

THE NORTHERN TERRITORY OF AUSTRALIA

WEIGHTS AND MEASURES ORDINANCE

No. 75 of 1978

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Repealed Ordinances

THE NORTHERN TERRITORY OF AUSTRALIA

No. 75 of 1978

AN ORDINANCE

Relating to Weights and Measures

[Assented to 26 July 1978]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I - PRELIMINARY

- | | |
|--|--------------------|
| 1. This Ordinance may be cited as the <u>Weights and Measures Ordinance 1978</u> . | Short title |
| 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3.(1) The Ordinances listed in the Schedule are repealed. | Repeal and savings |
| (2) Notwithstanding the repeal effected by sub-section (1), the provisions of the repealed Ordinance and Regulations continue to apply, as if this Ordinance had not come into operation, to and in respect of an offence committed against the repealed Ordinance or Regulations before the commencement of this Ordinance. | |
| (3) An Inspector appointed under the repealed Ordinance is deemed to have been appointed an Inspector under section 8(2). | |
| (4) Subject to sub-section (5), the due date for the inspection and verification of a measuring instrument verified or re-verified under the repealed Ordinance shall be ascertained in accordance with section 15 as if this Ordinance had applied on the day of the last verification or re-verification under the repealed Ordinance. | |
| (5) Where under sub-section (4) the date so ascertained occurred before the commencement of this Ordinance the due date for the purpose of sub-section (4) is the date of commencement of this Ordinance. | |
| (6) It is a defence to a prosecution for an offence against sections 21 or 24 if the person charged proves that the article in respect of which the alleged offence was committed was in his possession, was manufactured or was packed before this Ordinance came into force and that the act that constituted the | |
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alleged offence would not have been an offence if this Ordinance had not come into operation.

Interpreta-
tion

4.(1) In this Ordinance, unless the contrary intention appears -

"article" includes quantity of a substance;

"Commonwealth Act" means the Weights and Measures (National Standards) Act 1960;

"Commonwealth legal unit of the metric system of measurement" means a metric unit of measurement prescribed by the Commonwealth Regulations;

"Commonwealth Regulations" means the Regulations under the Commonwealth Act;

"contract" includes agreement, bargain, sale, purchase, dealing and any other transaction on which payment in money or kind depends;

"inspection" in relation to any measuring instrument includes the examination, testing, comparison and verification under this Ordinance or the Regulations of a measuring instrument by an Inspector;

"Inspector" means an Inspector of Weights and Measures appointed under this Ordinance and includes a person whose appointment is continued by section 3(3);

"Inspector's Standard" means a subsidiary standard of measurement that is maintained in pursuance of section 6(1);

"mass" means the amount of matter contained in an object;

"measuring instrument" means an instrument within the meaning of the Commonwealth Act and includes weights;

"Northern Territory Primary Standard" means a working standard of measurement that is maintained in pursuance of section 6(1);

"owner" includes, in respect of a measuring instrument, the person having it in his possession for use for trade;

"package" includes -

- (a) a container, wrapper or other thing in which an article is packed, or 2 or more articles are packed, for sale as a single item;
- (b) a holder to which an article is attached for the purpose of sale; and
- (c) a band that is fixed round an article or articles as part of the preparation of that article or those articles for sale;

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"place" includes shop, factory and any other place whatsoever, whether a building or in open air, and whether open or enclosed;

"quantity" means -

- (a) in the case of an article ordinarily sold by mass - the mass of the article;
- (b) in the case of an article ordinarily sold by volume - the volume of the article;
- (c) in the case of an article ordinarily sold by number - the quantity of the article as counted by number; and
- (d) in the case of an article ordinarily sold by reference to its dimensions - the dimensions of the article;

"repealed Ordinance" means the Ordinance comprising the Ordinances repealed by section 3(1);

"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; and
- (f) the act of authorizing, directing, causing, permitting or suffering any of the acts referred to in this definition;

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

"subsidiary standard of measurement" means a subsidiary standard of measurement within the meaning of the Commonwealth Act;

"Superintendent" means the Superintendent of Weights and Measures appointed under this Ordinance and includes a person for the time being holding or acting in, or performing the duties of the office of Superintendent of Weights and Measures;

"use for trade" includes "have in possession for trade" and means use in connexion 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

