

WEIGHTS AND MEASURES

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Weights and Measures Act 1976

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Weights and Measures Act 1976

TABLE OF AMENDMENTS

The Weights and Measures Act 1976 No 10 was certified on 10 September 1976 and commenced on 11 October 1976 (GN No 323/1976; Gaz 50/1976). Section 39(2) of the Act as made provided that the provisions of the repealed Weights and Measures Ordinance 1913 of the Territory of Papua shall: (a) insofar as they relate to the weighing of goods, to the sale of goods by weight and to weights and weighing instruments used in connection therewith, be deemed to be part of the provisions of this Act and accordingly to continue to have force and effect, in Nauru, except where goods are weighed or sold, or weights or weighing instruments are used or kept for use for weighing, in metric units, until 1st January 1978, or such earlier date as the Minister may appoint in pursuance to Section 3(2)(a), as the date from which this Act shall apply thereto; and (b) insofar as they relate to the measurement and sale of liquid fuel, or to measuring instruments used or kept for use in connection therewith, be deemed to be part of the provisions of this Act and accordingly to continue to have force and effect in Nauru, except where liquid fuel is measured or sold, or any measuring instrument is kept or used for measuring liquid fuel, in metric units, until 1st January 1981, or such earlier date as the Minister may appoint in pursuance of Section 3(2)(b) as the date from which this Act shall apply thereto.

| Amending Legislation | Certified | Date of Commencement |
|------------------------------------|------------------|-----------------------------|
| Revised Written Laws Act 2021 No 7 | 1 June 2021 | 1 June 2021 |

An Act to repeal the *Weights and Measures Ordinance 1913* of the Territory of Papua as an adopted law of the Republic and to make new provision relating to weights and measures.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Weights and Measures Act 1976* and came into effect on 11 October 1976.

2 Interpretation

In this Act:

'articles' includes liquids, foods, chattels, wares, merchandise and goods of every description and any article and its package;

'automatic weighing machine' means a weighing instrument in which a self-acting mechanism effects an automatic feed, weighs given loads and registers and totals loads or performs other similar actions or some of those actions;

'certifying certificate' means a certificate in the prescribed form issued by an inspector in respect of any weighing instrument or measuring instrument exempted by regulations made under this Act from being stamped with a certifying stamp by reason of the impracticability of stamping it, for the purpose of signifying that the weight, measure, weighing instrument or measuring instrument has been found upon inspection to be in accordance in every respect with the requirements of this Act;

'certifying stamp' means a stamp prescribed for use by an inspector for stamping under this Act any weight, measure, weighing instrument or measuring instrument for the purpose of signifying that the weighing instrument or measuring instrument has been found upon inspection to be in accordance in every respect with the requirements of this Act;

'Commonwealth standard of measurement' means a standard of measurement maintained, or caused to be maintained, by the Commonwealth Scientific and Industrial Research Organization for the purposes of Section 8(1) of the Australian Act;

'crane weighing machine' means a weighing machine which weighs by a process of lifting the load from above;

'dispensing measure' means a measure designed and intended for use in pharmaceutical dispensing;

'dispensing scale' means a weighing instrument designed, intended or used for pharmaceutical dispensing;

'hopper scales' means a weighing instrument the load receptor of which is in the form of a hopper;

'inspection', in relation to weighing instruments or measuring instruments, includes examination, testing, verification, re-verification, comparison, adjustment and stamping under this Act by an inspector or all or any of those things;

'inspector' means a person who is for the time being an inspector of weights and measures by virtue of the provisions of Section 5(2) or of any such appointment as is referred to in Section 5(3);

'Inspector's Standard' has the meaning assigned to it by Section 9(4);

'legal unit of measurement' has the meaning assigned to it by Section 7(2);

'liquid-measuring instrument' means an instrument for measuring the volume of liquid passed through it;

'measuring instrument' means a thing or a combination of things, by means of which a measurement of a physical quantity may be made, and includes a thing or a combination of things, by means of which grading may be effected by reference to the measurement of a physical quantity;

'Nauru Secondary Standard' has the meaning assigned to it by Section 9(3);

'Nauru Standard' has the meaning assigned to it by Section 9(2);

'overhead weighing machine' means a suspended weighing machine of a type known as an overhead weighing machine;

'owner' includes the authorised agent, manager or superintendent of the owner and a lessee or hirer from the owner;

'package' includes anything by means of which any article is or any two or more articles are packed for sale as a single item and includes a wrapper and a confining band;

