilty of an offence.

(2) Where any person sells any article by measurement or by the number thereof at a stated price per unit of measurement or, as the case may be, by number and the price charged for the article exceeds the price correctly computed from the true measurement or number thereof and the stated price per unit of measurement or, as the case may be, number, that person is guilty of an offence.

(3) For the purposes of subsection (2), the statement of measurement marked on a package containing an article shall be construed as the true measurement for the purpose of calculating the price charged for the article notwithstanding that the statement is qualified by the expression "minimum" or "net mass when packed" or "net mass at standard condition" or any other word or words of qualification that has or have the same meaning as any of those expressions.

*Statement of price of articles for sale*

41. A person who offers, exposes or advertises for sale an article at a price per unit of measurement of physical quantity shall state that price as a price per unit of measurement of a physical quantity expressed in terms in Fiji legal units of measurement.

## PART VI—STANDARDISATION AND MARKING OF PRE-PACKED ARTICLES

*Exemptions*

42.—(1) Nothing in this Part applies to or in relation to—

- (a) an article that is wholly exempted by the regulations from the operation of this Part;  
or
- (b) a package that contains an exempted article or exempted articles only.

(2) Nothing in this Part 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, 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 measured in the presence of the purchaser unless the instrument by which the article is 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 measurement, or indication of the measurement, of the article; and
- (b) the operation of the measuring of the article.

*Name, etc. of packer to be marked on packages*

43.—(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 as prescribed with—

- (a) his name and the address of the place where the article was packed; or
- (b) if the article was packed for or on behalf of another person (not being the employer of the person who packed the article), the name and address of that other person, and any person who contravenes this subsection is guilty of an offence.

(2) Where an article is packed by a person as an employee of another person, the name referred to in paragraph (a) of subsection (1) of this section is the name or style under which the business of that other person is carried on.

(3) A person shall not sell a pre-packed article unless the package containing the article is marked as required by this section, and any person who contravenes this subsection is guilty of an offence.

*Prescribed articles to be packed and sold only  
in certain denominations*

44.—(1) A person shall not pack for sale, or cause, permit, or suffer to be packed for sale, an article of such description as may be prescribed except in a measurement of such denomination as may be prescribed in relation to articles of that description.

(2) A person shall not sell a pre-packed article of a description prescribed in accordance with subsection (1), if the article is packed otherwise than as required by that subsection.

(3) Nothing in subsection (2) prohibits the sale, pursuant to a permit under section 46 of an article to which the permit relates.

(4) Any person who contravenes subsection (1) or (2) of this section is guilty of an offence against that subsection.

*Packages containing prescribed articles  
to be marked with particulars of quantity*

45.—(1) A person shall not pack for sale, or cause, permit, or suffer to be packed for sale, an article, other than an article of such description as may be prescribed, unless the package containing the article is marked as prescribed with a statement of the true measurement of the article.

(2) A person shall not sell a pre-packed article, other than an article of such description as may be prescribed in accordance with subsection (1), unless the package in which the article is contained is marked as required by that subsection.

(3) Nothing in subsection (2) prohibits the sale, pursuant to a permit under section 46 of an article to which the permit relates.

(4) Any person who contravenes subsection (1) or (2) of this section is guilty of an offence against that subsection.

*Permits for sale of articles that do not comply  
with the prescribed requirements*

46.—(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 Decree 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 Fiji and considers that it is just or reasonable that the sale of the articles in Fiji should be permitted;
- (b) the articles were packed outside Fiji and were brought into the Fiji in such circumstances as, in the opinion of the Minister, render it just and reasonable that the sale of the articles in Fiji should be permitted; or
- (c) the articles were packed within Fiji 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 Fiji should be permitted,

the Minister may, on the application of a person, grant to that person a permit authorising the sale of the articles in Fiji 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 authorised by the permit;
  - (ii) the form and manner in which the measurement of the articles contained in each package shall be indicated; and
  - (iii) the measurement 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 authorised by a permit under this section to another person for the purposes 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.