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- (b) the making of a payment in respect of any tax, rate, toll, duty or impost,

where -

- (c) the transaction is by reference to quantity in terms of measurement of a physical quantity, or is a transaction for the purposes of which there is made or implied a statement of the quantity in such terms of articles to which the transaction relates; and
- (d) the use is for the purpose of determination or statement of that quantity;

and a measuring instrument that -

- (e) is used in relation to such a transaction; or
- (f) is made available for use by or on behalf of the public, whether on payment or otherwise, for making measurements of a physical quantity or for the grading of articles by reference to the measurement of a physical quantity,

shall be deemed "in use for trade";

"verification certificate" means any certificate in the form approved by the Superintendent which is issued by an Inspector in respect of a measuring instrument for the purpose of signifying that the measuring instrument has been found upon inspection and testing to be in accordance in every respect with the requirements of this Ordinance and the Regulations;

"verification stamp" means any stamp approved by the Superintendent for use by an Inspector for stamping any measuring instrument for the purpose of signifying that the measuring instrument has been found upon inspection and testing to be in accordance in every respect with the requirements of this Ordinance and the Regulations;

"verified measuring instrument" means -

- (a) in the case of a measuring instrument exempted under the Regulations from being stamped - a measuring instrument in respect of which there is a current verification certificate or current interim verification certificate; or
- (b) in the case of a measuring instrument which is not exempted from being stamped - a measuring instrument which is stamped with a current verification stamp and in respect of which there is a current verification certificate or current interim verification certificate;

"verify" means -

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- (a) in the case of a measuring instrument exempted under the Regulations from being stamped - to issue in respect of that measuring instrument a verification certificate; or
- (b) in the case of a measuring instrument which is not exempted from being stamped -
 - (i) to stamp that measuring instrument with a verification stamp; and
 - (ii) to issue in respect of that measuring instrument a verification certificate;

"weigh" means to determine the apparent mass of an object when weighed in air;

"weight" means an object of known mass which is used to determine the apparent mass of another object;

"working standard of measurement" means a working standard of measurement within the meaning of the Commonwealth Act.

(2) Unless the contrary intention appears, a reference in this Ordinance to the quantity of an article shall be read as a reference to the quantity of that article exclusive of the quantity of the package in which the article is contained.

5. This Ordinance binds the Crown.

Application
to Crown

PART II - STANDARDS OF MEASUREMENT

6.(1) The Superintendent shall provide and maintain, or arrange for the provision and maintenance of, such working standards of measurement and subsidiary standards of measurement as in the opinion of the Executive Member are desirable to provide means by which measurements of physical quantities, for which there are Commonwealth legal units of measurement, may be made in the Northern Territory in terms of those units.

Provision of
standards

(2) A working standard of measurement maintained in pursuance of sub-section (1) may be called a Northern Territory Primary Standard.

(3) A subsidiary standard of measurement maintained in pursuance of sub-section (1) may be called an Inspector's Standard.

7. A person shall not use a Northern Territory Primary Standard or an Inspector's Standard for the purposes of this Ordinance or the Regulations -

Standards not
to be used
unless
verified

- (a) unless it has been verified and, if so required, re-verified in accordance with the Commonwealth Act and Regulations;
- (b) unless in the case of an Inspector's Standard it is deemed pursuant to the Commonwealth Regulations to be of

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a value equal to its denomination; or

- (c) after it has become defective through use or accident or has been broken or repaired, until it has been re-verified in accordance with the Commonwealth Act and Regulations.

PART III - ADMINISTRATION

Superintendent
and
Inspectors

8.(1) The Executive Member may, by notice published in the Gazette, appoint a person to be the Superintendent of Weights and Measures.

(2) The Executive Member may, by notice published in the Gazette, appoint such persons as he thinks fit to be Inspectors of Weights and Measures.

(3) The Superintendent is, by virtue of his appointment as Superintendent, an Inspector.

(4) Where the Superintendent -

(a) is absent from duty; or

(b) in the course of his duty, is absent from the Territory,

the Executive Member may, by notice published in the Gazette, appoint an Inspector to act in the office of Superintendent during that absence of the Superintendent.

(5) While the appointment of a person to act in the office of Superintendent of Weights and Measures remains in force, that person has all the powers and functions under this Ordinance of the Superintendent of Weights and Measures.

Superintendent
may approve
forms

9. The Superintendent may approve of forms that are to be used for the purposes of this Ordinance and the Regulations.

Superintendent
in relation to
Commonwealth
Act and
Regulations

10.(1) For the purposes of the Commonwealth Act and Regulations the Superintendent is -

(a) the appropriate authority; and

(b) the person responsible for the administration of this Ordinance and the Regulations.