'personal weighing machine' means an instrument which is designed for weighing persons and includes a baby-weighing machine;

'place' includes a building and every other place, whether enclosed or not, and whether a public place or not;

'platform weighing machine' includes a bench platform or an overhead weighing machine and hopper scales, but does not include a personal weighing machine;

'public weighing instrument' means any weighing instrument open for use by the public or for the use of which a charge is made;

'purchaser' includes a person purchasing as an agent for any other person, an intending purchaser and a person making inquiries with a view to possible purchase;

'sell' includes:

- (a) offer or expose for sale;
- (b) keep or have in possession for sale;
- (c) barter or exchange;
- (d) deal in or agree to sell;
- (e) send, forward or deliver for sale or on sale; or
- (f) the act of authorising, directing, causing, permitting or suffering any of the acts referred to in paragraphs (a), (b), (c), (d) and (e) of this definition, and **'sale'** and **'sold'** have the like meanings;

‘stamp’ means stamp, impress, engrave, etch, brand, seal or otherwise mark in such a manner as to be, so far as practicable, indelible;

‘steelyard’ means an unequal-armed weighing instrument;

‘subsidiary standard of measurement’ means a standard of measurement, not being a Nauru Standard, that has been verified and, where appropriate, re-verified in accordance with this Act or regulations made thereunder;

‘the Australian Act’ means the *Weights and Measures (National Standards) Act 1960-1966* of the Commonwealth of Australia;

‘the Australian National Standards Commission’ means the body of that name established by the *Weights and Measures (National Standards) Act 1948* of the Commonwealth of Australia and continued in being by the Australian Act;

‘the Australian Regulations’ means the Weights and Measures (National Standards) Regulations made under the Australian Act;

‘the Chief Inspector’ means the person who is for the time being the Chief Inspector of Weights and Measures by virtue of Section 5(1);

‘the Commonwealth Scientific and Industrial Research Organization’ means the body by that name established under the *Science and Research Act 1949-1968* of the Commonwealth of Australia;

‘use for trade’ means use in connection with or with a view to a transaction for:

- (a) the transferring or rendering of money or money’s worth in consideration of money’s worth or money; or
- (b) the making of a payment in respect of any tax, duty, charge or toll, where:
 - (i) the transaction is by reference to quantity in terms of measurement of a physical quantity or in terms of number or is a transaction for the purposes of which the quantity of goods to which the transaction relates is stated in such terms; and
 - (ii) the use is for the purpose of ascertainment or statement of quantity in such terms; the expression **‘have in possession for trade’** has a corresponding meaning, and a weight, measure, weighing instrument or measuring instrument used in relation to any transaction shall for the purposes of this Act be deemed to be used for trade;

‘vehicle’ means any conveyance used on land, whether self-propelled or not;

‘wall beam’ means a steelyard suspended from a horizontal bracket which may be fixed or turn about a vertical axis;

‘weighbridge’ means a weighing instrument of a capacity of 3 tonnes or more, having a platform on to which vehicles, whether or not running on rails, are run for the purpose of being weighed;

‘weighing instrument’ means weighbridge, weighing machine, scales, balance, steelyard or other instrument for weighing and includes the weights belonging thereto; and

‘working standard’ has the meaning assigned to it by Section 8.

3 Application of this Act

- (1) This Act shall apply to the Republic.
- (2) This Act shall not apply:

- (a) to the weighing of goods and their sale by weight, or to weights and weighing instruments used or kept for use in connection therewith, until 1st January 1978, or such earlier date as the Minister may appoint by notice in the Gazette; and
 - (b) to the measurement and sale of liquid fuel or to the measuring instruments used or kept for use in connection therewith, until 1st January 1981, or such earlier date as the Minister may appoint by notice in the Gazette,
except where the goods are sold or weighed, or the fuel is sold or measured, in metric units.
- (3) Unless applied to them by regulations made under Section 38, this Act shall not apply to:
- (a) dispensing scales and measures;
 - (b) wall beams;
 - (c) steelyards;
 - (d) platform weighing machines;
 - (e) automatic weighing machines;
 - (f) crane weighing machines;
 - (g) belt conveyor weighers;
 - (h) personal weighing machines; or
 - (i) counting machines.
- (4) This Act shall not apply to the weighing, measuring or sale in the Republic of goods which have been imported into the Republic from a country in which a unit of measurement which is not a legal unit of measurement under this Act is for the time being a legal unit of measurement if:
- (a) they have been imported in a container on which their nett weight or measure is clearly marked in English in terms of that unit of measurement; and
 - (b) the container has not been opened or breached.

