

WEIGHTS AND MEASURES ACT

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ARRANGEMENT OF SECTIONS

PART I

Units and standards of measurement

SECTION

1. Units of measurement.
2. Primary standards.
3. Nigerian trade standards.
4. Working standards.
5. Testing of other standards and equipment.
6. Units of measurement, weights and measures lawful for use for trade.
7. Weighing or measuring equipment for use for trade.
8. Regulations relating to weighing or measuring for trade.
9. Keepers of public equipment to hold certificate.
10. Offences in connection with public equipments.

PART II

Administration

11. Appointments of superintendent and other officers.
12. Provision of weighing and measuring instruments for use by inspectors.
13. Repair or adjustment of weights, etc.
14. Examination of weights, etc.
15. Additional functions by inspectors.

16. General powers of inspection and sealing of premises.
17. Obstruction of inspectors.
18. Offences by inspectors and others.
19. Fraud in use of weights, etc.
20. Refusal to produce weights, etc., an offence.
21. Importation, etc., of unjust weights and measures.
22. Forgery, etc., of stamp or mark.
23. Sale of weights, etc., with forged stamp.
24. Alteration of stamped or marked weight, etc.
25. Delivery on sale by false weight, etc.
26. Misrepresentation.
27. Sale of bread not by net weight an offence.
28. Sale of pre-packed goods.
29. Sale of certain meat and fish not by net weight an offence.
30. Use of false or unjust weights, etc.

SECTION

31. Refusal to weigh or measure goods delivered.

PART III

Miscellaneous and general

32. A voidance of sale.
33. Offences by bodies corporate.
34. Loss by evaporation, etc., as a defence in special cases.
35. Offence by person other than defendant.
36. Exemption for sale in containers.
37. Saving for civil remedies.

38. Transactions to be in accordance with Act.
39. Power to forfeit and dispose of certain weights, etc.
40. Use of weights, etc., in relation to wages.
41. Use of marked or stamped weights, etc.
42. Presumption of possession of weight, etc.
43. Power to make test purchases.
44. Onus of proof of knowledge, etc., in any offence.
45. Reference of certain cases to superintendent.
46. Limitation of actions.
47. Regulations.
48. Fees.
49. Penalties.
50. Restriction on operation of Act.
51. Interpretation.
52. Exclusive use of metric units.
53. Short title.

PART IV

Supplementary

SCHEDULES

FIRST SCHEDULE

Definitions of metric units of measurement

SECOND SCHEDULE

Existing Nigerian primary standards

THIRD SCHEDULE

Metric measures and weights lawful for use for trade

Weights and Measures Act

FOURTH SCHEDULE

Form of certificate of verification

FIFTH SCHEDULE

Table of fees

SIXTH SCHEDULE

Definitions of units of measurement of imperial units

SEVENTH SCHEDULE

Imperial measures and weights lawful for use for trade

EIGHTH SCHEDULE

Standard metric quantities for pre-packed goods

WEIGHTS AND MEASURES ACT

An Act to repeal the Weights and Measures Act 1962 and re-enact that Act with additional provisions to facilitate the change-over to the metric system.

[1974 No. 32.]

[1st June, 1975]

[Commencement.] PART I

Units and standards of measurement

1. Units of measurement

(1) The metre shall be the unit of measurement of length and the kilogramme shall be the unit of measurement of mass by reference to which any measurement involving a measurement of length or mass shall be made in Nigeria.

(2) The First Schedule to this Act shall have effect for defining for the purposes of measurements falling to be made in Nigeria the units of measurement in that Schedule; and for the purposes of any measurement of weight falling to be so made, the weight of any thing may be expressed, by

reference to the units of measurement set out in Part V of that Schedule, in the same terms as its mass.

[First Schedule.]

2. Primary standards

(1) The Minister shall by an order cause to be provided, maintained or replaced standards of the metre and kilogramme which shall be the primary standards by reference to which, in Nigeria, all other standards of those units and of any other unit of measurement derived wholly or partly from any of those units shall be maintained.

(2) The Minister shall within two years of the commencement of this Act and there- after at intervals of not more than ten years or as may appear to him expedient, cause the value of each of the primary standards to be verified against the corresponding standards of the International Bureau of Weights and Measures in France.

(3) Until other provision is made by an order under subsection (1) of this section, the Nigeria primary standards shall be-

(i) in the case of the metre, the bar described in Part I of the Second Schedule to this Act; and

(ii) in the case of the kilogramme, the cylinder described in Part II of the said Second Schedule.

(4) The Sixth Schedule to this Act shall, until revoked pursuant to section 52 (2), have effect for defining for the purpose of measurements the units of measurement in that Schedule.