(4) A person shall not—

- (a) sell an article the sale of which is authorised 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) sell any article the sale of which was authorised 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.

(5) Unless sooner cancelled pursuant to subsection (6) 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.

(6) 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 to do so.

(7) Where a permit under this section is cancelled pursuant to subsection (6), the holder of the permit shall forthwith deliver it up to the Chief Inspector.

(8) Any person who contravenes subsections (3), (4) or (7) of this section is guilty of an offence against that subsection.

*Incorrect measurement of pre-packed articles*

47.—(1) Subject to this section, where the true measurement of a pre-packed article is less than the measurement of the article marked 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.

(2) Subject to this section, a person who—

- (a) sells a pre-packed article the true measurement of which is less than the measurement of the article marked on the package containing the article; or
- (b) delivers or sends to a purchaser an invoice or delivery note relating to a pre-packed article sold to the purchaser which states as the measurement of the article a measurement that is greater than the true measurement of the article so sold,

is guilty of an offence.

(3) Subsection (1), and paragraph (a) of subsection (2) have effect in relation to any pre-packed article whether or not the package containing the article is required by or under this Decree to be marked with a statement of the measurement of the article.

(4) Where a package containing an article is marked with more than one statement of the measurement of the article, the true measurement of the article shall, for the purpose of subsection (1), be taken to be less than the true measurement as marked on the package if the measurement of the article is less than the measurement specified in any of the statements marked on the package as being the measurement of the article contained therein.

(5) A pre-packed article shall, for the purposes of this Decree, be deemed to be of a true measurement equal to the measurement marked on the package in which the article is contained if—

- (a) any deficiency of measurement of the article does not exceed 5 per cent of the measurement marked on the package; and
- (b) there is no average deficiency in the contents of 12 packages containing the article taken 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.

(6) In proceedings in respect of an offence against subsection (2), 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 measurement of the article marked 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; or

(b) that—

- (i) he purchased the article in a package that was marked as required by section 43 and section 45;
- (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 Fiji,

but the marking on the package of the measurement 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 measurement of the article is as marked on the package.

(7) Where the true measurement of an article contained in such a package as is referred to in subparagraph (i) of paragraph (b) of subsection (6) is found by an inspector to be less than the measurement marked 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 Fiji, 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 measured the article or caused it to be 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.

(8) A person who gives such a guarantee as is referred to in paragraph (a) of subsection (6) that is false or misleading in a material particular is guilty of an offence.

(9) In proceedings against a person in respect of an offence against subsection (8), it is a defence for the person charged to prove that any discrepancy between the true measurement of the article to which the proceedings relate and the measurement 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 measurement of the article; or
- (b) is due to the act or default of some other person after the article had passed from the control of the person charged.

(10) Subsections (6) and (9) do not apply unless the person charged has, not less than 7 days before the date set down for the hearing of the proceedings, notified the complainant that he intends to avail himself of the protection of subsection (6) or, as the case may be, subsection (9), giving the reasons relied on for claiming that protection.

*Prescribed articles may be marked "Net mass  
when packed"*

48.—(1) Where a pre-packed article of such description as may be prescribed is of such a nature and is so packed that the measurement 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 mass when packed" or "net mass at standard condition" or words to the like effect.

(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) of this section, 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 measurement of the article together with the words "net mass when packed" or "net mass at standard condition" or words to the like effect; or
- (b) a specified article in a package marked with a statement of the measurement of the article together with the alternative words, unless the true measurement 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 measurement marked on the package.

(4) A person shall not mark, or cause, permit, or suffer to be marked—

- (a) the words "net mass when packed" or "net mass at standard condition" 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, and any person so doing is guilty of an offence.

- (5) Notwithstanding anything in section 47(5), where—
- (a) an article is contained in a package marked, pursuant to this section, with the words “net mass when packed” or “net mass standard at condition” 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 measurement of the article exceeding such per cent (being greater than 5 per cent) of the measurement marked on the package as may be prescribed for the purposes of this subsection in relation to that article; or
    - (ii) there is an average deficiency exceeding such per cent of the measurement marked on the package as may be prescribed as the permissible average deficiency for the purposes of this subsection in relation to that article in the contents of 12 packages containing the article taken 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 measurement equal to the measurement marked on the package.

