

Chapter 286.
Trade Measurement Act 1973.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 286.

Trade Measurement Act 1973.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Trade Measurement Act 1973,¹

Being an Act relating to weights and measures.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1)² ³In this Act, unless the contrary intention appears—

“**articles**” includes liquids, foods, chattels, wares, merchandise and goods of every description, and any article and its package;

“**certifying certificate**” means a certificate in the prescribed form issued by an inspector in respect of any weighing instrument or measuring instrument that is exempted by the regulations from being stamped with a certifying stamp by reason of the impracticability of so stamping it, for the purpose of signifying that the weight, measure, weighing

¹ Short title replaced by No. 51 of 1978, s1. Formerly called the *Weights and Measures Act*.

² Section 1(1) amended by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian Act”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Australian legal unit of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian National Standards Commission”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian Regulations”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Australian standard of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Imperial weights and measures”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “subsidiary standard of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “working standard of measurement”) repealed by No. 51 of 1978, s2.

³ Section 1(1) amended by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian Act”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Australian legal unit of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian National Standards Commission”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “the Australian Regulations”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Australian standard of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “Imperial weights and measures”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “subsidiary standard of measurement”) repealed by No. 51 of 1978, s2; Section 1(1) (definition of “working standard of measurement”) repealed by No. 51 of 1978, s2.

instrument or measuring instrument has been found on inspection to be in accordance with this Act;

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

“the Chief Inspector” means the Chief Inspector of Weights and Measures appointed under Section 6;

“the commencement date” means 1 July 1974, being the date on which the pre-Independence *Weights and Measures Act 1973* came into operation;

“the Deputy Chief Inspector” means the Deputy Chief Inspector appointed under Section 6;

“inspection”, in relation to weighing instruments or measuring instruments, includes examination, testing, verification, re-verification, comparison, adjustment and stamping under this Act by an inspector;

“inspector” means the Chief Inspector, the Deputy Chief Inspector or an inspector appointed under Section 6;

“Inspectors’ Standard” means a standard of measurement issued under Section 10 to an inspector;

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

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

“package” includes—

- (a) anything by means of which any article is, or articles are, packed for sale as a single item; and
- (b) in particular, a wrapper and a confining band;

“Papua New Guinea legal unit of measurement” means a unit of measurement prescribed under the *National Institute of Standards and Industrial Technology Act 1993* as a legal unit of measurement of a physical quantity;

“Papua New Guinea standard of measurement” has the same meaning as in the *National Institute of Standards and Industrial Technology Act 1993*;

“Papua New Guinea unit of measurement” means a unit of measurement of a physical quantity that is, by virtue of Section 5, a legal unit of measurement for that quantity for Papua New Guinea;

“place” includes any shop, factory, house and other place, whether or not it is—

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

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

“purchaser” includes a person purchasing as an agent for any other person and an intending purchaser or a person making inquiries with a view to possible purchase;

“the regulations” means any regulations made under this Act;

“sell” includes—

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

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

“this Act” includes the regulations;

“use for trade” means use in connection with or with a view to a transaction for—

- (a) transferring or rendering money or money’s worth in consideration of money or money’s worth; or
- (b) making a payment in respect of any tax, duty, charge or toll, where—
 - (i) the transaction is—
 - (A) by reference to quantity in terms of measurement of a physical quantity or in terms of number; or
 - (B) a transaction for the purposes of which there is made or employed a statement, in those terms, of the quantity of goods to which the transaction relates; and

- (ii) the use is for the purpose of determination or statement of that quantity;

“**vehicle**” means any conveyance used on land, whether self-propelled or not;

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

(2) For the purposes of this Act, a weight, measure, weighing instrument or measuring instrument used in relation to any transaction shall be deemed to be used for trade.

2. ACT BINDS THE STATE.

This Act binds the State.

3. SAVING OF CUSTOMARY WEIGHTS AND MEASURES.

Subject to the regulations made under Section 41(a), this Act does not apply to or in relation to local or customary weights or measures in use by automatic citizens immediately before the commencement date.

4. SAVING OF OTHER LAWS.

Except where otherwise specifically stated, this Act does not derogate any power granted under, or relieve a person from any liability or duty under, any other law.