(2) The Superintendent may, with the approval of the Executive Member, hold any appointment made under the Commonwealth Regulations and may have and exercise any powers, authorities, duties and functions conferred or imposed upon him by virtue of that appointment or under those Regulations.

Delegation

11.(1) The Executive Member may, either generally or as otherwise provided by the instrument of delegation, in writing signed by him, delegate any of his powers under this Ordinance or the Regulations, other than this power of delegation.

(2) A power delegated pursuant to sub-section (1) when exercised by the delegate in accordance with the instrument of delegation shall, for the purposes of this Ordinance and the Regulations, be deemed to have been exercised by the Executive Member.

(3) A delegation under sub-section (1) is revocable in writing at will and does not prevent the exercise of any power or function by the Executive Member.

PART IV - INSPECTION, VERIFICATION AND STAMPING

12.(1) An Inspector may, at all times during which business is being conducted, for the purpose of ascertaining whether or not the provisions of this Ordinance and the Regulations are being complied with -

Powers of
Inspectors

- (a) enter any premises, place or vehicle that is being used in the conduct of that business if he has reasonable cause to believe that in or on the premises, place or vehicle goods are made or sold or are being kept for sale or measuring instruments are kept in use for trade;
- (b) inspect any measuring instruments found in or on the premises, place or vehicle;
- (c) examine any goods kept or exposed for sale or in the course of delivery in or on the premises, place or vehicle and determine the quantity of those goods or cause that quantity to be determined; and
- (d) demand and procure any goods so examined upon payment or tender, to the person apparently in charge of the premises, place or vehicle, of the current market value of the goods demanded.

(2) An Inspector may seize and retain any article and its package in respect of which the Inspector has reasonable grounds to suspect that a contravention of this Ordinance or the Regulations has been committed.

(3) If upon inspection at any time of a measuring instrument, it appears to an Inspector that -

- (a) the measuring instrument is not a verified measuring instrument; or
- (b) the measuring instrument is incorrect or otherwise unjust,

the Inspector may -

- (c) test and verify the measuring instrument;
- (d) seize the measuring instrument or any part of it;
- (e) give to the owner of the measuring instrument, notice in writing, in accordance with the Regulations, requiring the owner to have it corrected and made accurate; or

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Inspectors
not to do
certain
things

(f) if the Inspector is authorized under section 13(3) to adjust the measuring instrument, adjust it.

13. (1) An Inspector shall not -

(a) otherwise than in the performance of his duties disclose or permit directly or indirectly to be disclosed any information that comes to his knowledge in the course of the performance of his duties; or

(b) verify a measuring instrument otherwise than in accordance with the provisions of this Ordinance or the Regulations.

(2) Subject to sub-section (3), an Inspector shall not derive any profit from, or be employed in the making, adjusting, or selling of measuring instruments.

(3) Subject to sub-section (4), the Superintendent may authorize with or without limiting conditions, an Inspector to adjust any measuring instrument submitted to the Inspector for testing and verification, or inspected by the Inspector pursuant to section 12.

(4) An adjustment of a measuring instrument as referred to in sub-section (3) -

(a) shall not be done other than at the request of the owner of that measuring instrument; and

(b) is done at the risk of the person requesting the adjustment.

Measuring
instruments
which may
be
verified

14. (1) A measuring instrument shall not be verified in pursuance of this Ordinance unless it is calibrated in Commonwealth legal units of the metric system of measurement and unless it is of a pattern for which an approval has been given by or on behalf of the National Standards Commission under the Commonwealth Regulations.

(2) Notwithstanding that an approval as referred to in sub-section (1) has been given, the Superintendent may, if he has reasonable grounds for believing that the use of a measuring instrument for trade might give rise to incorrect or unjust measuring, by notice in writing served by registered post upon the owner, specify a period, the purposes and the circumstances in which the measuring instrument may be in use for trade.

(3) A person shall not -

(a) contravene; or

(b) fail to comply with,

a specification in a notice issued under sub-section (1) that is applicable to him.

Penalty: 500 dollars.

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15.(1) Subject to this section, the owner of a measuring instrument in use for trade shall apply to the Superintendent for an inspection and testing for verification of that measuring instrument.

Testing,
verification
and
stamping

(2) The Regulations may prescribe the period for which verification certificates are current for particular measuring instruments or classes of measuring instruments.

