

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 18 November, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1975.

An Act to amend the Weights and Measures Act, 1915, to make further provisions relating to the packing, labelling and sale of articles, to increase certain penalties, and for certain other purposes.

BE

Weights and Measures (Amendment).

5 **B**E 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:—

1. This Act may be cited as the "Weights and Measures Short title. (Amendment) Act, 1975".

2. (1) Except as provided in subsection (2), this Act Commence- shall commence on the date of assent to this Act. ment.

10 (2) Sections 5, 6 and 7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Weights and Measures Act, 1915, is, in this Act, Principal 15 referred to as the Principal Act. Act.

4. The Principal Act is amended—

Amendment
of Act No.
10, 1915.

(a) by inserting at the end of section 6 the following subsection :—

Sec. 6.
(Defini-
tions.)

20 (2) A reference in this Act to the weight of any substance or thing includes a reference to its mass.

(b) by omitting from section 16 the words "of two hundred dollars" and by inserting instead the words "not exceeding \$500";

Sec. 16.
(Falsifi-
cation,
etc., of
standards.)

(c)

Weights and Measures (Amendment).

- (c) by inserting after section 22 the following section :—

5 22A. A reference in this Part to the weight or
measure or the true weight or measure of an article
shall, in respect of an article of a description
prescribed for the purposes of this section or such
an article in a state or condition so prescribed,
10 be construed as a reference to a weight or measure
ascertained in relation to that article by such
method or under such conditions, or both, as is
or are prescribed.

Construc-
tion of
references
to weight
or measure
in certain
cases.

- (d) by omitting section 29C (4) ;

Sec. 29c.
(Certain
articles
to be
packed
and sold
only in
certain
denomina-
tions.)

- (e) (i) by inserting after section 29D (4) the following subsections :—

Sec. 29d.
(Packages,
etc., to be
marked
with
particulars
of the
quantity
of the
articles
contained
therein.)

15 (4A) A statement of purported weight or
measure required by subsection (1) or (3)
to be marked on a package containing an
article shall be deemed to be so marked if,
20 where the regulations so permit, the statement
of the purported weight or measure marked
on the package is expressed in terms of—

(a) a minimum weight or measure; or

(b) 2 statements of weight or measure
between which the weight or measure
25 of the article purportedly falls.

(4B)

Weights and Measures (Amendment).

(4B) Where—

5 (a) pursuant to regulations made for the purposes of subsection (4A), a package containing an article is marked with a statement expressed in terms of a minimum weight or measure;

(b) a person sells that article at a stated price per unit of weight or measure; and

10 (c) the price charged for the article exceeds the price correctly computed from that stated price per unit of weight or measure and the statement of the purported weight or measure so expressed,

15 that person shall be guilty of an offence against this Act.

(ii) by omitting section 29D (5) ;

20 (f) by inserting after section 29D the following section :—

29DA. (1) A person shall not—

Free space,
cavities and
recesses in
packages.

(a) pack, as a pre-packed article, an article in a package of any description to which this section applies; or

25 (b) sell an article that is pre-packed in a package of any description to which this section applies,

if

Weights and Measures (Amendment).

if—

5 (c) in the package containing the article, there is any free space and the proportion that that free space bears to the capacity of the package exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph; or

(d) where—

10 (i) any part of the package forms or contains a cavity, the volume of which is not part of the capacity of the package; or

15 (ii) the bottom of the package forms or contains a recess (not being a recess the volume of which is part of the capacity of the package, and not being a recess that is created because of the shape of the article in the package),

20 and the volume of the cavity or recess, or the total volume of all such cavities and recesses, bears to the volume of the article in the package a proportion that exceeds such proportion as may be prescribed in
25 relation to that article for the purposes of this paragraph.

(2) A regulation made for the purposes of this section, in so far as that regulation—

(a) prescribes a description; or

30 (b) prescribes a proportion or decreases, or has the effect of decreasing, a proportion so prescribed,

shall

Weights and Measures (Amendment).

shall take effect, and shall be expressed so as to take effect, on a day that is not earlier than 6 months after the day on which that regulation is published in the Gazette.

5 (3) The regulations may provide, for the purposes of this section—

10 (a) that prescribed parts, things, materials or substances of or in, or attached to, packages in relation to all articles, or articles of a prescribed description, shall or shall not be regarded as part of the packages;

(b) that the volume of a prescribed article shall be a volume ascertained as prescribed; and

15 (c) that the capacity of a prescribed package shall be ascertained as prescribed,

and a reference in this section—

20 (d) to a package shall be taken to be a reference to that package having regard to, or disregarding, as the case may be, the parts, things, materials or substances prescribed for the purposes of paragraph (a) in relation to that package;

25 (e) to the volume of a prescribed article shall be taken to be a reference to that volume ascertained as prescribed for the purposes of paragraph (b) in relation to that article; and

30 (f) to the capacity of a prescribed package shall be taken to be a reference to that capacity ascertained as prescribed for the purposes of paragraph (c).

(4)

Weights and Measures (Amendment).

(4) A regulation made for the purposes of subsection (3) (b) may—

(a) provide that space—

- (i) surrounding a prescribed article;
- 5 (ii) within a prescribed article; and
- (iii) where a prescribed article is composed of separate parts or particles, between those parts or particles,
- 10 shall be regarded as part of the volume of that article; and

(b) provide that the volume of a prescribed article shall be ascertained as prescribed at—

- (i) the place of packing;
- 15 (ii) the place of sale; or
- (iii) some other prescribed place.

(5) A regulation made for the purposes of subsection (3) (c) may provide that prescribed spaces within or created by the design or shape of a prescribed package shall or shall not be regarded as part of the capacity of that package.

(6) In this section, “free space” means, in relation to a package, the difference between the capacity of the package and the volume of the article contained in the package.

(7) This section applies to packages of such descriptions as may be prescribed.

(g)

Weights and Measures (Amendment).

- (g) (i) by inserting after section 29G (4) the following subsection :—

Sec. 29G.
(Short
weight or
measure of
pre-packed
articles.)

(4A) Where a package containing an article is marked with a statement permitted by regulations made for the purposes of—

(a) section 29D (4A) (a), the minimum weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package; or

(b) section 29D (4A) (b), the lower of the 2 statements of weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package and the higher of those 2 statements shall be disregarded.

- (ii) by omitting section 29G (5) (b) and by inserting instead the following paragraph :—

(b) a statement of the price of the article—

(i) is marked on the package containing the article;

(ii) is exhibited on or near a receptacle in which the article is contained; or

(iii) is otherwise so displayed as to relate to the article; and;

(iii)

Weights and Measures (Amendment).

5 (iii) by omitting from section 29G (5) the words
“the person who marked the package with the
statement of price and the person who sold the
article, are each guilty of an offence against this
Act.” and by inserting instead the following
words :—

any person—

10 (d) who marked, exhibited or displayed
the statement referred to in
paragraph (b) ; or

(e) who sells the article,
is guilty of an offence against this Act.

15 (iv) by omitting from section 29G (7) the words
“four hundred dollars” and by inserting instead
the matter “\$500”;

(v) by omitting from section 29G (9) (b) (ii) (b)
the words “more than five” and by inserting
instead the words “not less than five”;

20 (vi) by omitting from section 29G (9) (b) (iii) the
words “more than five” and by inserting
instead the words “not less than five”;

25 (h) (i) by inserting in section 29J (3) (a) after the words “marked on every” the words “panel or other”;
(ii) by inserting in section 29J (3) (b) after the words “that statement are” the words “marked on the same panel of the package or”;

30 (iii) by inserting in the definition of “restricted expression” in section 29J (4) after the words “containing the article” the words “or of the whole contents of that package”;

Sec. 29J.
(Prohibition
and restric-
tion of use
of certain
expressions
on pack-
ages.)