**PART II. – LEGAL UNITS OF MEASUREMENT OF PHYSICAL
QUANTITIES.**

5. [REPEALED.]

PART III. – ADMINISTRATION.**6. APPOINTMENT OF OFFICERS.**

(1) The Minister may, by notice in the National Gazette, appoint–

- (a) a Chief Inspector of Weights and Measures; and
- (b) a Deputy Chief Inspector of Weights and Measures; and
- (c) such inspectors and other officers as are necessary for the purposes of this Act.

(2) The Deputy Chief Inspector has and may exercise all the powers and functions of the Chief Inspector during any absence or inability to act of the Chief Inspector.

(3) An inspector or officer shall perform the duties imposed on him by this Act under the general supervision and direction of the Chief Inspector.

(4) An inspector shall be furnished with a certificate of appointment signed by the Minister and, on entering any place, shall, if required, produce the certificate to the occupier of the place.

(5) An inspector who–

- (a) except in the course of his duties under this Act, directly or indirectly discloses, or causes to be disclosed, any matter relating to the business of any person that comes to his knowledge in the course of those duties; or
- (b) stamps any weight, measure, weighing instrument or measuring instrument except in compliance with this Act; or
- (c) refuses or fails to perform any duty imposed on him by this Act,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

7. PROFIT, ETC., BY INSPECTORS.

(1) Subject to Subsection (2), an inspector who, while he holds office–

- (a) derives any profit from or is employed in making, adjusting or selling weights, measures, weighing instruments or measuring instruments; or
- (b) accepts any gratuity or reward from a trader or manufacturer; or
- (c) recommends any particular manufacturer or tradesman for the supply, repair or adjustment of weights, measures, weighing instruments and measuring instruments; or
- (d) exhibits in his office an advertisement relating to a manufacturer or tradesman,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) In an area where it appears desirable for an inspector to be allowed to adjust weights, measures, weighing instruments and measuring instruments the Minister may authorize the inspector to act as an adjuster of weights, measures, weighing instruments and measuring instruments, and an inspector so authorized may make the prescribed charges for any such adjustment.

8. DISPOSAL OF FEES.

Money received by an inspector as fees or charges under this Act shall be paid into the Consolidated Revenue Fund.

PART IV. – STANDARDS OF MEASUREMENT.

9⁴. [REPEALED.]

10. INSPECTORS' STANDARDS.

⁵(1) The Minister may arrange for the provisions and maintenance and the issuing to inspectors of such Inspectors Standards of measurements in such denominations as he thinks fit.

(2) An Inspectors' Standard shall be verified or re-verified as prescribed.

(3) Every Inspectors' Standard shall be stamped in the prescribed manner with the prescribed stamp.

(4) The impression of the stamp prescribed under Subsection (3) on a weight or measure is evidence that the weight or measure is an Inspector's Standard.

11. DEFECTIVE INSPECTOR'S STANDARD.

⁶An Inspectors' Standard which has become defective through any cause, or which has been broken or repaired, shall not be used for the purposes of this Act until it has been re-verified as prescribed.

12. DAMAGING OR DESTROYING STANDARDS.

A person who falsifies, or wilfully or maliciously damages or destroys, any standard of measurement provided and maintained under this Act is guilty of an offence.

Penalty: A fine not exceeding K200.00.

13. REPLACING STANDARDS LOST, DESTROYED, ETC.

⁷Where any Inspectors' Standard of measurement is lost, destroyed, defaced or injured, another standard shall be provided by the Minister in its place.

14⁸. [REPEALED.]

⁴ Section 9 Repealed by No. 51 of 1978, s2.

⁵ Section 10 Replaced by No. 51 of 1978, s4.

⁶ Section 11 replaced by No. 51 of 1978, s5.

⁷ Section 13 amended by No. 51 of 1978, s6.

⁸ Section 14 Repealed by No. 51 of 1978, s7.

PART V. – INSPECTION, VERIFICATION AND STAMPING.

15. POWERS OF INSPECTORS.

An inspector may at all reasonable times—

- (a) enter and search any building or place, or stop and inspect any vehicle or vessel, in which or in connection with which weights, measures, weighing instruments or measuring instruments are used for trade; or
- (b) inspect any weights, measures, weighing instruments or measuring instruments in the possession of a person having a pack, basket or other receptacle containing goods for sale; or
- (c) examine and test any such weights, measures, weighing instruments or measuring instruments.