(6) The regulations may require that, in addition to any other particulars required by or under this Decree to be marked on the package containing an article to which subsection (5) applies, the package shall be marked with the date when the article was packed.

*Prohibition and restriction on use of certain  
expressions on packages*

49.—(1) 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 limiting 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 directly or indirectly relates or refers to the measurement of a pre-packed article or any ingredient or component of the article or of any 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, or the size of the whole of the contents of the package containing the article not being such a statement as to the measurement of the article as is required by section 45(1), and, without prejudice to the generality of the foregoing, includes any expression that is declared by the regulations to be a restricted expression for the purposes of this section.

(2) 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.

(3) 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.

(4) The provisions of subsections (2) and (3) of this section do not apply to or in relation to an article contained in a package on which a restricted expression is marked if, in addition to that expression—

- (a) there is marked on every part of the package on which the restricted expression is marked such a statement as to the measurement of the article contained in the package as is referred to in section 45(1), whether or not the article is an article of a description to which that section applies;
- (b) the restricted expression and the statement of measurement are so placed and so marked that both may be seen clearly at the same time and shall read in the same direction; and

- (c) each of the letters and figures included in the statement of measurement—
- (i) is of a height not less than the minimum height of print prescribed by the regulations as the minimum height of letters and figures included in the marking required by the regulations to be marked on a package containing an article to which section 45 applies;
  - (ii) is not less than the height of the tallest letter included in the restricted expression; and
  - (iii) is in the same style of print and of the same colour contrast to its background as the letters comprising the restricted expression.

*Certificate of incorrect guarantee or warranty*

50.—(1) Where a person is charged with an offence against section 47(2) 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 defendant;
- (b) the defendant was furnished with such a guarantee as is referred to in section 47(6)(a) or the marking on the package containing the article constitutes a warranty pursuant to that subsection;
- (c) the defendant 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 complainant or the defendant, grant a certificate as to its findings.

PART VII—GENERAL

*Fraud in using measuring instrument*

51. A person who—

- (a) by means of any unlawful or any incorrect or otherwise unjust measuring instrument; or
- (b) in using any measuring instrument,

defrauds or attempts to defraud, or who counsels or procures another to defraud or attempt to defraud by any of those means or in using any measuring instrument any person is guilty of an offence.

*Offences relating to forged stamps, etc.*

52. A person shall not—

- (a) wilfully make false or destroy, deface, or injure any primary, secondary or reference standard of measurement or any other equipment used or for use for the purposes of this Decree;
- (b) forge or counterfeit or cause to be forged or counterfeited or assist in forging or counterfeiting or unlawfully have in his possession any certifying certificate or any stamp used for stamping under this Decree any measuring instrument, or unless duly authorised under this Decree, make on any measuring instrument any impression purporting to be the impression of any such stamp, or alter any date mark used in connection with the impression of any such stamp or remove any such stamp and insert it into or affix it onto any other measuring instrument;
- (c) in any way alter or tamper with so as to cause it to measure unjustly any measuring instrument which has been stamped under this Decree;
- (d) use, sell, or dispose of any measuring instrument so altered or tampered with, or any measuring instrument having a forged or counterfeit stamp or impression thereon;
- (e) make, sell, lease, hire, or lend, or cause to be made, sold, leased, hired, or loaned any measuring instrument for use for trade which is false or unjust or which is not stamped with a certifying stamp or, if it is exempted by the regulations from being so stamped, in respect of which a certifying certificate has not been issued;
- (f) increase or diminish any stamped mass or measure or any mass or measure in respect of which a certifying certificate has been issued, or use, sell or dispose of any such increased or diminished mass or measure, but nothing in this paragraph shall apply to any person who increases or diminishes any such mass or measure, when he adjusts the same to standard and entirely destroys any and every certifying stamp, if any, thereon or certifying certificate, if any, relating thereto.

