

THE LEGAL METROLOGY ACT 1985

Act No. 57 of 1985

Act 57/1985

Proclaimed by [Proclamation No. 2 of 1990] w.e.f. 1st July 1990

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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.

(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 specified 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 prepacked;

“packer” means a person who prepacks or causes to be prepacked any commodity;

“Permanent Secretary” means the Permanent Secretary of the Ministry of Trade and Shipping;

“premises” means—

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

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

“retail sale”, in relation to a prepacked commodity, means the sale, distribution or delivery of such prepacked commodity for consumption or use by an individual or group of individuals;

“seize” includes the affixing of 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.

Amended by [Act No. 39 of 1989]; [Act No. 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 1984.

Amended by [Act No. 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.

Amended by [Act No. 19 of 1991]; [Act No. 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 thereto, he may revoke the certificate.

Amended by [Act No. 39 of 1989]; [Act No. 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 in situ, 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 reassizement of such instrument has not become due.

Amended by [Act No. 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 kg, 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.

Amended by [Act No. 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; or
 - (b) a rejection mark, where it is found to be false, defective, incorrect or not in conformity with the requirements of this Act.

Amended by [Act No. 1 of 1994]

10. Repair of instruments, weights and measure

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 prepack or cause to be prepacked 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 prepacked in contravention of subsection (1) or (2).
- (4) No person shall sell or have in his possession for sale any commodity prepacked 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.

Amended by [Act No. 1 of 1994]

12. Accuracy of the net quantity of prepacked commodities

- (1) The packer, in the case of a commodity prepacked in Mauritius, and the importer, in the case of a commodity prepacked outside Mauritius, shall ensure that the prepacked 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 prepacked commodity the net quantity of which is less than that declared on the package by an amount exceeding the prescribed limit of error.

Amended by [Act No. 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 prepacked;
 - (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.

Amended by [Act No. 1 of 1994]

15. Powers of authorised officers

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 prepacked 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 prepacked commodity, and examine any document or other record relating thereto.

Amended by [Act No. 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 five thousand rupees;
 - (b) in the case of a subsequent offence, to a fine not exceeding ten thousand rupees and to imprisonment for a term not exceeding two 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 ten thousand rupees and to imprisonment for a term not exceeding two 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 prepacked commodity, as he may require; or
 - (g) makes a statement, in relation to any prepacked 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 ten thousand rupees and to imprisonment for a term not exceeding five years.

- (4) 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.

Amended by [Act No. 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. 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 18 months from the commencement of this Act.

Amended by [Act No. 19 Of 1991]

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.

Proclaimed by [Proclamation No. 2 of 1990] w.e.f. 1st July 1990