

eSwatini

## Metrology Act

Act 12 of 1991

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# eSwatini

## Metrology Act Act 12 of 1991

Commenced on 22 April 1994 by [Metrology Act \(Date of Commencement\) Notice, 1994](#)

*[This is the version of this document at 1 December 1998.]*

**An Act to provide for the administration and control of metrology in trade, the use of measuring units of the Systems International and certain other units in Swaziland, and other related matters.**

### 1. Short title

This Act may be cited as the Metrology Act.

### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Metrology Board appointed under [section 7](#);

“**code of conduct**” in relation to repairers means such code of conduct as may be prescribed by the controller in terms of [section 38](#);

“**controller**” means the controller of metrology designated under [section 3](#);

“**correct**” in relation to a measuring instrument means correct within the limits or error or sensitivity prescribed by specification;

“**General Conference of Weights and Measures**”, (abbreviated as C.G.P.M.) means the Conférence Générale de Poids et Mesures established under the Metre Convention of 1875;

“**inspector**” means a person designated as an inspector under [section 4](#);

“**international measuring standard**”, means any measuring standard recognised as such by the General Conference on Weights and Measures;

“**SI**” (System International) means the metric system of units and defined by the General Conference on Weights and Measures;

“**measuring instrument**” means any appliance, equipment, instrument, apparatus or any combination thereof by means of which a measurement of a physical quantity may be made, and includes any measuring instrument by means of which a grading or counting is effected by the measurement of a physical quantity;

“**measuring standard**” means any national, secondary, tertiary, inspection, working or agents standard referred to in [sections 8, 9, 10, 11, 12 and 13](#), as the case may be;

“**measuring unit**” means any unit described or prescribed in terms of [section 49](#), but excludes any such unit, which, by regulation or specification is exempted from the purposes of this Act;

“**Minister**” means the Minister responsible for matters relating to commerce and trade;

“**new**”, in reference to a measuring instrument, means any measuring instrument which, in terms of this Act should be verified, has not been verified, but excludes any such measuring instrument which was in actual trade use before the date of commencement of this Act;

“**official measuring instrument**” means any measuring instrument, other than a measuring standard, used by the controller, or any inspector, for the purpose of performing his functions under this Act,

but excludes any measuring instrument used in trade and which may be used by the controller, or any inspector, in terms of [section 14](#);

“**Principal Secretary**” means the Principal Secretary in the Ministry responsible for matters relating to commerce and trade;

“**physical quantity**”, in relation to measuring, means any concept capable of being measured and of which the magnitude can be expressed in terms of measuring unit;

“**prepacked goods**” means any commodity which is sold according to a physical quantity or by number, and the quantity thereof determined in advance of the time of sale;

“**procedure**”, in relation to the approval of measuring instruments, means any procedure as may be prescribed by the controller in terms of [section 18](#);

“**rejection stamp**” means a die impression having a pattern of six pointed star design;

“**repair**”, in relation to measuring instruments includes any maintenance or service undertaken by a repairer on any measuring instrument;

“**repairer**” means any person registered as a repairer of measuring instruments in terms of [section 37](#);

“**sell**” includes—

- (a) to offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale;
- (b) to exchange or dispose of for any consideration whatsoever; or
- (c) to transmit, convey or deliver in pursuance of a sale, exchange or disposal;

“**specification**” in relation to measuring instruments means any specification as may be prescribed by the controller in terms of [section 30](#);

“**stamp**” includes cast, engrave, etch, print or otherwise mark in such a manner as to be as far as possible indelible;

“**trade**” includes—

- (a) the making, effecting or concluding of any contract, bargain, sale, purchase or transaction or any payment in connection therewith; or
- (b) any payment for services rendered; or
- (c) the collection of revenue in connection with which any measuring instrument is used;

“**unverified**” in relation to a measuring instrument, means not verified or re-verified if such measuring instrument should under this Act have been verified or re-verified;

“**vehicle**” does not include railway rolling stock;

“**verification stamp**” means a die impression which contains within a circular border the characters SD and a figure or group of figures signifying the identification number of an inspector or such verification stamp as may be recognised by the controller in terms of [section 28](#);

“**verify**” in relation to a measuring instrument means to stamp, seal or mark with a verification stamp, seal or mark after testing or to certify in writing in accordance with this Act and “re-verify” has a corresponding meaning.