*Failure to comply with direction, etc., an offence*

53.—(1) Where by this Decree any authority is given to any person to direct anything to be done or to forbid anything to be done and anything so directed to be done is not done or anything so forbidden to be done is done, a person who offends against any such direction or prohibition is guilty of an offence.

(2) Any person who contravenes or fails to comply with any provision of this Decree is guilty of an offence.

(3) Subsection (2) does not apply to any person exercising or purporting to exercise any function conferred on him by or under this Decree in good faith.

*Penalties*

54.—(1) Subject to subsections (2) and (3) any person guilty of an offence under this Decree for which no other penalty is provided is liable on conviction to a fine not exceeding \$5,000 for a first offence and \$10,000 for a second or subsequent offence.

(2) Where a person is convicted of any offence against this Decree and the court by which he is convicted is of opinion that the offence was committed with intent to defraud, that person shall be liable, in addition to or instead of any other penalty, to imprisonment for a term not exceeding three years.

(3) The maximum penalty for an offence under a provision of this Decree committed by a body corporate is a fine that is five times the fine provided for in the provision or, as the case may be, a fine that is five times the fine provided for in subsection (1).

(4) If a person is convicted of an offence under this Decree and the court considers that the commission of the offence caused another person to suffer pecuniary loss, the court may order the convicted person to pay to the other person a specified amount of compensation for the loss.

(5) The court may make such an order whether or not it imposes a penalty for the offence.

(6) The amount ordered to be paid may be recovered in a court of competent jurisdiction as a debt due by the convicted person to the other person.

(7) Unless otherwise expressly provided, any measuring instruments, or articles in connection with which any offence against this Decree is committed may, on conviction of any person guilty of the offence, be forfeited to the State by order of the court, and such forfeiture may, in the case of articles, extend to the whole of any similar articles found on the defendant's premises or in his possession at the time the offence was committed.

*Liability of directors*

55.—(1) If a body corporate contravenes any provision of this Decree, each person who is a director of the body corporate or who is concerned in its management shall be deemed to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.

*Defences*

56.—(1) In proceedings in respect of an offence against section 43, 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 resale.

(2) In proceedings in respect of an offence against section 44(1) or 45(1), it is a defence for the person charged to prove that the article to which the proceedings relate was packed for export from Fiji and that the marking on the package containing the article clearly so indicated.

(3) In proceedings in respect of an offence against section 39, section 43(3), section 44(2), section 45(2), section 46(4)(a), section 47(2) or section 49(3) 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.

(4) 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 39, section 47(1) or section 47(2) being an offence in relation to an alleged deficiency in the true measurement of the article, it is a defence for the person charged to prove—

- (a) that the deficiency 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 measurement of the article; or
- (b) that—
  - (i) the commission of the offence was due to a cause or to causes beyond his control; and
  - (ii) 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.

(5) Subsections (3) and (4) of this section do not apply unless the person charged has, not less than two days before the date set down for the hearing of the proceedings, notified the complainant that he intends to avail himself of the protection of this section, giving the reasons relied on for claiming that protection.

*Fees, etc., recoverable by action*

57. Any amount of fees, charges, or expenses payable under this Decree and not paid shall be recoverable by the Chief Inspector or by a person authorised by the Chief Inspector by action (in his official name, or, as the case may be, in the name of that authorised person), as for a debt in any court of competent jurisdiction.

*Records—English language*

58. A requirement under this Decree to produce a record includes, where the record is not written at all or not written wholly in the English language, a requirement to produce a statement, written in the English language, setting forth such of the particulars in the record as are not written in the English language.

*Offences by employees—liability of employer*

59.—(1) If an employee contravenes any provision of this Decree, the employer shall be deemed to have contravened the same provision (whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions).

- (2) It is a defence in proceedings against an employer for such a contravention if it is established:
- (a) that the employer had no knowledge of the contravention; and
  - (b) that the employer could not, by the exercise of due diligence, have prevented the contravention.

(3) An employer may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the employee has been proceeded against or convicted under that provision.

