

WEIGHTS AND MEASURES (AMENDMENT) ACT.

Act No. 39, 1956.

An Act to amend the law relating to weights and measures; for this purpose to amend the Weights and Measures Act, 1915, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 9th November, 1956.]

Elizabeth II,
No. 39, 1956.

BE

No. 39, 1956.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and
citation.

1. (1) This Act may be cited as the "Weights and Measures (Amendment) Act, 1956."

(2) The Weights and Measures Act, 1915, as amended by subsequent Acts and by this Act, may be cited as the Weights and Measures Act, 1915-1956.

Amendment
of Act No.
10, 1915.

2. The Weights and Measures Act, 1915, as amended by subsequent Acts, is amended—

Sec. 25 (2).
(Invoices
and
delivery
notes.)

(a) (i) by inserting in subsection two of section twenty-five after the words "showing the" the word "correct";

Sec. 25 (3).
(Package of
goods to
have weight
or measure
printed
thereon.)

(ii) by omitting from subsection three of the same section the words "or expose" and by inserting in lieu thereof the words "expose or keep";

(iii) by omitting from the same subsection the word "enclosed";

(iv) by inserting in the same subsection after the words "unless the" the word "correct";

(v) by omitting from paragraph (b) of subsection four of the same section the word "exposed" and by inserting in lieu thereof the words "offered, exposed or kept";

New sec.
25A.

(b) by inserting next after section twenty-five the following new section:—

Guarantee,
when a
defence.

25A. (1) Where any person is prosecuted for a contravention of subsection three of section twenty-five of this Act he shall not be convicted for such contravention by reason only of the fact that the net weight or measure legibly written or printed upon the outside of the package referred

referred to in the charge against him, or upon ^{No. 39, 1956.}
a label firmly attached to that package, was not
the correct net weight or measure of the article
in the package if he proves—

(a) (i) that—

- (a) the net weight or measure so written or printed was so written or printed before he purchased the article; and
- (b) he has received from the person from whom he purchased the article or that person's duly authorised agent a guarantee in writing that the net weight or measure so written or printed is the correct net weight or measure of the article; or

(ii) that—

- (a) the net weight or measure so written or printed was so written or printed after he purchased the article and was the same net weight or measure as that stated in the invoice or delivery note hereinafter referred to to be the net weight or measure of the article or of articles of the same description or included in the same class as that article; and
- (b) he has received from the person from whom he purchased the article or that person's duly authorised agent a guarantee in writing that the net weight or measure
of

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of the article stated in the invoice or delivery note that relates to the article and was received by him from that person, is the correct net weight or measure of the article;

- (b) that he had no reason to believe that the net weight or measure so written or printed was not the correct net weight or measure of such article; and
- (c) that when he sold or offered, exposed or kept for sale, as the case may be, the article in the package the article was in the same state as when he received it,

subject however to the following conditions:—

- (i) The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.
- (ii) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades.
- (iii) A guarantee may be general or specific.
- (iv) A general guarantee shall apply to any article of the description of articles or included in a class of articles named in the guarantee.
- (v) A specific guarantee shall apply to specific articles and shall refer to an invoice or delivery note describing the articles and the net weight or measure of the articles.

(vi)

- (vi) A guarantee, general or specific, shall not be available as a defence unless the defendant has, within seven days after service of the summons, sent to the informant a copy of the guarantee with a written notice stating that he intends to rely on it as a defence, and specifying the name and place of business of the person giving the guarantee, and the name under which he trades, and has also sent a like notice of his intention to the person giving the guarantee. No. 39, 1956.

The person by whom any guarantee is alleged to have been given under this section shall be entitled to offer evidence at the hearing, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

The form of any guarantee under this section may be prescribed.

(2) Any person who gives any such guarantee which is false shall, in addition to any other penalty to which he may be liable under this Act, be guilty of an offence against this Act, unless he proves that when he gave the guarantee he had reasonable grounds for believing and did in fact believe that the statements contained therein were true.

A prosecution of any person for an offence under this subsection may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by any Act for instituting prosecutions.

- (c) by omitting section twenty-six and by inserting in lieu thereof the following section:— Subst.
sec. 26.

26. Where an article is sold by wholesale and a statement of the net weight or measure of the article is written or printed on the package in which it is sold or upon a label firmly attached thereto Wholesalers
not to make
incorrect
statements
of net
weight or
measure.

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thereto or is contained in the invoice or delivery note given by the seller to the purchaser of the article, and the net weight or measure so written, printed or contained is not the correct net weight or measure of the article, the seller of the article shall be guilty of an offence against this Act.

Sec. 27.
(Provision
for
weighing
or
measuring.)

- (d) by omitting from subsection one of section twenty-seven the words "or exposes" and by inserting in lieu thereof the words ", exposes or keeps";

Sec. 39.
(Regula-
tions.)

- (e) by omitting from paragraph (e) of section thirty-nine the word "ten" and by inserting in lieu thereof the word "twenty";

Subst.
sec. 41.

- (f) by omitting section forty-one and by inserting in lieu thereof the following section:—

Inspection
of articles
in packages.

41. (1) Any inspector may at all reasonable times—

- (a) enter any building or place where any article is bought or sold or packed, offered, exposed or kept for sale or delivered in the course of a sale;
- (b) stop and inspect any vehicle, or inspect any pack, basket, or other receptacle and any article therein offered, exposed or kept for sale or any article carried for delivery in the course of a sale;

and may inspect and weigh or measure or cause to be weighed or measured any such article for the purpose of ascertaining whether or not the provisions of this Act or the regulations are being or have been complied with.

(2)

(2) Any article in respect of which a No. 39, 1956.
contravention of or an offence against this Act
has been committed may be seized by an
inspector.

(g) by omitting from section forty-four the word Sec. 44.
“twenty” and by inserting in lieu thereof the (Penalties.)
word “fifty”;

(h) by omitting from paragraph (s) of section Sec. 57.
fifty-seven the word “ten” and by inserting in (Regula-
lieu thereof the word “twenty”. tions.)

3. (1) The Weights and Measures Act, 1915, as Further
amended by subsequent Acts, is further amended— amendment
of Act No.
10, 1915.

(a) (i) by omitting from the proviso to section Sec. 11.
eleven the words “in Schedule A”; (Superin-
tendent or
inspector
not to
derive
profit from
making,
adjusting,
or selling
weights or
measures.)

(ii) by inserting next after the same proviso the
following new proviso:—
Provided further that an inspector may,
on payment to him of the prescribed fee,
adjust any weight or measure submitted to
him for standardisation so that it corre-
sponds with the appropriate departmental
or local standard.

(b) by omitting from section thirty-four the words Sec. 34.
“in Schedule D”; (Fees for
verifying
and
stamping.)

(c) (i) by inserting in paragraph (j1) of section Sec. 57.
fifty-seven after the word “stamping” the (Regula-
words “weights and measures and weighing tions.)
and”;

(ii)

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(ii) by inserting next after the same paragraph the following new paragraph:—

(j2) Prescribing fees chargeable for adjusting—

(i) any weight submitted to an inspector for verification;
and

(ii) any weight or measure submitted to an inspector for standardisation.

Schedules
A and D.

(d) by omitting Schedules A and D.

(2) The amendments made by subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