4 Saving of other laws

Except where otherwise specifically stated, nothing in this Act derogates any power granted by or under or relieves a person from any liability or duty imposed by or under, any other written law.

5 Chief Inspector and other inspectors

- (1) The Commissioner of Police shall be the Chief Inspector of Weights and Measures.
- (2) Every police officer shall be *ex officio* an inspector of weights and measures.
- (3) There may be appointed from time to time under a written law relating to the public service such number of persons to be or to act as, inspectors of weights and measures as may be provided for under that written law.
- (4) An inspector shall perform the duties imposed on him or her by this Act under the general supervision and direction of the Chief Inspector.
- (5) An inspector appointed under subsection (3) shall be furnished with a certificate of appointment signed by the Minister and upon entering any place shall, if required, produce that certificate to the occupier of the place.
- (6) An inspector shall not:

- (a) except in the course of his or her duties under this Act directly or indirectly disclose or cause to be disclosed any matter relating to the business of any person which comes to his or her knowledge in the course of those duties;
- (b) stamp any weight, measure, weighing instrument or measuring instrument except in compliance with a provision of this Act or of any regulations made thereunder; or
- (c) refuse or fail to perform any duty imposed on him or her by this Act.

6 Fees

Monies received by an inspector as fees or charges under this Act shall be paid into the Treasury Fund.

PART 2 — UNITS AND STANDARDS OF MEASUREMENT

7 Units of measurement

- (1) The units of measurement of physical quantity in the Republic shall be such units of the metric system of measurement as may for the time being be prescribed by the Australian Regulations as the units of measurement of physical quantity in Australia.
- (2) Subject to Section 3(2), the units referred to in subsection (1) shall be in the Republic the only legal units of measurement of the physical quantities for which they are prescribed by the Australian Regulations.
- (3) In this Section, the expression *‘the metric system of measurement’* has the same meaning as in the *Metric Conversion Act 1973*.

8 Standards of measurement

- (1) For the purposes of this Act, a *‘working standard’* means a standard of measurement, in terms of a physical quantity for which there is a unit of measurement, that has been verified or re-verified by or on behalf of the Commonwealth Scientific and Industrial Research Organization by means of, by reference to, by comparison with an appropriate Commonwealth standard of measurement.
- (2) For the purposes of this Act, a *‘subsidiary standard’* means a standard of measurement, in terms of a physical quantity for which there is a unit of measurement, that has been verified or re-verified by the Chief Inspector or by an inspector nominated by him or her for the purpose, by means of, by reference to, by comparison with or by derivation from an appropriate working standard provided and maintained as a Nauru Standard under Section 9(1).

9 Provision and maintenance of standards

- (1) The Minister shall arrange for the provision and maintenance of such working standards and subsidiary standards as he or she considers necessary or desirable for the purpose of giving effect to the provisions of this Act.
- (2) A working standard provided and maintained under subsection (1) shall be called a Nauru Standard.
- (3) A subsidiary standard provided and maintained under subsection (1) shall be called a Nauru Secondary Standard if:
 - (a) it is provided and maintained as such; and
 - (b) it has a denomination referred to in the first column of the Schedule to this Act the true value of which has been verified not to be greater or less by an amount exceeding the amount of variation specified in respect of that denomination in the second column of that Schedule than the true value of that denomination as calculated.
- (4) A subsidiary standard provided and maintained under subsection (1) shall be called an Inspector’s Standard if:
 - (a) it is provided and maintained as such; or

- (b) it has been verified or re-verified in accordance with the regulations made under this Act as being of a value equal to its denomination, subject to such tolerances as may be prescribed.
- (5) The Minister may, by notice in the Gazette, delete from, vary in or add to the Schedule any item, and from the date of publication of the notice the Schedule shall be read subject to the deletion, variation or addition made by the notice.

10 Inspector's Standard to be stamped

- (1) Every Inspector's Standard shall be stamped in the prescribed manner with the prescribed stamp.
- (2) The impression of the stamp prescribed under subsection (1) on a weight or measure is evidence that the weight or measure is an Inspector's Standard.