[Sixth Schedule.]

3. Nigerian trade standards

(1) The Minister shall maintain secondary and tertiary standards in accordance with the provisions of this section which shall be known collectively as "the Nigerian trade standards" .

(2) The secondary standards shall consist of standards of all the measures set out in Parts I and IV and all the weights set out in Part V of the Third Schedule to this Act (other than capacity measures of more than ten litres); and any such standard shall be constructed and, while it remains in use, from time to time at intervals not exceeding five years, have its value redetermined, by reference to such one or more of the Nigerian primary standards as may appear to the Minister to be appropriate.

[Third Schedule.]

(3) The tertiary standards shall consist of such of the measures or weights set out in the said Parts I, IV and V as may from time to time appear to the Minister to be necessary or expedient; and any

such standards shall be constructed and, while it remains in use, from time to time at intervals not exceeding two years, have its value redetermined, by reference to such one or more of the secondary standards as may appear to the Minister to be appropriate.

(4) The Nigerian trade standard shall be provided or replaced at the direction of the Minister from time to time as may appear to him necessary or expedient, and they shall be in such form and of such material, and be kept under such control in the Federal

Ministry of Commerce as the Minister may direct; and a secondary standard of any linear or capacity measure may as the Minister thinks fit-

(a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

(b) either be marked in whole or in part with sub-divisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such marking.

(5) Any metric standard of any measure or weight provided under any enactment repealed by this Act and in use as a secondary standard in the Federal Ministry of

Commerce immediately before the date of the commencement of this section, shall be deemed for the purposes of this Act, to be a secondary standard provided under this section.

4. Working standards

(1) The Minister shall provide for use by inspectors under this Act and cause to be maintained or from time to time replaced such standards (in this Act referred to as "working standards") of such of the measures and weights set out in the Third Schedule to this Act, together with such testing equipment and stamping equipment as he may from time to time approve or require as being proper and sufficient for the efficient discharge by inspectors of their functions under this Act.

[Third Schedule.]

(2) Working standards and testing and stamping equipment provided under this

section shall be of such material and form approved by the superintendent and, except so far as may be necessary for the purposes of their use elsewhere, they shall be kept under such control as the superintendent may from time to time direct or approve; and a working standard of a linear or capacity measure shall as the superintendent may from time to

time direct-

(a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

(b) either be marked in whole or in part with sub-divisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings.

(3) The Minister shall by regulations make provision-

(a) for working standards to be from time to time tested by comparison with, and if necessary adjusted to, within such limits of error as may be specified in the regulations by reference to other working standards more recently tested, or as the case may require, Nigerian trade standards;

(b) with respect to the testing, adjustment and limits of error of testing equipment provided under this section,

and no article shall be used by an inspector as a working standard or as testing equipment unless the relevant requirements of those regulations are for the time being satisfied with respect thereto.

(4) Any metric working standard or testing or stamping equipment lawfully in use by inspectors immediately before the commencement of this section, shall be deemed, for the purposes of this Act, to have been provided under this section.

5. Testing of other standards and equipment

The superintendent may if he thinks fit, on the application of any authority or person and on payment of such fees as may be prescribed, accept for testing as to accuracy or for report or both-

(a) any article used or proposed to be used as a standard of a unit of measurement;

(b) any weighing or measuring equipment.

6. Units of measurement, weights and measures lawful for use for trade

(1) Subject to the provisions of this section, no person shall-

(a) use for trade any unit of measurement of length, area, volume, capacity, mass or weight which is not included in the First Schedule to this Act;

[First Schedule.]

(b) use for trade, or have in his possession for use for trade, any linear, square, cubic or capacity measure which is not included in the Third Schedule to this Act or any weight which is not so included.

(2) No person shall use the carat (metric) for trade except for the purposes of transactions in precious stones or pearls, gold, silver or other precious metals or in articles made from gold or silver including gold or silver thread, lace or fringe.

(3) Save as may be prescribed-

(a) a linear measure specified in Part I of the Third Schedule to this Act may be marked in whole or in part with divisions and sub-divisions representing any shorter length or lengths;

(b) no capacity measure specified in Part IV of the said Third Schedule shall be used for trade by means of any division or sub-division marked thereon as a capacity measure of any lesser quantity.

(4) Any person who contravenes any of the foregoing provisions of this section shall be guilty of an offence, and any measure or weight used, or in the possession of any person for use, in contravention of any of those provisions shall be liable to be forfeited.