Weights and Measures (Amendment).

- (iv) by inserting in the definition of "restricted expression" in section 29J (4) after the words "this section" the words "if that expression is used in a prescribed manner";
- 5 (i) by inserting in section 29O (3) after the matter Sec. 29o. "29D," the words "section 29DA (subsection (1) (Defences.) (a) excepted).";
- (j) (i) by omitting from section 29R (1) (i) (i) the Sec. 29R. word "and" where secondly occurring; (Regulations.)
- 10 (ii) by inserting after section 29R (1) (i) (i) the following subparagraph :—
 - (ia) packages of any description prescribed by or referred to in the regulations; and;
- 15 (iii) by omitting from section 29R (1) (1) the word "and" where thirdly occurring;
- (iv) by inserting after section 29R (1) (1) the following paragraph :—
 - (11) prohibiting or restricting the sale of
 - 20 articles when, in relation to the packing of the articles or the marking of the packages in which they are contained, the provisions of regulations made under paragraph (1) have not been
 - 25 complied with; and;
- (v) by omitting from section 29R (2) the words "one hundred dollars" and by inserting instead the matter "\$200";

(k)

Weights and Measures (Amendment).

- (k) by omitting from section 39 (e) the words "one hundred dollars" and by inserting instead the matter "\$200"; Sec. 39. (Regulations.)
- 5 (l) by omitting from section 44 the words "two hundred dollars for a first offence or four hundred dollars for a second or subsequent offence" and by inserting instead the matter "\$500"; Sec. 44. (Penalties.)
- 10 (m) by omitting from section 57 (1) (s) the words "one hundred dollars" and by inserting instead the matter "\$200". Sec. 57. (Regulations.)

5. The Principal Act is further amended by omitting from section 28 the words "and shall at the request of the purchaser weigh or measure the article in the presence of the purchaser." and by inserting instead the following 15 words :— Further amendment of Act No. 10, 1915. Sec. 28. (Provision for weighing or measuring.)

and, if the article—

- (a) is a pre-packed article, shall, if the purchaser so requests; or
- 20 (b) is not a pre-packed article, shall, whether or not the purchaser so requests,
- weigh or measure the article in the presence of the purchaser.

6. The Principal Act is further amended—

- 25 (a) by inserting after section 29B (7) the following subsection :— Further amendment of Act No. 10, 1915. Sec. 29B. (Name, etc., of packer to be marked on packages.)
- (7A) A person shall not—
- (a) pack an article as a pre-packed article; or
- (b)

Weights and Measures (Amendment).

- (b) sell a pre-packed article,
if the package in which that article is contained is
marked with particulars that are likely to give rise
to a doubt as to whether or not a name and address
marked on that package is a name and address
marked on that package pursuant to subsection (1).
- (b) by omitting from section 29O (3) the words
“subsection two of section 29B” and by inserting
instead the words “section 29B (2) or (7A)
(paragraph (a) excepted)”.
7. The Principal Act is further amended by omitting
from the definition of “prohibited expression” in section 29J
(4) the words “includes any expression declared by the
regulations to be a prohibited expression for the purposes of
this section” and by inserting instead the following words :—
includes—
- (a) any statement that relates to or touches on the
weight or measure of a component or an
ingredient of the article or of a source from
which the article is derived, if the truth of the
statement cannot be tested by any process
applied to the article; and
- (b) any expression that is declared by the regulations
to be a prohibited expression for the purposes of
this section if that expression is used in a
prescribed manner.

Sec. 29O.
(Defences.)

Further amend-
ment of
Act No. 10,
1915.
Sec. 29J.
(Prohibition
and restric-
tion of
use of
certain
expressions
on
packages.)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

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1. This Act may be cited as the "Weights and Measures Short title. (Amendment) Act, 1975".

2. (1) Except as provided in subsection (2), this Act Commence- shall commence on the date of assent to this Act. ment.

10 (2) Sections 5, 6 and 7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Weights and Measures Act, 1915, is, in this Act, Principal 15 referred to as the Principal Act. Act.

4. The Principal Act is amended—

(a) by inserting at the end of section 6 the following subsection :—

Amendment
of Act No.
10, 1915.

Sec. 6.
(Defini-
tions.)

20 (2) A reference in this Act to the weight of any substance or thing includes a reference to its mass.

(b) by omitting from section 16 the words "of two hundred dollars" and by inserting instead the words "not exceeding \$500";

Sec. 16.
(Falsifi-
cation,
etc., of

(c) standards.)

Weights and Measures (Amendment).

- (c) by inserting after section 22 the following Sec. 22A.
section :—

5 22A. A reference in this Part to the weight or measure or the true weight or measure of an article shall, in respect of an article of a description prescribed for the purposes of this section or such an article in a state or condition so prescribed, be construed as a reference to a weight or measure ascertained in relation to that article by such method or under such conditions, or both, as is or are prescribed.

10

Construction of references to weight or measure in certain cases.

- (d) by omitting section 29c (4) ;

Sec. 29c.
(Certain articles to be packed and sold only in certain denominations.)

- (e) (i) by inserting after section 29D (4) the following subsections :—

Sec. 29D.
(Packages, etc., to be marked with particulars of the quantity of the articles contained therein.)

15 (4A) A statement of purported weight or measure required by subsection (1) or (3) to be marked on a package containing an article shall be deemed to be so marked if, where the regulations so permit, the statement of the purported weight or measure marked on the package is expressed in terms of—

20

(a) a minimum weight or measure; or

(b) 2 statements of weight or measure between which the weight or measure of the article purportedly falls.

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(4B)

Weights and Measures (Amendment).

(4B) Where—

- 5 (a) pursuant to regulations made for the purposes of subsection (4A), a package containing an article is marked with a statement expressed in terms of a minimum weight or measure;
- (b) a person sells that article at a stated price per unit of weight or measure; and
- 10 (c) the price charged for the article exceeds the price correctly computed from that stated price per unit of weight or measure and the statement of the purported weight or measure so
- 15 expressed,

that person shall be guilty of an offence against this Act.

(ii) by omitting section 29D (5) ;

20 (f) by inserting after section 29D the following section :—

29DA. (1) A person shall not—

Free space,
cavities and
recesses in
packages.

- (a) pack, as a pre-packed article, an article in a package of any description to which this section applies; or
- 25 (b) sell an article that is pre-packed in a package of any description to which this section applies,

if

Weights and Measures (Amendment).

if—

5 (c) in the package containing the article, there is any free space and the proportion that that free space bears to the capacity of the package exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph; or

(d) where—

10 (i) any part of the package forms or contains a cavity, the volume of which is not part of the capacity of the package; or

15 (ii) the bottom of the package forms or contains a recess (not being a recess the volume of which is part of the capacity of the package, and not being a recess that is created because of the shape of the article in the package),

20 and the volume of the cavity or recess, or the total volume of all such cavities and recesses, bears to the volume of the article in the package a proportion that exceeds such proportion as may be prescribed in
25 relation to that article for the purposes of this paragraph.