(3) Upon the testing for verification of a measuring instrument in use for trade and the finding of that measuring instrument as being in compliance with the provisions of this Ordinance and the Regulations the Inspector who tested that measuring instrument shall -

(a) issue a verification certificate in respect of it; and

(b) subject to any exemption applicable to that measuring instrument, stamp it with a verification stamp.

(4) A measuring instrument in use for trade which is tested for verification and found not to comply with the provisions of this Ordinance and the Regulations shall be stamped with a stamp of rejection.

(5) There shall be stated on the verification certificate of a measuring instrument such things as are prescribed.

(6) Where the owner of a measuring instrument in use for trade applies to the Superintendent in accordance with sub-section (1), the Superintendent shall, if an Inspector is unable to inspect the measuring instrument forthwith, issue an interim verification certificate.

(7) An interim verification certificate shall be deemed to have had and shall have effect from the time of the application made under sub-section (1), and is current until the measuring instrument, in respect of which it was issued, is inspected and tested for verification by an Inspector.

16. The Regulations may, subject to such conditions as may be prescribed, exempt wholly or in part measuring instruments or classes of measuring instruments from any of the requirements of this Ordinance.

Exemptions

17. A person shall not use for trade any measuring instrument that -

Only verified
and correct
measuring
instruments
to be used
for trade

(a) is not a verified measuring instrument; or

(b) is incorrect or unjust.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1,000 dollars.

18.(1) Subject to sub-section (3), a person shall not use for trade a measuring instrument -

Defective or
repaired
measuring
instruments

Weights and Measures

- (a) that has become defective;
- (b) that has been repaired; or
- (c) in respect of which a notice has been issued under section 12(3)(e),

until it has been tested and re-verified.

Penalty: 500 dollars.

(2) A person repairing or adjusting a measuring instrument shall, before carrying out the repair or adjustment, obliterate any existing stamp on it.

Penalty: 500 dollars.

(3) Sub-section (1) does not prevent the use of a repaired measuring instrument in pursuance of an interim verification certificate.

Offences in
connexion
with
measuring
instruments

19.(1) A person shall not -

- (a) forge or counterfeit or cause to be forged or counterfeited, or assist in forging or counterfeiting, a stamp used for stamping under this Ordinance or the Regulations;
- (b) subject to sub-section (2), have in his possession a stamp used for stamping under this Ordinance or the Regulations;
- (c) unless duly authorized under this Ordinance or the Regulations, make on a measuring instrument an impression purporting to be the impression of a stamp under this Ordinance or the Regulations or alter any date mark used in connexion with the impression of any such stamp;
- (d) in any way alter or tamper with a verified measuring instrument so as to cause it to measure incorrectly or unjustly but nothing in this paragraph shall apply to any person who increases or diminishes any stamped measuring instrument when he adjusts it and entirely obliterates the stamp on it;
- (e) use, sell or hire out a measuring instrument -
 - (i) that has been altered as referred to in paragraph (d);
 - (ii) that has been tampered with; or
 - (iii) that has a forged or counterfeit stamp on it;
- (f) forge or counterfeit or cause to be forged or counterfeited, or assist in forging or counterfeiting a verification certificate;

- (g) issue a verification certificate otherwise than in accordance with this Ordinance or the Regulations;
- (h) alter in any way a verification certificate issued by an Inspector under this Ordinance or the Regulations;
- (i) make, or sell, or cause to be made or sold a measuring instrument which is incorrect or unjust; or
- (j) subject to sub-sections (3) and (4), sell a measuring instrument for use for trade which is not a verified measuring instrument.

Penalty: For a first offence - 500 dollars

For a second or subsequent offence - 1,000 dollars.

(2) It is a defence to a prosecution under sub-section (1)(b) for the defendant to prove that the stamp in question was in his possession in accordance with a law in force in the Territory.

(3) It is not an offence under sub-section (1)(j) to -

- (a) offer or expose for sale;
- (b) keep or have in possession for sale;
- (c) agree to sell; or
- (d) authorize, direct, cause, permit or suffer any of the acts referred to in sub-paragraphs (a) to (c) inclusive, a measuring instrument of a description referred to in sub-section (1)(j) which is in a state that would enable it to be verified under this Ordinance and the Regulations.

