

Weights and Measures Amendment Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Consumer Law Reform Bill as reported from the Commerce Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- Fair Trading Amendment Bill comprising clauses 1 and 2, subpart 1 of Part 1, and Schedule 1
- Consumer Guarantees Amendment Bill comprising subpart 2 of Part 1, and Schedule 2
- this bill comprising subpart 3 of Part 1
- Secondhand Dealers and Pawnbrokers Amendment Bill comprising subpart 4 of Part 1
- Carriage of Goods Amendment Bill comprising subpart 5 of Part 1
- Auctioneers Bill comprising Part 2 and Schedule 3.

Weights and Measures Amendment Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Craig Foss

Weights and Measures Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Weights and Measures Amendment Act **2013**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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44 Principal Act amended

This **subpart** amends the Weights and Measures Act 1987.

45 Long Title repealed

The Long Title is repealed.

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46 New section 1A inserted

The following section is inserted after section 1:

“1A Purpose

“(1) The purpose of this Act is to contribute to a trading environment in which—

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“(a) the interests of consumers are protected; and

“(b) businesses compete effectively; and

“(c) consumers and businesses participate confidently.

“(2) To this end, the Act—

- “(a) establishes a system of weights and measures to be used for trade; and
 “(b) regulates the use of weights and measures for trade.”

47 Interpretation

- (1) The definition of **district standards** in section 2 is repealed. 5
- (1A) The definition of **infringement fee** in section 2 is repealed and the following definition substituted:
- “**infringement fee** means the amount prescribed by regulations made under **section 41B** as the amount payable in respect of an infringement offence for which an infringement notice has been issued”. 10
- (2) Paragraph (a) of the definition of **infringement offence** in section 2 is amended by omitting “sections 10, 14, 15, 16, 16A, 17, 21, and 24” and substituting “sections 8, 10, 14, **15, 15A, 16, 16A, 17, 18, 21, 22B, and 24**”. 15
- (3) Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:
- “**infringement notice** means a notice, in the form prescribed by regulations made under **section 41B** and issued under section 32A(1)(b), in respect of an infringement offence 20
- “**reference standards** means the standards of weights and measures maintained under **section 6**”.

48 New section 6 substituted

Section 6 is repealed and the following section substituted:

- “**6 Reference standards** 25
- “(1) The Secretary must nominate 1 or more Inspectors, and may nominate 1 or more accredited persons, to maintain, as reference standards for the purposes of this Act,—
- “(a) copies of the departmental standards; or
 “(b) standards that are of the same or greater accuracy as the departmental standards. 30
- “(2) Reference standards must be verified from time to time, at intervals not exceeding 5 years, by reference to—
- “(a) the departmental standards; or
 “(b) the standards referred to in section 5(3)(a) or (b). 35

- “(3) Unless it is impracticable to do so, a reference standard must be marked with all of the following:
- “(a) a Crown and the letters NZ:
 - “(b) figures indicating the unit of the weight or measure and the numerical value of that unit: 5
 - “(c) any other symbols, letters, or figures prescribed by regulations made under **section 41(ab)**.
- “(4) The marks must, where practicable, appear on the reference standard,—
- “(a) in the case of the marks described in **subsection (3)(a)**, in close proximity to each other; and 10
 - “(b) in the case of the marks described in **subsection (3)(c)**, in the form and manner (if any) prescribed by regulations made under **section 41(ac)**.”
- 49 Inspectors’ working standards** 15
- (1) Section 7(1) to (2A) are amended by omitting “district standards” and substituting in each case “reference standards”.
- (2) Section 7 is amended by repealing subsection (3) and substituting the following subsection:
- “(3) Unless it is impracticable to do so, an Inspectors’ working standard must be marked with all of the following: 20
- “(a) a Crown and either—
 - “(i) the letters NZ; or
 - “(ii) the letters SW (signifying standard weight) in the case of a weight or SM (signifying standard measure) in the case of a measure: 25
 - “(b) figures indicating the unit of the weight or measure and the numerical value of that unit:
 - “(c) any other symbols, letters, or figures prescribed by regulations made under **section 41(ab)**. 30
- “(4) The marks must, where practicable, appear on the Inspectors’ working standard,—
- “(a) in the case of the marks described in **subsection (3)(a)**, in close proximity to each other; and
 - “(b) in the case of the marks described in **subsection (3)(c)**, in the form and manner (if any) prescribed by regulations made under **section 41(ac)**.” 35

- 50 Accredited persons' working standards**
Section 7A(2)(b) and (3)(b) are amended by omitting “district standards” and substituting in each case “reference standards”.
- 51 New section 13 substituted**
Section 13 is repealed and the following section substituted: 5
- “13 Obligation in respect of invoice or delivery note**
- “(1) This section applies to a person who delivers to a purchaser at a place other than the premises of the seller any goods sold by weight or measure other than goods that are—
- “(a) weighed or measured at the premises of the purchaser in the purchaser’s presence; or 10
- “(b) enclosed in a package that is marked or labelled with a statement of the net weight or measure of the goods; or
- “(c) exempted from the provisions of this section by regulations made under section 41(x). 15
- “(2) The person must, as soon as practicable, deliver or send to the purchaser an invoice or delivery note that shows, in the form and manner (if any) prescribed by regulations made under **section 41(xaa)**,—
- “(a) the true net weight or measure of those goods; and 20
- “(b) the address, telephone numbers, and email address (if any) of the seller.”
- 52 New sections 15 and 15A substituted**
Section 15 is repealed and the following sections are substituted: 25
- “15 Counting of goods sold by retail**
- “(1) This section applies if a person offers or exposes goods for retail sale by number.
- “(2) If the goods are not prepackaged when offered or exposed for sale, the person must ensure that the goods are counted— 30
- “(a) before or at the time of sale; and
- “(b) by or in the presence of the purchaser.
- “(3) If the goods are prepackaged and counted at the premises or place where they are offered or exposed for sale before they are offered or exposed for sale, the person must, at the request of the purchaser, count the goods in the presence of the purchaser. 35

“(4) A person who contravenes this section commits an offence.

