



## **Weights and Measures Amendment Regulations 2014**

Hon Sir John McGrath, Administrator of the Government

### **Order in Council**

At Wellington this 22nd day of April 2014

Present:

His Excellency the Administrator of the Government in Council

Pursuant to sections 41 and 41B of the Weights and Measures Act 1987, His Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Consumer Affairs, makes the following regulations.

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## **Regulations**

- 1 Title**

These regulations are the Weights and Measures Amendment Regulations 2014.
- 2 Commencement**

These regulations come into force on 23 May 2014.
- 3 Principal regulations**

These regulations amend the Weights and Measures Regulations 1999 (the **principal regulations**).
- 4 Regulation 16 amended (Interpretation)**

In regulation 16, definition of **competent organisation**, replace paragraph (d) with:  
“(d) the Consumer Affairs division of the Ministry of Business, Innovation, and Employment.”.
- 5 New regulation 86A inserted (Infringement fees)**

After regulation 86, insert:  
“**86A Infringement fees**  
“(1) Schedule 4A specifies infringement fees for infringement offences that are prescribed in the Act or in these regulations.  
“(2) The fees specified in the third column of the tables in Schedule 4A are the infringement fees for offences against the corresponding provisions specified in the first column of the tables.  
“(3) The descriptions given in the second column of the tables are indications only of the content of the provisions they describe and are not intended to be used in the interpretation of the provisions.”

**6 Regulation 90 replaced (Infringement notices)**

Replace regulation 90 with:

**“90 Infringement notices and reminder notices**

“(1) An infringement notice issued under section 32A of the Act must be in form 10.

“(2) An infringement reminder notice must be in form 11.”

**7 New Schedule 4A inserted**

After Schedule 4, insert the Schedule 4A set out in Schedule 1 of these regulations.

**8 Schedule 5 amended**

(1) In Schedule 5, forms 2, 6, and 8, replace “Ministry of Consumer Affairs” with “Ministry of Business, Innovation, and Employment”.

(2) In Schedule 5, forms 4 and 5, replace “Ministry of Economic Development” with “Ministry of Business, Innovation, and Employment”.

(3) In Schedule 5, replace forms 10 and 11 with the forms 10 and 11 set out in Schedule 2 of these regulations.

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**Schedule 1**

r 7

**New Schedule 4A inserted****Schedule 4A**

r 86A

**Infringement fees****Part 1****Offences in Act**

<b>Section</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
8	Failing to comply with prescribed obligation to use metric system of weights and measures	500
10	Failing to comply with prescribed obligation to use metric system in advertising goods for sale	200

Schedule 4A—*continued*Part 1—*continued*

<b>Section</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
14	Failing to comply with prescribed requirement to— <ul style="list-style-type: none"> <li>• sell, offer, or expose goods for sale by net weight or measure</li> <li>• send or deliver prescribed invoice or delivery note</li> </ul>	200
15	Failing to comply with prescribed requirement to count goods offered or exposed for retail sale	200
15A	Failing to comply with prescribed requirement to weigh or measure goods offered or exposed for retail sale	200
16	Delivering lesser quantity of goods than purchased where goods sold by weight, measure, or number	500
16A	Supplying packaged goods where weight, measure, or number is less than that stated on the package or label	500
17	Purchaser incorrectly determining weight, measure, or number	500
18	Failing to provide seller with statement of true weight, measure, or number	500
21	Using for trade, or possessing for use for trade, any weight, measure, or weighing or measuring instrument that is not stamped with prescribed verification mark	200
22B	Using for trade, or possessing for use for trade, any specified weighing or measuring instrument without current certificate of accuracy	500
24	Using for trade, or possessing for use for trade, any false or unjust weight, measure, or weighing or measuring instrument	500

## Part 2

## Offences in regulations

<b>Regulation</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
7	Failing to comply with condition or limitation prescribed in certificate of approval	200
80	Selling or exposing for sale any goods or package of food that is not marked as prescribed	200

Schedule 4A—*continued*Part 2—*continued*

<b>Regulation</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
84	Failing to comply with prescribed requirement relating to solid fuel	200
85	Using or having in any abattoir a weighing instrument that does not indicate and record the true weight of goods weighed	200

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**Schedule 2** r 8  
**Forms 10 and 11 replaced in Schedule 5**  
Form 10 r 90  
Infringement notice  
*Section 32A(1), Weights and Measures Act 1987*  
(Front page)

Weights and Measures Infringement Notice No:

**To** *[full name, full address]*

Date of birth (if known):\*

Gender (if known):\*

Occupation (if known):\*

Telephone number (if known):\*

\*Not required if the notice is served on a company.