11 Verification of standards

- (1) A standard of measurement shall not be used for the purpose of measuring a physical quantity in the Republic unless it is a working standard or a subsidiary standard provided and maintained under the provisions of Section 9(1).
- (2) A standard of measurement provided and maintained under the provisions of Section 9(1) which has become defective through use or accident or which has been broken or altered shall not be used for the purpose of measuring any physical quantity in the Republic until it has been re-verified:
 - (a) in the case of a Nauru Standard, by the Commonwealth Scientific and Industrial Research Organization in accordance with the provisions of the Australian Act;
 - (b) in the case of a Nauru Secondary Standard, by the Chief Inspector or by an inspector nominated by him or her for the purpose, by comparison with the appropriate Nauru Standard; and
 - (c) in the case of an Inspector's Standard, by the Chief Inspector or by an inspector nominated by him or her for the purpose, in accordance with the provisions of regulations made under this Act.

12 Damaging or destroying standards

A person who falsifies or wilfully or maliciously damages or destroys, any standard provided and maintained under Section 9(1) is guilty of an offence and is liable to a fine of \$200.

13 Working standard lost, destroyed, etc, to be replaced

Where any working standard provided and maintained under Section 9(1) is lost, destroyed, defaced or injured, another working standard shall be provided by the Minister in place of the one so lost, destroyed, defaced or injured.

14 Custody of standards

- (1) The Nauru Standards and all balances, apparatus, books, documents and things used in connection with those standards or relating to those standards, shall be retained in the custody of the Minister.

- (2) The Nauru Secondary Standards and all balances, apparatus, books, documents and things used in connection with those standards or relating to those standards, shall be retained in the custody of the Chief Inspector.

PART 3 — INSPECTION, VERIFICATION AND STAMPING

15 Powers of inspectors

An inspector may at all reasonable times:

- (a) enter and search any building or place or stop and inspect any vehicle or vessel in which or in connection with which weights, measures, weighing instruments or measuring instruments are used for trade;
- (b) inspect any weights, measures, weighing instruments or measuring instruments in the possession of a person having a pack, basket or other receptacle containing goods for sale; or
- (c) examine and test any such weights, measures, weighing instruments or measuring instruments.

16 Production of weights, etc, for inspection and verification

- (1) Subject to subsections (2) and (3), every weight, measure, weighing instrument and measuring instrument used or for use for trade shall be produced to the Chief Inspector, for inspection and verification by the Chief Inspector or by another inspector nominated by the Chief Inspector for the purpose:
 - (a) in the case of a weight, measure, weighing instrument or measuring instrument used for trade, at least once in every 2 years; or
 - (b) in the case of a weight, measure, weighing instrument or measuring instrument for use for trade, before use.
- (2) Regulations made under Section 38 may:
 - (a) subject to such conditions as are prescribed, exempt wholly or in part from the operation of this Section and Section 17 any class of weights, measures, weighing instruments or measuring instruments; or
 - (b) provide for the more frequent re-verification and stamping of any prescribed classes of weights, measures, weighing instruments or measuring instruments.
- (3) An inspector may require to be produced for his or her inspection and may, either upon or without such a request, inspect any weight, measure, weighing instrument or measuring instrument used or for use for trade whenever he or she thinks it necessary to do so.

17 Stamping of weights, etc

Every weight, measure, weighing instrument and measuring instrument used for trade which is presented for verification and found to be correct shall be stamped with a mark of verification as prescribed.

18 Powers of inspectors with respect to unjust weights, etc

- (1) Where upon an inspection of any weight, measure, weighing instrument or measuring instrument it appears to the inspector that:
 - (a) the weight, measure, weighing instrument or measuring instrument is not stamped with a certifying stamp as required by this Act;

- (b) the weight, measure, weighing instrument or measuring instrument is exempted by regulations made under this Act but the provisions of the regulations relating thereto have not been complied with; or
 - (c) the weight is light or otherwise unjust or the measure is incorrect or otherwise unjust or that the weighing or measuring instrument is unjust, the inspector may:
 - (i) seize it or any part of it; or
 - (ii) where the weight, measure, weighing instrument or measuring instrument is found to be light, incorrect or otherwise unjust, if he or she thinks it proper so to do instead of immediately seizing it or part of it:
 - (A) give to the owner of it or to the person found in possession of it notice in writing to have it corrected and made correct and just within 28 days of the date of the giving of the notice or within such shorter period as the inspector thinks proper, and in the meantime to cease to use it; or
 - (B) adjust it.
- (2) Where a notice given under subsection (1)(e) is complied with to the satisfaction of the inspector he or she shall not take any further action, but if a notice is not complied with the inspector may, at the end of the period specified in the notice, seize and detain the weight, measure, weighing instrument or measuring instrument in question or any part of it.