## Part II – Administration

### 3. Controller of Metrology

Subject to any law governing public service, the Minister may by notice in the *Gazette* designate an officer to be a Controller of Metrology and such officer shall perform the functions assigned to him under this Act.

### 4. Designation of inspectors

- (1) Subject to any law governing the public service and subsection (2), the Minister may by notice in the *Gazette* designate persons as inspectors to perform such functions as may be assigned to inspectors under this Act.
- (2) No person shall be designated as an inspector unless he has shown in an examination undergone by him that he has adequate knowledge of this Act and that he—
  - (a) has, in accordance with a curriculum laid down from time to time by the controller, passed an examination in subjects specially laid down and practical work in examining, testing and verifying measuring instruments;
  - (b) holds a certificate issued by the Minister on the recommendation of the controller to the effect that he is qualified to act as an inspector;
  - (c) holds a certificate issued by the Metrology body of another country which is approved by the Minister on the recommendation of the controller to the effect that he is qualified to act as an inspector.

### 5. Prohibition of activities by inspectors

- (1) No inspector shall derive any profit from or be employed in the making, repair, adjusting or selling of measuring instruments:

Providing that the controller may in writing authorise any inspector to carry out such minor adjustments to measuring instruments as he deems appropriate.
- (2) No inspector shall perform any function assigned to him under this Act unless he is authorised in writing by the controller to perform it.

### 6. Carrying out of functions by statutory bodies

The Minister may by notice in the *Gazette*, and subject to such conditions as he deems fit, assign to any statutory body the carrying out of any function specified in this Act.

### 7. Metrology Board

- (1) The Minister may by notice in the *Gazette* appoint a board to be known as the Metrology Board.
- (2) The Board shall consist of—
  - (a) the controller who shall be Chairman;
  - (b) not less than two persons and not more than four persons appointed on account of their scientific, technical, industrial or commercial experience;
  - (c) the Principal Secretary;
  - (d) a public officer who shall be the Secretary of the Board.

- (3) The members of the Board who are not public officers shall receive such remuneration and allowances as the Minister may in consultation with the Minister responsible for Finance determine.
- (4) The Board shall regulate its own procedure.
- (5) The functions of the Board shall be—
  - (a) to examine or cause to be examined applicants for the post of inspectors and to recommend accordingly to the controller;
  - (b) to assist and advise the controller in the performance of his functions under this Act.
- (6) Until a Board has been appointed under subsection (1) the controller shall carry out his functions referred to in subsection (5)(b) in consultation with the Principal Secretary.

### **Part III – Measuring standards and official measuring instruments**

#### **8. National standards**

- (1) The Minister may by notice in the *Gazette* designate any measuring standards described therein by him as a national measuring standard.
- (2) The Minister shall, if any national measuring standard has been designated under subsection (1), appoint by notice in the *Gazette* such person or body of persons as he may deem fit to—
  - (a) keep and maintain all national measuring standards;
  - (b) arrange for the comparison from time to time of such measuring standards with the corresponding international measuring standards and see to the correction thereof, if necessary; and
  - (c) keep and maintain the equipment necessary for bringing national measuring standards into being and see to the procedures connected therewith.
- (3) The value of a national measuring standard in relation to the corresponding international measuring standards shall be the value as determined by the person or body of persons appointed under subsection (2).