(5) The Minister may from time to time by order amend the First or Third Schedule to this Act-

(a) by adding to or removing from any of Parts I to V of the said First Schedule any unit of measurement of length, or area, of volume or capacity, or of mass or weight, as the case may be;

(b) by adding to or removing from any of Parts J to IV of the said Third Schedule any linear, square, cubic or capacity measure, as the case may be, or by adding to or removing from Part V of the said Third Schedule any weight.

(6) Paragraph (a) of subsection (1) of this section shall not apply to the prescribing of or to the dispensing of a prescription for, drugs but the Federal Minister charged with responsibility for health and the Minister acting jointly may by order, which shall have effect notwithstanding anything in any other written law-

(a) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any unit of measurement which

is, or at the date of commencement of this section was, included in the First Schedule to this Act in terms of any other such unit;

[First Schedule.]

(b) require that any person carrying out any such dealing with drugs as is specified in the order under this subsection, for the purposes of which the quantity of the drugs is expressed in terms of any such unit as aforesaid, shall carry out that dealing in terms of such equivalent quantity prescribed under paragraph (a) of this subsection as is so specified.

(7) Nothing in this section shall prevent the use, during the transitional period, of imperial units on a container containing goods-

(a) where such imperial unit is placed side by side with its equivalent in metric; and

(b) where the said unit is included in the Sixth Schedule to this Act.

[Sixth Schedule.]

(8) In all matters relating to aviation and mineral oil, the provisions of this section shall be subject to any generally accepted international convention and usage for the time being.

7. Weighing or measuring equipment for use for trade

(1) The provisions of this section shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed, and

regulations by virtue of this subsection may be made with respect to equipment, whatever the nature of the measurement made thereby (including measurement in terms of number),

and whether or not the equipment is constructed to give an indication of the measurement made or other information determined by reference to that measurement.

(2) No person shall use any article for trade as equipment to which this section applies, or have any article in his possession for such use, unless that article, or equipment to which this section applies in which that article is incorporated, or to the operation of which the use of that article is incidental, has been passed by an inspector as fit for such use and, except as otherwise expressly provided by or under this Act, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear. If any person contravenes this subsection he shall be guilty of an offence, and any article in respect of which the offence was committed shall be liable to be forfeited.

(3) Any person requiring any equipment to which this section applies to be passed as fit for use for trade, shall submit the equipment to an inspector in such manner as the superintendent may direct and, subject to the provisions of this Act and of any regulations made under section 47 thereof and to the payment by that person of the prescribed fee, the inspector shall-

(a) test the equipment by means of such working and other standards and testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose; and

(b) if the equipment submitted falls within the prescribed limits of error, give to the person submitting it a certificate of verification to the effect that it is passed as aforesaid; and

(c) except as otherwise expressly provided by or under this Act, cause it to be

stamped with the prescribed stamp, and each inspector shall keep a record of every such test carried out by him.

(4) The requirements of subsections (2) and (3) of this section with respect to stamping and marking shall not apply to any weight or measure which is too small to be

stamped or marked in accordance with those requirements.

(5) In the case of any weighing or measuring instrument which is required to be tested and passed after it has been installed in the place where it is to be used for trade, if after the instrument has been so passed it is removed and re-installed whether in the same or some other place, it shall not be lawful to use it after such re-installation, until it has been retested and passed by an inspector. Any person who, in contravention of this sub-section, uses that instrument or causes or permits any other person to use it, shall be guilty of an offence and the instrument shall be liable to be forfeited.

(6) If an inspector is of opinion that a weighing or measuring instrument has a novel feature or is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the superintendent whose decision thereon shall be final.

(7) A weighing or measuring instrument constructed to read imperial units shall not be lawful for use during the transitional period unless it is adapted to weigh or measure in metric units; or the product of such machine is given in metric terms. For this purpose, a conversion factor necessary for the clear understanding of the quantity weighed or

measured shall be prominently displayed in a permanent form on the instrument. If any person contravenes this subsection, he shall be guilty of an offence.

8. Regulations relating to weighing or measuring for trade

(1) For the purposes of this Act, the Minister may make regulations with respect to-

(a) the materials and principle of construction of weighing or measuring equipment for use for trade;

(b) the requirements for the inspection, verification and stamping or marking of weight, measure, weighing or measuring instruments;

(c) the circumstances and the manner in which and the condition under which stamps may be obliterated or defaced, and any certificate of verification cancelled;

(d) the purposes for which particular types of weighing or measuring equipment may be used for trade;

(e) the abbreviation of or symbols for units of measurement which may be used for trade;

(f) the limits of error to be allowed on verification and to be tolerated on inspection either generally or as respects any trade; and

(g) the manner of erection or use of weighing or measuring equipment used for trade.

