



Weights and Measures Amendment Act 2000

Public Act 2000 No 86
Date of assent 14 November 2000
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Weights and Measures Amendment Act 2000.
- (2) In this Act, the Weights and Measures Act 1987 is called “the principal Act”.

2 Commencement

- (1) Sections 4 to 9 come into force on the first anniversary date.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 First anniversary date

In sections 2(1), 4, and 5, **first anniversary date** means the first anniversary of the date on which this Act receives the Royal assent.

4 Goods to which amendments apply

The amendments to the principal Act in this Act apply to goods packaged on or after the first anniversary date.

5 Other goods

The principal Act, without the amendments in this Act, applies to goods packaged before the first anniversary date.

6 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**catch weight goods** means goods that—

“(a) are enclosed in a package; and

“(b) cannot be portioned to a predetermined quantity because of their nature; and

“(c) are usually sold in varying quantities

“**desiccating goods** means any goods made up in a package that lose weight or volume solely through evaporation when the package is made up

“**inadequate package** means a package enclosing goods that contains less than the quantity stated on the package or a label attached to it, where the deficiency is more than twice the amount of error specified for the purpose in regulations made under section 41A

“**lot of packages** means a collection of packages enclosing goods that—

“(a) are of the same kind; and

“(b) are of the same stated weight, measure, or number; and

“(c) are available for inspection at the same time and place

“**Minister** means the Minister of the Crown who is for the time being responsible for the administration of this Act, under the authority of any warrant or with the authority of the Prime Minister

“**non-standard package** means a package enclosing goods that contains less than the quantity stated on the package or a label attached to it, where the deficiency is more than the amount of error specified for the purpose in regulations made under section 41A but not more than twice that specified amount of error”.

- (2) The definition of **infringement offence** in section 2 of the principal Act is amended by inserting, after the expression “16,” the expression “16A,”.

7 New sections 16 and 16A substituted

The principal Act is amended by repealing section 16, and substituting the following sections:

“16 Offence to supply short weight, measure, or number

- “(1) Every person commits an offence who, in selling any goods by weight, measure, or number, delivers or causes to be delivered to the purchaser a lesser quantity than corresponds with the price charged.
- “(2) Every person commits an offence who, in purporting to sell any goods by weight, measure, or number, delivers or causes to be delivered to the purchaser a lesser quantity than that purported to be sold.

“16A Offence to supply weight, measure, or number not in accordance with stated quantity

- “(1) The following definitions apply in this section:
- “(a) in subsection (2), **person** means every person who sells or offers or exposes for sale, or has in that person’s possession for sale, by weight, measure, or number, any goods enclosed in a package that states the quantity of the goods or that has a label attached to it stating the quantity of the goods:
- “(b) in subsection (2), **goods** includes catch weight goods:
- “(c) in subsection (3), **goods** does not include catch weight goods.
- “(2) Every person commits an offence if the weight, measure, or number of the goods in the package is less than that stated on the package or label.
- “(3) However, the weight, measure, or number of the goods in the package is deemed to be the same as that stated on the package or label if—
- “(a) the package meets the conditions prescribed by regulations made under section 41A(1)(a); or
- “(b) the package is 1 package in a lot of packages that meets the conditions prescribed by regulations made under section 41A(1)(b).

- “(4) A person charged with an offence against this section in respect of a package from a lot of packages containing desiccating goods has a defence if the person proves that, at any time on the day the package was made up or during the period of 7 days beginning on the day after the day the package was made up,—
- “(a) the weighted average quantity of any sample taken from the lot of packages, as determined in accordance with regulations made under section 41A, was equal to or exceeded the quantity stated on the package or a label attached to it; and
 - “(b) 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 in regulations made under section 41A; and
 - “(c) there were no inadequate packages in any sample taken from the lot of packages.
- “(5) A person charged with an offence against this section in respect of a lot of packages containing desiccating goods also has a defence if the person proves that, at any time after the close of the period specified in subsection (4), a sample taken from the lot contained no inadequate packages.
- “(6) Section 67(8) of the Summary Proceedings Act 1957 does not apply to subsection (3).”

8 Infringement fee

Section 33A(a) of the principal Act is amended by inserting, after the expression “section 16,”, the expression “section 16A,”.

9 Court may order offender to make good any deficiency

- (1) Section 35 of the principal Act is amended by inserting, after the expression “section 16” in the first place it appears, the expression “or section 16A”.
- (2) Section 35 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraphs:
 - “(a) if the offence was committed against section 16, to make good to the person in respect of whom the offence was committed (other than an Inspector), either in goods or in money, the deficiency between the quantity of goods actually delivered and that charged for or purported to be sold; or

“(aa) if the offence was committed against section 16A, to make good to the person in respect of whom the offence was committed (other than an Inspector), either in goods or in money, the deficiency between the quantity of goods actually delivered and that stated on the package or label; or”.

10 New section 41A inserted

The principal Act is amended by inserting, after section 41, the following section:

“41A Regulations for purposes of section 16A(3)

“(1) The Governor-General may from time to time, on the recommendation of the Minister, by Order in Council, make regulations for the purposes of section 16A(3)—

“(a) prescribing the conditions that a package must meet in order for the weight, measure, or number of the goods in the package to be deemed to be the same as that stated on the package or on a label attached to the package; or

“(b) prescribing the conditions that a lot of packages must meet in order for the weight, measure, or number of the goods in each package in the lot to be deemed to be the same as that stated on any package in the lot or on a label attached to any package in the lot.

“(2) Regulations made under subsection (1) may, for the purposes of determining the conditions to be prescribed,—

“(a) prescribe—

“(i) the statistical basis or method by which packages must be selected for counting, examining, measuring, or weighing; and

“(ii) the statistical basis or method by which the minimum number of packages to be selected must be set; and

“(iii) the circumstances, if any, in which the minimum number of packages to be selected may be varied:

“(b) prescribe the maximum amount of error allowed in the weight, measure, or number of goods in a single selected package:

“(c) prescribe the maximum amount of error allowed in the weight, measure, or number of goods in a group of selected packages examined at one time:

- “(d) prescribe formulas to determine the weight, measure, or number, and weighted values, of goods in a group of selected packages taken from a lot of packages. The formulas must be of such a kind as to ensure that all the packages in the lot of packages from which the group is taken contain, on average, the amount stated on any package in the lot or on any label attached to a package in the lot:
- “(e) prescribe the number of packages that makes a group of packages for the purposes of paragraphs (c) and (d). The number may be a specified number or a number within a range of numbers:
- “(f) prescribe, in relation to any specified class of goods sold, or offered or exposed for sale, or in a person’s possession for sale, in a package or a lot of packages, any requirements on the goods’ weight, measure, or number after the period specified in section 16A(4) has ended.
- “(3) The Minister must not make a recommendation under subsection (1) without first consulting such individuals or organisations as the Minister thinks fit.
- “(4) The validity of any regulations made under this section is not affected if the Minister does not consult a particular individual or organisation or does not consult any individuals or organisations.”

Legislative history

9 November 2000	Divided from the Statutes Amendment Bill (No 7) as reported from the Justice and Electoral Committee (Bill 334-A2), third reading
14 November 2000	Royal assent

This Act is administered in the Department of Labour.
