

Weights and Measures (Amendment) Bill, 1933.

EXPLANATORY NOTE.

THE present Bill seeks to remedy certain defects in the Weights and Measures Act, 1915, and the amending Act of 1916, and also to make various technical amendments which will tend to the smoother working of those Acts.

Clause 1 deals with the short title and the date from which the amendments are to operate, it being impracticable to bring into effect some of the alterations proposed until arrangements have been made for altering the Regulations and the procedure hitherto followed by traders and manufacturers.

Clauses 2 to 9 amend various sections of the Principal Act, such amendments being of a technical nature.

Clause 10 repeals Schedule D of the Principal Act which relates to the fees to be charged for the testing of weights and measures, the provisions in Clause 8 (3) (b) authorising regulations to be made as to these; Clause 10 also amends Schedule E.

Clause 11 makes consequential amendments to the Weights and Measures (Amendment) Act, 1916.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1933.

A BILL

To amend the law relating to weights and measures; to amend the Weights and Measures Act, 1915, and certain other Acts; to validate certain regulations and matters; and for purposes connected therewith.

BE it enacted by the King'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:—

1. (1) This Act may be cited as the "Weights and Measures (Amendment) Act, 1933," and shall be construed with the Weights and Measures Act, 1915, which

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said Act, as amended by the Weights and Measures (Amendment) Act, 1916, is in this Act referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the Weights and Measures Act, 1915-1933.

(3) This Act shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement of Act.

2. (1) Section six of the Principal Act is amended by inserting after the definition of the expression "The Court" the following new definition :— Amendment of Act No. 10, 1915, s. 6. (Definitions).

"To sell" includes to barter and also includes to offer or attempt to sell or receive for sale or have in possession for sale, or cause or suffer to be sold, offered, or exposed for sale.

(2) The Principal Act is further amended by inserting next after section six the following new sections :— New sections 6A, 6B.

6A. Arrangements may be made and carried into effect between the Minister and a Minister administering any other department for carrying into execution all or any of the provisions of this Act with respect to weights, measures, weighing instruments and measuring instruments used or to be used in connection with any such department. Arrangements with other Departments.

6B. The Governor may arrange with the Governor-General of the Commonwealth for the carrying into execution by the Superintendent and inspectors under this Act of all or any of the provisions of any law of the Commonwealth of Australia for the time being in force relating to weights, measures, weighing instruments and measuring instruments used or to be used on any land vested in or under the control of the Commonwealth of Australia. Arrangements with Commonwealth.

(3) Section sixteen of the Principal Act is amended by omitting all words after the word "Treasury" and by inserting in lieu thereof the following words :— Sec. 16. (Metric system.)

"Such new denominations of standards may, notwithstanding anything contained in Schedule C to

to this Act, be of the metric or any other system, and shall, upon the publication in the Gazette of a proclamation in that behalf by the Governor, be standard weights and measures of New South Wales :

Provided that the Governor may by regulation prescribe or limit the purposes for which weights or measures of any of such new denominations may or shall be used."

(4) Section twenty-three of the Principal Act is amended by adding at the end thereof the following new subsection :— Sec. 23. (Articles to be sold by avoirdupois.)

(3) Provided that nothing in this Act shall prevent the use of weights or measures of the metric or any other system when standards therefor have been provided and proclaimed in accordance with section sixteen, and such use is for a purpose prescribed or permitted by a regulation.

3. Section twenty-five of the Principal Act is repealed, and the following section is inserted in lieu thereof :— Further Amendment of Act No. 10, 1915. Sec. 25.

25. (1) A person shall not sell by retail any article by weight or measure unless by net weight or measure. Sale by net weight or measure.

(2) Every person delivering to a purchaser at any place other than the premises of the seller any article sold by retail by weight, measure, or number, shall deliver an invoice or delivery note showing the correct net weight, measure, or number, as the case may require, of such article : Invoices and delivery notes.

Provided this subsection shall not apply to— Exemptions.

- (a) bread ;
- (b) any article weighed, measured, or counted on delivery at the premises of the purchaser ;
- (c) any article in a package on which the net weight, measure, or number is marked as prescribed.

(3) A person shall not sell, offer, expose, or have in his possession for sale by retail in a package any article ordinarily sold by weight, measure, Statements on package or label.

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measure, or number, or any article prescribed, whether ordinarily sold by weight, measure, or number, or not, unless the net weight, measure, or number of the article is legibly written or printed on the outside of such package:

Provided this subsection shall not apply to any article weighed, measured, or counted in the presence of the purchaser. Exemptions.

(4) A person shall not sell, offer, expose, or have in his possession for sale by wholesale, in a package of a size or description commonly sold by retail, any article ordinarily sold by retail by weight, measure, or number, or any article prescribed, whether ordinarily sold by weight, measure, or number or not, unless the net weight, measure, or number is legibly written or printed on the outside of such package.