(2) If any difference arises between an inspector and any other person as to the interpretation of any regulations made under this section, that difference may with the consent of that other person and shall at the request of that other person be referred to the superintendent whose decision shall be final.

(3) Where in the circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations made under this section should be complied with, the superintendent may, if he thinks fit, dispense with the observance of that requirement subject to compliance with such condition, if any, as he thinks fit to impose; and if any person knowingly contravenes any condition imposed with respect to any equipment by virtue of this subsection, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

9. Keepers of public equipment to hold certificate

(1) No person shall attend to any weighing or measuring by means of weighing or measuring equipment available for use by the public being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from the superintendent that he has sufficient knowledge and skill for the proper performance of his duties.

(2) The superintendent may on application, grant a certificate to any person whom he considers has acquired sufficient knowledge and skill to carry out the functions of this section.

(3) Any person refused a certificate by the superintendent under this section may appeal against the refusal to the Minister whose decision thereon shall be final.

(4) Any person who contravenes, or who causes or permits any other person to contravene subsection (1) of this section, shall be guilty of an offence.

10. Offences in connection with public equipments

(1) This section shall apply where any article, vehicle, wagon or animal has been delivered for weighing or measuring by means of weighing or measuring equipment which is available and for

use by the public and is provided for the purpose of weighing and measuring articles, vehicle, wagon or animal.

(2) If any person appointed to attend to weighing or measuring by means of the equipment in question-

(a) without reasonable cause fails to carry out the weighing or measuring on demand; or

(b) carries out the weighing or measuring unfairly; or

(c) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found; or

(d) fails to make a record of the weighing or measuring including all relevant particulars, and in the case of the weighing of a vehicle or wagon and of any load thereon, as will identify the vehicle or wagon and that load,

he shall be guilty of an offence.

(3) If, in connection with any such equipment as aforesaid-

(a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring; or

(b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment,

he shall be guilty of an offence.

(4) There shall be retained for a period of not less than two years records of any weighing or measuring officially made on weighing or measuring equipment available for use by the public, and an inspector may require the production of such records for inspection at any time during the said period; and accordingly-

(a) if a person attending any weighing or measuring equipment under this section fails to retain or produce any such record, he shall be guilty of an offence;

(b) if any person wilfully destroys or defaces any such record before the expiration of two years from the date it was made, that person shall be guilty of an offence.

PART II

Administration

11. Appointment of superintendent and other officers

(1) Subject to subsections (2) and (3) of this section, there shall be appointed a fit person to be superintendent of weights and measures who shall be charged with administration of this Act, and such number of other fit persons as deputy superintendents and inspectors as may from time to time be required to assist the superintendent under this

Act, and to be subject to his direction and control.

(2) The Minister, after consultation with the Governor of a State, may create inspectorial districts and assign thereto such number of duly appointed inspectors as may be required.

(3) Where immediately before the commencement of this section-

(a) any person is the holder of an office designated in subsection (1) of this

section, that person shall on the commencement of this section continue in office and be deemed for the purposes only of this Act to have been appointed to his office under this section;

(b) inspectorial districts are in existence in a State, they shall, on the commencement of this section, continue in existence and be deemed to have been created

under this section.

(4) Where in the special circumstances of a particular case, the Minister is satisfied that any power delegated to any local council or local authority under the Act repealed by this Act, is not being properly exercised or has been abused, the Minister may by order revoke that power.

12. Provision of weighing and measuring instruments for use by inspectors

(1) The Minister shall from time to time provide such weighing instruments and measuring instruments for use by inspectors as he may consider necessary for the purposes of their duties under this Act.

(2) Weighing instruments and measuring instruments for use by inspectors shall be verified at such time and in such manner as the superintendent may in writing from time to time direct.

13. Repair or adjustment of weights, etc.

(1) Subject to the provisions of this section, no inspector shall repair, alter or adjust any weight, measure, weighing instrument or measuring instrument.

(2) If the superintendent is satisfied that it is in the public interest that an inspector should be allowed to adjust weights, measures, weighing instruments and measuring instruments within the inspectorial district to which he is assigned, the superintendent may authorise the inspector to act as an adjuster accordingly; and it shall be an offence for an inspector so authorised to adjust any

weight, measures, weighing instrument or measuring instrument without payment of the prescribed fee.

14. Examination of weights, etc.

(1) The superintendent may from time to time require any inspector to attend with his working standards and other equipment (if any) at such time and place as the superintendent may direct. An inspector shall attend where so required and examine and, if necessary, verify any weight or measure brought to him or otherwise made available for inspection by

him in the locality. If the inspector is satisfied that any weight or measure when produced to or inspected by him is accurate, or is otherwise within the requirements

as prescribed, he shall verify the same by means of a stamp, and shall issue to the person entitled a certificate of verification in the form set out in the Fourth Schedule to this Act or to the like effect; and the certificate of verification shall, unless extended under this section, remain in force for a period of twelve months.