#### **9. Secondary standards**

- (1) The Minister may, by notice in the *Gazette*, designate any measuring standard described therein by him as a secondary measuring standard.
- (2) Any secondary measuring standard shall be kept in the custody of the controller in accordance with such requirements and conditions as may be prescribed by regulation.
- (3) Subject to subsection (4), any secondary measuring standard shall be verified, before being taken into use and thereafter at intervals not exceeding twelve years, with the corresponding national measuring standards, and shall be certified accordingly.
- (4) The controller shall, in the absence of any appropriate national measuring standard, cause any secondary measuring standard to be verified and certified, before being taken into use and thereafter at intervals not exceeding twelve years, by any person or body of persons designated by him by notice in the *Gazette* for such purpose.
- (5) The value of a secondary measuring standard shall be the value as determined by the person or body of persons designated in terms of [section 8\(2\)](#) or subsection (4) as the case may be.

## 10. Tertiary standards

- (1) The Minister may, by notice in the *Gazette*, designate any measuring standards described therein by him as a tertiary measuring standard.
- (2) Any tertiary measuring standard shall be kept in the custody of the controller.
- (3) Subject to subsection (4), any tertiary measuring standard shall be verified and certified accordingly, before being taken into use, thereafter at intervals not exceeding six years, with the corresponding secondary measuring standards.
- (4) The controller shall, in the absence of any appropriate secondary measuring standard, cause any tertiary measuring standard to be verified and certified accordingly, before being taken into use and thereafter at intervals not exceeding six years, by any person or body of persons designated by him for such purpose.
- (5) The value of any tertiary measuring standard shall be the value as determined from time to time by the controller in terms of subsection (3) or the person or body of persons designated under subsection (4) as the case may be:

Provided that such value shall be determined within such degree of uncertainty as may be prescribed by regulation.

## 11. Inspection standards

- (1) The controller shall keep in his custody such measuring standards to be known as “inspection standards” for the purpose of verifying the working standards under [section 12](#).
- (2) Subject to subsection (3), any inspection standard shall be verified and certified accordingly before being taken into use and thereafter at intervals not exceeding two years with the corresponding tertiary measuring standards.
- (3) The controller shall, in the absence of any appropriate tertiary measuring standard, cause any inspection standard to be verified and certified accordingly, before being taken into use and thereafter at intervals not exceeding two years by any person or body of persons designated by him for such purpose.
- (4) The value of any inspection standard shall be the value determined by the controller in terms of subsection (2) or by the person or body of persons designated under subsection (3):

Provided that such value shall be determined within such degree of uncertainty as may be prescribed by regulation.

## 12. Working standards

- (1) The controller shall provide for use by any inspector such standards to be known as “working standards” as may be required by such inspector for the purpose of performing his functions under this Act.
- (2) Any working standards shall be verified, before being taken into use and thereafter at intervals not exceeding twelve months, with the corresponding inspection standards, and shall be certified accordingly by the controller.
- (3) The value of any working standard shall, with due allowance for such limits of error and degree of uncertainty as may be prescribed by regulation, agree with the value signified by its denomination.

### 13. Agents standards

- (1) Any repairer shall possess or be provided with or have access to such measuring standards, to be known as “agents standards”, suitable for the purpose of testing any measuring instrument after any repair thereto by such repairer.
- (2) Subject to subsection (3) any agents standard shall be verified, before being taken into use and thereafter at intervals not exceeding twelve months, by the controller or any inspector designated by him.
- (3) The controller may, under such circumstances and conditions as he deems fit, recognise any measuring standard used by a repairer and which has not been verified in terms of subsection (2) as an agents standard.
- (4) The value of any agents standard shall, with due allowance for such limits of error and degree of uncertainty as may be prescribed by regulation, agree with the value signified by its denomination.

### 14. Official measuring instruments

- (1) Every official measuring instrument shall be verified, before being taken into use and thereafter at such intervals as may be prescribed in terms of [section 15](#) and a record of every such verification shall be kept by the controller.
- (2) Any official measuring instrument shall be correct within such limits of error or sensitivity as may be prescribed by regulation.