(2) A regulation made for the purposes of this section, in so far as that regulation—

(a) prescribes a description; or

30 (b) prescribes a proportion or decreases, or has the effect of decreasing, a proportion so prescribed,

shall

Weights and Measures (Amendment).

shall take effect, and shall be expressed so as to take effect, on a day that is not earlier than 6 months after the day on which that regulation is published in the Gazette.

5 (3) The regulations may provide, for the purposes of this section—

(a) that prescribed parts, things, materials or substances of or in, or attached to, packages in relation to all articles, or articles of a prescribed description, shall or shall not be regarded as part of the packages;

(b) that the volume of a prescribed article shall be a volume ascertained as prescribed; and

15 (c) that the capacity of a prescribed package shall be ascertained as prescribed,

and a reference in this section—

(d) to a package shall be taken to be a reference to that package having regard to, or disregarding, as the case may be, the parts, things, materials or substances prescribed for the purposes of paragraph (a) in relation to that package;

25 (e) to the volume of a prescribed article shall be taken to be a reference to that volume ascertained as prescribed for the purposes of paragraph (b) in relation to that article; and

30 (f) to the capacity of a prescribed package shall be taken to be a reference to that capacity ascertained as prescribed for the purposes of paragraph (c).

(4)

Weights and Measures (Amendment).

(4) A regulation made for the purposes of subsection (3) (b) may—

(a) provide that space—

- (i) surrounding a prescribed article;
- 5 (ii) within a prescribed article; and
- (iii) where a prescribed article is composed of separate parts or particles, between those parts or particles,
- 10 shall be regarded as part of the volume of that article; and

(b) provide that the volume of a prescribed article shall be ascertained as prescribed at—

- (i) the place of packing;
- 15 (ii) the place of sale; or
- (iii) some other prescribed place.

(5) A regulation made for the purposes of subsection (3) (c) may provide that prescribed spaces within or created by the design or shape of a prescribed package shall or shall not be regarded as part of the capacity of that package.

20

(6) In this section, “free space” means, in relation to a package, the difference between the capacity of the package and the volume of the article contained in the package.

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(7) This section applies to packages of such descriptions as may be prescribed.

(g)

Weights and Measures (Amendment).

- (g) (i) by inserting after section 29G (4) the following subsection :—

Sec. 29G.
(Short
weight or
measure of
pre-packed
articles.)

(4A) Where a package containing an article is marked with a statement permitted by regulations made for the purposes of—

(a) section 29D (4A) (a), the minimum weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package; or

(b) section 29D (4A) (b), the lower of the 2 statements of weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package and the higher of those 2 statements shall be disregarded.

- (ii) by omitting section 29G (5) (b) and by inserting instead the following paragraph :—

(b) a statement of the price of the article—

(i) is marked on the package containing the article;

(ii) is exhibited on or near a receptacle in which the article is contained; or

(iii) is otherwise so displayed as to relate to the article; and;

(iii)

Weights and Measures (Amendment).

5 (iii) by omitting from section 29G (5) the words
“the person who marked the package with the
statement of price and the person who sold the
article, are each guilty of an offence against this
Act.” and by inserting instead the following
words :—

any person—

10 (d) who marked, exhibited or displayed
the statement referred to in
paragraph (b) ; or

(e) who sells the article,
is guilty of an offence against this Act.

15 (iv) by omitting from section 29G (7) the words
“four hundred dollars” and by inserting instead
the matter “\$500”;

(v) by omitting from section 29G (9) (b) (ii) (b)
the words “more than five” and by inserting
instead the words “not less than five”;

20 (vi) by omitting from section 29G (9) (b) (iii) the
words “more than five” and by inserting
instead the words “not less than five”;

(h) (i) by inserting in section 29J (3) (a) after the words “marked on every” the words “panel or other”;

25 (ii) by inserting in section 29J (3) (b) after the words “that statement are” the words “marked on the same panel of the package or”;

30 (iii) by inserting in the definition of “restricted expression” in section 29J (4) after the words “containing the article” the words “or of the whole contents of that package”;

505—B

(iv)

Sec. 29J.
(Prohibition
and restric-
tion of use
of certain
expressions
on pack-
ages.)

Weights and Measures (Amendment).

- (iv) by inserting in the definition of "restricted expression" in section 29J (4) after the words "this section" the words "if that expression is used in a prescribed manner";
- 5 (i) by inserting in section 29O (3) after the matter Sec. 29o. "29D," the words "section 29DA (subsection (1) (Defences.) (a) excepted),";
- (j) (i) by omitting from section 29R (1) (i) (i) the Sec. 29R. word "and" where secondly occurring; (Regulations.)
- 10 (ii) by inserting after section 29R (1) (i) (i) the following subparagraph :—
 - (ia) packages of any description prescribed by or referred to in the regulations; and;
- 15 (iii) by omitting from section 29R (1) (1) the word "and" where thirdly occurring;
- (iv) by inserting after section 29R (1) (1) the following paragraph :—
 - (11) prohibiting or restricting the sale of
 - 20 articles when, in relation to the packing of the articles or the marking of the packages in which they are contained, the provisions of regulations made
 - 25 under paragraph (1) have not been complied with; and;
- (v) by omitting from section 29R (2) the words "one hundred dollars" and by inserting instead the matter "\$200";

(k)

Weights and Measures (Amendment).

- (k) by omitting from section 39 (e) the words "one hundred dollars" and by inserting instead the matter "\$200"; Sec. 39. (Regulations.)
- 5 (l) by omitting from section 44 the words "two hundred dollars for a first offence or four hundred dollars for a second or subsequent offence" and by inserting instead the matter "\$500"; Sec. 44. (Penalties.)
- 10 (m) by omitting from section 57 (1) (s) the words "one hundred dollars" and by inserting instead the matter "\$200". Sec. 57. (Regulations.)

5. The Principal Act is further amended by omitting from section 28 the words "and shall at the request of the purchaser weigh or measure the article in the presence of the purchaser." and by inserting instead the following 15 words :— Further amendment of Act No. 10, 1915. Sec. 28. (Provision for weighing or measuring.)

and, if the article—

- (a) is a pre-packed article, shall, if the purchaser so requests; or
- 20 (b) is not a pre-packed article, shall, whether or not the purchaser so requests,

weigh or measure the article in the presence of the purchaser.

6. The Principal Act is further amended—

- 25 (a) by inserting after section 29B (7) the following subsection :— Further amendment of Act No. 10, 1915. Sec. 29B. (Name, etc., of packer to be marked on packages.)
- (7A) A person shall not—
- (a) pack an article as a pre-packed article; or
- (b)

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- (b) sell a pre-packed article,
if the package in which that article is contained is
marked with particulars that are likely to give rise
to a doubt as to whether or not a name and address
marked on that package is a name and address
marked on that package pursuant to subsection (1).
- (b) by omitting from section 29o (3) the words
“subsection two of section 29B” and by inserting
instead the words “section 29B (2) or (7A)
(paragraph (a) excepted)”.
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from the definition of “prohibited expression” in section 29J
(4) the words “includes any expression declared by the
regulations to be a prohibited expression for the purposes of
this section” and by inserting instead the following words :—
includes—
(a) any statement that relates to or touches on the
weight or measure of a component or an
ingredient of the article or of a source from
which the article is derived, if the truth of the
statement cannot be tested by any process
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(b) any expression that is declared by the regulations
to be a prohibited expression for the purposes of
this section if that expression is used in a
prescribed manner.