[Fourth Schedule.]

(2) Where any weight or measure by reason of its shape or size may not conveniently be brought to the inspector he may, if requested to do so, attend at the premises where the weight or measure is, and there examine and verify the weight or measure. If for any reason it is not possible for the inspector to attend such premises, and the owner or user of any weight or measure in such premises produces to the inspector a current certificate of verification under this section, the inspector may by endorsement on that certificate, extend its operation for not more than one further period not exceeding twelve months.

(3) The neglect or refusal by an inspector to deliver a certificate of verification under this section shall be an offence against this Act and the inspector shall be liable on summary conviction to a fine of ₦10.

(4) For the purposes of this section, **“weight or measure”** includes any weighing instrument or measuring instrument; and for the avoidance of doubt a certificate of verification issued under any enactment repealed by this Act shall in respect of any period un- expired on the commencement of this section continue in force for the unexpired period,

as if it had been issued under this section.

15. Additional functions by inspectors

Without prejudice to the owners and duties of inspectors under any other provision of this Act, an inspector may, at the request of any person and subject to the payment by that person of such fee, if any, as may be prescribed, carry out and submit to that person a report on-

(a) a weighing or other measurement of any goods submitted for that purpose by that person at such place as the superintendent may direct or approve;

(b) a test of the accuracy of any weighing or measuring equipment so submitted.

16. General powers of inspection and sealing of premises

(1) Subject to the production of his credentials, if requested, an inspector may within the area for which he was appointed-

[1978 No. 37.]

(a) at all reasonable times-

(i) inspect and test any weighing or measuring equipment which is used for trade or which he has any reasonable cause to believe may be so used, or which is in the possession of any person or upon any premises for such use;

(ii) inspect any goods to which any of the provisions of this Act or any subsidiary instrument made thereunder for the time being applies for which he has reasonable cause to believe to be such goods;

(iii) enter any premises at which he has reasonable cause to believe there is any such equipment or goods as aforesaid, not being premises used only as a private dwelling-house; and

(b) at any time seize and detain-

(i) any article which he has reasonable cause to believe is liable to forfeiture under this Act;

(ii) any document displayed with any goods as evidence of price or quantity of the goods and which the inspector believes may be required in

the course of proceedings under or pursuant to this Act.

(2) If an inspector finds any equipment, goods or articles as are mentioned in subsection (1) of this section on any premises and has reasonable grounds to believe that any

offence under this Act has been, is being or is likely to be committed on such premises, he may seal the premises in question.

(3) Where an inspector enters or intends to seal any premises pursuant to the foregoing provisions of this section, he may take with him such other persons and equipment as

may appear to him necessary; and on leaving any such premises which at the time of entry were unoccupied or from which the occupier during such entry was temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(4) If any inspector or other person who enters any work-place by virtue of this section discloses to any person any information obtained by him in the work-place with regard

to any manufacturing process or trade secret he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(5) In the exercise of his powers under this section, an inspector or other person concerned shall exercise them so that as far as is practicable he will not impede or obstruct work in progress.

(6) Where an inspector acts under subsection (2) of this section-

(a) he shall report his action to the Director-General forthwith;

(b) any person aggrieved by the action may appeal to the Director-General who may confirm or cancel the action; and

(c) the total period of the sealing of such premises shall not, without a court order in that respect, exceed 28 days.

(7) Notwithstanding subsection (6) of this section, upon receipt of a report under that section in respect of any premises which have been sealed up, the Director-General may direct that any goods found therein which in his opinion is of a perishable nature shall-

(a) where no offence under this Act has been committed in respect of the goods in question, be released to the owner of the goods;

(b) where an offence under this Act is alleged to have been committed with

respect to the goods in question, be disposed of by sale or in such other manner as he may determine:

Provided that where goods are disposed of by sale, the proceeds of such sale shall be payable to the owner of such goods.

(8) Any person who knowingly and without reasonable excuse breaks a seal affixed pursuant to subsection (2) of this section, shall be guilty of an offence and on conviction shall be liable to a fine of ₦2,000 or imprisonment for six months or to both such fine and imprisonment.

(9) Nothing in this section shall authorise an inspector to stop any vehicle on a high- way.

17. Obstruction of inspectors

(1) Any person who-

(a) wilfully obstructs any inspector acting in the execution of his duty under this Act; or

(b) wilfully fails to comply with any requirement properly made of him by an inspector entering under section 16 of this Act; or

(c) without reasonable cause fails to give to any inspector acting as aforesaid any other assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under this Act or any order or regulation made thereunder, shall be guilty of an offence.