### 15. Maintenance, custody and testing of measuring standards and instruments

Any measuring standard, other than a national, secondary or tertiary measuring standard, and any official measuring instrument shall be maintained, kept in custody and tested in accordance with such requirements as the controller may, in writing, prescribe from time to time.

## Part IV – Approval of measuring instruments

### 16. Measuring instruments to be approved

- (1) Any new measuring instrument used in trade shall, unless exempted by regulation, be of a class, type or kind approved by the controller.
- (2) Subject to sections [18](#) and [19\(2\)](#), any person who wishes to sell or make available any measuring instrument for use in trade and which in terms of subsection (1), is required to be approved, shall submit a specimen of such measuring instrument to the controller who shall examine it with reference to the material from which, the principle according to which, the manner in which, it has been made and such other circumstances as he may deem fit.
- (3) Subject to subsection (4) and [section 20](#), the controller shall, in finding a specimen of a measuring instrument submitted to him in terms of subsection (2) to be suitable for use in trade, approve such measuring instrument for such use and issue a certificate to such effect.
- (4) The controller may before issuing any certificate in respect of a measuring instrument submitted to him require alterations to be made to such measuring instrument as he may deem fit.
- (5) The controller may by means of a certificate issued in terms of subsection (3) or by means of notice or writing relating to a certificate recognised in terms of [section 19\(1\)](#), limit the purpose for which any measuring instrument may be used, or impose any limitations or conditions regarding the use, sale or supply, repair, approval or subsequent verification or exemption from verification, thereof.
- (6) The controller shall by notice in the *Gazette* cause to be made known particulars of any certificate issued in terms of subsection (3) or of any endorsement made in terms of [section 17](#).

- (7) The controller may by notice in the *Gazette* withdraw or amend any certificate issued in terms of subsection (3) or recognised in terms of [section 19](#).
- (8) The controller may in his discretion make any attachment, device or ancillary equipment connected with the use of any approved measuring instrument subject to examination and approval by him.

## 17. Modified models of approved measuring instruments

Any person who wishes to sell or make available for use in trade a modified model of an approved measuring instrument shall submit a specimen of such modified model to the controller for examination, and if the controller finds such modified model to be suitable for use in trade he shall endorse the certificate relating to the approved measuring instrument issued in terms of [section 16\(3\)](#) to the effect that it also relates to the modified model and the provisions of [section 16\(5\)](#) shall *mutatis mutandis* apply.

## 18. Procedure and costs

Any person who submits any measuring instrument or modified model of any measuring instrument or any attachment, device or ancillary equipment to the controller for examination in terms of [section 16\(2\)](#) and [17](#) shall do so in the manner specified in such procedure as may be prescribed in writing by the controller from time to time, and shall in addition to paying such costs as the controller may reasonably have incurred in connection with such examination, pay such fees as may be prescribed by the Minister by notice in the *Gazette*.

## 19. Recognition of approval certificate of other countries

- (1) Subject to [section 20](#) the controller may, by notice in the *Gazette*, in the case of a particular class or type of measuring instrument or in writing in the case of a particular measuring instrument, recognise any certificate including any endorsement thereon or addition thereto or limitation or condition imposed thereby relating to any measuring instrument issued by the approving authority of any other country or group of countries.
- (2) The controller may in recognising any certificate in terms of subsection (1) exempt any person submitting a measuring instrument to which such a certificate relates from the provisions of [section 16\(2\)](#).
- (3) Subject to the provisions of [section 16\(5\)](#), any particular class or type of measuring instrument or any particular measuring instrument in respect of which a certificate has been recognised in terms of subsection (1), shall be deemed to be approved in terms of this Act.