Sec. 29o.
(Defences.)

Further
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Act No. 10,
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Sec. 29J.
(Prohibition
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No. , 1975.

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[SIR ERIC WILLIS—11 November, 1975.]

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20 (2) A reference in this Act to the weight of any substance or thing includes a reference to its mass.

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Weights and Measures (Amendment).

(c) by inserting after section 22 the following section :—

5 22A. A reference in this Part to the weight or
measure or the true weight or measure of an article
shall, in respect of an article of a description
prescribed for the purposes of this section or such
an article in a state or condition so prescribed,
be construed as a reference to a weight or measure
10 ascertained in relation to that article by such
method or under such conditions, or both, as is
or are prescribed.

Construc-
tion of
references
to weight
or measure
in certain
cases.

(d) by omitting section 29C (4) ;

Sec. 29c.
(Certain
articles
to be
packed
and sold
only in
certain
denomina-
tions.)

(e) (i) by inserting after section 29D (4) the following subsections :—

15 (4A) A statement of purported weight or
measure required by subsection (1) or (3)
to be marked on a package containing an
article shall be deemed to be so marked if,
where the regulations so permit, the statement
20 of the purported weight or measure marked
on the package is expressed in terms of—

Sec. 29d.
(Packages,
etc., to be
marked
with
particulars
of the
quantity
of the
articles
contained
therein.)

(a) a minimum weight or measure ; or

25 (b) 2 statements of weight or measure
between which the weight or measure
of the article purportedly falls.

(4B)

Weights and Measures (Amendment).

(4B) Where—

- 5 (a) pursuant to regulations made for the purposes of subsection (4A), a package containing an article is marked with a statement expressed in terms of a minimum weight or measure;
- (b) a person sells that article at a stated price per unit of weight or measure; and
- 10 (c) the price charged for the article exceeds the price correctly computed from that stated price per unit of weight or measure and the statement of the purported weight or measure so expressed,
- 15

that person shall be guilty of an offence against this Act.

(ii) by omitting section 29D (5) ;

- 20 (f) by inserting after section 29D the following section :—

29DA. (1) A person shall not—

Free space,
cavities and
recesses in
packages.

- (a) pack, as a pre-packed article, an article in a package of any description to which this section applies; or
- 25 (b) sell an article that is pre-packed in a package of any description to which this section applies,

if

Weights and Measures (Amendment).

if—

5 (c) in the package containing the article, there is any free space and the proportion that that free space bears to the capacity of the package exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph; or

(d) where—

10 (i) any part of the package forms or contains a cavity, the volume of which is not part of the capacity of the package; or

15 (ii) the bottom of the package forms or contains a recess (not being a recess the volume of which is part of the capacity of the package, and not being a recess that is created because of the shape of the article in the package),

20 and the volume of the cavity or recess, or the total volume of all such cavities and recesses, bears to the volume of the article in the package a proportion that exceeds such proportion as may be prescribed in
25 relation to that article for the purposes of this paragraph.

(2) A regulation made for the purposes of this section, in so far as that regulation—

(a) prescribes a description; or

(b) prescribes a proportion or decreases, or has the effect of decreasing, a proportion so prescribed,

shall

Weights and Measures (Amendment).

shall take effect, and shall be expressed so as to take effect, on a day that is not earlier than 6 months after the day on which that regulation is published in the Gazette.

5 (3) The regulations may provide, for the purposes of this section—

10 (a) that prescribed parts, things, materials or substances of or in, or attached to, packages in relation to all articles, or articles of a prescribed description, shall or shall not be regarded as part of the packages;

(b) that the volume of a prescribed article shall be a volume ascertained as prescribed; and

15 (c) that the capacity of a prescribed package shall be ascertained as prescribed,

and a reference in this section—

20 (d) to a package shall be taken to be a reference to that package having regard to, or disregarding, as the case may be, the parts, things, materials or substances prescribed for the purposes of paragraph (a) in relation to that package;

25 (e) to the volume of a prescribed article shall be taken to be a reference to that volume ascertained as prescribed for the purposes of paragraph (b) in relation to that article; and

30 (f) to the capacity of a prescribed package shall be taken to be a reference to that capacity ascertained as prescribed for the purposes of paragraph (c).

(4)

Weights and Measures (Amendment).

(4) A regulation made for the purposes of subsection (3) (b) may—

(a) provide that space—

- (i) surrounding a prescribed article;
- (ii) within a prescribed article; and
- (iii) where a prescribed article is composed of separate parts or particles, between those parts or particles,

shall be regarded as part of the volume of that article; and

(b) provide that the volume of a prescribed article shall be ascertained as prescribed at—

- (i) the place of packing;
- (ii) the place of sale; or
- (iii) some other prescribed place.

(5) A regulation made for the purposes of subsection (3) (c) may provide that prescribed spaces within or created by the design or shape of a prescribed package shall or shall not be regarded as part of the capacity of that package.

(6) In this section, “free space” means, in relation to a package, the difference between the capacity of the package and the volume of the article contained in the package.

(7) This section applies to packages of such descriptions as may be prescribed.

(g)

Weights and Measures (Amendment).

- (g) (i) by inserting after section 29G (4) the following subsection :—

Sec. 29G.
(Short
weight or
measure of
pre-packed
articles.)

(4A) Where a package containing an article
is marked with a statement permitted by
regulations made for the purposes of—

(a) section 29D (4A) (a), the minimum
weight or measure referred to in that
statement is, for the purposes of this
section, a weight or measure of that
article marked on that package ; or

(b) section 29D (4A) (b), the lower of the
2 statements of weight or measure
referred to in that statement is, for the
purposes of this section, a weight or
measure of that article marked on that
package and the higher of those 2
statements shall be disregarded.

- (ii) by omitting section 29G (5) (b) and by
inserting instead the following paragraph :—

(b) a statement of the price of the article—

(i) is marked on the package
containing the article ;

(ii) is exhibited on or near a
receptacle in which the article
is contained ; or

(iii) is otherwise so displayed as to
relate to the article ; and ;

(iii)—

Weights and Measures (Amendment).

5 (iii) by omitting from section 29G (5) the words
"the person who marked the package with the
statement of price and the person who sold the
article, are each guilty of an offence against this
Act." and by inserting instead the following
words :—

any person—

10 (d) who marked, exhibited or displayed
the statement referred to in
paragraph (b) ; or

(e) who sells the article,

is guilty of an offence against this Act.

15 (iv) by omitting from section 29G (7) the words
"four hundred dollars" and by inserting instead
the matter "\$500";

(v) by omitting from section 29G (9) (b) (ii) (b)
the words "more than five" and by inserting
instead the words "not less than five";

20 (vi) by omitting from section 29G (9) (b) (iii) the
words "more than five" and by inserting
instead the words "not less than five";

(h) (i) by inserting in section 29J (3) (a) after the words "marked on every" the words "panel or other";

25 (ii) by inserting in section 29J (3) (b) after the words "that statement are" the words "marked on the same panel of the package or";

30 (iii) by inserting in the definition of "restricted
expression" in section 29J (4) after the words
"containing the article" the words "or of the
whole contents of that package";

Sec. 29J.
(Prohibition
and restric-
tion of use
of certain
expressions
on pack-
ages.)

Weights and Measures (Amendment).