(4) It is not an offence under sub-section (1)(j) to sell a measuring instrument of a description referred to in sub-section (1)(j) which -

- (a) because of its nature is required to be inspected and tested for verification only after it has been installed at the place where it is to be used for trade; and
- (b) is in a state that would enable it to be verified under this Ordinance and the Regulations.

20. A person shall not -

- (a) when reasonably requested to do so by an Inspector who is acting in the execution of his duty, fail to produce a measuring instrument that is in his possession; or
- (b) when requested by an Inspector who is acting in the

Offences
in
connexion
with
Inspectors

Weights and Measures

execution of his duty to state his name and address, refuse or fail to state his name and address or give a false name or address.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1000 dollars

PART V - MEASUREMENT IN TRADE

Units of
measurement

21.(1) Subject to sub-section (2), a person shall not use a unit of measurement of a physical quantity in trade unless that unit is a Commonwealth legal unit of the metric system of measurement.

(2) Sub-section (1) does not apply in relation to the performance of a contract made with a person carrying on business in a place outside the Territory if the contract is made in the course of that business and in accordance with the legal units of measurement of that place.

Penalty: 500 dollars.

Contracts
made in
connexion
with
incorrect
measuring
instruments

22.(1) Subject to this section, a contract made in reference to an incorrect, unjust or unverified measuring instrument is void.

(2) In a proceeding in which the validity of a contract, as referred to in sub-section (1), comes into question, the court shall not hold the contract to be void if it is proved to the satisfaction of the court that the use of the incorrect, unjust or unverified measuring instrument was due to -

- (a) a bona fide mistake;
- (b) an accident of which the parties to the contract were unaware; or
- (c) any other cause beyond the control of the parties to the contract,

and in spite of all reasonable precautions having been taken and all due diligence having been exercised by those parties.

Sales by
quantity

23.(1) A person who is selling an article by quantity shall not sell that article otherwise than by net quantity.

Penalty: 500 dollars.

(2) A person who sells by quantity an article in any place, vehicle or vessel shall have in a convenient position, capable of being readily seen by the purchaser, a suitable measuring instrument for determining the quantity of the article and shall, at the request of a purchaser of any article sold by quantity, determine the quantity of it in the presence of the purchaser.

(3) A person to whom sub-section (2) applies -

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- (a) shall have a measuring instrument in a position as required by sub-section (2); or
- (b) shall not refuse to determine the quantity of an article as required by sub-section (2).

Penalty: 500 dollars.

(4) A person shall not by means of words, description or other indication, directly or indirectly-

- (a) make a false declaration or statement; or
- (b) wilfully mislead a person,

as to the quantity of an article sold or delivered by him.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1,000 dollars.

(5) Except in accordance with the Regulations or any other law in force in the Territory, a person shall not sell an article where the actual quantity of that article is less than its purported quantity.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1,000 dollars.

(6) A person shall not sell an article by quantity at a stated price per unit of quantity where the price charged for the article exceeds the price correctly computed from the actual quantity of the article and the stated price per unit of quantity.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1,000 dollars.

24. A baker, in respect of each loaf of bread exceeding 125 grams in mass which he bakes for sale, shall legibly and prominently -

Packaging
of bread

- (a) impress upon that loaf; or
- (b) stamp or print upon the material wrapping that loaf or upon a label attached to the loaf,

the mass that the loaf is intended to be.

Penalty: For a first offence - 500 dollars
For a second or subsequent offence - 1,000 dollars.

PART VI - MISCELLANEOUS

25. All proceedings for offences against this Ordinance or

Summary
procedure

the Regulations shall be heard and determined summarily.

Offences

26. (1) A person, including an Inspector, employed, licensed or authorized to act in any capacity under this Ordinance shall report to the Superintendent every offence against the Ordinance or the Regulations of which he has notice.

(2) A prosecution for an offence against this Ordinance or the Regulations may be instituted at any time within 12 months after the commission of the offence comes to the knowledge of the Superintendent.

(3) A prosecution for an offence against this Ordinance or the Regulations shall not be commenced except on the complaint of the Superintendent or with his consent.

(4) Where a person is convicted of an offence against this Ordinance or the Regulations and the court by which he is convicted is of the opinion that some person was defrauded or suffered pecuniary loss by reason of the commission of the offence the court may, in addition to imposing any penalty, order that the defendant shall pay to such last-mentioned person by way of compensation of his loss such sum as the court thinks fit.

