

## WEIGHTS AND MEASURES AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Weights and Measures Act 1987.

The principal purpose of the amendments is to transfer the primary responsibility for the testing of weights and measures from the Weights and Measures Inspectorate to the private sector. The Weights and Measures Inspectorate's principal role will then become the enforcement of compliance with the requirements of the Weights and Measures Act 1987 (the principal Act).

The Bill sets up a system for the accreditation of persons to carry out the testing of weights and measures. Accredited persons (to be known as accredited agents), will be empowered to stamp weights and measures with the official mark of verification.

The Bill also replaces the existing system of periodic inspection of weights and measures carried out by Weights and Measures Inspectors. Instead, accredited agents will be empowered to issue a certificate of accuracy in respect of weights and measures found to be accurate. Certificates of accuracy will be valid for a limited period, and re-examination and re-testing will be required before a replacement certificate can be issued.

It will not be mandatory to have a valid certificate of accuracy. However, proof that a current certificate of accuracy was in force in respect of a weight or measure will be an essential element of a lack of knowledge defence to a charge of using or possessing a false or unjust weight or measure.

In areas where there are no accredited agents, Weights and Measures Inspectors will carry out the task of stamping, and the issuing of certificates of accuracy, on a cost-recovery basis.

The Bill also—

- (a) Increases the level of fines that may be imposed for offences under the principal Act; and
- (b) Institutes an infringement fee system for certain offences under the principal Act. This system will be similar in operation to that used under the Transport Act 1962; and
- (c) Abolishes the positions of Chief Inspector and Deputy Chief Inspector of Weights and Measures.

#### *Clause by Clause Analysis*

*Clause 1* relates to the Short Title and commencement. The Bill is to come into force on 1 March 1991.

No. 6—1

*Price*  
*incl. GST \$2.20*

*Clause 2* amends section 2 of the principal Act by inserting a number of new definitions. It also consequentially repeals a definition that will become unnecessary.

*Clause 3* repeals section 5 of the principal Act and substitutes a new section 5. The effect of the amendment is—

- (a) To transfer from the Minister of Commerce to the chief executive of the Department responsible for the administration of the principal Act (the Secretary) the responsibility for providing the standard weights and measures known as the departmental standards;
- (b) To provide that the departmental standards may be verified by reference to the New Zealand standards maintained by the D.S.I.R. or any national standards of measurement maintained by any country approved by the Minister responsible for the administration of the Scientific and Industrial Research Act 1974.

*Clause 4* repeals section 6 of the principal Act and substitutes a new section 6. The effect of the amendment is—

- (a) To require the Secretary, rather than the Chief Inspector of Weights and Measures, to provide the standard weights and measures known as the district standards;
- (b) To provide that the district standards may be verified by reference to—
  - (i) The departmental standards; or
  - (ii) The New Zealand standards maintained by the D.S.I.R.; or
  - (iii) Any national standards maintained by any approved overseas country.

*Clause 5* inserts a new section 7A into the principal Act. The new section provides that every accredited agent is to maintain such standards of measurement as the Secretary considers necessary, and requires such standards to be verified at least yearly.

*Clause 6* inserts a new section 22A into the principal Act. The new section makes provision for the issuing of certificates of accuracy in respect of weights and measures. As indicated above, the certificate replaces the existing system of periodic inspection of weights and measures by Weights and Measures Inspectors.

*Clause 7* repeals section 23 of the principal Act and substitutes a new section 23. The amendment is consequential on the transfer of the primary role in the testing of weights and measures from the Weights and Measures Inspectorate to the private sector. The new section 23 requires an accredited agent who declines to certify a weight or measure to give the person in charge notice of the non-compliance, and also to inform the Secretary.

*Clause 8* amends section 24 of the principal Act, which relates to the offence of the use or possession of an unjust weight or measure. Subsection (2) of the existing section makes it a defence to the charge if it is proved that the defendant did not know, nor ought reasonably to have suspected, that the weight or measure was false or unjust. The effect of the amendment is to impose an additional requirement for the establishment of that defence. This will require the defendant to prove that a certificate of accuracy was in force in respect of the weight or measure at the time of the offence.