16. SEIZURE OF WEIGHTS.

A weight, measure, weighing instrument or measuring instrument that—

- (a) is not stamped as required by or under this Act; or
- (b) is incorrect,

may be seized and detained by an inspector.

17. STAMPING OF WEIGHTS, ETC.

Every weight, measure, weighing instrument or measuring instrument used for trade, and every public weighbridge, shall be stamped with the prescribed mark of verification.

18. INSPECTION OF WEIGHTS, ETC.

(1) Subject to Subsections (2) and (3), every weight, measure, weighing instrument or measuring instrument used or for use for trade shall be produced, as prescribed, to an inspector for inspection—

- (a) if used for trade—at least once in every two years; or
- (b) if for use for trade—before use.

(2) The regulations may—

- (a) subject to such conditions as are prescribed, except wholly or in part from the operation of this section any class of weights, measures, weighing instruments or measuring instruments; or
- (b) extend the period referred to in Subsection (1)(a) with respect to any specified part of the country; or
- (c) provide for the more frequent re-verification and stamping of any prescribed classes of weights, measures, weighing instruments or measuring instruments.

(3) Where an inspector thinks it necessary to do so, he may require any weight, measure, weighing instrument or measuring instrument used or for use for trade to be produced for his inspection and, on or without such a request, inspect any weight, measure, weighing instrument or measuring instrument.

19. UNJUST WEIGHTS, ETC.

(1) Where on inspection it appears to the inspector that—

- (a) a weight, measure, weighing instrument or measuring instrument is not stamped with a certifying stamp as required by this Act; or
- (b) a weight, measure, weighing instrument or measuring instrument is exempted by the regulations but the prescribed certifying certificate has not been issued in respect of it; or
- (c) a weight is light or otherwise unjust, a measure is incorrect or otherwise unjust or a weighing instrument or measuring instrument is unjust,

he may—

- (d) seize it or any part of it; or
- (e) where the weight, measure, weighing instrument or measuring instrument is found to be light, incorrect or otherwise unjust, if he thinks it proper—
 - (i) give the owner, or the person found in possession of it, written notice—
 - (A) to have it corrected and made true and just within 28 days of the date of the notice, or such shorter period as the inspector thinks proper; and
 - (B) to cease to use it in the meantime; or
 - (ii) adjust it,

instead of immediately seizing it or part of it.

(2) Where a notice under Subsection (1)(e)(i) is complied with to the satisfaction of the inspector, he shall not take any further action, but if a notice is not complied with he may, at the end of the period specified in the notice seize the weight, measure, weighing instrument or measuring instrument in question or any part of it.

20. TYPE AND DESIGN OF WEIGHTS, ETC.

⁹(1) Where the Minister has reasonable grounds for believing that the use of a weight, measure, weighing instrument or measuring instrument for trade might facilitate fraud, he may specify, by written notice served personally or by registered post on any person using it or having it in his possession for the purpose of trade, the

⁹ Section 20 replaced by No. 51 of 1978, s8.

period and the purposes for which, and the circumstances in which, the weight, measure, weighing instrument or measuring instrument may be used for trade.

(2) A person who contravenes or fails to comply with a notice under Subsection (1) that is applicable to him is guilty of an offence.

Penalty: A fine not exceeding K200.00.

21. USE OF UNSTAMPED WEIGHTS, ETC.

(1) A person who uses or has in his possession for use for trade, any weight, measure, weighing instrument or measuring instrument that—

- (a) is not stamped as prescribed; or
- (b) is incorrect or unjust,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) Subject to this Act, any weight, measure, weighing instrument or measuring instrument that is stamped as prescribed is a legal weight, measure, weighing instrument or measuring instrument, as the case may be, throughout the country, unless it is found to be defective or unjust.

22. DEFECTIVE WEIGHTS, ETC.

(1) Subject to Subsection (3), a person who uses or has in his possession for use for trade any weight, measure, weighing instrument or measuring instrument (not being a weight, measure or instrument that is exempted by the regulations from stamping) that—

- (a) has become defective; or
- (b) has been mended or repaired,

and that has not been re-stamped under this Act, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) A person who mends or repairs a defective weight, measure, weighing instrument or measuring instrument and does not obliterate any existing stamp on it is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) Notwithstanding Subsections (1) and (2), but subject to any conditions prescribed by the regulations, a person may temporarily use a weight, measure, weighing instrument or measuring instrument that has been repaired but not re-stamped.