**Enforcement authority**

Ministry of Business, Innovation, and Employment

*[Specify address of enforcement authority]*

**Alleged infringement offence**

You are alleged to have committed an infringement offence against *[specify provision]* of the Weights and Measures Act 1987/Weights and Measures Regulations 1999\*.

\*Select one.

**Details of alleged infringement offence**

Name or number of inspector who issued notice: *[specify]*

Nature of infringement:

Location:

Date:

Approximate time:

The fee for this infringement is \$200/\$500\*.

\*Select one.

Form 10—*continued***Payment of infringement fee**

The infringement fee is payable to the Ministry of Business, Innovation, and Employment within 28 days after [*date notice served*].

Payment is to be made by any of the following methods: [*specify payment methods and address(es) or place(s) at which fee may be paid or, alternatively, refer to accompanying letter*].

Please quote the infringement notice number shown above when making payment.

Payments by cheque or money order must be made payable to the Ministry of Business, Innovation, and Employment and marked “a/c payee”.

**Important:** Please read the summary of rights printed overleaf.

(Back page)

## Summary of rights

**Important information**

- 1 If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.
- 2 This notice sets out 1 alleged infringement offence. If you have received a notice for other alleged infringement offences, you may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.

If you wish to deny the alleged offence, request the cancellation of this notice, request the transfer of this notice to another person, or have a court consider submissions as to penalty or otherwise, follow the directions in paragraph 8.

**Note:** If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Ministry of Business, Innovation, and Employment in respect of an infringement fee payable by you, paragraphs 8(b), 8(c), 9, and 10 do not apply and you are not entitled either to request a hearing to deny liability or

Form 10—*continued*

to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

**Payment of infringement fee**

- 3 If you pay the infringement fee within 28 days of the service of this notice, no further action will be taken. Payment may be made as specified on the front page of this notice.

**Note:** Payment of the infringement fee is not a personal admission of guilt and will not result in the establishment of a criminal record.

**Defences**

- 4 You will have a complete defence against proceedings if the infringement fee has been paid to the Ministry of Business, Innovation, and Employment by any of the methods, or at any of the place(s) for payment, indicated on the front page of this notice within 28 days after you have been served with a reminder notice.

**Note:** Late payment, or payment made at any other place, will not constitute a defence to proceedings in respect of the alleged offence.

- 5 If this infringement notice relates to an offence against section 14(1) of the Weights and Measures Act 1987 in respect of delivery to the purchaser of an invoice or a delivery note showing the true net weight or measure of goods purchased, it is a defence to the proceedings for that offence if you are able to prove that—

- (a) you were not the seller of the goods delivered to the purchaser; and
- (b) you neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, that the weight or measure stated on the invoice or delivery note was not the true weight or measure of the goods.

- 6 If this infringement notice relates to an offence against section 16A of the Weights and Measures Act 1987 in relation to a package from a lot of packages containing desiccating goods,



Form 10—*continued*

it is a defence to proceedings for that offence if you are able to prove that,—

- (a) at all times during the period beginning at the time when the package was made up and ending on the 7th day after the day the package was made up,—
  - (i) the weighted average quantity of any sample taken from the lot of packages, as determined in accordance with the Weights and Measures Regulations 1999, was equal to or exceeded the quantity stated on the package or a label attached to it; and
  - (ii) the number of non-standard packages in any sample taken from the lot of packages was equal to or less than the appropriate number specified for the purpose by those regulations; and
  - (iii) there were no inadequate packages in any sample taken from the lot of packages; or
- (b) at any time after the close of the period specified in subparagraph (a), a sample taken from the lot contained no inadequate packages.

7 If this infringement notice relates to an offence against section 24 of the Weights and Measures Act 1987 (which makes it an offence to use for trade, or have in possession for use in trade, any weight, measure, or weighing or measuring instrument that is false or unjust, even if it is stamped with a verification mark), you have a defence to proceedings for that offence if you are able to prove that—

- (a) there was a certificate of accuracy in force at the time of the offence in respect of the weight, measure, or weighing or measuring instrument; and
- (b) you neither knew nor had any reason to suspect that the weight, measure, or weighing or measuring instrument was false or unjust.

Form 10—*continued***Further action**

- 8 You should write to the Ministry of Business, Innovation, and Employment at the address indicated on the front page of this notice if you wish to—
- (a) raise any matter relating to the alleged offence for consideration by the Ministry of Business, Innovation, and Employment (including cancellation of this notice or request for transfer of the notice to another person); or
  - (b) deny liability for the offence and request a court hearing (refer to paragraph 9); or
  - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 10).