*Clause 9: Subclause (1)* repeals section 25 of the principal Act, thereby abolishing the positions of Chief Inspector and Deputy Chief Inspector of Weights and Measures.

*Subclause (2)* makes amendments to the principal Act consequentially upon that abolition.

*Subclause (3)* is a savings provision.

*Clause 10* amends section 26 of the principal Act—

- (a) By omitting a redundant reference to the Secretary of Commerce;
- (b) By repealing the provision for the appointment of technical and advisory officers for the purposes of the principal Act.

*Clause 11* amends section 28 of the principal Act, and makes provision for the issuing and cancellation of certificates of accuracy by Weights and Measures Inspectors.

*Clause 12* repeals section 30 of the principal Act, which relates to the inspection, by inspectors, of weights and measures not used for trade.

*Clause 13* inserts new sections 30A to 30K into the principal Act. The new provisions relate to the appointment of accredited agents, who, as indicated above, will carry the principal responsibility for the testing of weights and measures.

The principal features of the accreditation system are as follows:

- (a) Agents will be accredited, on application to the Secretary, by the issuing of a letter of accreditation. Applicants will have to demonstrate that they meet the requirements for accreditation prescribed by regulations. It is intended that these requirements will relate to quality assurance criteria based on New Zealand Standard 5603;
- (b) Where a person other than a natural person is accredited, the letter of accreditation will list the natural persons who will actually carry out the duties of the accredited agent;
- (c) Accreditation may be restricted to specific geographical areas or specific classes of weights and measures;
- (d) Accreditation lasts for 1 year, but may be renewed;
- (e) Accreditation may be revoked in certain specified circumstances: (see proposed new section 30D).

*Clause 14* amends section 32 of the principal Act, which relates to offences. The amendments are consequential on the introduction of accredited agents.

*Clause 15* inserts new sections 32A to 32C into the principal Act. The new sections introduce an infringement fee system for certain offences. Under that system, which is similar to that adopted under the Transport Act 1962, an infringement notice may be issued in respect of an offence, as an alternative to prosecution. The offender may choose to pay the infringement fee in respect of the offence, or may require that a hearing be held.

*Clause 16* repeals section 33 of the principal Act, and substitutes new sections 33 and 33A. The amendments—

- (a) Increase the fines payable in respect of offences against the principal Act; and
- (b) Make provision for the infringement fee payable in respect of infringement offences.

*Clause 17* amends section 40 of the principal Act. The effect of the amendment is to make special provision for the disposal of perishable goods seized and detained under the principal Act.

*Clause 18* inserts a new section 40A into the principal Act. The new section provides for the payment of compensation to a person whose perishable goods

are wrongfully seized and detained pursuant to section 28 (6) of the principal Act, where those goods are disposed of by the Secretary before the person can apply under section 39 of the principal Act for the return of the goods.

*Clause 19* amends section 41 of the principal Act, which relates to regulations. The amendments empower the making of regulations relating to certificates of accuracy, and the accreditation of accredited agents.

*Clause 20* repeals section 42 of the principal Act, which relates to fees, and substitutes a new section 42. The amendments—

- (a) Make provision for the prescribing of fees in respect of the accreditation of accredited agents:
- (b) Empower Inspectors and accredited agents to charge reasonable fees in respect of stamping and the issue of certificates of accuracy.

*Clause 21* makes consequential amendments to other enactments.

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Hon. Margaret Shields

## WEIGHTS AND MEASURES AMENDMENT

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### A BILL INTITULED

#### **An Act to amend the Weights and Measures Act 1987**

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5     **1. Short Title and commencement**—(1) This Act may be cited as the Weights and Measures Amendment Act 1990, and shall be read together with and deemed part of the Weights and Measures Act 1987\* (hereinafter referred to as the principal Act).