## 20. Controller may refuse to approve measuring instruments

- (1) The controller shall not approve any measuring instrument in terms of [section 16\(3\)](#), recognise any certificate in terms of [section 19\(3\)](#), or recognise any certificate in terms of [section 19\(1\)](#) or (3), unless facilities to the satisfaction of the controller, for the repair of such measuring instrument exist in Swaziland.
- (2) Notwithstanding subsection (1), the controller may in such circumstances and under such conditions as he may deem fit, approve any measuring instrument in terms of [section 16\(3\)](#), or recognise any certificate in terms of [section 19\(1\)](#), in respect of which facilities for the repair thereof do not exist in Swaziland.
- (3) A person who, without the written permission of the controller—
  - (a) sells or makes available for use in trade, any less models of a measuring instrument referred to in [section 16\(1\)](#), without a certificate in respect thereof having been issued under [section 16\(3\)](#); or

- (b) alters in any manner any model or modified model of a measuring instrument for which a certificate under [section 16\(3\)](#) has been issued and represents to any person that the altered model is the model for which the certificate has been issued; or
- (c) represents to any person that any measuring instrument may be used for a purpose other than that in respect of which a certificate was issued under [section 16\(3\)](#) or contrary to the terms and conditions of that certificate,

shall be guilty of an offence.

## Part V – Verification and construction of measuring instruments

### 21. Measuring instruments to be verified

Subject to sections [26\(1\)](#), [27](#) and [28](#), every measuring instrument used in trade shall, unless exempted by regulation, be verified in accordance with this Act.

### 22. Controller may call upon persons to produce measuring instruments

- (1) Subject to subsection (2), the controller may by notice in the *Gazette* call upon any person possessing any measuring instrument which in terms of this Act is required to be verified or re-verified to produce such measuring instrument at the place and time mentioned in the *Gazette* for the purpose of being inspected, tested, verified or re-verified or rejected:

Provided that there shall be an interval of twenty-one days or more between the date of publication of such notice and the date upon which such measuring instrument has to be produced.

- (2) The provisions of subsection (1) shall not apply in respect of any measuring instrument which—
  - (a) is fixed in such a manner or is of such delicate construction or has such mass that it cannot be conveniently moved; or
  - (b) is used at any place situated more than 10km from the place mentioned in the *Gazette*.
- (3) The controller shall take such steps as he may deem expedient to bring any notice published in terms of subsection (1) to the attention of the persons affected by it.
- (4) A person who fails to comply with an order made by the controller under this section shall be guilty of an offence.

### 23. Inspector may call upon persons to produce measuring instruments

- (1) Subject to subsection (2), any inspector may at any reasonable time order any person who uses in trade or has in his possession for such use any measuring instrument which in terms of this Act is required to be verified or re-verified to produce or otherwise make available to him such measuring instrument at the place where it is so used or at such other place being within 2km from the place where it is so used or possessed and at such reasonable time as such inspector may appoint in order to enable such inspector to inspect, test, verify or re-verify or reject such measuring instrument.
- (2) No person shall be ordered under subsection (1) to make available any measuring instrument which is fixed in such manner or is of such delicate construction or has such mass that it cannot be conveniently moved at any place other than the place where it is so used or possessed.
- (3) A person who fails to comply with an order made by an inspector under this section shall be guilty of an offence.

## 24. Verification and re-verification of measuring instruments by inspectors

- (1) Subject to subsection (3) and [section 29](#), any inspector shall inspect and test in the manner prescribed by specification every measuring instrument which is produced or otherwise made available to him for the purpose of verification or re-verification.
- (2) Subject to subsection (3) and [section 29](#), any inspector shall verify or re-verify in the manner prescribed by specification any measuring instrument which he finds to be correct and to comply with the provisions of this Act.
- (3) Any verified measuring instrument of volume made of clear glass and any verified measuring instrument of length need not be re-verified under this section, unless the inspector has reasonable grounds for believing that it has been altered materially since it was verified or unless the original verification stamp has been defaced or has become illegible.