“15A Weighing and measuring of goods sold by retail

“(1) This section applies if a person offers or exposes goods for retail sale by weight or measure.

“(2) If the goods are not prepackaged when offered or exposed for sale, the person must ensure that the goods are weighed or measured, by or in the presence of the purchaser, in accordance with **subsection (4)**. 5

“(3) If the goods are prepackaged and weighed or measured at the premises or place where they are offered or exposed for sale before they are offered or exposed for sale, the person must, at the request of the purchaser, weigh or measure the goods in the presence of the purchaser in accordance with **subsection (4)**. 10

“(4) For the purposes of **subsections (2) and (3)**, the goods must be weighed or measured— 15

“(a) before or at the time of sale; and

“(b) using a weighing or measuring instrument that is situated where the purchaser can easily see that instrument, any necessary weights or measures, and the recorded or indicated weight or measurement of the goods. 20

“(5) A person who contravenes this section commits an offence.”

53 New section 22B inserted

The following section is inserted after section 22A:

“22B Certificate of accuracy required for certain weighing or measuring instruments 25

“(1) A person who uses for trade, or has in that person’s possession for use for trade, a specified weighing or measuring instrument must have a current certificate of accuracy for that instrument.

“(2) A person who contravenes **subsection (1)** commits an offence. 30

“(3) In this section, **specified weighing or measuring instrument** means an instrument specified in regulations made under **section 41(ba)** as a weighing or measuring instrument to which this section applies.” 35

53A Infringement offences

(1) Section 32A is amended by inserting the following subsection after subsection (1):

~~“(1A) Despite section 21(1)(a) of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to lay an information is not necessary if the Secretary proceeds with an infringement offence summarily.”~~ 5

“(1A) Despite section 21(1)(a) of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Secretary commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.” 10

(2) Section 32A is amended by adding the following subsections:

“(4) The Secretary may revoke an infringement notice before the infringement fee is paid, or before an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.” 15

“(5) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.”

53B Form and content of infringement notice 20

(1) The heading to section 32B is omitted and the following heading substituted: **“Procedural requirements relating to infringement notices”**.

(1A) Section 32B(1)(b) is amended by omitting “specified in respect of that offence in section 33A” and substituting “prescribed in respect of that offence”. 25

(2) Section 32B is amended by adding the following subsections:

“(3) If an infringement notice has been issued, proceedings in respect of the infringement offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and in that case, section 21 of the Summary Proceedings Act 1957 applies, with all necessary modifications.” 30

“(4) Reminder notices must be prescribed by regulations made under **section 41B** and must contain the information referred to in subsection (1).” 35

53C New section 32BA inserted

The following section is inserted after section 32B:

“32BA Effect of infringement notice

If an infringement notice is issued, a criminal record must not be created in respect of the infringement offence.” 5

53D New section 33 substituted

Section 33 is repealed and the following section substituted:

“33 Penalties

“(1) Every person who commits an infringement offence is, on being found guilty of, or on pleading guilty to, the offence, liable to a fine not exceeding \$10,000. 10

“(2) Every person who commits an offence against section 32(a) is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$10,000.

“(3) Every person who commits any other offence against this Act is liable on ~~summary~~ conviction,— 15

“(a) in the case of an individual, to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day on which the offence has continued; and 20

“(b) in the case of a body corporate, to a fine not exceeding \$30,000 and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part of a day on which the offence has continued.”

54 Section 33A repealed

Section 33A is repealed. 25

55 Regulations

(1) Section 41 is amended by inserting the following paragraphs after paragraph (a):

“(ab) prescribing symbols, letters, or figures that must be impressed on a reference standard or an Inspectors’ working standard: 30

“(ac) prescribing the form and manner in which marks must appear on a reference standard or an Inspectors’ working standard:” 35

- (2) Section 41 is amended by inserting the following paragraph after paragraph (b):
 - “(ba) specifying the weighing or measuring instruments, or classes of weighing or measuring instruments, that are specified weighing or measuring instruments for the purposes of **section 22B**.”. 5
- (3) Section 41 is amended by inserting the following paragraph after paragraph (x):
 - “(xaa) prescribing the form and manner in which information must appear on an invoice or delivery note for the purposes of **section 13(2)**.”. 10
- (4) Section 41(y) is amended by omitting “(including infringement notices)”.

55A New section 41B inserted

The following section is inserted after section 41A: 15

“41B Regulations relating to infringement fees

The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the following purposes:

- “(a) prescribing the form of infringement notices and reminder notices: 20
- “(b) prescribing any particulars that must be included in those notices:
- “(c) prescribing the amount of an infringement fee, which must not exceed \$2,000, payable in respect of an infringement offence for which an infringement notice has been issued.” 25

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Weights and Measures Amendment Bill

Legislative history

3 December 2013

Divided from Consumer Law Reform Bill
(Bill 287–2) by committee of the whole House as
Bill 287–3C