\*1987, No. 15

(2) This Act shall come into force on the **1st day of March 1991**.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Accredited agent’ means a person accredited pursuant to **section 30A** of this Act: 5

“‘Approved overseas country’ means any country outside New Zealand that is declared by notice in the *Gazette* to be an approved overseas country for the purposes of **section 5(3)(b)** of this Act: 10

“‘Certificate of accuracy’ means a certificate of accuracy issued pursuant to **section 22A** of this Act:

“‘Document’ has the meaning given to it by section 2(1) of the Official Information Act 1982:

“‘Infringement offence’ means an offence against section 16(2) or section 24 of this Act: 15

“‘Infringement fee’, in relation to an infringement offence, means the amount fixed by **section 33A** of this Act as the infringement fee for the offence:

“‘Secretary’ means the chief executive of the department for the time being responsible for the administration of this Act.”: 20

(2) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Minister”.

**3. Departmental standards**—The principal Act is hereby amended by repealing section 5 (as amended by section 4(1) of the Trade and Industry Act Repeal Act 1988), and substituting the following section: 25

“5. (1) The Secretary shall provide such standards of the weights and measures specified in the Second Schedule to this Act as are necessary for the purposes of this Act. 30

“(2) Such standards shall be known as the departmental standards, and shall be maintained in the custody of such person as the Secretary from time to time directs.

“(3) The Secretary shall ensure that the departmental standards are verified from time to time, at intervals not exceeding 5 years, by reference to— 35

“(a) The New Zealand standards for the metre and the kilogram maintained pursuant to the Scientific and Industrial Research Act 1974; or 40

“(b) Any national standards of measurement maintained by any approved overseas country.

5 “(4) The Minister of the Crown who is for the time being charged with the administration of the Scientific and Industrial Research Act 1974 may from time to time, by notice in the *Gazette*, declare any country outside New Zealand to be an approved overseas country for the purposes of subsection (3) (b) of this section where the Minister is satisfied that the national standards of measurement maintained by that country are of sufficient accuracy to be used for the purpose of verifying the departmental standards.

10 “(5) Any notice under subsection (4) of this section may be in like manner amended or revoked at any time.”

**4. District standards**—(1) The principal Act is hereby amended by repealing section 6, and substituting the following section:

15 “6. (1) The Secretary shall provide, for the purposes of this Act, copies of the departmental standards to be known as district standards, which shall be maintained in each district in the custody of an Inspector nominated by the Secretary.

20 “(2) District standards shall 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 paragraph (a) or paragraph (b) of section 5 (3) of this Act.

25 “(3) Unless it is impracticable to do so, every district standard shall be marked with an impression of—

“(a) A Crown and the letters ‘ER’ and ‘NZ’, which impressions shall be in close proximity to one another; and

30 “(b) Figures indicating the unit of that weight or measure and the numerical value of that unit.”

**5. Accredited agents’ working standards**—The principal Act is hereby amended by inserting, after section 7, the following section:

35 “7A. (1) Every accredited agent shall maintain such standards of measurement as the Secretary considers necessary to enable the accredited agent to exercise or perform that agent’s functions, duties, and powers under this Act.

40 “(2) Every accredited agent shall from time to time, at intervals not exceeding 12 months, cause the standards maintained by that agent pursuant to subsection (1) of this section to be verified by reference to—

“(a) The departmental standards; or

“(b) Any district standards; or

“(c) The standards referred to in paragraph (a) or paragraph (b) of section 5 (3) of this Act.”

**6. Certificate of accuracy**—The principal Act is hereby amended by inserting, after section 22, the following section: 5

“22A. (1) Any accredited agent or any Inspector may from time to time, in accordance with regulations made under this Act, issue a certificate of accuracy in respect of any weight, measure, or weighing or measuring instrument.

“(2) Every certificate of accuracy shall be in the prescribed form, and shall state, in relation to the weight, measure, or weighing or measuring instrument in respect of which the certificate is issued,— 10

“(a) That it has been examined and tested by an accredited agent or an Inspector; and 15

“(b) That it complies with such requirements as are prescribed for the purpose by regulations made under this Act.

“(3) Unless it is sooner cancelled, every certificate of accuracy shall be in force for such period as is prescribed by regulations made under this Act. 20

“(4) Nothing in this section applies to any automatic weighing machine or any automatic volumetric liquid dispensing machine.”