*False or misleading statements*

60.—(1) A person is guilty of an offence against this Decree if the person makes a statement that is false or misleading in a material particular in:

- (a) an application under this Decree;
- (b) an answer to a question asked by an inspector under this Decree; or
- (c) a statement to an inspector under this Decree.

(2) It is a defence in proceedings for such an offence if it is established that, when the statement was made, the defendant believed on reasonable grounds that the statement was true and not misleading.

*Evidence as to possession of measuring instruments, articles, etc.*

61.—(1) When any measuring instrument is found in the possession of any person carrying on trade, or in or on any place or vehicle which is used by any person for trade, such person shall be, until the contrary is proved, deemed for the purposes of this Decree to use or have such measuring instrument in his possession for trade.

(2) When any article is found in or on any place or vehicle which is used by any person for trade, that article shall, until the contrary is proved, be deemed for the purposes of this Decree to be exposed for sale or kept or had in possession for sale.

*Miscellaneous provisions as to evidence*

- 62.—(1) In a proceeding under or for a purpose of this Decree—
- (a) it shall not be necessary to prove the appointment of the Chief Inspector or of any other inspector;
  - (b) a signature purporting to be that of the Chief Inspector or of any other inspector shall be taken to be the signature it purports to be until the contrary is proved;
  - (c) it shall not be necessary to prove that any primary, secondary or reference standard of measurement, stamp, or other departmental equipment was or is deposited, supplied, kept, stamped, verified, re-verified, inspected, or used under or for the purposes of this Decree or is such primary, secondary or reference standard, stamp, or other departmental equipment;
  - (d) in respect of any measuring instrument the allegation or averment in the complaint that the measuring instrument has or has not been duly inspected, examined, tested, verified, re-verified, adjusted, or stamped under this Decree or has or has not been duly inspected and stamped with a certifying stamp or in respect of which no certifying certificate has been issued under and as required by this Decree shall be evidence of the matter or matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
  - (e) a document purporting to be either an original or duplicate copy of an order, or a certificate, direction, or notice, issued or given under this Decree by the Chief Inspector or by any other inspector shall, upon its production in evidence, be evidence of that order, certificate, direction or notice and in the absence of evidence in rebuttal thereof shall be conclusive evidence of that order, certificate, direction or notice;
  - (f) a document purporting to be signed by an inspector and certifying that the amount specified therein is payable under this Decree in respect of fees, charges, or expenses and has not been paid by a specified person, and, if so stated, that such fees, charges, or expenses are in respect of any inspection made or service rendered under this Decree, shall, upon its production in evidence, be evidence of the matter or matters certified to therein and of the making of the inspection of or the rendering of the service, if any, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
  - (g) a document purporting to be signed by an inspector and certifying that a specified measuring instrument was inspected by him on a specified date and the findings of his inspection, or certifying that a specified article was measured, or counted by him on a specified date and was found to be of a measurement, or number therein stated, or certifying that the net contents of a specified vessel, container, or other receptacle were measured by him on a specified date and were found to be of a measurement therein stated, shall, upon its production in evidence, be evidence of the matter or matters certified to therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters.
- (2) In proceedings in respect of an offence against this Decree 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 whose behalf the article was packed is evidence that the article was packed for or on behalf of that person;
  - (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 packed is evidence that the article was packed on that date;
  - (e) a document purporting to be certified by the Chief Inspector to be a copy of a permit granted by the Minister under section 46 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 a permit granted by the Minister under section 46(1) has been cancelled;
    - or
    - (ii) that a permit cancelled under section 46(6) has not been delivered up to him,
 is evidence of the matters stated in the certificate.
- (3) Unless the contrary is established, a packaged article is to be presumed to be a pre-packed article for the purposes of this Decree if it is found in premises where articles of the same kind are packed for sale or are kept after being packed for sale, and the fact that the package is not marked as required by this Decree is not sufficient to establish that the article is not a pre-packed article.