(2) If any person, in giving to an inspector any such information as is mentioned in the foregoing subsection, gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

18. Offence by inspectors and others

(1) Any inspector who-

(a) stamps any weight, measure, weighing instrument or measuring instrument without verifying it, as prescribed by this Act; or

(b) unless authorised under this Act is paid for the making, adjusting or selling of any weight, measure, weighing instrument or measuring instrument; or

(c) commits any breach of duty imposed on him under this Act or otherwise misconducts himself in the execution of his office,

shall be guilty of an offence and, in addition to any other penalty imposed on conviction thereof, his appointment as an inspector may be terminated.

(2) Any person who without proper authority, acts or purports to act as an inspector whether for the purposes of subsection (1) of the section or not, shall be guilty of an offence.

19. Fraud in use of weights, etc.

Where any fraud is wilfully committed in the use of any weight, measure, weighing or measuring instrument for trade, the person committing such fraud, and every person party

to such fraud, shall be guilty of an offence and such weight, measure, weighing instrument or measuring instrument shall be liable to forfeiture.

20. Refusal to produce weights, etc., an offence

Any person who refuses when requested by an inspector to produce to the inspector any weight, measure, weighing instrument or measuring instrument in his possession or custody or obstructs,

or hinders any inspector in any examination under this Act of any weight, measure, weighing instrument or measuring instrument, shall be guilty of an offence.

21. Importation, etc., of unjust weights and measures

(1) Any person who imports, makes or sells or causes to be imported, made or sold any unjust weight, measure, weighing instrument, measuring instrument or goods, shall be guilty of an offence and shall be liable on summary conviction in respect of a first offence to a fine of not less than ₦ 100 and, in respect of a second or any subsequent of-

fence, to a fine of not less than ₦ 200 or more than ₦ 300 or to imprisonment for a term of twelve months.

[1978 No. 37.]

(2) Any person who imports, makes or sells or causes to be imported, made or sold any weight, measure, weighing measuring instrument or goods or equipment which is not in metric units or specifications shall be guilty of an offence.

22. Forgery, etc., of stamp or mark

(1) Any person who forges or counterfeits or causes to be forged or counterfeited or knowingly assists in forging or counterfeiting, any stamp or mark used for stamping or marking any weight, measure, weighing instrument or measuring instrument under this Act, shall be guilty of an offence and shall on summary conviction be liable to a fine of not less than ₦ 100 or more than ₦ 200 or to imprisonment for a term of six months.

(2) Any person who wilfully destroys a seal, mark or stamp on or in a weighing or measuring instrument as evidence of passing as fit for use for trade or of rejection for such use, shall be guilty of an offence and such weighing or measuring instrument shall be liable to forfeiture.

23. Sale of weights, etc., with forged stamp

Any person who knowingly sells, uses or disposes of any weight, measure, weighing instrument or measuring instrument with any forged or counterfeited stamp or mark thereon resembling or intended to resemble any stamp or mark used under this Act, shall

be guilty of an offence and such weighing or measuring instrument shall be liable to forfeiture.

24. Alteration of stamped or marked weight, etc. Any person who, with intent to defraud-

(a) alters any weight, measure, weighing instrument or measuring instrument stamped or marked in accordance with this Act; or

(b) uses in any sale, contract, or other dealing any such altered weight, measure, weighing instrument or measuring instrument, shall be guilty of an offence.

25. Delivery on sale by false weight, etc.

Any person who sells any article by weight, measure, or number and delivers or causes to be delivered to the purchaser a less weight, measure, or number, as the case may be, than is purported to be sold or than corresponds with the price charged, shall be guilty of an offence.

26. Misrepresentation

Any person who, in connection with the sale or the exposing or offering for sale of anything, makes any misrepresentation howsoever or does or omits any act, matter or thing calculated or likely to mislead the seller or purchaser or prospective seller or purchaser as the case may be, as to its weight or measure, or if sold or offered for sale by number, as to the number sold or offered for sale, shall be guilty of an offence.

27. Sale of bread not by net weight an offence

(1) Subject to subsection (3) of this section, every person shall be guilty of an offence who-

(a) sells, offers, or exposes for sale any bread otherwise than by net weight; or

(b) sells or has in his possession for sale or delivery under a contract of sale any loaf of bread unless its net weight is 225 grammes or a multiple thereof.

(2) Every person selling or having in his possession for the purpose of sale or carrying to a purchaser for sale any bread, shall if so required by an inspector, permit the inspector to weigh the bread. Any person who contravenes this subsection shall be guilty of an offence.