**7. New section substituted**—The principal Act is hereby amended by repealing section 23, and substituting the following section: 25

“23. **Notification of non-compliance**—(1) Where an accredited agent declines to stamp with a mark of verification, or to issue a certificate of accuracy in respect of, any weight, measure, or weighing or measuring instrument on the grounds that the weight, measure, or weighing or measuring instrument does not comply with the requirements of this Act or of any regulations made under this Act, the accredited agent shall— 30

“(a) Forthwith give to the person in charge of that weight, measure, or weighing or measuring instrument a notice of non-compliance; and 35

“(b) As soon as practicable send to the Secretary a copy of the notice.

“(2) Where it is not possible or practicable to give a notice of non-compliance in accordance with subsection (1) (a) of this 40



section, the accredited agent shall attach the notice to the weight, measure, or weighing or measuring instrument.

“(3) Every notice of non-compliance shall be in the prescribed form, and shall contain—

5     “(a) Such information as is sufficient to identify the weight, measure, or weighing or measuring instrument in respect of which it is issued, including any serial number or other identifying feature; and

10     “(b) Particulars of the respects in which the weight, measure, or weighing or measuring instrument does not comply with the requirements of this Act or of any regulations made under this Act, including details of the time and place of the non-compliance.”

15     **8. Offence to use or possess false or unjust weight or measure**—Section 24 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

   “(2) It shall be a defence to a charge under subsection (1) of this section if the person charged proves—

20     “(a) That at the time of the offence there was in force in respect of the weight, measure, or weighing or measuring instrument a certificate of accuracy; and

   “(b) That that person neither knew, nor had any reason to suspect, that the weight, measure, or weighing or measuring instrument was false or unjust.”

25     **9. Repeal of provision relating to Chief Inspector and Deputy Chief Inspector of Weights and Measures**—

   (1) Section 25 of the principal Act is hereby repealed.

30     (2) The principal Act is hereby consequentially amended in the manner indicated in the **First Schedule** to this Act.

   (3) The repeals and amendments effected by this section shall not affect the validity of any document made, or any thing whatsoever done, by or under the authority of the Chief Inspector, under the principal Act or under any regulations made under the principal Act, so far as that document or thing is subsisting or in force immediately before the commencement of this Act and would have continued and had effect if this section had not been passed.

40     **10. Inspectors of Weights and Measures**—Section 26 of the principal Act is hereby amended—

- (a) By omitting from subsection (2) the words “of Commerce” (as substituted by section 4 (1) of the Trade and Industry Act Repeal Act 1988);
- (b) By repealing subsection (7).

**11. Powers of Inspectors**—Section 28 (1) of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph: 5

“(fa) Issue a certificate of accuracy in respect of any weight, measure, or weighing or measuring instrument, or cancel any such certificate.”. 10

**12. Inspector may inspect weights, measures, etc., not used for trade**—Section 30 of the principal Act is hereby repealed.

**13. New sections (relating to accredited agents) inserted**—The principal Act is hereby amended by inserting, after section 30, the following heading and sections: 15

*“Accredited Agents*

“30A. **Appointment of accredited agents**—(1) The Secretary may from time to time, by letter of accreditation in the prescribed form (if any), accredit any person to act as an accredited agent under this Act for the purposes of— 20

- “(a) Stamping with a mark of verification any weight, measure, or weighing or measuring instrument; and
- “(b) Issuing certificates of accuracy in respect of any weight, measure, or weighing or measuring instrument. 25

“(2) Where a person other than a natural person is accredited under **subsection (1)** of this section, the letter of accreditation shall specify the name of every natural person who is to exercise or perform the powers, duties, and functions of an accredited agent on behalf of that person, and this Act shall apply in respect of every person so specified as if that person had been accredited by that letter of accreditation. 30

“(3) The Secretary may impose in respect of the accreditation of any person under **subsection (1)** of this section such conditions as the Secretary thinks fit, including conditions limiting or restricting— 35

- “(a) The area or areas of New Zealand to which the accreditation relates:
- “(b) The class or classes of weights, measures, or weighing or measuring instruments to which the accreditation relates. 40

5 “(4) Where a letter of accreditation to which **subsection (2)** of this section applies is issued to any person, the Secretary may from time to time, at the request of that person, amend the letter of accreditation by omitting or adding the name of any natural person who is to exercise or perform the powers, duties, and functions of an accredited agent on behalf of that person.