23. OFFENCES IN CONNECTION WITH WEIGHTS, ETC.

(1)¹⁰ ¹¹Subject to Subsection (2), a person—

- (a) who uses or has in his possession for use for trade (except for use in connection with the import or export of goods from or to a place outside the country where weights or measures other than Papua New Guinea legal units of measurement are used) a weight or measure that is not of a denomination authorized by this Act to be used; or
- (b) who—
 - (i) forges or counterfeits or causes to be forged or counterfeited, or assists in forging or counterfeiting, or unlawfully has in his possession, a stamp used for stamping a weight, measure, weighing instrument or measuring instrument under this Act; or
 - (ii) unless duly authorized under this Act, makes on a weight, measure, weighing instrument or measuring instrument an impression purporting to be the impression of any such stamp; or
 - (iii) alters any date mark used in connection with the impression of any such stamp; or
- (c) who, in any way, alters or tampers with a weight, measure, weighing instrument or measuring instrument so as to cause it to weigh or measure incorrectly or unjustly; or
- (d) who uses, sells, disposes of or exposes for sale a weight, measure, weighing instrument or measuring instrument—
 - (i) so altered or tampered with; or
 - (ii) that has a forged or counterfeit stamp on it; or
- (e) who makes or sells, or causes to be made or sold, a weight, measure, weighing instrument or measuring instrument that is false or unjust; or
- (f) who increases or diminishes any stamped weight or measure or uses, sells, disposes of or exposes for sale any increased or diminished weight or measure,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) Subsection (1) does not apply to a person who increases or diminishes any stamped weight or measure when he adjusts it to standard and entirely obliterates the stamp.

¹⁰ Section 23(1) amended by No. 51 of 1978, s9.

¹¹ Section 23(1) amended by No. 51 of 1978, s9.

24. CONTRACTS, ETC., BY REFERENCE TO FALSE WEIGHTS, ETC.

(1) Subject to Subsection (2), a contract, bargain, sale, purchase or dealing made by reference to any false or unjust weight, measure, weighing instrument or measuring instrument is void.

(2) In any proceedings in which the validity of a contract, bargain, sale, purchase or dealing is in issue by reason of the use of a false or unjust weight, measure, weighing instrument or measuring instrument, the contract, bargain, sale, purchase or dealing shall not be held to be void if it is proved to the satisfaction of the court that the use of the false or unjust weight, measure, weighing instrument or measuring instrument was due to—

- (a) a *bona fide* mistake; or
- (b) an accident; or
- (c) any other cause beyond the control of the parties to the contract,

and despite all reasonable precautions being taken and all due diligence exercised by them, or was due to the action of a person over whom the parties had no control.

25. USE OR POSSESSION OF UNJUST WEIGHTS, ETC.

A person who—

- (a) uses for trade; or
- (b) has in his possession—
 - (i) for use for trade; or
 - (ii) for the purposes of or for purposes in connection with any contract, bargain, sale, purchase or dealing,

any weight, measure, weighing instrument or measuring instrument that is false or unjust is guilty of an offence.

Penalty: A fine not exceeding K200.00.

26. FACILITATION OF INSPECTIONS.

(1) For the purposes of the inspection of a weighing instrument or measuring instrument, the owner, at the request of an inspector, shall provide at the place of inspection—

- (a) in the case of a weighing instrument—
 - (i) weights of not less than 25% of the capacity of the weighing instrument, duly inspected and stamped with a certifying stamp under and as required by this Act; and
 - (ii) such heavy material (in convenient form for handling) and such labour as the inspector thinks necessary for the proper conduct of the inspection; and

(b) in the case of a measuring instrument—such labour as the inspector thinks necessary for the proper conduct of the inspection.

(2) Where an inspector thinks that it is necessary or expedient, he may order the owner of, or any person who has in his possession, any weight, measure, weighing instrument or measuring instrument used or for use for trade, to forward or deliver it for the purpose of inspection to or at a place named by the inspector and within or at a time specified in the order.