- (iv) by inserting in the definition of "restricted expression" in section 29J (4) after the words "this section" the words "if that expression is used in a prescribed manner";
- 5 (i) by inserting in section 29O (3) after the matter Sec. 29O.
"29D," the words "section 29DA (subsection (1) (Defences.)
(a) excepted).";
- (j) (i) by omitting from section 29R (1) (i) (i) the Sec. 29R.
word "and" where secondly occurring; (Regulations.)
- 10 (ii) by inserting after section 29R (1) (i) (i) the
following subparagraph :—
 - (ia) packages of any description prescribed
by or referred to in the regulations;
and;
- 15 (iii) by omitting from section 29R (1) (1) the
word "and" where thirdly occurring;
- (iv) by inserting after section 29R (1) (1) the
following paragraph :—
 - (11) prohibiting or restricting the sale of
20 articles when, in relation to the packing
of the articles or the marking of the
packages in which they are contained,
the provisions of regulations made
under paragraph (1) have not been
25 complied with; and;
- (v) by omitting from section 29R (2) the words
"one hundred dollars" and by inserting instead
the matter "\$200";

(k)

Weights and Measures (Amendment).

- (k) by omitting from section 39 (e) the words "one hundred dollars" and by inserting instead the matter "\$200"; Sec. 39. (Regulations.)
- 5 (l) by omitting from section 44 the words "two hundred dollars for a first offence or four hundred dollars for a second or subsequent offence" and by inserting instead the matter "\$500"; Sec. 44. (Penalties.)
- 10 (m) by omitting from section 57 (1) (s) the words "one hundred dollars" and by inserting instead the matter "\$200". Sec. 57. (Regulations.)

5. The Principal Act is further amended by omitting from section 28 the words "and shall at the request of the purchaser weigh or measure the article in the presence of the purchaser." and by inserting instead the following words :— Further amendment of Act No. 10, 1915. Sec. 28. (Provision for weighing or measuring.)

and, if the article—

- (a) is a pre-packed article, shall, if the purchaser so requests; or
- 20 (b) is not a pre-packed article, shall, whether or not the purchaser so requests,

weigh or measure the article in the presence of the purchaser.

6. The Principal Act is further amended—

- 25 (a) by inserting after section 29B (7) the following subsection :— Further amendment of Act No. 10, 1915. Sec. 29B. (Name, etc., of packer to be marked on packages.)
- (7A) A person shall not—
- (a) pack an article as a pre-packed article; or
- (b)

Weights and Measures (Amendment).

- (b) sell a pre-packed article,
if the package in which that article is contained is
marked with particulars that are likely to give rise
to a doubt as to whether or not a name and address
marked on that package is a name and address
marked on that package pursuant to subsection (1).
- (b) by omitting from section 29o (3) the words
“subsection two of section 29B” and by inserting
instead the words “section 29B (2) or (7A)
(paragraph (a) excepted)”.
7. The Principal Act is further amended by omitting
from the definition of “prohibited expression” in section 29J
(4) the words “includes any expression declared by the
regulations to be a prohibited expression for the purposes of
this section” and by inserting instead the following words :—
includes—
- (a) any statement that relates to or touches on the
weight or measure of a component or an
ingredient of the article or of a source from
which the article is derived, if the truth of the
statement cannot be tested by any process
applied to the article; and
- (b) any expression that is declared by the regulations
to be a prohibited expression for the purposes of
this section if that expression is used in a
prescribed manner.

Sec. 29o.
(Defences.)

Further
amend-
ment of
Act No. 10,
1915.
Sec. 29J.
(Prohibition
and
restriction
of
use of
certain
expressions
on
packages.)

WEIGHTS AND MEASURES (AMENDMENT) BILL, 1975

EXPLANATORY NOTE

THE objects of this Bill are to amend the Weights and Measures Act, 1915—

- (a) to restrict the amount of free space and the volume of cavities and recesses in certain packages containing pre-packed articles;
- (b) to make other provisions relating to the packing, labelling and sale of pre-packed articles;
- (c) to require that certain articles be weighed or measured in the presence of the purchaser;
- (d) to increase certain penalties; and
- (e) for certain other purposes.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Interpretation.

Clause 4 (a) provides that a reference in the Act to the weight of any substance or thing includes a reference to its mass.

Clause 4 (b) increases the maximum penalty for falsifying or destroying physical standards of weight or measure from \$200 to \$500.

Clause 4 (c) enables certain prescribed articles to be weighed or measured, for the purposes of the Act, by such methods or under such conditions as may be prescribed.

Clause 4 (d) repeals a provision the effect of which has expired.

Clause 4 (e) (i) provides that, where the regulations so permit (e.g., in the case of dressed poultry), the statement of the purported weight or measure of an article marked on a package may be expressed in terms of a minimum weight and makes consequential provisions as to the price of the article. Provision is also made for expressing, where the regulations so permit (e.g., in the case of eggs), the purported weight or measure of an article in terms of two weights or measures between which the weight or measure of the article purportedly falls.

Clause 4 (e) (ii) repeals a provision the effect of which has expired.

Clause 4 (f) prohibits the packing for sale, or the sale, of a packaged article if the amount of free space (i.e., the difference between the capacity of the package and the volume of the article) exceeds the amount prescribed by the regulations in relation to that article.

Clause 4 (g) (i). Consequential on clause 4 (e) (i).

Clause 4 (g) (ii) prohibits (in addition to the marking of an incorrectly computed price on a package) the exhibition of an incorrectly computed price on or near or in relation to a pre-packed article.

Clause 4 (g) (iii). Consequential on clause 4 (g) (ii).

Clause 4 (g) (iv) increases the maximum penalty for giving a false guarantee as to weight or measure from \$400 to \$500.

Clause 4 (g) (v) and (vi) concerns exemptions from prosecution for short weight or measure of articles if the short weight or measure does not exceed certain percentages, and facilitates the "rounding off" of percentages that may be prescribed.

Clause 4 (h) (i)-(iv) makes certain minor amendments relating to the marking of restricted expressions on packages.

Clause 4 (i). Consequential on clause 4 (f).

Clause 4 (j) (i) and (ii) enables regulations to be made exempting packages from certain provisions of the Act.

Clause 4 (j) (iii) and (iv) enables regulations to be made prohibiting or restricting the sale of articles not packed or labelled in accordance with the regulations.

Clause 4 (j) (v) increases the maximum amount that may be prescribed as a penalty for breach of the regulations relating to the sale and packaging of articles from \$100 to \$200.

Clause 4 (k) increases the maximum amount that may be prescribed as a penalty for breach of the regulations relating to the sale of coal and firewood from \$100 to \$200.

Clause 4 (l) increases the maximum penalties for a breach of the Act for which no specific penalty is provided from \$200 for a first offence and \$400 for second or subsequent offences to \$500 for all offences.

Clause 4 (m) increases the maximum amount that may be prescribed as a penalty for breach of the general regulations under the Act from \$100 to \$200.

Clause 5 makes further provisions in regard to the weighing or measuring of articles in the presence of purchasers.

Clause 6 (a) prevents the marking of a package with particulars (e.g., additional names or addresses) that are likely to make it difficult to identify the names and addresses required by the Act to be marked on the package (e.g., the names and addresses of the packer and the person for whom the article was packed).

Clause 6 (b). Consequential on clause 6 (a).

Clause 7 extends the prohibited expressions which may not be marked on packages to include certain statements the truth of which cannot be tested by any process applied to the article.

PROOF

No. , 1975.

