

LEGAL METROLOGY ACT

Act 57 of 1985 – 1 July 1990

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LEGAL METROLOGY ACT

1. Short title

This Act may be cited as the Legal Metrology Act.

2. Interpretation

(1) In this Act—

“assize”, in relation to an instrument, weight or measure, means to examine, test and stamp with the stamp of assize;

“authorised officer” means any public officer designated as such by the Minister;

“certificate of suitability” means a certificate issued by the Minister under section 6;

“Controller” means the Controller of Weights and Measures referred to in section 5;

“instrument” means any weighing or measuring instrument;

“label” means any written, printed, or graphic material affixed to, applied to, attached to, blown into, formed or moulded into, embossed on, or appearing upon a package containing any commodity, for the purposes of giving information with respect to the commodity;

“Minister” means the Minister to whom responsibility for the subject of trade is assigned;

“package” includes any bottle, cask, can, box, case, wrapper or any other receptacle in which a commodity is pre-packed;

“packer” means a person who pre-packs or causes to be pre-packed any commodity;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of trade;

“premises” means—

- (a) a place where any business, industry, production or trade is carried on by a person, whether by himself or through an agent;
- (b) any part of a dwelling used for the purpose of carrying on any business, industry, production or trade;
- (c) a place where any record, register or other document pertaining to any business, industry, production or trade is kept;
- (d) a place where any instrument, weight or measure is manufactured, repaired, sold, used or kept for use in any trade;
- (e) a place where any pre-packed commodity is manufactured, made, packed, stored, distributed, sold, kept or offered for sale;

“pre-pack” means pack a commodity, prior to sale, in any manner, in units for the purposes of retail sale;

“retail sale”, in relation to a pre-packed commodity, means the sale, distribution or delivery of such pre-packed commodity for consumption or use;

“seize” includes to affix any seal;

“stamp” includes to cast, engrave, etch, print or otherwise mark in such manner so as to be as far as possible indelible;

“trade” includes the sale, distribution, import, use of, or other dealing in any article in the course of business.

(2) For the purposes of this Act the words “weight” and “mass” shall, unless the context otherwise requires, have the same meaning.

[S. 2 amended by Act 39 of 1989; Act 1 of 1994.]

3. Standard units of measurement

(1) No person shall, in relation to any goods or services—

- (a) quote any price or charge;
- (b) issue or exhibit any price list, invoice, cash memo or other document;
- (c) mention any quantity in any advertisement, poster or other document;

- (d) indicate on the package the net quantity of the commodity contained in the package; or
- (e) express any quantity or dimension,

otherwise than by reference to the standard units of measurement.

(2) In this section, "standard units of measurement" means the units of measurement which may be used under the International Systems of Units (SI) Act.

[S. 3 amended by Act 1 of 1994.]

4. National, secondary and working standards

(1) The Minister shall—

- (a) procure standards representing the standard units of measurement and such parts and multiples of those units as may be required;
- (b) direct which of the standards specified in paragraph (a) shall be—
 - (i) national standards;
 - (ii) secondary standards; and
 - (iii) working standards.

(2) The national standards shall be—

- (a) deposited and kept at the Mauritius Standards Bureau; and
- (b) used for the purpose of verification of the secondary standards.

(3) The secondary standards shall be—

- (a) kept in the custody of the Controller; and
- (b) used for the purpose of verification of the working standards.

(4) The working standards shall be used for the assizing of instruments, weights and measures.

[S. 4 amended by Act 19 of 1991; Act 1 of 1994.]

5. Controller

(1) There shall be a Controller of Weights and Measures whose office shall be a public office.

(2) The Controller shall take such steps as may be necessary for the purpose of ensuring compliance with this Act.

6. Certificate of suitability

(1) No person shall import or manufacture a weighing instrument which is meant for trade use without a certificate of suitability relating to the pattern or design of the instrument.

(2) An application for a certificate of suitability shall be made in writing to the Minister, giving full particulars of the pattern or design of the weighing instrument, and shall be accompanied by the prescribed fee.

(3) The Minister may, where he is satisfied that the pattern or design of the weighing instrument is suitable for use in trade, grant the application and issue a certificate on such conditions as he may deem fit.

(4) Where the Minister is satisfied that—

- (a) the weighing instrument in respect of which a certificate has been granted is no more suitable for use in trade; or
- (b) the holder of the certificate has committed any breach of the conditions attached to it,

he may revoke the certificate.

[S. 6 amended by Act 39 of 1989; Act 1 of 1994.]

7. Sale and use of unassized instrument, weight or measure

(1) No person shall sell or have in his possession for sale any instrument, weight or measure intended for use in any trade, unless it has been assized.

(2) No person shall use or keep on his premises for use, for the purposes of trade, any instrument, weight or measure which—

- (a) has not been assized or re-assized in accordance with subsection (3);
- (b) is false, defective, incorrect or not in conformity with the requirements of this Act; or
- (c) has been stamped with a rejection mark.

(3) Every instrument, weight or measure used or intended to be used in trade shall be assized or re-assized at such periodical intervals as may be prescribed.

(4) Where an assized instrument, weight or measure has been repaired, such instrument, weight or measure shall not be put into use unless it has been duly re-assized, notwithstanding that periodical re-assizement of such instrument, weight or measure has not become due.

(5) Where an instrument, installed and fixed at one place and assized on site, is dismantled and re-installed at a different place, such instrument shall not be put into use unless it has been duly re-assized, notwithstanding that periodical re-assizement of such instrument has not become due.

[S. 7 amended by Act 1 of 1994.]

8. Notice of assizing

(1) The Controller or any authorised officer may by written notice require any person to produce for assizing within a time limit specified in the notice, any instrument, weight or measure which he has in his possession for the purpose of any trade.