10 “**30B. Application for accreditation**—(1) Any person who wishes to be accredited under **section 30A** of this Act as an accredited agent shall apply in writing, in the prescribed form (if any), to the Secretary.

“(2) Every application shall be accompanied by the prescribed fee (if any).

15 “(3) The Secretary shall not accredit any person under **section 30A** of this Act unless the applicant satisfies the Secretary that the applicant meets the requirements for accreditation prescribed by regulations made under this Act.

20 “(4) The Secretary shall not decline an application for accreditation under this section without first giving the applicant—

“**(a)** A copy of any information on which the Secretary relies in proposing to decline the application; and

“**(b)** A reasonable opportunity to make written submissions to the Secretary in relation to that information.

25 “**30C. Duration and renewal of accreditation**—  
(1) Subject to this section and to **section 30D** of this Act, every letter of accreditation issued under **section 30A** of this Act shall be in force for a period of 1 year beginning on the date of its issue.

30 “(2) Every letter of accreditation, unless it has been revoked pursuant to **section 30D** of this Act, may from time to time be renewed in accordance with this section.

35 “(3) An application for the renewal of a letter of accreditation shall be made in writing, in the prescribed form (if any), to the Secretary, and shall be accompanied by the prescribed fee (if any).

40 “(4) On receiving an application under **subsection (3)** of this section, the Secretary shall, on payment of the prescribed fee (if any), renew the letter of accreditation to which the application relates for a period of 1 year.

“(5) Where an application for the renewal of a letter of accreditation has been made but not dealt with before the letter of accreditation expires, the letter of accreditation shall

continue in force until the application is dealt with by the Secretary.

“**30D. Revocation of accreditation**—(1) Subject to **subsection (3)** of this section, the Secretary may at any time revoke the accreditation of any person as an accredited agent if the Secretary is satisfied that the person— 5

“(a) No longer meets all the requirements for accreditation prescribed by regulations made under this Act; or

“(b) Has failed to comply with any condition imposed by the Secretary in respect of that person’s accreditation; 10  
or

“(c) Has failed to exercise or perform the powers, functions, and duties of an accredited agent to a satisfactory standard; or

“(d) Has been convicted of an offence against **section 32 (fa)** of this Act. 15

“(2) Subject to **subsection (3)** of this section, where the Secretary is satisfied that any person whose name is specified in a letter of accreditation pursuant to **section 30A (2)** of this Act—

“(a) Has failed to comply with any condition imposed by the Secretary in respect of that letter of accreditation; or 20

“(b) Has failed to exercise or perform the powers, functions, and duties of an accredited agent to a satisfactory standard; or

“(c) Has been convicted of an offence against **section 32 (fa)** of this Act,— 25

the Secretary may remove that person’s name from that letter of accreditation.

“(3) The Secretary shall not revoke the accreditation of any person pursuant to **subsection (1)** of this section, or remove the name of any person from a letter of accreditation pursuant to **subsection (2)** of this section, unless the Secretary has first given that person an opportunity to be heard. 30

“(4) Where the Secretary revokes the accreditation of any person pursuant to **subsection (1)** of this section, or removes the name of any person from a letter of accreditation pursuant to **subsection (2)** of this section, that person shall be deemed, from the date of that revocation or removal, not to be an accredited agent for the purposes of this Act. 35

“**30E. Revocation, etc., of conditions**—The Secretary may, at any time, revoke, amend, or add to any condition imposed under **section 30A (3)** of this Act. 40

“**30F. Appeals against decisions of Secretary**—(1) Any person who is prejudicially affected by any decision of the

Secretary under **section 30b** or **section 30E** of this Act may appeal to a District Court against the decision.