(5) Where a court makes an order under sub-section (4) requiring a person to pay a sum of money for compensation, the Justice or Magistrate shall make and sign a minute or memorandum of the order and, on the request of the person entitled to receive the compensation, shall cause that minute or memorandum to be transmitted to the Clerk of a Local Court designated by the person making the request, whereupon that minute or memorandum has effect as though it were a judgment of that Local Court.

(6) Proceedings under this Ordinance or the Regulations for a penalty for any offence by a body corporate may be taken against any person who -

(a) is the manager of that body corporate in the Territory;
or

(b) is the person in the body corporate responsible for the aspect of the body corporate's operations out of which the offence arose.

Onus of
proof

27. In any prosecution or legal proceedings under this Ordinance or the Regulations in respect of a measuring instrument the onus shall be on the defendant to prove that the measuring instrument was tested and verified as required by this Ordinance or the Regulations.

Evidentiary
provisions

28. (1) In any prosecution or legal proceedings under this Ordinance or the Regulations no proof shall, unless evidence is given to the contrary, be required of the appointment of the person purporting to have been appointed under this Ordinance.

(2) A document certifying that -

(a) specified measuring instruments in the possession of an Inspector are Inspector's Standards;

- (b) the measuring instruments referred to in paragraph (a) have been verified within the prescribed period under the Commonwealth Regulations;
- (c) a specified person is or was acting under this Ordinance or the Regulations in the capacity stated therein; or
- (d) for the purposes of section 26 (2), the Superintendent has not had knowledge of the commission of the offence for a period equal to, or exceeding the 12 months prior to the institution of the prosecution,

and any other document relating to or arising out of the administration of this Ordinance or the Regulations shall, if purporting to be signed by the Superintendent, be received as evidence in all courts and be deemed to be issued or written by or under the direction of the Superintendent without proof unless the **contrary** is shown.

(3) Any verification certificate purporting to be signed by an Inspector is prima facie evidence that the measuring instruments referred to in it are verified measuring instruments.

- (4) When a measuring instrument is found -
 - (a) in the possession of a person carrying on trade;
 - (b) in a place used by a person for trade; or
 - (c) on, or in, a vehicle or vessel used by a person for trade,

that person shall be deemed for the purposes of this Ordinance, until the contrary is proved, to have that measuring instrument in his possession for trade.

29. It is a defence in any proceedings for an offence against this Ordinance or the Regulations if the defendant proves to the satisfaction of the court that that offence was due to -

Defences

- (a) a bona fide mistake;
- (b) an accident;
- (c) a cause beyond his control; or
- (d) the action of a person over whom the defendant had no control,

and that the offence occurred in spite of all reasonable precautions having been taken by him and all due diligence having been exercised by him to prevent the occurrence of the offence.

30.(1) Subject to this section, no proceeding or conviction for any offence against this Ordinance or the Regulations shall affect any civil right or remedy to which any person aggrieved by the offence may be entitled.

Preservation
of civil
remedies

Weights and Measures

(2) In a proceeding for any civil right or remedy, as referred to in sub-section (1), the court shall take into account any compensation awarded under section 26(4).

Penalty where
fraud
involved

31. Where a person is convicted of an offence against this Ordinance or the Regulations and the court by which he is convicted is of the opinion that such offence was committed with intent to defraud, he shall be liable, in addition to any other fine, to a fine not exceeding 2,000 dollars, or imprisonment for 6 months, or both.

Forfeiture

32. (1) A measuring instrument or article, in connexion with which an offence against this Ordinance or the Regulations has been committed, may, on conviction of a person guilty of that offence, be forfeited by order of the court.

(2) Subject to sub-section (3), if the court does not convict a person in a prosecution for an offence against this Ordinance or the Regulations all measuring instruments and articles which have been seized and detained under this Ordinance or the Regulations in connexion with that prosecution shall be returned to their owner.

(3) The Superintendent may, without instituting a prosecution or further prosecution, apply to a court for the forfeiture of a measuring instrument or article seized and detained under this Ordinance or the Regulations or which has been the subject of a prosecution under this Ordinance or the Regulations and the court in its discretion may make such order as it thinks fit.

(4) Where a measuring instrument or article has been seized and detained under this Ordinance or the Regulations and at the expiration of 3 months from such seizure -

(a) no prosecution has been instituted in relation to it; and

(b) no application has been made for an order under sub-section (3),

the Superintendent shall return it to its owner.

(5) All measuring instruments and articles forfeited under this Ordinance or the Regulations shall become the property of the Crown and may be disposed of as the Executive Member thinks fit.