(4) A document purporting to be signed by an inspector and certifying that a specified measuring instrument was inspected by him on a specified date and the findings of his inspection, or certifying that a specified article was measured or counted by him on a specified date and was found to be of a measurement or number therein stated, or certifying that the net contents of a specified vessel, container or other receptacle were measured by him on a specified date and were found to be of a measurement therein stated, shall, upon its production in evidence in any proceeding whatsoever, be evidence of the matter or matters certified to therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters.

(5) Where in any proceeding whatsoever any measuring instrument produced in evidence is stamped with a stamp purporting to be a certifying stamp, that stamp shall be evidence that the measuring instrument has been found upon inspection to be in accordance in every respect with the requirements of this Decree and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters.

(6) A certificate, purporting to be a certifying certificate and certifying that a specified standard or measuring instrument has been found upon inspection to be in accordance in every respect with the requirements of this Decree shall, upon its production in evidence in any proceeding whatsoever, be evidence of the matter or matters certified to therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters.

*Appeal against decision of inspector*

63.—(1) An appeal may be made to the Minister from every decision of the Chief Inspector or the Approval Authority under sections 30 and 31.

(2) Notice of every such appeal shall be given in writing to the Minister within 2 months of the date of the decision appealed against, or such longer time as the Minister may determine if he is satisfied that the appellant was prevented by sufficient cause from giving such notice within the said period of 2 months.

(3) On receipt of such notice of appeal, the Minister shall, after giving the parties to the appeal a reasonable opportunity of being heard and after making such inquiry as he deems proper, make such order, as he may think fit, confirming, modifying or reversing the decision appealed against, or may send back the case with such direction as he may think fit for a fresh decision to be made, after taking additional evidence, if necessary.

(4) Every notice of appeal shall be accompanied by such fee (if any) as may be prescribed.

*Repeals, savings and transitional provisions*

64.—(1) The former Act is repealed.

(2) All subsidiary legislation made under the former Act, the Weights and Measures Act (Chapter 56 of the 1967 Edition of the Laws of Fiji) and the Metrication Act is repealed.

(3) Without prejudice to section 18 of the Interpretation Act, notwithstanding the repeal of the former Act, where—

- (a) a person held an office or appointment under the former Act, he shall be deemed to have been appointed to the like office or appointment under this Decree; and
- (b) in respect of a measuring instrument a verification, re-verification, certificate, requisition, notice, registration, licence, or record was or was purported to be made by an inspector under the former Act it shall be in force and effect for the remainder of its period of validity or purported validity as if it had been made in accordance with this Decree and every stamp made or certificate issued in respect of that verification shall be in force to a like effect.

(4) Any and every stamp placed by an inspector on any measuring instrument under, or purportedly under, and for, or purportedly for, the purposes of the former Act and having, or purportedly having, force and effect thereunder immediately prior to the passing of this Decree shall have, subject to and for the purposes of this Decree, force and effect for the remainder of any period of its validity or purported validity.

(5) All penalties and forfeitures imposed and fees, charges, and expenses payable under the former Act and not recovered or, as the case may be, paid at the making of this Decree may be enforced or recovered, and applied as if this Decree had not been made.

(6) All actions and proceedings of whatever nature commenced or pending at the commencement of this Decree under the former Act may be carried on and prosecuted as if this Decree had not been made, and no such action or proceeding shall abate or be discontinued or prejudicially affected by any thing in this Decree contained.



(7) When in any other written law reference is made to the former Act, the Weights and Measures Act or the Metrication Act, or to any provision thereof, it shall be taken, unless the context otherwise indicates or requires, that that reference is to this Decree or, as the case requires, to the corresponding provision of this Decree, and that reference shall be read and construed accordingly.

(8) Subject to subsection (1), where in any written law reference is made to weights and measures legislation for the time being in force or to a weights and measures authority, it shall be taken, unless the context otherwise requires to be a reference to this Decree or to the Chief Inspector respectively.

(9) For the purposes of subsection (3), the office of Chief Inspector of Trade Measurement shall be taken to be the like office to the office of Chief Inspector of Weights and Measures and the offices of inspector and assistant inspector shall be taken accordingly.

(10) Unless otherwise expressly provided the provisions of this Decree shall be in addition to and not in substitution for or diminution of the provisions of any other Decree or any Act or of any regulation or rule thereunder.