5 “(2) An appeal under **subsection (1)** of this section shall be brought within 28 days after notice of the decision is communicated to the appellant, or within such further time as a District Court Judge may allow on application made before or after the expiration of that period.

10 “(3) Subject to any order of a District Court Judge, every decision of the Secretary against which an appeal is lodged shall continue in force and have effect according to its tenor pending the determination of the appeal.

15 “**30G. Procedure on appeals**—(1) On the hearing of an appeal under **section 30F** of this Act, the District Court Judge may confirm, reverse, or modify the decision appealed against, or may give any decision that the Secretary could have given in respect of the matter.

“(2) The decision of the District Court Judge on any appeal under **section 30F** of this Act shall be final.

20 “**30H. Court may refer appeals back for reconsideration**—(1) Notwithstanding anything in **section 30G** of this Act, a District Court Judge may, in any case, instead of determining any appeal under that section, direct the Secretary to reconsider, either generally or in respect of any specified matters, the whole or any part of the matter to which the appeal relates.

25 “(2) In giving any direction under this section, the District Court Judge shall—

“(a) Advise the Secretary of the Judge’s reasons for doing so; and

30 “(b) Give to the Secretary such directions as the Judge thinks just concerning the reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

35 “(3) In reconsidering the matter so referred back, the Secretary shall have regard to the District Court Judge’s reasons for giving a direction under **subsection (1)** of this section, and to the Judge’s directions under **subsection (2)** of this section.

40 “**30I. Powers of inspection**—(1) There shall be deemed to be imposed in respect of the accreditation of every accredited agent the condition that any Inspector may, for the purpose of ensuring compliance with this Act or any regulations made under this Act,—

- “(a) Require any accredited agent to produce for inspection, within such reasonable period as the Inspector may specify,—
- “(i) Any weight, measure, or weighing or measuring instrument in the possession of that agent, and may examine and test that weight, measure, or weighing or measuring instrument: 5
- “(ii) Any document in the possession or under the control of that accredited agent, and may take copies of or extracts from any such document: 10
- “(b) Require any accredited agent to furnish, within such reasonable period as the Inspector may specify, such information or particulars as the Inspector may require.

“(2) If any accredited agent breaches a condition expressed in subsection (1) of this section, the Secretary may revoke the accreditation of that person pursuant to subsection (1) of section 30D of this Act or, as the case may require, remove the name of that person from a letter of accreditation pursuant to subsection (2) of that section. 15 20

“30j. **Crown not liable for acts of accredited agents**—No proceedings, whether civil or criminal, shall lie against the Crown in respect of any act or omission of any accredited agent.

“30k. **Application of certain Acts to accredited agents**— No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person’s accreditation under section 30A of this Act as an accredited agent.” 25 30

**14. Offences**—(1) Section 32 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Not being an accredited agent, pretends to be an accredited agent; or” 35

(2) Section 32 (f) of the principal Act is hereby amended by omitting the words “a Trainee Inspector”, and substituting the words “or a Trainee Inspector or an accredited agent”.

(3) Section 32 of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph: 40

“(fa) Being an accredited agent, except as permitted by or under this Act, stamps with a mark of verification, or issues a certificate of accuracy in respect of, any

weight, measure, or weighing or measuring instrument; or”.

**15. New sections (relating to infringement offences)**

**inserted**—The principal Act is hereby amended by inserting,  
5 after section 32, the following sections:

“32A. **Infringement offences**—(1) Where an Inspector has reason to believe that a person has committed an infringement offence,—

10 “(a) That person may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or

“(b) The Inspector may issue an infringement notice in respect of the alleged offence.

15 “(2) Any Inspector (not necessarily the Inspector who issued the infringement notice) may do any one or more of the following things:

20 “(a) Attach an infringement notice, or a copy of an infringement notice, to the weight, measure, weighing or measuring instrument, or goods to which the notice relates:

“(b) Deliver an infringement notice, or a copy of an infringement notice, personally to a person:

25 “(c) Send an infringement notice, or a copy of an infringement notice, to a person by post addressed to the person at the person’s last known place of residence or business.