19 Types and designs of weights, etc

- (1) A weight, measure, weighing instrument or measuring instrument shall not be verified and stamped in pursuance of this Act unless it is of a type and design approved by the Minister by notice in the Gazette or by a person or body of persons nominated by the Minister by notice in the Gazette.
- (2) For the purposes of subsection (1), the Minister may approve a weight or measure or a weighing instrument or measuring instrument by reference to approval given for its use in another country by or under the laws of that other country.
- (3) Notwithstanding that the approval referred to in subsection (1) has been given, the Minister, if he or she has reasonable grounds for believing that the use of a weight, measure, weighing instrument or measuring instrument for trade might facilitate fraud, may, by notice in writing served personally upon a person using it or having it in his or her possession for the purpose of trade, limit the period and the purposes for which, and the circumstances in which, the weight, measure, weighing instrument or measuring instrument may be used for trade.
- (4) A person who contravenes or fails to comply with a notice served on him or her under subsection (3), is guilty of an offence and is liable to a fine of \$200.

20 Only stamped weights, etc, to be used

- (1) A person who uses or has in his or her possession for use for trade any weight, measure, weighing instrument or measuring instrument which:
 - (a) is required by Section 16 to be produced for verification and is not stamped as prescribed; or

- (b) is incorrect or unjust,
is guilty of an offence and is liable to a fine of \$500.
- (2) A weight, measure, weighing instrument or measuring instrument which is required to be stamped with a mark of verification and is stamped as prescribed is, subject to this Act, a legal weight, measure, weighing instrument or measuring instrument, as the case may be, for use for trade in the Republic, unless it has become defective or unjust.

21 Defective weights, etc, not to be used

- (1) Subject to subsection (3), a person who uses or has in his or her possession for use for trade any weight, measure, weighing instrument or measuring instrument, not being a weight, measure or instrument exempted from the operation of Sections 16 and 17 by regulations made under Section 38, which:
 - (a) has become defective; or
 - (b) has been mended or repaired,since it was most recently stamped under Section 17, is guilty of an offence and is liable to a fine of \$500.
- (2) A person mending or repairing a defective weight, measure, weighing instrument or measuring instrument shall obliterate any existing stamp on it.
- (3) Notwithstanding subsections (1) and (2), a person may, subject to any conditions prescribed by regulations made under Section 38, temporarily use a weight, measure, weighing instrument or measuring instrument.

22 Offences in connection with weights, etc

- (1) Subject to subsection (2), a person who:
 - (a) uses or has in his or her possession for use for trade a weight or measure which is not of a denomination authorised by this Act to be used;
 - (b) forges or counterfeits, or causes to be forged or counterfeited, or assists in the forging or counterfeiting of, or unlawfully has in his or her possession, a stamp used for stamping under this Act a weight, measure, weighing instrument or measuring instrument or, unless duly authorised under this Act, makes on a weight, measure, weighing instrument or measuring instrument an impression purporting to be the impression of any such stamp or alters any date mark used in connection with the impression of any such stamp;
 - (c) in any way alters or tampers with a weight, measure, weighing instrument or measuring instrument so as to cause it to weigh or measure incorrectly or unjustly;
 - (d) uses, sells, disposes of or exposes for sale a weight, measure, weighing instrument or measuring instrument so altered or tampered with as to cause it to weigh or measure incorrectly or unjustly, or a weight, measure, weighing instrument or measuring instrument which has a forged or counterfeit stamp on it;
 - (e) makes or sells a weight, measure, weighing instrument or measuring instrument which is false or unjust or causes any such weight, measure, weighing instrument or measuring instrument to be made or sold; or

- (f) increases or diminishes any stamped weight or measure or uses, sells, disposes of or exposes for sale any increased or diminished weight or measure,
is guilty of an offence and is liable to imprisonment for 3 months and a fine of \$1,000.
- (2) Nothing in subsection (1) applies to a person who increases or diminishes any stamped weight or measure when he or she adjusts it to standard and entirely obliterates the stamp.

23 Contracts, etc, by reference to false weights, etc

A contract, bargain, sale, purchase or dealing made by reference to any false or unjust weight, measure, weighing instrument or measuring instrument is voidable by a party who had no knowledge, actual or constructive, that the weight, measure, weighing instrument or measuring instrument was false or unjust.

24 Use or possession of unjust weights, etc, an offence

A person who uses for trade, or has in his or her possession for use for trade, or for the purposes of or in connection with any contract, bargain, sale, purchase or dealing, any weight, measure, weighing instrument or measuring instrument which is false or unjust is guilty of an offence and is liable to a fine of \$500.

