

**WEIGHTS AND MEASURES (AMENDMENT)
ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 46, 1969.

An Act to make further provisions with respect to the packing of certain articles; for this and other purposes to amend the Weights and Measures Act, 1915, as subsequently amended, and the Weights and Measures (Amendment) Act, 1968; and for purposes connected therewith. [Assented to, 17th April, 1969.]

BE

Weights and Measures (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 46, 1969
 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:—

1. (1) This Act may be cited as the "Weights and Measures (Amendment) Act, 1969". Short title and citation.

(2) The Weights and Measures Act, 1915, as subsequently amended and as amended by this Act, may be cited as the Weights and Measures Act, 1915–1969.

2. The Weights and Measures (Amendment) Act, 1968, Amendment of Act No. 12, 1968.
 is amended—

- (a) by omitting section 29B, as proposed to be inserted, Sec. 3.
 by subsection one of section three, in the Weights and Measures Act, 1915, as subsequently amended, (Further amendment of Act No. 10, 1915.)
 and by inserting in lieu thereof the following section :—

29B. (1) A person shall not, except as Name, etc. of packer to be marked on packages.
 prescribed, on or after the appointed day, pack an
 article as a pre-packed article, unless the package
 in which the article is contained is marked—

- (a) where the article is packed for or on behalf of another person by a person who is not an employee of that other person and that other person has a prescribed address and—
- (i) is an individual—with the name and prescribed address of that individual;
 - (ii) is a corporation—with the name and prescribed address of that corporation; or

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(iii) is a firm trading under a registered business name—with that business name and the prescribed address of that firm,

or instead of that name and address, with an approved brand approved for use by that other person; or

(b) in any case (whether or not in addition to any name and address or approved brand referred to in paragraph (a) of this subsection), where the person packing the article—

(i) is an individual and he packs the article otherwise than as an employee of another person or as a member of a firm trading under a registered business name—with the name and prescribed address of that individual;

(ii) is an individual and he packs the article as an employee of another person—with the name and prescribed address of that other person;

(iii) is a corporation—with the name and prescribed address of that corporation; or

(iv) is a member of a firm trading under a registered business name—with that business name and the prescribed address of that firm,

or instead of that name and address, with an approved brand approved for use by that person or, where that person is an employee of another person by that other person,

and, where the regulations prescribe the manner of marking any such name or address or approved brand on the package, the package is so marked in that manner.

(2)

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(2) A person shall not, on or after the appointed day, sell a pre-packed article unless the package containing the article, where the packing was done within New South Wales, is marked as mentioned in subsection one of this section or, where the packing was done outside New South Wales but within the Commonwealth, is marked as prescribed by the equivalent legislation of the State or Territory of the Commonwealth in which the packing was done. No. 46, 1969

(3) Where an article is, for the purposes of subsection one of this section, marked with the name and address or approved brand of a person, that person shall, at the request of an inspector, state, in writing in or to the effect of the prescribed form (if any), to the inspector the name and address of the person (as referred to in that subsection) who packed it and the place at which it was packed.

(4) Where the person referred to in subsection three of this section—

- (a) fails to furnish the statement required by that subsection within the prescribed time; or
- (b) purports to furnish such a statement and the statement is false or misleading in a material particular,

he shall be guilty of an offence against this Act.

(5) Nothing in subsection two of this section prohibits the sale, pursuant to a permit under section 29F of this Act, of an article to which the permit relates.

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(6) Where an address is marked on a package for the purposes of subsection one of this section, the address shall include a reference to New South Wales.

(7) Any statement of a name and address marked on a package containing an article shall be deemed to have been marked on the package for the purposes of subsection one of this section unless the context in which the statement is made indicates the contrary.

(8) In this section—

“equivalent legislation” means the legislation or the provision of the legislation of the State or Territory of the Commonwealth in which the packing was done which the Minister may, by order published in the Gazette, declare to be equivalent legislation for the purpose of this section;

“prescribed address”, in relation to a person, means—

- (a) where the person is an individual—the address of his sole or principal place of business in New South Wales;
- (b) where the person is a corporation—the address of that corporation’s registered office in New South Wales; or
- (c) where the person is a firm trading under a registered business name or a member of such a firm—the address of that firm’s sole or principal place of business in New South Wales.

Sec. 29P.
(Approval
of brands.)