You must ensure that your request is received on or before the last day for payment. Any such letter should be personally signed.

- 9 If you deny liability for the offence and request a hearing, the Ministry of Business, Innovation, and Employment will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless the Ministry decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 10 If you admit liability for the offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
- (a) ask for a hearing; and
  - (b) admit the offence; and
  - (c) set out the written submissions you wish the court to consider.

The Ministry of Business, Innovation, and Employment will then file your letter with the court (unless the Ministry decides not to commence court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

**Note:** Costs will be imposed in addition to any penalty.

Form 10—*continued***Consequences of taking no action**

- 11 If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless the Ministry of Business, Innovation, and Employment decides otherwise).
- 12 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, you will become liable to pay costs **in addition to the infringement fee** (unless the Ministry of Business, Innovation, and Employment decides not to commence proceedings against you).

**Queries/correspondence**

- 13 When writing or making payment, please include—
- (a) the date of the infringement; and
  - (b) the infringement notice number; and
  - (c) your address for replies.

**Note:** All queries and correspondence regarding this infringement must be directed to the Ministry of Business, Innovation, and Employment at [*specify address for correspondence or refer to accompanying letter*].

**Further information**

- 14 Further information about infringement offences and fees is contained in section 21 of the Summary Proceedings Act 1957 and section 375 of the Criminal Procedure Act 2011. If there is anything in this notice that you do not understand, you should contact a lawyer.

Form 11  
Reminder notice in respect of infringement  
offence

r 90

*Section 32B(4), Weights and Measures Act 1987*

(Front page)

Reminder notice No:

**Details of person to whom infringement notice issued**

To *[full name, full address]*

Date of birth (if known):\*

Gender (if known):\*

Occupation (if known):\*

Telephone number (if known):\*

\*Not required if the notice is served on a company.

**Enforcement authority**

Ministry of Business, Innovation, and Employment

*[Specify address of enforcement authority]*

**Alleged infringement offence**

You are alleged to have committed an infringement offence against *[specify provision]* of the Weights and Measures Act 1987/Weights and Measures Regulations 1999\*.

\*Select one.

**Details of alleged infringement offence**

Name or number of inspector who issued notice: *[specify name or number]*

Nature of infringement:

Location:

Date:

Approximate time:

The fee for this infringement is \$200/\$500\*.

\*Select one.

Form 11—*continued***Service details**

(To be provided for filing in court.)

Infringement notice served by [method of service] on [date of service]

Reminder notice served by [method of service] on [date of service]

Address at which reminder notice served: [insert full address or, if notice sent electronically, electronic address at which notice served]

The last date for payment is [date], being 28 days after the date of service recorded on this notice.

**Infringement fee**

The infringement fee for this offence is \$200/\$500\*.

\*Select one.

Amount of infringement fee unpaid: \$[amount]

**Total payable:** \$[amount]

**Procedure for payment of infringement fee**

Payment is to be made to the Ministry of Business, Innovation, and Employment by any of the following methods: [specify payment methods and address(es) or place(s) at which fee may be paid or, alternatively, refer to accompanying letter].

Please quote the infringement notice number shown above when making payment.

Payments by cheque or money order should be made payable to the Ministry of Business, Innovation, and Employment and marked “a/c payee”.

**Important:** Please read the notes to defendant printed overleaf.

(Back page)

Notes to defendant

**Important information**

- 1 If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.

Form 11—*continued*

- 2 If you wish to deny the alleged offence, request the cancellation of this notice, request the transfer of this notice to another person, or have a court consider submissions as to penalty or otherwise, follow the directions in paragraph 10.

**Note:** If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Ministry of Business, Innovation, and Employment in respect of an infringement fee payable by you, paragraphs 10(b), 10(c), 11, and 12 do not apply and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

**Final due date**

- 3 The due date for payment of the infringement fee was [*specify date*]. By that date, payment was not received (or payment was not received in full) and you had not requested a hearing.
- 4 The final due date is now [*specify date*], which is 28 days after the day on which this notice was served on you.

**Payment of infringement fee**

- 5 If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you. Payments may be made as indicated on the front page of this notice and must be received on or before the final due date.
- Note:** Payment of the infringement fee is not a personal admission of guilt and will not result in the establishment of a criminal record.

**Defences**

- 6 You will have a complete defence against proceedings if you can show the infringement fee has been paid to the Ministry of Business, Innovation, and Employment at any of the place(s) for payment indicated on the front page of this notice before or within 28 days after you were served with this reminder notice.

Form 11—*continued*

**Note:** Late payment, or payment made at any other place, will not constitute a defence to proceedings in respect of the alleged offence.