“(3) For the purposes of the Summary Proceedings Act 1957—

30 “(a) Where an infringement notice, or a copy of an infringement notice, is attached to the weight, measure, weighing or measuring instrument, or goods to which the notice relates pursuant to **subsection (2) (a)** of this section, the notice or copy shall be deemed to have been served on every  
35 person liable in respect of the alleged offence and to have been served when the notice or copy was attached to the weight, measure, weighing or measuring instrument, or goods:

40 “(b) Where an infringement notice, or a copy of an infringement notice, is sent to a person by post addressed to the person at the person’s last known place of residence or business pursuant to **subsection (2) (c)** of this section, the notice or copy shall be

deemed to have been served on the person when it was so posted.

**“32B. Form and content of infringement notice—**

(1) Every infringement notice shall be in a form prescribed by regulations made under this Act, and shall contain the following particulars: 5

“(a) Such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

“(b) The amount of the infringement fee specified in respect of that offence in **section 33A** of this Act; and 10

“(c) The address of the place at which the infringement fee may be paid; and

“(d) The time within which the infringement fee may be paid; and 15

“(e) A summary of the provisions of section 21 (10) of the Summary Proceedings Act 1957; and

“(f) A statement of the right of the person served with the notice to request a hearing; and

“(g) A statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and 20

“(h) Such other particulars as are prescribed.

“(2) Different forms of infringement notice may be prescribed in respect of different kinds of infringement offences. 25

**“32c. Payment of infringement fees—**All infringement fees shall be payable to the Secretary, and all such fees received by the Secretary shall be paid into the Crown Bank Account.”

**16. New sections (relating to penalties) substituted— 30**

(1) The principal Act is hereby amended by repealing section 33, and substituting the following sections:

**“33. Penalties—**(1) Every person who commits an offence against this Act shall be liable on summary conviction,—

“(a) In the case of an offence against section 32 (a) of this Act, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$10,000; 35

“(b) In the case of an offence against any of the provisions of paragraphs (aa), (b), (c), (e), (f), (fa), (g), (h), (i), (j), (k), and (l) of section 32 of this Act, to a fine not exceeding \$10,000, and, in the case of a continuing offence, to a further fine not exceeding \$250 for 40



every day or part of a day on which the offence has continued:

5 “(c) In every other case (other than the case of an infringement offence) to a fine not exceeding \$5,000, 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.

10 “(2) Every person who commits an infringement offence shall, on being found guilty of, or on pleading guilty to, the offence, be liable to a fine not exceeding \$5,000.

“33A. **Infringement fee**—The infringement fee for an infringement offence shall be \$200.”

15 **17. Disposal of articles seized**—Section 40 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section, any perishable goods seized and detained pursuant to section 28 (6) of this Act may be disposed of at any time in such manner as the Secretary may direct.”

20 **18. Compensation for loss of perishable goods**—The principal Act is hereby amended by inserting, after section 40, the following section:

“40A. (1) Where—

25 “(a) Any perishable goods are seized and detained pursuant to section 28 (6) of this Act; and

“(b) Those goods are disposed of pursuant to section 40 (1A) of this Act; and

30 “(c) On application by way of originating application, by any person having an interest in the goods, a District Court finds that there were no reasonable grounds for that seizure and detention,—

the Court may make such order as the Court thinks just and expedient for the payment by the Crown, to the applicant, of reasonable compensation for the loss of those goods.

35 “(2) The Court shall not make any order under subsection (1) of this section for the payment of compensation to any person in respect of any goods unless the Court is satisfied that the goods were disposed of before that person had a reasonable opportunity to make an application under section 39 of this Act  
40 in respect of the goods.”

**19. Regulations**—(1) Section 41 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Regulating the issuing of certificates of accuracy, and the cancellation of such certificates; prescribing the class or classes of weights, measures, and weighing or measuring instruments in respect of which certificates of accuracy may be issued; and prescribing the period for which certificates of accuracy are to be in force (which period may differ for different classes of weights, measures, and weighing or measuring instruments):”.

