

THE LEGAL METROLOGY ACT 1985

Act No. 57 of 1985

I assent,

8 November 1985

C. I. MOOLLAN
Acting Governor-General

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An Act

To make better provision for the assizing of instruments, weights and measures and the protection of the public in relation to the sale of articles by weight or measure

ENACTED by the Parliament of Mauritius, as follows—

1. Short title.

This Act may be cited as the Legal Metrology Act 1985.

2. Interpretation.

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 specified in section 5;
- “*instrument*” means any weighing or measuring instrument;
- “*Minister*” means the Minister to whom responsibility for the subject of trade is assigned;
- “*Permanent Secretary*” means the Permanent Secretary of the Ministry of Trade and Shipping;
- “*stamp*” includes to cast, engrave, etch, print or otherwise mark in such manner so as to be as far as possible indelible;
- “*trade*” means the sale, distribution, import, use of, or other dealing in any article.

3. Standard units of weight, length and capacity.

The standard units of weight, length and capacity shall be a kilogram, a metre and a litre respectively.

4. National, secondary and working standards.

- (1) The Minister shall—
 - (a) procure standards representing the units of weight, length and capacity 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 solely 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.

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, in the course of any trade, import, manufacture, expose, offer for sale, sell or use any instrument, weight or measure without a certificate of suitability relating to the pattern or design of the instrument, weight or measure.

(2) An application for a certificate of suitability shall be made in writing to the Permanent Secretary, giving full particulars of the pattern or design of the instrument, weight or measure.

(3) On receipt of an application under subsection (2) and on payment of the prescribed fee by the applicant, the Minister may, where he is satisfied that the pattern or design of the instrument, weight or measure is suitable for use in trade, grant it.

7. Stamp of assize.

Subject to this Act, no person shall use for the purposes of any trade an instrument, weight or measure which has not been assized.

8. Notice of assizing.

(1) The Controller may, by notice in the *Gazette* and in at least 2 daily newspapers, require any person, not less than 14 days from the last publication of the notice, to produce for assizing any instrument, weight or measure which he has in his possession for the purposes of any trade.

(2) Any person who, for the purposes of any trade, has an instrument or measure which—

(a) is fixed;

(b) has a weighing capacity exceeding 250 kg; or

(c) is of delicate construction,

shall, on the publication of the notice under subsection (1), forthwith in writing inform the Controller of the particulars of the instrument or measure and the place where it can conveniently be assized.

(3) Any person who, without reasonable cause or lawful justification, fails to comply with the notice specified in subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 3 months.

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

(2) Any person who makes use, in the course of any trade, of an instrument, weight or measure which—

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

shall commit an offence.

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. Counterfeiting instruments, weights and measures.

Any person who wilfully—

- (a) counterfeits or tampers with any stamp of assize;
- (b) defaces or tampers with any rejection mark,

on any instrument, weight or measure shall commit an offence.

12. Deceiving purchaser.

(1) Any person who, in the course of any trade, by using a false, defective or incorrect instrument, weight or measure or by any fraudulent manoeuvres, deceives any purchaser in regard to the quantity of articles sold shall commit an offence.

(2) Any person who, in the course of any trade, sells or purports to sell any article by weight or other measurement or by number and delivers to the purchaser a lesser quantity than that purported to be sold or than corresponds with the price charged shall commit an offence.

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.

15. Powers of authorised officers.

Any authorised officer or police officer may—

- (a) enter any premises used for any trade at any time when the premises are open for the purpose of the trade;
- (b) require any person who, in the course of any trade, has in his possession or custody or under his control any instrument, weight or measure, to produce the instrument, weight or measure for the purposes of examination;
- (c) weigh or measure any article kept, exposed or offered for sale in the course of any trade.

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.

(1) Any person who—

- (a) makes a statement in relation to any instrument, weight or measure used in the course of trade, which is false or misleading in a material particular; or
- (b) obstructs an authorised officer in the performance of his functions,

shall commit an offence.

(2) Any person who commits an offence under this Act for which no specific penalty is provided or contravenes any regulations made under this Act shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 5 years.

(3) The Court before which a person is convicted of an offence under this Act or under any regulations made under this Act 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.

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. Transitional provision.

Any person who at the commencement of this Act has in his possession for the purposes of any trade any instrument, weight or measure which may be used under the Weights and Measures Act, may continue to use the instrument, weight or measure for a period of 6 months from the commencement of this Act.

21. Repeal.

Subject to section 20, the following enactments are repealed—

- (a) the Weights and Measures Act;
- (b) the Weights and Measures Regulations 1932;
- (c) the Rodrigues Weights and Measures Regulations 1941;
- (d) the Weights Proclamations 1894.

22. Application.

This Act shall—

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

23. Commencement.

This Act shall come into operation on a day to be fixed by Proclamation.

Passed in the Legislative Assembly on the fifth day of November, one thousand nine hundred and eighty-five.

G. MAURICE BRÛ
Clerk of the Legislative Assembly