(5) Any article may by regulation be exempted from the requirements of this section, either wholly or in part. Exemption by regulations.

4. Section twenty-six of the Principal Act is repealed, and the following sections are inserted in lieu thereof:— Further amendment of Act No. 10, 1915. New sections 26, 26A.

26. When the weight, measure, or number of any article in a package is stated on such package, and is not correctly so stated, the seller or the person offering or exposing such article for sale, or having such article in his possession for sale, either wholesale or retail, shall be guilty of an offence against this Act, and any such article found in the possession of any person manufacturing or trading in such articles, shall be deemed to be in possession of such person for sale, until the contrary is proved. Weight or measure incorrectly stated on package.

26A. (1) When any package containing an article which is subject to diminution in weight by reason of climatic influences bears a conspicuous label or inscription showing the words "net weight when packed," followed by a correct statement of such weight, such package shall be deemed to have been marked in accordance with the provisions of this Act. Articles liable to diminution in weight by reason of climatic influences.

(2)

(2) Weights, measures, and numbers closely approximating those stated on an invoice or delivery note or on a package will be allowed when and as prescribed by regulation either generally or with respect to particular articles.

Approximate weights, measures, and numbers.

5. (1) Section twenty-eight of the Principal Act is amended by adding at the end of the section the words following: "or purported to be sold or delivered."

Further amendment of Act No. 10, 1915. Sec. 28. (False declaration as to measures, weights, &c.)

(2) The Principal Act is further amended by inserting after section twenty-eight the following new sections:—

New ss. 28A, 28B.

28A. Where any article is purchased by weight, measure, or number, and the weight, measure, or number thereof is determined by the purchaser, any such purchaser or person on his behalf making a false representation to the seller or his agent either directly or indirectly of the weight, measure, or number of such article shall be guilty of an offence against this Act.

Purchaser making false representation as to weights, measures, &c.

28B. Any person who, on the sale by retail of any article of foodstuff for consumption by man, whether in a shop or from a vehicle, does not forthwith declare to the purchaser the correct weight of the article then sold, shall be guilty of an offence against this Act.

Seller by retail of foodstuff to declare correct weight.

(3) Section twenty-nine of the Principal Act is amended by omitting "shall be seized" and substituting therefor "may be seized."

Sec. 29. (Fraud in using weight or measure.)

6. (1) Section thirty of the Principal Act is amended by the addition of the following new subsection:—

Further amendment of Act No. 10, 1915. Sec. 30. (Verification and stamping.)

(3) For the purposes of this Part of this Act every weighing or measuring instrument open for use by the public or for the use of which a charge is made shall be deemed to be in use for trade.

(2) Section thirty-one of the Principal Act is amended as follows:—

Sec. 31.

(a) Subsection two: After the word "impose" insert the words "specified weights, measures, or weighing or measuring instruments, or weights, measures, or weighing or measuring instruments at."

(Reverification and restamping.)

(b)

(b) Subsection three : Omit the words " spring balances, computing scales, and weighbridges, and of weighing or measuring instruments for which a charge is made for use by the public, and of weighing instruments used at collieries " and insert in lieu thereof the words " prescribed weights or measures or weighing or measuring instruments."

(3) Section thirty-four of the Principal Act is repealed.

Sec. 34. (Fees for verifying and stamping.)

7. Sections thirty-five, thirty-six, and thirty-seven of the Principal Act are repealed and the following sections are inserted after the short heading at the commencement of Part V :—

Further amendment of Act No. 10, 1915. Secs. 35, 36, 37.

35. All coal and firewood shall be sold by weight, and not otherwise, except when, and as, sale by other method is prescribed or permitted by regulation.

Coal and firewood to be sold by weight or by the prescribed methods.

This section so far as it relates to firewood shall apply only to the Metropolitan Weights and Measures District as set out in the regulations until extended to such other places as the Governor by proclamation published in the Gazette may notify.

36. Proof that coal or firewood was being conveyed on any vehicle shall be prima facie evidence that such coal or firewood was for sale or delivery to a purchaser.

Coal or firewood conveyed on vehicle prima facie evidence that it was for sale.

8. (1) Section forty-one of the Principal Act is repealed and the following section is inserted in lieu thereof:—

Further amendment of Act No. 10, 1915. Substituted s. 41.

41. An inspector may at all reasonable times—

Powers of inspectors to enter and inspect.

- (a) enter any premises, building, or place where any article is manufactured, packed or stored for sale, or is sold, offered or exposed for sale ;
- (b) stop any person hawking any article ;
- (c) stop any person delivering any article ordinarily sold by weight, measure, or number,

and may in any such case weigh, measure, or count any such article, and may seize any such article in respect of which a contravention of this Act has been committed.