A BILL

To amend the Weights and Measures Act, 1915, to make further provisions relating to the packing, labelling and sale of articles, to increase certain penalties, and for certain other purposes.

[SIR ERIC WILLIS—11 November, 1975.]

BE

Weights and Measures (Amendment).

5 **B**E 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:—

1. This Act may be cited as the "Weights and Measures Short title. (Amendment) Act, 1975".

2. (1) Except as provided in subsection (2), this Act Commence- shall commence on the date of assent to this Act. ment.

10 (2) Sections 5, 6 and 7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Weights and Measures Act, 1915, is, in this Act, Principal 15 referred to as the Principal Act. Act.

4. The Principal Act is amended—

Amendment
of Act No.
10, 1915.

(a) by inserting at the end of section 6 the following subsection :— Sec. 6.
(Defini-
tions.)

20 (2) A reference in this Act to the weight of any substance or thing includes a reference to its mass.

(b) by omitting from section 16 the words "of two Sec. 16.
hundred dollars" and by inserting instead the words (Falsifi-
"not exceeding \$500"; cation,
etc., of
(c) standards.)

Weights and Measures (Amendment).

(c) by inserting after section 22 the following Sec. 22A.
section :—

5 22A. A reference in this Part to the weight or measure or the true weight or measure of an article shall, in respect of an article of a description prescribed for the purposes of this section or such an article in a state or condition so prescribed, be construed as a reference to a weight or measure ascertained in relation to that article by such method or under such conditions, or both, as is or are prescribed.

Construc-
tion of
references
to weight
or measure
in certain
cases.

(d) by omitting section 29c (4) ;

Sec. 29c.
(Certain
articles
to be
packed
and sold
only in
certain
denomina-
tions.)

(e) (i) by inserting after section 29D (4) the following subsections :—

Sec. 29D.
(Packages,
etc., to be
marked
with
particulars
of the
quantity
of the
articles
contained
therein.)

15 (4A) A statement of purported weight or measure required by subsection (1) or (3) to be marked on a package containing an article shall be deemed to be so marked if, where the regulations so permit, the statement of the purported weight or measure marked on the package is expressed in terms of—

20 (a) a minimum weight or measure; or

25 (b) 2 statements of weight or measure between which the weight or measure of the article purportedly falls.

(4B)

Weights and Measures (Amendment).

(4B) Where—

- 5 (a) pursuant to regulations made for the purposes of subsection (4A), a package containing an article is marked with a statement expressed in terms of a minimum weight or measure;
- (b) a person sells that article at a stated price per unit of weight or measure; and
- 10 (c) the price charged for the article exceeds the price correctly computed from that stated price per unit of weight or measure and the statement of the purported weight or measure so
- 15 expressed,

that person shall be guilty of an offence against this Act.

(ii) by omitting section 29D (5) ;

20 (f) by inserting after section 29D the following section :—

29DA. (1) A person shall not—

Free space,
cavities and
recesses in
packages.

- (a) pack, as a pre-packed article, an article in a package of any description to which this section applies; or
- 25 (b) sell an article that is pre-packed in a package of any description to which this section applies,

if

Weights and Measures (Amendment).

if—

(c) in the package containing the article, there is any free space and the proportion that that free space bears to the capacity of the package exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph; or

(d) where—

(i) any part of the package forms or contains a cavity, the volume of which is not part of the capacity of the package; or

(ii) the bottom of the package forms or contains a recess (not being a recess the volume of which is part of the capacity of the package, and not being a recess that is created because of the shape of the article in the package),

and the volume of the cavity or recess, or the total volume of all such cavities and recesses, bears to the volume of the article in the package a proportion that exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph

(2) A regulation made for the purposes of this section, in so far as that regulation—

(a) prescribes a description; or

(b) prescribes a proportion or decreases, or has the effect of decreasing, a proportion so prescribed,

shall

Weights and Measures (Amendment).

shall take effect, and shall be expressed so as to take effect, on a day that is not earlier than 6 months after the day on which that regulation is published in the Gazette.

5 (3) The regulations may provide, for the purposes of this section—

10 (a) that prescribed parts, things, materials or substances of or in, or attached to, packages in relation to all articles, or articles of a prescribed description, shall or shall not be regarded as part of the packages;

(b) that the volume of a prescribed article shall be a volume ascertained as prescribed; and

15 (c) that the capacity of a prescribed package shall be ascertained as prescribed,

and a reference in this section—

20 (d) to a package shall be taken to be a reference to that package having regard to, or disregarding, as the case may be, the parts, things, materials or substances prescribed for the purposes of paragraph (a) in relation to that package;

25 (e) to the volume of a prescribed article shall be taken to be a reference to that volume ascertained as prescribed for the purposes of paragraph (b) in relation to that article; and

30 (f) to the capacity of a prescribed package shall be taken to be a reference to that capacity ascertained as prescribed for the purposes of paragraph (c).

(4)

Weights and Measures (Amendment).

(4) A regulation made for the purposes of subsection (3) (b) may—

(a) provide that space—

- (i) surrounding a prescribed article;
 - (ii) within a prescribed article; and
 - (iii) where a prescribed article is composed of separate parts or particles, between those parts or particles,
- shall be regarded as part of the volume of that article; and

(b) provide that the volume of a prescribed article shall be ascertained as prescribed at—

- (i) the place of packing;
- (ii) the place of sale; or
- (iii) some other prescribed place.

(5) A regulation made for the purposes of subsection (3) (c) may provide that prescribed spaces within or created by the design or shape of a prescribed package shall or shall not be regarded as part of the capacity of that package.

(6) In this section, "free space" means, in relation to a package, the difference between the capacity of the package and the volume of the article contained in the package.

(7) This section applies to packages of such descriptions as may be prescribed.

(iii)

(g)

Weights and Measures (Amendment).

- (g) (i) by inserting after section 29G (4) the following subsection :—
- Sec. 29G.
(Short weight or measure of pre-packed articles.)

(4A) Where a package containing an article is marked with a statement permitted by regulations made for the purposes of—

(a) section 29D (4A) (a), the minimum weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package; or

(b) section 29D (4A) (b), the lower of the 2 statements of weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package and the higher of those 2 statements shall be disregarded.

(ii) by omitting section 29G (5) (b) and by inserting instead the following paragraph :—

(b) a statement of the price of the article—

(i) is marked on the package containing the article;

(ii) is exhibited on or near a receptacle in which the article is contained; or

(iii) is otherwise so displayed as to relate to the article; and;

(iii)

Weights and Measures (Amendment).

- 5 (iii) by omitting from section 29G (5) the words
 "the person who marked the package with the
 statement of price and the person who sold the
 article, are each guilty of an offence against this
 Act." and by inserting instead the following
 words :—

any person—

- 10 (d) who marked, exhibited or displayed
 the statement referred to in
 paragraph (b) ; or

(e) who sells the article,

is guilty of an offence against this Act.

- 15 (iv) by omitting from section 29G (7) the words
 "four hundred dollars" and by inserting instead
 the matter "\$500";

(v) by omitting from section 29G (9) (b) (ii) (b)
 the words "more than five" and by inserting
 instead the words "not less than five";

20 (vi) by omitting from section 29G (9) (b) (iii) the
 words "more than five" and by inserting
 instead the words "not less than five";

(h) (i) by inserting in section 29J (3) (a) after the words "marked on every" the words "panel or other";

25 (ii) by inserting in section 29J (3) (b) after the words "that statement are" the words "marked on the same panel of the package or";

30 (iii) by inserting in the definition of "restricted expression" in section 29J (4) after the words "containing the article" the words "or of the whole contents of that package";

Sec. 29J.
 (Prohibition
 and restric-
 tion of use
 of certain
 expressions
 on pack-
 ages.)