- (b) by inserting in subsection one of section 29P, as proposed to be inserted, by subsection one of section three, in the Weights and Measures Act, 1915, as subsequently amended, after the word “brand”

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“brand” the words “comprised of letters or No. 46, 1969
numerals or letters and numerals allocated by the —
Superintendent and specified in the approval”.

3. (1) The Weights and Measures Act, 1915, as Amendment
subsequently amended, is amended— of Act No.
10, 1915.

(a) (i) by inserting in subparagraph (i) of paragraph Sec. 29G.
(b) of subsection nine of section 29G after the (Short
figures and letter “29H” the word, figures and weight or
letter “or 29I”; measure of
pre-packed
articles.)

(ii) by omitting from paragraph (b) of subpara-
graph (ii) of paragraph (b) of the same
subsection the word “and” and by inserting in
lieu thereof the following word and new
subparagraph :—

or

(iii) being an article of a description to
which section 29I of this Act applies,
is found by that inspector not to
exceed the prescribed number, being
more than five, of parts per centum
of the stated weight of the article; and

(iii) by inserting in paragraph (a) of subsection
ten of the same section after the figures and
letter “29H” the word, figures and letter “or
29I”;

(iv) by omitting from subparagraph (ii) of
paragraph (b) of the same subsection the
word “deficiency,” and by inserting in lieu
thereof the following words and new
paragraph :—

deficiency; or

(c) where the articles are of a description
to which section 29I of this Act applies
—less than the weight of any of the
articles as marked on any of the
packages

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packages containing the articles or as stated in the guarantee relating to the deficient article, as the case may be, but to an extent not exceeding the prescribed permissible average deficiency,

Sec. 29I.
(Articles
that may
be marked
with their
weight at
standard
conditions.)

- (b) (i) by omitting from subsection one of section 29I the word "conditions" and by inserting in lieu thereof the word "condition";
- (ii) by omitting from paragraph (a) of the same subsection the word "and";
- (iii) by omitting from paragraph (b) of the same subsection the word "manner." and by inserting in lieu thereof the following words and new paragraph :—
 - manner; and
 - (c) where the regulations so require, there is marked on the package such a statement as is referred to in paragraph (b) of subsection (2A) of this section.
- (iv) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—
 - (2) Where—
 - (a) the true weight of an article of a description to which this section applies is found by an inspector to be less than the weight—
 - (i) as marked on the package containing the article;
 - (ii) as stated in any invoice or delivery note relating to the article, as referred to in paragraph (b) of subsection two of section 29G of this Act; or
 - (iii)

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- (iii) as stated in any guarantee No. 46, 1969
(within the meaning of that
section) relating to that
article; and

- (b) there are not available five or more
similar packages as referred to in
subsection nine of that section,

the true weight of the article shall, for the
purposes of the application of that section to
the article, be deemed to be equal to the
weight, as so marked or as so stated, if any
deficiency of weight of the article does not
exceed the prescribed number of parts per
centum of the weight, as so marked or as so
stated.

(2A) The regulations may—

- (a) generally, or in relation to an article
of any particular description, or in
relation to an article that is composed
of two or more different materials,
being an article of a description to
which this section applies, prescribe
and regulate the manner in which any
deficiency mentioned in subsection two
of this section, in paragraph (b) of
subsection nine of section 29G of this
Act or in subsection ten of that section
shall be determined; and
- (b) generally, or in relation to an article of
any particular description, being an
article of a description to which this
section applies, require that where a
package containing an article is
marked as mentioned in subsection one
of this section, the package shall also
be marked with a correct statement
of the proportion by weight of the
several types of material of which
the article is composed.

(c)

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Sec. 29o.

(Defences.)

- (c) by inserting next after subsection three of section 29o the following new subsection :—

(3A) In proceedings in respect of an offence arising under paragraph (a) of subsection four of section 29B of this Act in respect of an article, it is a defence for the person charged to prove that he was unable to furnish the statement, as required by subsection three of that section, by reason of the fact that his name and address were or approved brand was marked on the package in which the article is contained without his knowledge or consent (whether express or implied).

Sec. 29Q.
(Evidentiary
provisions.)

- (d) by inserting next after paragraph (d) of section 29Q the following new paragraphs :—

(d1) the fact that an article contained in a package is found exposed for sale or in possession of any person for sale is evidence that the person who packed that article in that package packed it for sale;

(d2) a document purporting to be a statement furnished by a person under subsection three of section 29B of this Act shall be evidence of the matters stated in the document.

(2) The several provisions of subsection one of this section shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.