## 25. Defacing of verification stamp

- (1) Any inspector shall, by means of a rejection stamp, deface the verification stamp on any measuring instrument which he finds to be false, defective or incorrect or not complying with any requirement of this Act, and thereupon such measuring instrument shall be deemed to be unverified or rejected.
- (2) Any inspector who rejects any measuring instrument in terms of subsection (1) shall at the same time issue to the person in charge of such measuring instrument a certificate stating the reason for the rejection.
- (3) Any measuring instrument referred to in subsection (1) which bears no verification stamp shall be marked with a rejection stamp in the most suitable position.
- (4) An inspector who fails to comply with subsections (1) and (2) shall be guilty of an offence.

## 26. Continued use of rejected measuring instruments

- (1) Any inspector may permit the continued use of any measuring instrument which he has rejected for a period not exceeding twenty-one days from the date upon which such measuring instrument is rejected.
- (2) Any inspector who permits the continued use of a rejected measuring instrument shall state on the certificate issued in terms of [section 25\(2\)](#), the period for which such measuring instrument may be continued to be used.

## 27. Exemption from verification or re-verification

- (1) The controller may, by notice in the *Gazette*, and subject to such conditions as he deems fit, exempt any measuring instrument from the provisions of [section 21](#).
- (2) The controller or any inspector authorised by him may grant permission, in writing, and subject to such conditions as he deems fit, for the use in trade of any unverified measuring instrument if for any reason it is not possible for any inspector to carry out the testing of such measuring instrument and if the controller or such inspector is satisfied that such measuring instrument is correct and verifiable under this Act.

## 28. Recognition of verification stamps of other countries

The controller may, by notice in the *Gazette*, in the case of a particular type or class of measuring instrument, and subject to such conditions as he deems fit, recognise the verification stamp of the metrology service of any other country, and any such measuring instrument bearing a stamp so recognised shall be deemed to be verified in terms of this Act.

## 29. Certain measuring instruments not to be verified

No inspector shall verify or re-verify any measuring instrument or container—

- (a) which is not complete or in a clean state;
- (b) which does not comply with the requirements of this Act; or
- (c) exempted by regulation from verification or re-verification.

## 30. Construction of measuring instruments or containers

- (1) Any new measuring instrument or any container shall be constructed and be correct in accordance with such specification as may be prescribed in writing, from time to time by the controller.
- (2) Any measuring instrument in actual trade use before the date of commencement of this Act shall be correct in accordance with the requirements of any specification prescribed in terms of subsection (1) for an instrument of its class or kind.

## Part VI – Use of possession and supply of measuring instruments and containers

### 31. Restriction on and prohibition of manufacture, importation, use or possession of measuring instruments and containers

- (1) Notwithstanding anything in this Act or any other law, the Minister may by notice in the *Gazette* restrict or prohibit the manufacture, importation, use or possession of any measuring instrument or container to such extent as he may deem necessary for the purpose of achieving the object of effecting the application of the measuring units of the SI and any other measuring units in Swaziland.
- (2) The controller may on such conditions and for such period as he may deem fit, grant permission in writing to any person to manufacture, import, use or have in his possession any measuring instrument or container in respect of which a notice has been issued under subsection (1).
- (3) No person shall use in trade or have in his possession for such use any measuring instrument or container—
  - (a) not permitted under this Act or which is false, defective or inaccurate;
  - (b) calibrated according to a measuring unit not permitted by this Act;
  - (c) of a denomination not permitted under this Act;
  - (d) which has not been verified or re-verified under this Act, unless exempted from such verification in terms of [section 27](#);
  - (e) which in terms of [section 16](#) should have been approved and has not been so approved;
  - (f) otherwise than in accordance with any limitation or condition imposed by a certificate, notice or writing issued under [section 16\(5\)](#);
  - (g) which has been rejected in terms of [section 25](#), unless permission for its continued use has been granted in terms of [section 26](#).
- (4) A person who contravenes this section shall be guilty of an offence.

### 32. Measuring instruments to be wholly exposed

Any person who, in the presence of a purchaser, measures any goods by means of measuring instrument, shall keep such measuring instrument wholly exposed to the view of such purchaser.