(2) Where an instrument or measure which is the subject matter of a notice under subsection (1) —

- (a) is fixed; or
- (b) has a weighing capacity exceeding 500 kilograms,

the person to whom the notice has been addressed shall, on receipt of the notice, forthwith inform the Controller in writing of the particulars of the instrument or measure and the place where it can be conveniently assized.

[S. 8 amended by Act 1 of 1994.]

9. Assizing of instruments, weights and measures

(1) Every instrument, weight or measure which is produced for assizing shall be stamped with —

- (a) the stamp of assize, where it is found to be correct and in conformity with the requirements of this Act;
- (b) a rejection mark, where it is found to be false, defective, incorrect or not in conformity with the requirements of this Act.

(2) —

[S. 9 amended by Act 1 of 1994.]

10. Repair of instruments, weights and measures

No person shall repair an assized or rejected instrument, weight or measure unless he has first obliterated permanently any stamp of assize or rejection mark on it.

11. Labelling and standardisation of pre-packed commodities

(1) No person shall pre-pack or cause to be pre-packed any commodity unless the package of the commodity bears a conspicuous label carrying a declaration in such manner as may be prescribed as to —

- (a) the name of the commodity;
- (b) the net quantity of the commodity;
- (c) the name and complete address of the packer; and
- (d) such other information as may be required by the Minister.

(2) No person shall pre-pack or cause to be pre-packed any commodity except in such standard quantities as may be prescribed.

(3) Subject to subsection (4), no person shall sell or have in his possession for sale any commodity which has been pre-packed in contravention of subsection (1) or (2).

(4) No person shall sell or have in his possession for sale any commodity pre-packed outside Mauritius, unless the package carries —

- (a) a mark or statement indicating the country in which it has been packed;

- (b) a declaration as to the net quantity of the commodity contained in the package.

[S. 11 amended by Act 1 of 1994.]

12. Accuracy of net quantity of pre-packed commodities

(1) The packer, in the case of a commodity pre-packed in Mauritius, and the importer, in the case of a commodity pre-packed outside Mauritius, shall ensure that the pre-packed commodity complies with such requirements in relation to accuracy of the net quantity as may be prescribed.

(2) No person shall sell or have in his possession for sale any pre-packed commodity the net quantity of which is less than that declared on the package by an amount exceeding the prescribed limit of error.

[S. 12 amended by Act 1 of 1994.]

13. Metric carat weights

No person shall use metric carat weights except for weighing precious stones.

14. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may provide for—

- (a) restrictions on the use in trade of certain instruments, weights and measures;
- (b) exemptions of any class of instruments, weights, measures or articles from any provision of this Act;
- (c) fees to be paid in respect of the examination, assizing or adjustment of any instrument, weight or measure;
- (d) the manner of declaration of the net quantity of, and other information in relation to, the commodity contained in the package;
- (e) the standard quantities in which commodities may be pre-packed;
- (f) the requirements in relation to the accuracy of the net quantity of pre-packed commodities;
- (g) any article to be sold by weight, measure or number expressed in such manner as may be specified;
- (h) any period within which any instrument, weight or measure shall be assized or re-assized.

[S. 14 amended by Act 1 of 1994.]

15. Powers of authorised officer

An authorised officer or any other person duly authorised by the Permanent Secretary may—

- (a) enter any premises and inspect any instrument, weight, measure or commodity;
- (b) require any person to produce to him for inspection any instrument, weight, measure or pre-packed commodity which he has in his possession in the course of any trade;
- (c) weigh or measure any goods sold or delivered to any person in the course of any trade;
- (d) check the net quantity of any pre-packed commodity, and examine any document or other record relating thereto.

[S. 15 amended by Act 1 of 1994.]

16. Seizure

Any authorised officer or police officer may seize any instrument, weight, measure or article which he reasonably suspects to be the subject matter of an offence under this Act.

17. Certificate from Controller

Where before any Court, the correctness of an instrument, weight or measure is at issue, a certificate from the Controller shall be *prima facie* evidence of the correctness of the instrument, weight or measure.

18. Offences and penalties

(1) Any person who contravenes this Act or any regulation made under it, or fails to comply with a notice under section 8 (1), shall commit an offence and shall, on conviction, be liable—

- (a) in the case of a first offence, to a fine not exceeding 5,000 rupees;
- (b) in the case of a subsequent offence, to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Any person who—

- (a) in selling or purporting to sell an article by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity less than the quantity contracted for or paid for; or
- (b) in buying any article by weight, measure or number, fraudulently receives any quantity in excess of the quantity contracted for or paid for,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) Any person who—

- (a) counterfeits or tampers with any stamp of assize;
- (b) defaces or tampers with any rejection mark;
- (c) increases or diminishes any weight or measure;
- (d) tampers with—
 - (i) any instrument with a view to deceiving any person; or
 - (ii) any seal affixed under section 16;
- (e) obstructs an authorised officer or police officer in the performance of his duties;
- (f) fails or refuses to produce to an authorised officer for inspection such instrument, weight, measure or pre-packed commodity, as he may require; or
- (g) makes a statement, in relation to any pre-packed commodity or to any instrument, weight or measure used in the course of trade, which is false or misleading in a material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 5 years.

(4) The Court before which a person is convicted of an offence under this Act or under any regulations made under it may, in addition to any penalty imposed, order the forfeiture and destruction of any instrument, weight, measure or article used in the commission of the offence.

[S. 18 amended by Act 1 of 1994.]

19. Jurisdiction

Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under this Act and may impose any fine or term of imprisonment provided by this Act.

20. – 21. —

22. Application

This Act shall—

- (a) bind the State;
- (b) not apply to any article exclusively meant for export.

[S. 2 amended by Act 48 of 1991.]

23. —