25 Provision to be made for facilitating inspection

- (1) For the purposes of an inspection of a weighing instrument or measuring instrument, the owner shall, at the request of an inspector, provide at the place of inspection:
- (a) in the case of a weighing instrument:
- (i) weights, duly inspected and stamped with a certifying stamp under and as required by this Act, of not less than one quarter of the capacity of the weighing instrument; and
 - (ii) such heavy material, in convenient form of handling, and such labour as the inspector thinks necessary for the proper conduct of the inspection; and
- (b) in the case of a measuring instrument, such labour as the inspector thinks necessary for the proper conduct of the inspection.
- (2) Where an inspector thinks that it is necessary or expedient to do so, he or she may order the owner of, or any person who has in his or her possession any weight, measure, weighing instrument or measuring instrument used or for use for trade to deliver it for the purpose of inspection to the Chief Inspector within or at a time specified in the order.
- (3) The expense of delivering and the return of a weight, measure, weighing instrument or measuring instrument under subsection (2), shall be borne by the person to whom the order was given.

PART 4 — SALE OF GOODS

26 Trade, etc, to be in terms of legal units of measurement

- (1) Subject to this Act, every transaction or thing entered into or done in the Republic by reference to a physical quantity shall be entered into or done by reference to legal units of measurement or that quantity, and otherwise is void.
- (2) Subject to this Act, a person who sells by a denomination of weight or measure other than a legal unit of measurement is guilty of an offence and is liable to a fine of \$500.

27 Sales to be by nett weight or measure

- (1) A person who sells any article by weight or measure otherwise than by nett weight or measure is guilty of an offence and is liable to a fine of \$500.
- (2) Where a person offers or exposes for sale by weight or measure an article in a shop or other place, or in a vehicle, pack, basket or other receptacle, he or she shall have in a convenient place, capable of being easily seen by the purchaser, suitable weights, measures, weighing instruments or measuring instruments for weighing or measuring the article and shall, at the request of a purchaser of an article sold by weight or measure, weigh or measure it in the presence of the purchaser.
- (3) A person who in any of the circumstances referred to in subsection (2) fails to comply with the requirements of that subsection is guilty of an offence and is liable to a fine of \$200.
- (4) Where an article sold by weight or measure is less than the due weight, the person selling it is guilty of an offence and is liable, if not previously convicted of an offence under this subsection to a fine of \$500 and, in any other case, is liable to a fine of \$1,000.

28 False declarations as to weights, etc an offence

A person who, in any way, directly or indirectly makes a false statement as to, or wilfully misleads any person as to, the number, quantity, measure, gauge or weight of any article sold by him or her is guilty of an offence and is liable, if not previously convicted of an offence under this subsection, to a fine of \$500 and, in any other case, to a fine of \$1,000.

29 Sale by short weight, measure or number an offence

- (1) Subject to subsection (4), if an article sold by weight, measure or number is, upon sale or for the purpose of sale, delivered to the purchaser or to some person on behalf of the purchaser short of the weight, measure or number purporting to be sold or delivered, the person selling the article or causing it to be delivered is guilty of an offence and is liable, if not previously convicted of an offence under this subsection, to a fine of \$500 and, in any other case, to a fine of \$1,000.
- (2) Subject to subsections (3) and (4), a person who sells or offers, exposes or has in his or her possession for sale, an article in a package upon which the

nett weight or measure or the number is not legibly written on the outside is guilty of an offence and is liable, if not previously convicted of an offence under this subsection, to a fine of \$200 and, in any other case, to a fine of \$400.

- (3) Subsection (2) does not apply to an article weighed, measured or counted in the presence of the purchaser, or to an article exempted from the requirements of this subsection by regulations made under Section 38.
- (4) This Section does not apply to an article exposed for sale or sold by weight in a package if the weight of the article is subject to variation by reason of climatic conditions and the package bears a conspicuous label or inscription showing the words 'nett weight when packed' and stating the weight.

30 Incorrect statement of nett weight, measure or number an offence

- (1) Where the nett weight, measure or number of an article in a package is stated on the package and is not correctly so stated, the seller and the person offering or exposing the article for sale or having the article in his or her possession for sale, are each guilty of an offence and liable, if not previously convicted of an offence under this subsection, to a fine of \$500 and, in any other case, to a fine of \$1,000.
- (2) For the purposes of subsection (1), an article in the possession of a person who manufactures or trades in such articles shall be deemed to be in his or her possession for sale, unless the contrary is proved.
- (3) In a prosecution for an offence under subsection (1), it is a defence if the defendant proves:
 - (a) that he or she sold the article in the same state as it was in when he or she purchased it; and
 - (b) that at the time of the contravention of this Section he or she had no reason to suspect that the weight, measure or number was not correctly stated.