(11) The Minister may by regulations make provision for any other savings or transitional matter connected with the coming into force of this Decree.

#### *Regulations*

65.—(1) The Minister may make regulations, not inconsistent with this Decree, prescribing all matters, whether general or to meet particular cases, which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Decree.

(2) Without limiting the generality of subsection (1), regulations may be made for or in respect of all or any of the following purposes, matters and things—

- (a) prescribing or restricting the use of units of measurement either generally or in respect of particular purposes, transactions or classes of transactions;
- (b) prescribing the manner of use of units of measurement;
- (c) prescribing, whether by direct expression or by reference, symbols, multiples, sub-multiples, physical constants and conversion factors which may be used with units of measurement;
- (d) providing for the supply, custody, care, and certification of standards of measurement;
- (e) providing that a standard of measurement of a particular denomination that was found, upon inspection, not to be greater or less than that denomination by an amount exceeding an amount specified in the regulations is, unless otherwise stated in the certificate issued in respect of the inspection of the standard, to be deemed to be of a value equal to its denomination;
- (f) regulating and controlling the inspecting, examining, testing, verification, re-verification comparison, adjusting, repairing, and stamping of measuring instruments and without limiting the generality of this power, prescribing any method or methods by which or the manner or the means by which and the persons by whom all or any of those things shall or shall not be done;
- (g) prescribing stamps including certifying stamps and rejection stamps for the purposes of this Decree;
- (h) prescribing the circumstances and conditions under which and the manner in which and the persons by whom stamps may be obliterated or defaced;
- (i) prescribing the maximum permissible error in any measuring instrument;
- (j) regulating, and controlling measuring instruments, including, but without limit to the generality of this power, regulating—
  - (i) the manner in which shall be prescribed or approved (including any variation, withdrawal or cancellation thereof) the pattern, specifications, class or type, shape, dimension, and proportions thereof, and the materials of which they shall be made;
  - (ii) the placing, erection, and protection of the same;
- (k) prescribing or restricting the use of a measuring instrument, either generally or in respect of particular transactions or in respect of transactions included in a particular class of transactions;
- (l) prescribing the classes or types of measuring instruments to be used in particular transactions or in transactions included in a particular class of transactions;
- (m) prohibiting the use of any particular classes or types of measuring instruments either wholly or except on compliance with the conditions prescribed;
- (n) prescribing the classes or types of masses to be used on prescribed classes or types of measuring instruments; and