Weights and Measures (Amendment).

- (iv) by inserting in the definition of "restricted expression" in section 29J (4) after the words "this section" the words "if that expression is used in a prescribed manner";
- 5 (i) by inserting in section 29O (3) after the matter Sec. 29O. "29D," the words "section 29DA (subsection (1) (Defences.) (a) excepted),";
- (j) (i) by omitting from section 29R (1) (i) (i) the Sec. 29R. word "and" where secondly occurring; (Regulations.)
- 10 (ii) by inserting after section 29R (1) (i) (i) the following subparagraph :—
 - (ia) packages of any description prescribed by or referred to in the regulations; and;
- 15 (iii) by omitting from section 29R (1) (1) the word "and" where thirdly occurring;
- (iv) by inserting after section 29R (1) (1) the following paragraph :—
 - (11) prohibiting or restricting the sale of
 - 20 articles when, in relation to the packing of the articles or the marking of the packages in which they are contained, the provisions of regulations made under paragraph (1) have not been
 - 25 complied with; and;
- (v) by omitting from section 29R (2) the words "one hundred dollars" and by inserting instead the matter "\$200";
- (k)

Weights and Measures (Amendment).

- (k) by omitting from section 39 (e) the words "one hundred dollars" and by inserting instead the matter "\$200"; Sec. 39. (Regulations.)
- 5 (l) by omitting from section 44 the words "two hundred dollars for a first offence or four hundred dollars for a second or subsequent offence" and by inserting instead the matter "\$500"; Sec. 44. (Penalties.)
- 10 (m) by omitting from section 57 (1) (s) the words "one hundred dollars" and by inserting instead the matter "\$200". Sec. 57. (Regulations.)

5. The Principal Act is further amended by omitting from section 28 the words "and shall at the request of the purchaser weigh or measure the article in the presence of the purchaser." and by inserting instead the following 15 words :—

and, if the article—

- (a) is a pre-packed article, shall, if the purchaser so requests; or
- 20 (b) is not a pre-packed article, shall, whether or not the purchaser so requests, weigh or measure the article in the presence of the purchaser.

6. The Principal Act is further amended—

- 25 (a) by inserting after section 29B (7) the following subsection :—
- (7A) A person shall not—
- (a) pack an article as a pre-packed article; or

Further amendment of Act No. 10, 1915.

Sec. 29B. (Name, etc., of packer to be marked on packages.)

(b)

Weights and Measures (Amendment).

- (b) sell a pre-packed article,
if the package in which that article is contained is
marked with particulars that are likely to give rise
to a doubt as to whether or not a name and address
marked on that package is a name and address
marked on that package pursuant to subsection (1).
- (b) by omitting from section 29o (3) the words
“subsection two of section 29B” and by inserting
instead the words “section 29B (2) or (7A)
(paragraph (a) excepted)”.
7. The Principal Act is further amended by omitting
from the definition of “prohibited expression” in section 29J
(4) the words “includes any expression declared by the
regulations to be a prohibited expression for the purposes of
this section” and by inserting instead the following words :—
includes—
- (a) any statement that relates to or touches on the
weight or measure of a component or an
ingredient of the article or of a source from
which the article is derived, if the truth of the
statement cannot be tested by any process
applied to the article; and
- (b) any expression that is declared by the regulations
to be a prohibited expression for the purposes of
this section if that expression is used in a
prescribed manner.

Sec. 29o.
(Defences.)

Further
amend-
ment of
Act No. 10,
1915.

Sec. 29J.
(Prohibition
and
restriction
of
use of
certain
expressions
on
packages.)

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 93, 1975.

An Act to amend the Weights and Measures Act, 1915, to make further provisions relating to the packing, labelling and sale of articles, to increase certain penalties, and for certain other purposes. [Assented to, 10th December, 1975.]

BE

Weights and Measures (Amendment).

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.

1. This Act may be cited as the "Weights and Measures (Amendment) Act, 1975".

Commence-
ment.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 5, 6 and 7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal
Act.

3. The Weights and Measures Act, 1915, is, in this Act, referred to as the Principal Act.

Amendment
of Act No.
10, 1915.

4. The Principal Act is amended—

Sec. 6.
(Defini-
tions.)

(a) by inserting at the end of section 6 the following subsection :—

(2) A reference in this Act to the weight of any substance or thing includes a reference to its mass.

Sec. 16.
(Falsifi-
cation,
etc., of
standards.)

(b) by omitting from section 16 the words "of two hundred dollars" and by inserting instead the words "not exceeding \$500";

(c)

Weights and Measures (Amendment).

- (c) by inserting after section 22 the following section :—

22A. A reference in this Part to the weight or measure or the true weight or measure of an article shall, in respect of an article of a description prescribed for the purposes of this section or such an article in a state or condition so prescribed, be construed as a reference to a weight or measure ascertained in relation to that article by such method or under such conditions, or both, as is or are prescribed.

Construction of references to weight or measure in certain cases.

- (d) by omitting section 29C (4) ;

Sec. 29C.
(Certain articles to be packed and sold only in certain denominations.)

- (e) (i) by inserting after section 29D (4) the following subsections :—

Sec. 29D.
(Packages, etc., to be marked with particulars of the quantity of the articles contained therein.)

(4A) A statement of purported weight or measure required by subsection (1) or (3) to be marked on a package containing an article shall be deemed to be so marked if, where the regulations so permit, the statement of the purported weight or measure marked on the package is expressed in terms of—

- (a) a minimum weight or measure; or

- (b) 2 statements of weight or measure between which the weight or measure of the article purportedly falls.

(4B)

Weights and Measures (Amendment).

(4B) Where—

- (a) pursuant to regulations made for the purposes of subsection (4A), a package containing an article is marked with a statement expressed in terms of a minimum weight or measure;
- (b) a person sells that article at a stated price per unit of weight or measure; and
- (c) the price charged for the article exceeds the price correctly computed from that stated price per unit of weight or measure and the statement of the purported weight or measure so expressed,

that person shall be guilty of an offence against this Act.

(ii) by omitting section 29D (5) ;

Sec. 29DA.

(f) by inserting after section 29D the following section :—

Free space,
cavities and
recesses in
packages.

29DA. (1) A person shall not—

- (a) pack, as a pre-packed article, an article in a package of any description to which this section applies; or
- (b) sell an article that is pre-packed in a package of any description to which this section applies,

if

Weights and Measures (Amendment).

if—

(c) in the package containing the article, there is any free space and the proportion that that free space bears to the capacity of the package exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph; or

(d) where—

(i) any part of the package forms or contains a cavity, the volume of which is not part of the capacity of the package; or

(ii) the bottom of the package forms or contains a recess (not being a recess the volume of which is part of the capacity of the package, and not being a recess that is created because of the shape of the article in the package),

and the volume of the cavity or recess, or the total volume of all such cavities and recesses, bears to the volume of the article in the package a proportion that exceeds such proportion as may be prescribed in relation to that article for the purposes of this paragraph.