(3) Nothing in this section shall apply-

(a) to rolls or pieces of bread not exceeding 225 grammes in weight; or

(b) to loaves supplied under contract where the contract provides for weighing of the bread on delivery.

(4) In this section-

“**bread**” means bread in any form other than bread-crumbs and includes the following, and any part of any of the following, that is to say, fancy loaves and milk loaves; and

“**loaf**” includes a roll and a bap and any pre-packed sliced loaf of bread shall be deemed to be a whole loaf of bread and the pre-packing of sliced bread in any quantity by net weight shall be deemed to be the making for sale of whole loaf, of bread of that net weight.

28. Sale of pre-packed goods

(1) A person shall not sell or have in his possession for sale any pre-packed article, whether or not contained in the Eighth Schedule to this Act, unless the wrapper or container bears thereon, or on a label securely attached thereto, a true statement in plain characters of the minimum net weight or measure of the article contained therein.

[Eighth Schedule.]

(2) A person shall not sell or have in his possession for sale any pre-packed goods of any of the kinds set forth in the Eighth Schedule to this Act unless the goods are made up for sale in the standard quantities specified in column 2 or 3 of that Schedule (according as the goods are packed in rigid containers of glass, plastic, metal or not).

(3) The indication of weight or measure required in this section to be marked on any pre-packed article for sale shall be conspicuously and legibly marked in the manner hereunder prescribed, that is to say-

(a) it shall be printed, stamped or written in plain block characters; and

(b) it shall be situated in a prominent position on the outside of the outermost wrapper or container or on a label securely attached thereto:

Provided that where the outermost wrapper or container is of a transparent nature, the whole indication of weight or measure may be marked on the next inner wrapper or container provided the said indication of weight or measure is as plainly and easily legible as if on the outer wrapper or container.

(4) An indication of weight or measure shall be-

(a) complete in itself, that is to say, the words or group of characters composing the marking shall be associated together so as to be read as a whole, and it

shall not be modified by any words or figures as "about", "average", "not more than" or any such similar word or expression; and

(b) marked on a plain background and in distinct contrast thereto, that is to say, the characters shall be dark on a light background or *vice versa*.

(5) A statement as to the weight or measure of pre-packed goods shall be deemed to be a statement as to the net weight or measure thereof unless otherwise specified.

(6) Denominations of weights or measures shall be either spelt in full or if abbreviated shall be expressed by one or other of the prescribed abbreviations.

(7) Any person who contravenes the provisions of this section shall be guilty of an offence.

(8) The Minister may by order from time to time amend, vary, add to or replace the Eighth Schedule. Any order made under this section shall be subject to the approval of the President.

(9) Before making any order under this section, the Minister shall consult with and consider any representations with respect to the subject-matter of the order made to him by such organisations as appear to him to be representative of interest substantially affected by the order

29. Sale of certain meat and fish not by net weight an offence

(1) Subject to the provisions of this Act as to the use of any indigenous weight or measure, any person who sells any butchers' meat or fresh fish otherwise than by net weight shall be guilty of an offence.

(2) Nothing in this section shall apply to the sale or offer for sale of fresh fish on any beach, riverside or any other waterside or to the sale or offer for sale anywhere of shellfish.

30. Use of false or unjust weights, etc.

Subject to the provisions of this section, any person who for the purposes of any sale, contract or other dealing uses or has in his possession for use-

(a) any weight, measure, weighing instrument or measuring instrument which is false or unjust; or

(b) any weight, measure, weighing instrument or measuring instrument not stamped or marked as required by this Act, or in respect of which no certificate of verification is in force,

shall be guilty of an offence.

31. Refusal to weigh or measure goods delivered

Any person who sells goods by weight or measure for himself or on behalf of any other person in any warehouse, market, store or other public place and when required by the person to whom the goods are delivered refuses to weigh or measure the goods in the presence of the person to whom they are delivered, shall be guilty of an offence.

32. A voidance of sale

PART III

Miscellaneous and general

(1) Where there is a sale by weight or measure and the weighing or measurement is to be done by any weight or measure prohibited by this Act, the sale shall be void.

(2) In this section, "sale" includes any contract or other transaction whatsoever.

33. Offences by bodies corporate

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, any such director or other person mentioned in this subsection as the case may be, as well as the body corporate shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of this section, the expression "director" in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the member thereof, means a member of that body corporate.

34. Loss by evaporation, etc., as a defence in special cases

In any proceedings under this Act in respect of an alleged deficiency in the weight of any article delivered to a purchaser, it shall be a good defence in any prosecution if the defendant proves to the satisfaction of the court that the alleged deficiency was due to unavoidable evaporation or drainage, and that he took all reasonable care to avoid such deficiency.