PART 5 — MISCELLANEOUS

31 Onus of proof

Where in any proceedings for an offence under this Act there is in issue the question whether a weight, measure, weighing instrument or measuring instrument was produced for inspection or verification, tested, verified or stamped as required by this Act the onus of proving that it was so produced, tested, verified or stamped is on the accused person.

32 Evidentiary provisions

In proceedings in respect of an offence under this Act:

- (a) unless evidence is given to the contrary, evidence is not required of the appointment of any person as an inspector; and
- (b) a document certifying that:
 - (i) specified weights or measures in the possession of an inspector are Inspector's Standards;
 - (ii) any such weights or measures have been verified or re-verified within the prescribed period; or
 - (iii) a specified person is or was acting under this Act in a capacity stated in the document,

and any other document relating to or arising out of the administration of this Act shall, if purporting to be signed by the Chief Inspector, be received as evidence by the court, and shall be deemed to have been issued or written by or under the direction of the Chief Inspector, unless the contrary is shown.

33 Evidence as to possession

Where any weight, measure, weighing instrument or measuring instrument is found in the possession of any person carrying on trade, or on premises of any person which are used for trade, that person shall for the purposes of this Act, be deemed, unless the contrary is proved, to have the weight, measure, weighing instrument or measuring instrument in his or her possession for use for trade.

34 Forfeiture

- (1) A weight, measure, weighing instrument or measuring instrument in connection with which any offence against this Act is committed may, on the conviction of any person guilty of the offence, be forfeited by order of the court.
- (2) The Chief Inspector may, without instituting a prosecution, apply to the District Court for the forfeiture of any weight, measure, weighing instrument or measuring instrument seized and detained under this Act, and the court in its discretion may, after giving the owner, if known, an opportunity to be heard in the matter, make such an order but, if the court declines to make such an order, the Chief Inspector shall return it to its owner immediately.
- (3) Where any weight, measure, weighing instrument or measuring instrument has been seized and detained under this Act and at the expiration of 2 months from the seizure:

- (a) no prosecution has been instituted in relation to it; and
 - (b) no application has been made for an order under subsection (2),
- the Chief Inspector shall return it to its owner.

35 Provision as to forfeited weights, etc

All weights, measures, weighing instruments and measuring instruments forfeited under this Act are the property of the Republic and, except where other provision is made by or under this Act, may be disposed of as the Chief Inspector thinks fit.

36 Recovery of fees, etc

Any amount of any fee, charge or expense payable under this Act and not paid is a debt due to the Republic and may be recovered by the Chief Inspector in the District Court.

37 Obstruction of inspectors

A person who:

- (a) hinders or obstructs an inspector in the execution of his or her duty;
- (b) does not, when lawfully required by an inspector to do so, produce for examination or testing all weights, measures, weighing instruments and measuring instruments in his or her possession;
- (c) being the owner or in possession of any weight, measure, weighing instrument or measuring instrument for use for trade or having committed an offence against this Act, refuses on request to state his or her name and address to an inspector or states to an inspector a false name or address;
- (d) uses abusive language to or directly or indirectly threatens an inspector;
- (e) refuses or fails to comply with any reasonable direction given by an inspector in the exercise or performance of his or her powers and functions under this Act; or
- (f) directly or indirectly prevents a person appearing before or being questioned by an inspector,

is guilty of an offence and is liable to a fine of \$500.

38 Regulations

- (1) The Cabinet may make regulations prescribing matters which by this Act are required or permitted to be prescribed, or which it considers are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and in particular prescribing matters providing for and in relation to:
 - (a) the supply, custody, care and verification of Nauru Standards, Nauru Secondary Standards and Inspector's Standards and the certification of the verification;
 - (b) the duties, responsibilities and qualifications of inspectors and the provision of identification certificates;
 - (c) the fixing of times and places for the submission for verification, and the testing, verifying, re-verifying and stamping, of weights, measures, weighing instruments and measuring instruments;
 - (d) regulating and controlling the inspection, examination, testing, verification, re-verification, comparison and stamping of weights,