(3) The expenses of forwarding or delivering and of the return of a weight, measure, weighing instrument or measuring instrument under Subsection (2) shall be borne by the person to whom the order was given.

(4) This section does not affect the duty under this Act of having every weight, measure, weighing instrument and measuring instrument used or in possession for trade periodically inspected by an inspector.

PART VI. – SALE OF GOODS.

27. TRADE, ETC., IN TERMS OF PAPUA NEW GUINEA LEGAL UNITS OF MEASUREMENT.

¹²(1) Subject to Subsection (2), a person who sells by a denomination of weight or measure other than one of the Papua New Guinea legal units of measurement is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) This section does not apply–

- (a) to a contract, dealing or transaction, particular class of contract, dealing or transaction or those contracts, dealings or transactions relating to a particular commodity, exempted by the Minister under Section 16(3) of the *National Institute of Standards and Industrial Technology Act 1993*; or
- (b) to or in relation to timber in the log.

28. SALE OF PRECIOUS METALS, ETC.

¹³(1) Subject to Subsection (2), an article sold by weight shall be sold by metric weight.

(2) Notwithstanding Subsection (1) gold and silver, and articles made of gold or silver or both (including gold and silver thread, lace or fringe), platinum, diamonds and other precious metals or stones may be sold by the ounce troy or by a decimal part of an ounce troy.

(3) A person who sells an article in contravention of this section is guilty of an offence.

Penalty: A fine not exceeding K200.00.

29. SALES BY NET WEIGHT OR MEASURE.

(1) A person who sells any article by weight or measure otherwise than by net weight or measure is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) Subject to Subsection 5, where a person offers or exposes an article for sale by weight or measure–

- (a) in a shop or other place; or
- (b) in a vehicle, pack, basket or other receptacle,

he must–

¹² Section 27 replaced by No. 51 of 1978, s10.

¹³ Section 28 amended by No. 51 of 1978, s11.

- (c) have in a convenient place, capable of being easily seen by the purchaser, suitable weights, measures, weighing instruments or measuring instruments for weighing or measuring the article; and
- (d) at the request of a purchaser of an article sold by weight or measure, weigh or measure it in the presence of the purchaser.

(3) A person referred to in Subsection (2) who fails to have any necessary weight, measure, weighing instrument or measuring instrument as required by that subsection is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(4) Subject to Subsection 5, where an article sold by weight or measure is less than the due weight, the person selling it is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00.

For a second or subsequent offence—a fine not exceeding K400.00.

(5) Subsections (2), (3) and (4) do not apply to bread offered or exposed for sale in a vehicle, pack, basket or other receptacle.

30. FALSE DECLARATIONS AS TO WEIGHTS, ETC.

A person who, in any way, directly or indirectly makes a false statement, or wilfully misleads any person, as to the number, quantity, measure, gauge or weight of any article sold by him is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00.

For a second or subsequent offence—a fine not exceeding K400.00.

31. SALES BY SHORT WEIGHT, MEASURE OR NUMBER.

(1) Subject to Subsection (4), where an article sold by weight, measure or number is, on sale or for the purpose of sale, delivered to the purchaser or to some person on behalf of the purchaser short of the weight, measure or number purporting to be sold or delivered, the person selling the article or causing it to be delivered is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00.

For a second or subsequent offence—a fine not exceeding K400.00.

(2) Subject to Subsections (3) and (4), a person who sells, or offers, exposes or has in his possession for sale, an article in a package on the outside of which the net weight or measure or the number is not legibly written is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00.

For a second or subsequent offence—a fine not exceeding K400.00.

(3) Subsection (2) does not apply to an article weighed, measured or counted in the presence of the purchaser, or to an article exempted by the regulation from the requirements of that subsection.

(4) This section does not apply to an article exposed for sale or sold by weight in a package if the weight of the article is subject to variation by reason of climatic influences and the package bears a conspicuous label or inscription showing the words “Net weight when packed”.

32. NET WEIGHT OR MEASURE NOT CORRECTLY STATED.

(1) Where the weight, measure or number of an article in a package is incorrectly stated on the package, the seller and the person offering or exposing the article for sale, or having the article in his possession for sale, are each guilty of an offence.