(2)

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(2) Section forty-four of the Principal Act is Sec. 44.
amended by omitting the words "twenty pounds" and (Penalties.)
by inserting in lieu thereof the words "fifty pounds."

(3) Section fifty-seven of the Principal Act is Sec. 57.
amended as follows :— (Regula-
tions.)

(a) by inserting after paragraph (i) the following
new paragraphs :—

(i1) Prescribing or limiting the method of use
in trade of specified weights or measures
or weighing or measuring instruments.

(i2) The examination and licensing of scale
repairers and generally for their super-
vision and control, including the pro-
hibition of the use of the designation
"scale adjuster" or any like designation
by persons other than those licensed
under the regulations.

(b) by omitting paragraph (j1) and by inserting
in lieu thereof the following new para-
graphs :—

(j1) Prescribing the denominations of
weights and measures permissible for
trade use and the fees for testing,
verifying, and stamping weights and
measures of such denominations, and
weighing and measuring instruments.

(j2) Prescribing the terms and conditions
governing the verification of weights
and measures and of weighing and
measuring instruments at places other
than an inspector's office and the fees
to be taken therefor.

(c) by inserting at the end of paragraph (o) the
words "and prescribing the method by which
certain specified goods shall be sold ;"

(d) by omitting paragraph (o1), and by inserting
in lieu thereof the following new paragraph :—

(o1) Prohibiting the sale, offer, or exposure or
possession for sale by retail of packages
of any goods therein referred to other-
wise than of the prescribed net weight
or measures : Provided

Provided that any regulation made under this paragraph shall not come into force until the expiration of six months after the regulation has been published in the Gazette or any longer period specified in the regulation.

- (e) by inserting after paragraph (ol) the following new paragraphs:—
- (o2) The form, production, and delivery of invoices or delivery notes in respect of articles sold, ordered, or purported to be supplied by weight, measure, or number.
 - (o3) Prescribing the weights, measures, or sizes in which specified articles shall be manufactured or packed for sale, or sold, and the marking of weight, measure, or number thereon.
 - (o4) Prescribing that certain specified articles when sold wholesale by weight or measure, shall be sold by net weight or net measure.
 - (o5) Prescribing the weight per bushel of certain specified articles not mentioned in Schedule E.
- (f) by omitting from paragraph (q) the words "or measure" and by inserting at the end of the same paragraph the words "measure or number, and specifying articles which shall respectively be marked with weight, measure, or number."
- (g) by inserting at the end of the section the following new subsections:—
- (2) Regulations under this Act may be made to apply generally, or may be limited to any specified district or place or to any specified trade or circumstance.
 - (3) Any regulation purporting to be made under the powers conferred by paragraph (ol) of subsection one of this section may apply—
 - (a) generally to all or any class of goods;
 - (b) particularly to the goods mentioned in the regulation;

(c)

(c) to all goods other than those mentioned in the regulation.

(4) The amendments contained in paragraph (d) and paragraph (g) of subsection three of this section shall be deemed to have been in force since the commencement of the Weights and Measures (Amendment) Act, 1916, but shall not operate so as to affect any action or proceeding taken or thing done under any regulation purporting to be made under the powers conferred by paragraph (ol) of subsection one of section fifty-seven of the Weights and Measures Act, 1915, as amended by the Weights and Measures (Amendment) Act, 1916, prior to the commencement of this Act.

9. (1) The Principal Act is further amended by omitting section fifty-eight and by inserting in lieu thereof the following section :—

Further amendment of Act No. 10, 1915. Substituted s. 58.

58. All regulations made under this Act shall—

Regulations to be published in the Gazette.

- (a) be published in the Gazette;
- (b) except where otherwise in this Act provided, take effect from the date of such publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(2) The amendment made by subsection one of this section shall not affect the validity and force of regulations made prior to the commencement of this Act, and such regulations shall continue in force until repealed, replaced, or amended by regulations made after such commencement.

10. (1) Schedule D of the Principal Act is repealed. Further amendment of Act No. 10, 1916. Schedule D.

(2) Schedule E of the Principal Act is amended— Schedule E.

(a) by omitting the words, numerals, and symbols—

- Clover, red or white ... 20 ,,
- Lucerne 20 ,,

(b) by omitting the words “ couch,” “ paspalum,” “ rib ” in the line commencing with the word “ grasses,” and by inserting in the same line the word “ prairie” after the word “ cocksfoot”;

(c) by omitting the word and brackets “ (seed) ” after the word “ wheat.”

11. Paragraphs seven and eight and subparagraphs (b) and (c) of paragraph eleven of section three and sections five and six of the Weights and Measures (Amendment) Act, 1916 are hereby repealed. Amendment of Act No. 37, 1916. ss. 3, 5, & 6. (Consequential.)