- 7 If this reminder notice relates to an offence against section 14(1) of the Weights and Measures Act 1987 in respect of delivery to the purchaser of an invoice or a delivery note showing the true net weight or measure of goods purchased, it is a defence to the proceedings for that offence if you are able to prove that—
- (a) you were not the seller of the goods delivered to the purchaser; and
  - (b) you neither knew nor might reasonably have been expected to know, nor had any reason to suspect, that the weight or measure stated on the invoice or delivery note was not the true weight or measure of the goods.
- 8 If this reminder notice relates to an offence against section 16A of the Weights and Measures Act 1987 in relation to a package from a lot of packages containing desiccating goods, it is a defence to proceedings for that offence if you are able to prove that,—
- (a) at all times during the period beginning at the time when the package was made up and ending on the 7th day after the day the package was made up,—
    - (i) the weighted average quantity of any sample taken from the lot of packages, as determined in accordance with the Weights and Measures Regulations 1999, was equal to or exceeded the quantity stated on the package or a label attached to it; and
    - (ii) the number of non-standard packages in any sample taken from the lot of packages was equal to or less than the appropriate number specified for the purpose by those regulations; and
    - (iii) there were no inadequate packages in any sample taken from the lot of packages; or

Form 11—*continued*

- (b) at any time after the close of the period specified in subparagraph (a), a sample taken from the lot contained no inadequate packages.
- 9 If this reminder notice relates to an offence against section 24 of the Weights and Measures Act 1987 (which makes it an offence to use for trade, or have in possession for use in trade, any weight, measure, or weighing or measuring instrument that is false or unjust, even if it is stamped with a verification mark), you have a defence to proceedings for that offence if you are able to prove that—
- (a) there was a certificate of accuracy in force at the time of the offence in respect of the weight, measure, or weighing or measuring instrument; and
  - (b) you neither knew nor had any reason to suspect that the weight, measure, or weighing or measuring instrument was false or unjust.

**Further action**

- 10 You should write to the Ministry of Business, Innovation, and Employment at the address indicated on the front page of this notice if you wish to—
- (a) raise any matter relating to the alleged offence for consideration by the Ministry of Business, Innovation, and Employment (including cancellation of this notice or request for transfer of the notice to another person); or
  - (b) deny liability for the offence and request a court hearing (refer to paragraph 11); or
  - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 12).

You must ensure that your request is received on or before the last day for payment. Any such letter should be personally signed.

- 11 If you deny liability for the offence and request a hearing, the Ministry of Business, Innovation, and Employment will serve you with a notice of hearing setting out the place and time at



Form 11—*continued*

which the matter will be heard by the court (unless the Ministry decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 12 If you admit liability for the offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
- (a) ask for a hearing; and
  - (b) admit the offence; and
  - (c) set out the written submissions you wish the court to consider.

The Ministry of Business, Innovation, and Employment will then file your letter with the court (unless the Ministry decides not to commence court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

**Note:** Costs will be imposed in addition to any penalty.

**Consequences of taking no action**

- 13 If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will become liable to pay costs **in addition to the infringement fee** (unless the Ministry of Business, Innovation, and Employment decides not to commence proceedings against you).

**Queries/correspondence**

- 14 When writing or making payment, please include—
- (a) the date of the infringement; and
  - (b) the infringement notice number; and
  - (c) your address for replies.

**Note:** All queries and correspondence regarding this infringement must be directed to the Ministry of Business, Innovation, and Employment [*specify address for correspondence or refer to accompanying letter*].

Form 11—*continued*

**Further information**

- 15 Further information about infringement offences and fees is contained in section 21 of the Summary Proceedings Act 1957 and section 375 of the Criminal Procedure Act 2011. If there is anything in this notice that you do not understand, you should contact a lawyer.

Michael Webster,  
Clerk of the Executive Council.

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**Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 23 May 2014, amend the Weights and Measures Regulations 1999 (the **principal regulations**).

The regulations prescribe infringement fees for infringement offences that are prescribed in the Weights and Measures Act 1987 or in the principal regulations.

The regulations also—

- replace the 2 existing forms for infringement notices with 1 revised form (*form 10*); and
  - prescribe the form of infringement reminder notices (*form 11*); and
  - update references in the regulations to reflect the transfer of functions from the now disestablished Ministry of Economic Development (which included the Ministry of Consumer Affairs) to the Ministry of Business, Innovation, and Employment.
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**Weights and Measures Amendment  
Regulations 2014**

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Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 24 April 2014.

These regulations are administered by the Ministry of Business, Innovation, and  
Employment.

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