Penalty: For a first offence—a fine not exceeding K200.00.

For a second or subsequent offence—a fine not exceeding K400.00.

(2) For the purposes of Subsection (1), unless the contrary is proved an article in the possession of a person who manufactures or trades in such articles shall be deemed to be in his possession for sale.

(3) In a prosecution for an offence against Subsection (1), it is a defence if the defendant proves that—

- (a) he sold the article in the same state as it was in when he purchased it; and
- (b) at the time of the contravention of Subsection (1) he had no reason to suspect that the weight, measure or number was not correctly stated.

33. SALES BY THE BUSHEL.

In any contract, bargain, sale, purchase, dealing or transaction for the sale or purchase by the bushel of any article specified in Schedule 2, the bushel shall be determined by weight, the weight equivalent to a bushel of any such article being that stated in that Schedule in relation to the article.

PART VII. – MISCELLANEOUS.**34. ONUS OF PROOF.**

In any proceedings for an offence against this Act in respect of any weight, measure, weighing instrument or measuring instrument, the onus is on the defendant to prove that the weight, measure, weighing instrument or measuring instrument was tested, verified or stamped as required by this Act.

35. GENERAL EVIDENTIARY PROVISIONS.

(1) In proceedings for an offence against this Act unless evidence is given to the contrary, evidence is not required of the appointment of the Chief Inspector or any other officer purporting to have been appointed under this Act.

(2) In proceedings for an offence against this Act, a document certifying that—

- (a) specified weights or measures in the possession of an inspector are Inspectors' Standards; or
- (b) any such weights or measures have been verified or re-verified within the prescribed period; or
- (c) a specified person is or was acting under this Act in a capacity stated in the document,

and any other document relating to or arising out of the administration of this Act, if purporting to be signed by the Chief Inspector shall, unless the contrary is shown—

- (d) be received as evidence in all courts; and
- (e) be deemed to have been issued or written by or under the direction of the Chief Inspector.

36. EVIDENCE AS TO POSSESSION.

Where any weight, measure, weighing instrument or measuring instrument is found—

- (a) in the possession of any person carrying on trade; or
- (b) on the premises of any person that, whether the premises are a building or in the open air and whether they are open or closed, are used for trade,

that person shall, until the contrary is proved, be deemed, for the purposes of this Act, to have the weight, measure, weighing instrument or measuring instrument in his possession for use for trade.

37. FORFEITURE.

(1) Any weight, measure, weighing instrument or measuring instrument in connection with which an offence against this Act is committed may, on the conviction of any person of the offence, be forfeited by order of the court.

(2) Without instituting a prosecution, the Chief Inspector may apply to a court of summary jurisdiction for the forfeiture of any weight, measure, weighing instrument or measuring instrument seized and detained under this Act, and the court in its discretion may make such an order, but if the court declines to make the order the Chief Inspector shall return it to its owner immediately.

(3) Where any weight, measure, weighing instrument or measuring instrument has been seized and detained under this Act and at the expiration of two months from the seizure—

- (a) no prosecution has been instituted in relation to it; and
- (b) no application has been made for an order under Subsection (2) in relation to it,

the Chief Inspector shall return it to their owner.

38. FORFEITED WEIGHTS, ETC.

All weights, measures, weighing instruments and measuring instruments forfeited under this Act are the property of the State and (except where other provision is made by or under this Act) may be disposed of as the Chief Inspector thinks fit.

39. RECOVERY OF FEES, ETC.

Any fees, charges or expenses payable under this Act and not paid are a debt due to the State and may be recovered by the Chief Inspector in any court of competent jurisdiction.

40. OBSTRUCTION, ETC.

A person who—

- (a) hinders or obstructs an inspector in the execution of his duty; or
- (b) when requested by an inspector, does not produce for examination or testing all weights, measures, weighing instruments and measuring instruments in his possession; or
- (c) refuses on request to state his name and address to an inspector, or states to an inspector a false name or address; or
- (d) uses abusive language to, or directly or indirectly threatens, an inspector; or
- (e) assaults an inspector in the execution of his duty under this Act; or
- (f) personates an inspector; or
- (g) falsely pretends to be engaged in or associated with the administration of this Act; or