### 33. Measuring instruments for prepacked goods

Any person who sells any goods prepacked by him shall have a verified measuring instrument suitable for measuring such goods.

### 34. Sale and supply of measuring instruments and containers

- (1) Subject to [section 27\(2\)](#), no person shall sell, supply or install for use in trade any unverified measuring instrument.
- (2) No person shall sell or cause to be sold, or supply or install for use in trade any measuring instrument or container which is false, defective, inaccurate or which does not comply with the requirements of this Act.

### 35. Prohibition of acts by persons in respect of measuring instruments

- (1) No person shall—
  - (a) forge or counterfeit any stamp or die used for the verification of any measuring instrument used in trade;
  - (b) wilfully falsify or tamper with any measuring instrument used in trade;
  - (c) otherwise than in the capacity of an inspector or a repairer, obliterate or remove from any measuring instrument used in trade any verification stamp or seal or any part thereof;
  - (d) insert in or attach to any other measuring instrument used in trade any stamp or seal so removed;
  - (e) otherwise than in the capacity of an inspector, place upon any measuring instrument used in trade any stamp or mark purporting to indicate that such measuring instrument has been verified or re-verified;
  - (f) otherwise than in the capacity of a repairer place upon any measuring instrument used in trade any stamp or mark and issue any certificate in respect of such measuring instrument purporting to indicate that such measuring instrument is correct and verifiable;
  - (g) sell, supply or install for use in trade any measuring instrument which has been tampered with or which has been falsified or on which the verification stamp has been defaced in terms of [section 25](#); or
  - (h) wilfully commit or be a party to or aid in or incite any other person to the commission of any fraud or deception in the use of any measuring instrument used in trade.
- (2) A person who contravenes this section shall be guilty of an offence.

## Part VI – Repair of measuring instruments, registration and conduct of repairers

### 36. Repair of measuring instruments

- (1) Subject to [section 39](#), no person shall repair any measuring instrument used in trade unless he is registered in terms of [section 37](#) as a repairer.
- (2) Subject to subsection (3) and [section 39](#), any repairer who repairs any measuring instrument used in trade at any place, other than the place where such measuring instrument is so used, shall submit such measuring instrument to an inspector for examination, testing and verification before such measuring instrument is supplied for use in trade again.
- (3) Subject to [section 39](#), any repairer who repairs any measuring instrument used in trade at the place where it is so used shall, unless it is immediately thereafter verified by an inspector, issue to the

person in charge of such measuring instrument a certificate stating that such measuring instrument is correct and verifiable under this Act:

Provided that where such repair has been carried out in respect of a rejected measuring instrument, the controller shall be furnished forthwith with a copy of such certificate.

- (4) No person shall use in trade any measuring instrument which has been repaired and has not immediately been verified, unless a certificate has been issued in terms of subsection (3) or has been exempted in terms of [section 39](#).
- (5) No repairer shall issue a certificate in terms of subsection (3) in respect of a measuring instrument which is not correct or unverifiable under this Act.
- (6) A person who contravenes this section shall be guilty of an offence.

### **37. Registration of repairers**

- (1) Any person who wishes to be registered as a repairer shall apply in writing to the controller for such registration.
- (2) If the controller is satisfied as to the competency of any person who applies to be registered as a repairer, and such other circumstances as he may consider necessary, he shall issue a certificate to the effect to such person:

Provided that the controller may by means of such certificate limit the registration of a repairer to a particular measuring instrument, or to a particular class or kind of measuring instrument or impose such other conditions as he may deem fit.

- (3) The controller shall keep a register for the purpose of recording the name and such other particulars as he may consider necessary, of every person registered as a repairer.
- (4) The controller may, in writing, cancel the registration of any repairer if he is no longer satisfied as to the competency of such repairer or if such repairer has contravened or failed to comply with any provision of this Act.
- (5) The registration of any repairer resident outside Swaziland shall expire on the thirty-first day of December of each year.
- (6) Any person who wishes to be registered or re-registered as a repairer shall, upon application for such registration or re-registration, pay such fees as may be prescribed by the Minister by notice in the *Gazette*.

