

LEGAL SUPPLEMENT

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THE LEGAL METROLOGY (AMENDMENT) ACT 1994

Act No. 1 of 1994

I assent

31 March 1994

C. UTEEM
President of the Republic

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An Act

To amend the Legal Metrology Act 1985

ENACTED by the Parliament of Mauritius, as follows—

1. Short title

This Act may be cited as the Legal Metrology (Amendment) Act 1994.

2. Interpretation

In this Act—

“principal Act” means the Legal Metrology Act 1985.

3. Section 2 of the principal Act amended

Section 2 of the principal Act is amended in subsection (1)—

- (a) by deleting the definition of “trade” and replacing it by the following new definition—

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

- (b) by adding the following definitions in their proper alphabetical order—

“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;

“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;

“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 prepacked 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.

4. Section 3 of the principal Act repealed and replaced

Section 3 of the principal Act is repealed and replaced by the following section—

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.

5. Section 4 of the principal Act amended

Section 4 of the principal Act is amended in subsection (1) (a) by deleting the words “the units of weight, length and capacity” and replacing them by the words “the standard units of measurement”.

6. Section 6 of the principal Act amended

Section 6 of the principal Act is amended—

(a) by deleting subsections (2) and (3) and replacing them by the following subsections—

(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.

(b) by adding the following new subsection—

(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.

7. Section 7 of the principal Act repealed and replaced

Section 7 of the principal Act is repealed and replaced by the following section—

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 re-assizement of such instrument has not become due.

8. Section 8 of the principal Act repealed and replaced

Section 8 of the principal Act is repealed and replaced by the following section—

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.

9. Section 9 of the principal Act amended

Section 9 of the principal Act is amended—

(a) in paragraph 1(a) by inserting after the word “correct” the words “and in conformity with the requirements of this Act”;

(b) by deleting subsection (2).

10. Section 11 of the principal Act repealed and replaced

Section 11 of the principal Act is repealed and replaced by the following section—

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.

11. Section 12 of the principal Act repealed and replaced

Section 12 of the principal Act is repealed and replaced by the following section—

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.

12. Section 14 of the principal Act amended

Section 14 of the principal Act is amended in subsection (2) by adding after paragraph (c) the following new paragraphs—

- (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.

13. Section 15 of the principal Act repealed and replaced

Section 15 of the principal Act is repealed and replaced by the following section—

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 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.

14. Section 18 of the principal Act repealed and replaced

Section 18 of the principal Act is repealed and replaced by the following new section—

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.

15. Commencement

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

Passed by the National Assembly on the twenty-second day of March one thousand nine hundred and ninety-four.

ANDRÉ POMPON

Clerk of the National Assembly