- (h) refuses or fails to comply with any reasonable direction given by an inspector in the exercise or performance of his powers or functions under this Act; or
- (i) directly or indirectly prevents a person from appearing before or being questioned by an inspector,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

41. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters providing for and in relation to—

- (a) the prohibition, restriction or regulation of the use for trade of local or customary weights and measures used by automatic citizens immediately before the commencement date; and
- (b)¹⁴ the supply, custody, care, verification and certification of Inspectors' Standards; and
- (c) the duties, responsibilities, qualifications, appointment and dismissal of inspectors, and the provision of identification certificates; and
- (d) fixing times and places for the submission for verification, and for the testing, verifying, re-verifying and stamping, of weights, measures, weighing instruments and measuring instruments; and
- (e) regulating and controlling the inspection, examination, testing, verification, re-verification, comparison and stamping of weights, measures, weighing instruments and measuring instruments for the purposes of this Act, and prescribing—
 - (i) the method by which, or the manner in which; and
 - (ii) the means by which; and
 - (iii) the persons by whom,

all or any of those things shall or shall not be done; and
- (f) the prescription of stamps, including certifying stamps and rejection stamps, for the purposes of this Act; and
- (g) the prescription of—
 - (i) the circumstances and the conditions under which; and
 - (ii) the manner in which; and

¹⁴ Section 41(b) amended by No. 51 of 1978, s12.

- (iii) the persons by whom,
 - stamps referred to in Paragraph (f) may be obliterated or defaced; and
- (h) the fees chargeable and the payment of the fees prescribed for testing, verifying, re-verifying, adjusting and stamping weights, measures, weighing instruments and measuring instruments; and
- (i) the shape, dimensions and proportions to be required in weights, measures, weighing instruments and measuring instruments, and the materials of which they shall be made; and
- (j) the weights, measures, weighing instruments and measuring instruments that shall or shall not be admitted to verification, and the tests to be applied to ascertain their accuracy and efficiency; and
- (k) the amounts of error that may be tolerated in weights, measures, weighing instruments and measuring instruments; and
- (l) the instruments to be used for testing and verifying weights, measures, weighing instruments and measuring instruments; and
- (m) the purposes of trades for or in which prescribed weight, measures, weighing instruments and measuring instruments may be used lawfully, and the classes of weights, measures, weighing instruments and measuring instruments to be used in certain trades; and
- (n) the method of use, and limits on or regulation of the use, in trade of prescribed weights, measures, weighing instruments and measuring instruments; and
- (o) the marking on weights and measures of their denominations, and on weighing instruments and measuring instruments of their capacities and other markings, and the obliteration of stamps on weights, measures, weighing instruments and measuring instruments found to be incorrect or not in accordance with the regulations; and
- (p) the denominations of weights and measures permissible for use in trade; and
- (q) the classes of weights to be used in connection with prescribed weighing instruments; and
- (r) the registration of public weighbridges by their owners, and the registration of weighmen.

SCHEDULE 1 -

SCHEDULE 2 – WEIGHT OF BUSHELS.

Sec. 33.

Article.	Weight.
Amber Cane	60 lb
Barley	50 lb
Beans	60 lb
Beans (fresh)	20 lb
Bran	20 lb
Broom Corn	50 lb
Buckwheat	50 lb
Clover, red or white	20 lb
Grasses, couch, cocksfoot, paspalum, rib, rye	20 lb
Hungarian millet	60 lb
Imphee	60 lb
Lucerne	20 lb
Maize	56 lb
Oats	40 lb
Peas	60 lb
Peas (in pod)	28 lb
Planter's friend	60 lb
Pollard	20 lb
Rye corn	60 lb
Sorghum	60 lb
Tares or vetches	60 lb
Wheat (seed)	60 lb
Article.	Weight.
Amber Cane	60 lb
Barley	50 lb
Beans	60 lb
Beans (fresh)	20 lb
Bran	20 lb

Article.	Weight.
Broom Corn	50 lb
Buckwheat	50 lb
Clover, red or white	20 lb
Grasses, couch, cocksfoot, paspalum, rib, rye	20 lb
Hungarian millet	60 lb
Imphee	60 lb
Lucerne	20 lb
Maize	56 lb
Oats	40 lb
Peas	60 lb
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Planter's friend	60 lb
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