(2) Section 41 of the principal Act is hereby amended by inserting, after paragraph (x), the following paragraph:

“(xa) Prescribing the requirements for accreditation as an accredited agent.”.

(3) Section 41 (y) of the principal Act is hereby amended by inserting, after the word “certificates”, the words “, notices (including infringement notices),”.

**20. Fees**—The principal Act is hereby amended by repealing section 42, and substituting the following section:

“42. (1) The Governor-General may from time to time, by Order in Council, make regulations prescribing the amounts of the fees to be paid in respect of the following matters, or prescribing the method by which any such fee is to be assessed:

“(a) Applications for accreditation as an accredited agent:

“(b) Assessing whether a person meets the requirements for accreditation as an accredited agent:

“(c) The renewal of letters of accreditation:

“(d) Applications for approval, by the Secretary, of weights, measures, and weighing or measuring instruments pursuant to regulations made under section 41 (h) of this Act.

“(2) Without limiting the power of an Inspector or an accredited agent to charge a fee in any other circumstances, an Inspector or an accredited agent, as the case may be, may charge a fee in respect of—

“(a) The stamping of any weight, measure, or weighing or measuring instrument:

“(b) The issuing of a certificate of accuracy in respect of any weight, measure, or weighing or measuring instrument.

“(3) Any fee charged pursuant to subsection (2) of this section shall not exceed such amount as may be reasonable, having

5 regard to the time spent, and the materials and equipment used, in examining and testing the weight, measure, or weighing or measuring instrument for the purpose of determining whether it should be stamped or, as the case may be, whether a certificate of accuracy should be issued.

“(4) Every fee imposed pursuant to **subsection (1)** of this section, and every fee charged pursuant to **subsection (2)** of this section by an Inspector, shall be recoverable in any Court of competent jurisdiction as a debt due to the Crown.”

10 **21. Consequential amendments**—The enactments specified in the **Second** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

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**SCHEDULES****Section 9 (2)****FIRST SCHEDULE****CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT**

Section Affected	Amendment
Section 2 .. ..	By repealing the definitions of the terms "Chief Inspector" and "Deputy Chief Inspector".
	By omitting from the definition of the term "Inspector" the words "; and includes the Chief Inspector and the Deputy Chief Inspector".
Section 7 (1) .. ..	By omitting the words "Chief Inspector", and substituting the word "Secretary".
Section 20 .. ..	By omitting the words "Chief Inspector", and substituting the word "Secretary".
Section 34 (2) (b) .. ..	By omitting the words "Chief Inspector", and substituting the word "Secretary".
Section 41 .. ..	By omitting from paragraph (a) the words "Chief Inspector and other", and substituting the words "Secretary and of".
	By omitting from paragraphs (h) and (k) the words "Chief Inspector" in each place where they occur, and substituting in each case the word "Secretary".

SECOND SCHEDULE  
CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS

Section 21

Enactment	Amendment
<p>1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)</p>	<p>By inserting in paragraph (c) of the definition of the term “Informant” in section 2 (1) (as substituted by section 2 (2) of the Summary Proceedings Amendment Act 1987), after the word “officer”, the words “or employee”.</p> <p>By inserting in the definition of the term “infringement notice” in section 2 (1) (as substituted by section 2 (3) of the Summary Proceedings Amendment Act 1987), after the expression “Litter Act 1979”, the words “or section 32A of the Weights and Measures Act 1987”.</p> <p>By inserting in section 37 (4), after the word “officer” in both places where it appears, the words “or employee”.</p> <p>By inserting in section 37 (5) (as substituted by section 8 of the Summary Proceedings Amendment Act 1987), after the word “officer”, the words “or employee”.</p> <p>By inserting in section 207 (3) (as amended by section 13 of the Summary Proceedings Amendment Act 1987), after the word “officer”, the words “or employee”.</p>
<p>1988, No 156—The Trade and Industry Act Repeal Act 1988</p>	<p>By repealing so much of the First Schedule as relates to the principal Act.</p>