Recovery of
fees, &c.

33. Any fees, charges or expenses payable under this Ordinance or the Regulations and not paid shall be recoverable in any court of competent jurisdiction by the Executive Member by action as for a debt due to the Crown.

Regulations

34. The Administrator in Council may make regulations, not inconsistent with this Ordinance prescribing all matters required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular -

- (a) providing for the supply, custody, care, identification, verification and certification or verification of standards of measurement;
- (b) prescribing the permissible ranges of variation in accuracy of subsidiary standards and the accuracy of measuring instruments to be used for the verification of subsidiary standards;
- (c) prescribing conditions relating to the duties, responsibilities and qualifications of Inspectors and providing for identification certificates for Inspectors;
- (d) regulating and controlling the inspection, testing and verification of measuring instruments for the purposes of this Ordinance and without limiting the generality thereof prescribing any method or methods by which or the manner in which and the means by which and the persons by whom the inspection, testing or verification shall or shall not be done;
- (e) prescribing verification certificates and stamps including verification stamps and rejection stamps for the purposes of this Ordinance;
- (f) prescribing the circumstances and conditions under which and the manner in which and the persons by whom verification certificates may be cancelled or verification stamps or rejection stamps may be affixed or obliterated;
- (g) prescribing the shape, dimensions and proportions to be required of measuring instruments and the materials of which they shall be made;
- (h) prescribing what measuring instruments or classes of measuring instruments shall or shall not be admitted to verification;
- (i) prescribing the tests to be applied to measuring instruments or classes of measuring instruments to ascertain their accuracy and efficiency;
- (j) prescribing the amount of error which may be tolerated in measuring instruments or classes of measuring instruments;
- (k) prescribing which measuring instruments shall be used for the testing for verification of other measuring instruments or classes of measuring instruments;
- (l) prescribing the purposes or trades for or in which prescribed measuring instruments or classes of measuring instruments may lawfully be used;
- (m) prescribing the method of use and limiting or regulating the use in trade of prescribed measuring instruments;

Weights and Measures

- (n) providing for the marking on measuring instruments of their denomination, capacities and other markings;
- (o) providing for the obliteration of stamps on measuring instruments found to be incorrect, unjust or not in accordance with the Ordinance or the Regulations;
- (p) prescribing the denominations of measuring instruments permissible for use in trade;
- (q) prescribing the classes of weights to be used in connexion with prescribed measuring instruments;
- (r) prescribing the conditions to be observed in the giving and taking of mass tickets;
- (s) prescribing the procedure to be followed in the weighing of articles;
- (t) providing for the taking of tare masses of any vehicle used for the conveyance of articles sold or carried by mass;
- (u) providing for the issue and production of tickets showing the mass or the mass of the loading on a vehicle or the mass of both the loading and the vehicle, as referred to in paragraph (t);
- (v) providing for the weighing, as referred to in paragraph (t), on demand by a purchaser or an Inspector;
- (w) providing for the prevention of frauds in connexion with articles conveyed on vehicles and sold or carried by mass;
- (x) prohibiting the sale of prescribed articles by measure or capacity;
- (y) prescribing the method by which prescribed classes of articles shall be sold;
- (z) prescribing conditions under which measuring instruments may be repaired or adjusted;
- (aa) providing for the qualifications, supervision and control of repairers and adjusters of measuring instruments or any like trade;
- (ab) prescribing fees chargeable for the inspecting, verification or adjusting of measuring instruments by Inspectors;
- (ac) prescribing fees chargeable for the issuing of interim verification certificates;
- (ad) providing for the registration of principals in the business of repairing and adjusting of measuring instruments and of employees in that business;

- (ae) prescribing fees chargeable for registrations of the types referred to in paragraph (ad);
- (af) providing for the payment and collection of the fees prescribed under paragraphs (ab), (ac) and (ae);
- (ag) regulating the selling of measuring instruments;
- (ah) providing for exemptions in pursuance of this Ordinance; and
- (ai) for imposing penalties not exceeding 200 dollars for any breach of any regulation.

SCHEDULE

Section 3(1)

Repealed Ordinances

Weights and Measures Ordinance 1936
Weights and Measures Ordinance 1949
Weights and Measures Ordinance 1965
Weights and Measures Ordinance 1970
Weights and Measures Ordinance 1973
Weights and Measures Ordinance (No. 2) 1973