- measures, weighing instruments and measuring instruments for the purposes of this Act and prescribing the method by which or the manner in which and the means by which and the persons by whom, all or any of those things shall or shall not be done;
- (e) the prescription of stamps, including certifying stamps and rejection stamps, for the purposes of this Act;
 - (f) the prescription of the circumstances and the conditions under which and the manner in which and the persons by whom stamps may be obliterated or defaced;
 - (g) the fees chargeable for testing, verifying, re-verifying, adjusting or stamping of weights, measures, weighing instruments or measuring instruments;
 - (h) the payment of the fees prescribed for the testing, verifying, re-verifying, adjusting or stamping of weights, measures, weighing instruments or measuring instruments;
 - (i) the shapes, dimensions and proportions to be required in weights, measures, weighing instruments or measuring instruments and the materials of which they are to be made;
 - (j) the weights, measures, weighing instruments or measuring instruments which shall or shall not be admitted to verification and the tests to be applied to ascertain their accuracy and efficiency;
 - (k) the amount of error which may be tolerated in weights, measures, weighing instruments or measuring instruments;
 - (l) the instruments to be used for testing and verifying weights, measures weighing instruments and measuring instruments;
 - (m) the purposes of trade for or in which prescribed weights, measures, weighing instruments or measuring instruments may lawfully be used and the classes of weights, measures, weighing instruments and measuring instruments to be used in prescribed trades;
 - (n) the method of use and limiting or regulating the use in trade, of prescribed weights, measures, weighing instruments or measuring instruments;
 - (o) the marking on weights and measures of their several denominations and on weighing instruments and measuring instruments of their capacities and other markings and the obliteration of stamps on weights, measures, weighing instruments and measuring instruments found to be incorrect or not in accordance with regulations made under this Act;
 - (p) the denominations of weights and measures permissible for use in trade; and
 - (q) the classes of weights to be used in connection with prescribed weighing instruments.
- (2) Regulations made under this Section may apply all or any of the provisions of this Act to all or any of the instruments referred to in Section 3(3).

39 Repeal

- (1) The *Laws Repeal and Adopting Ordinance 1922-1967* is amended by deleting from Schedule 3 thereto *Weights and Measures Ordinance 1913*.
- (2) [subs (2) omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

SCHEDULE

[Section 9(3)]

NAURU SECONDARY STANDARDS

| Denomination of Standard | Maximum range within which values of the Standard as determined on verification or re-verification may be expected to lie |
|---|---|
| Standards of length in the form of rigid bars | |
| Millimetres | |
| Denominations not exceeding 1 m but exceeding 30 cm | ± 0.012 |
| Denominations not exceeding 30 cm but exceeding 25 mm | ± 0.0075 |
| Denominations not exceeding 25 mm | ± 0.005 |
| Standards of length in the form of flexible tapes | |
| Parts per hundred thousand of the nominal value | |
| Denominations exceeding 10 m | ± 2 |
| Denominations not exceeding 10 m but exceeding 3 m | ± 5 |
| Denominations not exceeding 3 m | ± 2 |
| Standards of measure | |
| Parts per million of the nominal value | |
| Denominations exceeding 5 kg | ± 3 |
| Denominations not exceeding 5 kg but not less than 1 kg | ± 3 |
| Denominations less than 1 kg but not less than 100 g | ± 3 |
| Denominations less than 100 g but not less than 10 g | ± 5 |
| Milligrams | |
| Denominations less than 10 g but not less than 1 g | ± 0.05 |
| Denominations less than 1 g but not less than 100 mg | ± 0.03 |
| Denominations less than 100 mg but not less than 10 mg | ± 0.02 |
| Denominations less than 10 mg | ± 0.02 |
| Denominations exceeding 1,000 cc | ± 1 ten-thousandth of the nominal value |
| Denominations not exceeding 1,000 cc but exceeding 50 cc | ± 1 ten-thousandth of the nominal value |
| Denominations not exceeding 50 cc but exceeding 20 cc | ± 0.005 cc |
| Denominations not exceeding 20 cc | ± 0.005 cc |
| Carat denominations | |
| Parts per million of the nominal value | |
| Denominations less than 5,000 cm but not less than 500 cm | ± 3 |
| Denominations less than 500 cm but not less than 50 cm | ± 5 |
| Milligrams | |

| | |
|--|--------------------------------|
| Denominations less than 50 cm but not less than 5 cm | ± 0.05 (± 0.00025 cm) |
| Denominations less than 5 cm but not less than 0.5 cm | ± 0.02 (± 0.0001 cm) |
| Denominations less than 0.5 cm but not less than 0.05 cm | ± 0.01 (± 0.00005 cm) |