- (o) prescribing the manner of the marking on masses and measures of their several denominations, and on other measuring instruments of their capacities and other markings;
- (p) providing for, regulating and controlling measuring instruments made available to the public by the owners thereof, including the registration of such instruments, their testing, verification, re-verification, inspection and stamping, and their use, and the licensing of weighmen, and prohibiting or regulating the use of such instruments which are unregistered, and generally for the supervision and control of such instruments and weighmen;
- (q) regulating and controlling the taking of tare-masses of vehicles used for the conveyance of articles sold or carried by mass; the issue, production and retention of tickets and copies thereof, showing such mass, or the mass of the loading on such vehicles, or the mass of the loading and the vehicles, and the description of the loading, and such other particulars as may be prescribed; and providing in any case for such measuring on demand by a purchaser or an inspector, and for preventing frauds in connection with articles conveyed on vehicles and sold or carried by mass;
- (r) providing for the qualification and registration, licensing, supervision and control of repairers and adjusters of measuring instruments, and the premises at which their business is carried on including the prohibition of the use of the designation of repairer or adjuster of such measuring instruments or any like designation by persons not so registered or licensed;
- (s) regulating and controlling the conduct of checkweighers;
- (t) regulating and controlling the marking upon articles or packages or labels affixed to articles or packages—
  - (i) of the net measurement or number of the article or contents of the package;
  - (ii) of any matter stating or representing by implication that the article or package and its contents is for sale at a price lower than the ordinary and customary sale price or, in the case of a package, that a sale price advantage is accorded to purchasers thereof by reason of the size of the package or the measurement of its contents;
- (u) prescribing the form and manner in which packages required or permitted by any provision of this Decree to be marked with any particulars or statement, shall or may be so marked;
- (v) prohibiting the sale of prescribed articles by measure of capacity;
- (w) prescribing the form of package for containing any prescribed class of articles sold by measurement and the form of receptacle to be fitted or to form part of any vehicle carrying any prescribed class of articles for delivery or sale by measurement, and the method of marking or stamping such packages or receptacles;
- (x) regulating and controlling space, recesses, cavities and thicknesses with respect to a package that are likely to be concealed from a person looking at the package when it is in a position usual for displaying for sale packages of the article contained therein, and without limiting the generality of the foregoing prescribing limitations for—
  - (i) the space within a package that is a vacuum or contains matter other than the article for sale contained in the package;
  - (ii) any recess or number of recesses embodied in the construction of the package;
  - (iii) any cavity or number of cavities contained within the substance of the package; and
  - (iv) the thickness of the substance of the package;
- (y) prescribing the matters and things in respect of which fees are payable and the amount of those fees; fixing the amount or proportion of expenses, or of expenses prescribed, incurred in connection with any inspection or service performed under this Decree; and prescribing the persons by whom and the places and times when and where such fees shall be paid;
- (z) prescribing the forms to be used and the conditions and procedure to be observed in measuring produce and other articles;
- (aa) regulating and controlling the production and delivery of tickets, invoices, or delivery notes in respect of articles sold, ordered, or purporting to be supplied by measurement and prescribing the information which is to be given on such tickets, invoices, or delivery notes;
- (bb) regulating, controlling, and restricting the sale or supply of articles by means of a vending machine.
- (cc) permitting, in the case of such articles and in such circumstances as may be specified in the regulations, the measurement of any articles used in packing the first-mentioned articles for sale as may be so specified to be included in the net measurement of the first-mentioned articles;

- (dd) exempting (either wholly or to such extent as may be prescribed) or authorising 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 Decree or of the regulations—
- (i) articles of any description prescribed or referred to in the regulations and packages containing any such articles; and
  - (ii) prescribed persons, transactions and classes of transactions;
- (ee) requiring a statement of the selling price or a statement of the price per unit of measurement of an article contained in a package (or both those statements) to be marked—
- (a) on the package; or
  - (b) adjacent to the display of the package;
- (ff) 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;
- (gg) providing for the units of measurement of physical quantity and the multiples thereof that may be used for stating the price per unit of measurement of a physical quantity of an article (other than one that is pre-packed) offered, exposed or advertised for sale, and regulating the use of such units and the making of such statements of price;
- (hh) regulating insofar as it relates to the measurement of an article, the manner in which it may be pictorially represented in advertisements and the words, symbols and units which may be used in advertisements for any article;
- (ii) prescribing a penalty for any offence against any regulation not exceeding—
    - (a) a fine of \$5,000 for a first offence or a fine of \$10,000 for a second or subsequent offence;
    - (b) where a court is of opinion that an offence under the regulations of which a person is convicted was committed with intent to commit fraud, imprisonment for a term not exceeding three years in addition to or instead of any fine; and
    - (c) where an offence has been committed by a body corporate a fine which is five times the fine provided for under sub-paragraph (a) of this paragraph.
  - (jj) prescribing the form of and the particulars to be contained in any document required or permitted to be issued under this Decree.
- (3) The regulations—
- (a) may make different provisions in respect of different classes of articles, packages and transactions;
  - (b) may be of general or limited application; and
  - (c) may differ in their effect with differences in time, place and circumstances.
- (4) The regulations may provide for—
- (a) delegations;
  - (b) the conferring of discretionary powers;
  - (c) the adoption into the regulations by reference of particulars and information published from time to time on—
    - (i) units and standards of measurement;
    - (ii) specifications and patterns of measuring instruments; and
    - (iii) the approval, inspection and certification of measuring instruments.

Made this 31st day of July, 1989.

P. K. GANILAU  
President and Commander-in-Chief