35. Offence by person other than defendant

(1) Any person prosecuted for an offence under this Act, on giving to the prosecution three clear days' notice of his requirement and with the leave of the court, shall be

entitled to have brought before the court in the proceedings any other person to whose act or default the defendant alleges responsibility for the commission of the offence. If on proof

of commission of the offence, the original defendant proves that its commission was due to the act or default of the other person brought before the court and that the original

defendant took all reasonable care to avoid the commission of the offence by him or by any person under his control, he shall be acquitted and discharged; and the court, if it thinks

fit, may enter a conviction against the other person brought before the court.

(2) Where it appears to any authority by or on whose behalf proceedings may be instituted that an offence under this Act has been committed and that authority is reasonably satisfied that the offence was due to any act or default of some other person, the authority may cause proceedings to be taken against that other person alone; and in any such proceedings that other person may

be charged with and may be convicted of that offence, notwithstanding the failure to prosecute the first mentioned person.

36. Exemption for sale in containers

Unless otherwise prescribed by regulations under this Act, nothing in this Act shall-

(a) be construed to prohibit the sale, or subject any person to a penalty under this Act for the sale of an article not being pre-packed in a container of any description where such container is not represented as containing any amount of metric measure; or

(b) subject any person to a penalty under this Act for the possession of any such container where the court or an inspector, as the case may be, is satisfied that the container was not intended for use as a measure.

37. Saving for civil remedies

The fact that any act or omission is an offence under this Act for which a person may be prosecuted shall not affect any civil remedy to which a person aggrieved by the offence may be entitled.

38. Transactions to be in accordance with Act

(1) Unless otherwise prescribed by this Act, every transaction of what nature so ever in any State involving the use of any weight or measure not in accordance with this Act shall be void, and any person who uses any such weight or measure shall be guilty of an offence against this Act.

(2) All tolls and duties charged or collected according to weight or measure shall be charged and collected according to one of the weights or measure under this Act or to some part or multiple thereof.

39. Power to forfeit and dispose of certain weights, etc.

Any weight, measure, weighing instrument, measuring instrument or goods which is the subject matter of any proceeding leading to conviction for an offence under this Act may, unless otherwise prescribed by this Act, be forfeited and may be broken up or otherwise disposed of as the court may direct.

[1978 No. 37.]

40. Use of weights, etc., in relation to wages

The provisions of this Act and of any other enactment for the time being in force in Nigeria relating to weights, measures, weighing instruments or measuring instruments used for the

purposes of any sale, contract or dealing shall extend to any weight, measure, weighing instrument or measuring instrument used in any factory or workshop for the purpose of checking or ascertaining the wages of any person employed therein in like manner as if they were used for the purpose of any sale, contract or dealing under this Act.

41. Use of marked or stamped weights, etc.

No weight, measure, weighing instrument or measuring instrument marked or stamped by an inspector under this Act shall, during the currency of any certificate of verification given in respect thereof, be objected to unless the superintendent is satisfied on reasonable grounds that the certificate of verification was issued under a mistake of

fact, or that the weight, measure, weighing instrument or measuring instrument when checked with the appropriate standard is incorrect.

42. Presumption of possession of weights, etc.

Where any weight, measure, weighing instrument measuring instrument or goods is found in the possession of any person upon premises of any description used for trade, that person shall be deemed to be in possession of the weight, measure, weighing instrument, measuring instrument or goods for use for trade until the contrary is proved.

[1978 No. 37.]

43. Power to make test purchases

In pursuance of the duties imposed on him by or in pursuance of this Act, any inspector shall have power to make such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of this Act are being complied with.

44. Onus of proof of knowledge, etc., in any offence

Unless otherwise prescribed for an offence under this Act, it shall not be necessary on any prosecution to prove knowledge or intent; but where the prosecution is in respect of an offence of doing anything knowingly or with a specified intent, the onus of disproving that he did such thing knowingly or with such intent shall be on the defendant.

45. Reference of certain cases to superintendent

Where there is a dispute between an inspector and any person as to the method of testing or verifying any weight, measure, weighing instrument or measuring instrument, the matter in dispute shall at the request of either party to the dispute be determined by the superintendent, whose decision thereon shall be final.

46. Limitation of actions

Actions and other proceedings by an inspector for things done or omitted under this Act shall be commenced within four months after the matter complained of was done or omitted and not later; and notice in writing of any such action or other proceeding with full particulars of the cause thereof, shall be given to the defendant seven days at least before the commencement of such action or proceedings.

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