(2) A regulation made for the purposes of this section, in so far as that regulation—

(a) prescribes a description; or

(b) prescribes a proportion or decreases, or has the effect of decreasing, a proportion so prescribed,

shall

Weights and Measures (Amendment).

shall take effect, and shall be expressed so as to take effect, on a day that is not earlier than 6 months after the day on which that regulation is published in the Gazette.

(3) The regulations may provide, for the purposes of this section—

- (a) that prescribed parts, things, materials or substances of or in, or attached to, packages in relation to all articles, or articles of a prescribed description, shall or shall not be regarded as part of the packages;
- (b) that the volume of a prescribed article shall be a volume ascertained as prescribed; and
- (c) that the capacity of a prescribed package shall be ascertained as prescribed,

and a reference in this section—

- (d) to a package shall be taken to be a reference to that package having regard to, or disregarding, as the case may be, the parts, things, materials or substances prescribed for the purposes of paragraph (a) in relation to that package;
- (e) to the volume of a prescribed article shall be taken to be a reference to that volume ascertained as prescribed for the purposes of paragraph (b) in relation to that article; and
- (f) to the capacity of a prescribed package shall be taken to be a reference to that capacity ascertained as prescribed for the purposes of paragraph (c).

(4)

Weights and Measures (Amendment).

(4) A regulation made for the purposes of subsection (3) (b) may—

(a) provide that space—

- (i) surrounding a prescribed article;
- (ii) within a prescribed article; and
- (iii) where a prescribed article is composed of separate parts or particles, between those parts or particles,

shall be regarded as part of the volume of that article; and

(b) provide that the volume of a prescribed article shall be ascertained as prescribed at—

- (i) the place of packing;
- (ii) the place of sale; or
- (iii) some other prescribed place.

(5) A regulation made for the purposes of subsection (3) (c) may provide that prescribed spaces within or created by the design or shape of a prescribed package shall or shall not be regarded as part of the capacity of that package.

(6) In this section, “free space” means, in relation to a package, the difference between the capacity of the package and the volume of the article contained in the package.

(7) This section applies to packages of such descriptions as may be prescribed.

(g)

Weights and Measures (Amendment).

Sec. 29G.
(Short
weight or
measure of
pre-packed
articles.)

- (g) (i) by inserting after section 29G (4) the following subsection :—

(4A) Where a package containing an article is marked with a statement permitted by regulations made for the purposes of—

(a) section 29D (4A) (a), the minimum weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package; or

(b) section 29D (4A) (b), the lower of the 2 statements of weight or measure referred to in that statement is, for the purposes of this section, a weight or measure of that article marked on that package and the higher of those 2 statements shall be disregarded.

- (ii) by omitting section 29G (5) (b) and by inserting instead the following paragraph :—

(b) a statement of the price of the article—

(i) is marked on the package containing the article;

(ii) is exhibited on or near a receptacle in which the article is contained; or

(iii) is otherwise so displayed as to relate to the article; and;

(iii)

Weights and Measures (Amendment).

(iii) by omitting from section 29G (5) the words "the person who marked the package with the statement of price and the person who sold the article, are each guilty of an offence against this Act." and by inserting instead the following words :—

any person—

(d) who marked, exhibited or displayed the statement referred to in paragraph (b); or

(e) who sells the article,

is guilty of an offence against this Act.

(iv) by omitting from section 29G (7) the words "four hundred dollars" and by inserting instead the matter "\$500";

(v) by omitting from section 29G (9) (b) (ii) (b) the words "more than five" and by inserting instead the words "not less than five";

(vi) by omitting from section 29G (9) (b) (iii) the words "more than five" and by inserting instead the words "not less than five";

(h) (i) by inserting in section 29J (3) (a) after the words "marked on every" the words "panel or other";

Sec. 29J.
(Prohibition
and restric-
tion of use
of certain
expressions
on pack-
ages.)

(ii) by inserting in section 29J (3) (b) after the words "that statement are" the words "marked on the same panel of the package or";

(iii) by inserting in the definition of "restricted expression" in section 29J (4) after the words "containing the article" the words "or of the whole contents of that package";

(k) B

(iv)

Weights and Measures (Amendment).

- (iv) by inserting in the definition of "restricted expression" in section 29J (4) after the words "this section" the words "if that expression is used in a prescribed manner";

Sec. 29o.
(Defences.)

- (i) by inserting in section 29o (3) after the matter "29D," the words "section 29DA (subsection (1) (a) excepted),";

Sec. 29R.
(Regulations.)

- (j) (i) by omitting from section 29R (1) (i) (i) the word "and" where secondly occurring;
- (ii) by inserting after section 29R (1) (i) (i) the following subparagraph :—
 - (ia) packages of any description prescribed by or referred to in the regulations; and;
- (iii) by omitting from section 29R (1) (1) the word "and" where thirdly occurring;
- (iv) by inserting after section 29R (1) (1) the following paragraph :—
 - (11) prohibiting or restricting the sale of articles when, in relation to the packing of the articles or the marking of the packages in which they are contained, the provisions of regulations made under paragraph (1) have not been complied with; and;
- (v) by omitting from section 29R (2) the words "one hundred dollars" and by inserting instead the matter "\$200";

(k)

Weights and Measures (Amendment).

- (k) by omitting from section 39 (e) the words "one hundred dollars" and by inserting instead the matter "\$200"; Sec. 39.
(Regulations.)
- (l) by omitting from section 44 the words "two hundred dollars for a first offence or four hundred dollars for a second or subsequent offence" and by inserting instead the matter "\$500"; Sec. 44.
(Penalties.)
- (m) by omitting from section 57 (1) (s) the words "one hundred dollars" and by inserting instead the matter "\$200". Sec. 57.
(Regulations.)

5. The Principal Act is further amended by omitting from section 28 the words "and shall at the request of the purchaser weigh or measure the article in the presence of the purchaser." and by inserting instead the following words :— Further amendment of Act No. 10, 1915.
Sec. 28.
(Provision for weighing or measuring.)

and, if the article—

- (a) is a pre-packed article, shall, if the purchaser so requests; or
- (b) is not a pre-packed article, shall, whether or not the purchaser so requests,

weigh or measure the article in the presence of the purchaser.

6. The Principal Act is further amended—

- (a) by inserting after section 29B (7) the following subsection :— Further amendment of Act No. 10, 1915.
Sec. 29B.
(Name, etc., of packer to be marked on packages.)
- (7A) A person shall not—
- (a) pack an article as a pre-packed article; or
- (b)

Weights and Measures (Amendment).

(b) sell a pre-packed article,

if the package in which that article is contained is marked with particulars that are likely to give rise to a doubt as to whether or not a name and address marked on that package is a name and address marked on that package pursuant to subsection (1).

Sec. 29o.
(Defences.)

(b) by omitting from section 29o (3) the words "subsection two of section 29B" and by inserting instead the words "section 29B (2) or (7A) (paragraph (a) excepted)".

Further
amend-
ment of
Act No. 10,
1915.
Sec. 29j.
(Prohibition
and restric-
tion of
use of
certain
expressions
on
packages.)

7. The Principal Act is further amended by omitting from the definition of "prohibited expression" in section 29J (4) the words "includes any expression declared by the regulations to be a prohibited expression for the purposes of this section" and by inserting instead the following words :—

includes—

- (a) any statement that relates to or touches on the weight or measure of a component or an ingredient of the article or of a source from which the article is derived, if the truth of the statement cannot be tested by any process applied to the article; and
- (b) any expression that is declared by the regulations to be a prohibited expression for the purposes of this section if that expression is used in a prescribed manner.