### **38. Duties, responsibilities and conduct of repairers**

Any person who is registered as a repairer shall perform his duties and exercise his responsibilities in respect of the repair of measuring instruments used in trade and such other circumstances as the controller may consider necessary in accordance with such code of conduct as may be prescribed in writing by the controller from time to time.

### **39. Exemptions**

The controller may, in writing, and under such circumstances and conditions as he deems fit, exempt any person or any measuring instrument from the provisions of sections [36](#), [37](#) and [38](#).

## Part VIII – Trade dealings and sale of goods

*[Please note: numbering as in original.]*

### 40. Effecting of trade dealings

- (1) Any trade dealing effected in terms of a physical quantity shall be effected only in accordance with measuring units permitted under this Act.
- (2) No trade dealings shall be effected by means of any measuring instrument—
  - (a) not permitted by this Act;
  - (b) which is false, defective, inaccurate or unverified if it should have been verified under this Act; or
  - (c) which has been rejected, unless permission for the continued use thereof has been granted in terms of [section 26](#).
- (3) Subject to subsection (4), no person shall import into Swaziland any goods, including prepacked goods, the quantity of which is expressed thereon or on any document relating thereto—
  - (a) in terms of any unauthorised measuring unit, unless the equivalent thereof is also expressed in terms of a measuring unit permitted under this Act;
  - (b) in terms of any measuring unit which does not comply with the provisions of any regulation prescribed in terms of [sections 42\(2\) and 43](#).
- (4) Subsection (3) shall not apply to any goods which the controller has exempted in writing or in respect of which the importer satisfies the controller that they are being imported for manufacturing purposes and not for sale.
- (5) A person who contravenes this section shall be guilty of an offence.

### 41. Catalogue to be in authorised manner

- (1) Subject to subsection (2), no person shall print, make, circulate or cause to be printed, published, made or circulated, any catalogue unless the quantity of goods referred to therein is expressed in terms of a measuring unit permitted under this Act or as may be prescribed in terms of [section 43](#).
- (2) Subsection (1) shall not apply to—
  - (a) any catalogue, emanating from any country outside Swaziland, which clearly shows on its outside cover that reference in such catalogue to prices and to quantities, expressed in unauthorised measuring units or in any other manner, are not applicable to Swaziland; or
  - (b) any catalogue referred to in paragraph (a) which bears a statement on its outside cover showing the equivalent of the measuring units in terms of which or other manner in which the quantity of any goods set forth in such catalogue shall be expressed in terms of this Act.
- (3) In this section “catalogue” means any return, price list, price current or any journal or other paper containing the price list or price current of goods, the quantity of which is stated therein.

### 42. Manner of selling goods

- (1) Subject to subsection (3), no person shall sell any goods in terms of the physical quantity of mass, unless by net mass.
- (2) Subject to subsection (3), no person shall sell any prepacked goods unless the quantity thereof is in the manner and subject to such conditions as may be prescribed by regulation, indicated on the package or on the goods or on any document accompanying such goods.

- (3) The Minister may by regulation and subject to such conditions as he may specify therein, exempt any goods from the provisions of subsections (1) and (2).
- (4) A person who contravenes this section shall be guilty of an offence.

#### **43. Prescribed physical quantities, prescribed quantities and prescribed dimensions of containers**

- (1) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the physical quantities in respect of which any goods shall be sold.
- (2) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the quantities in respect of which any goods shall be sold.
- (3) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the dimensions in respect of which any container or package shall conform.

#### **44. Permissible deficiencies**

- (1) No person shall sell any goods in terms of a physical quantity of which the quantity thereof is deficient of that demanded of, or represented by, the seller, unless such deficiency is permissible and in accordance with such conditions as may be prescribed by regulation.
- (2) A person who contravenes this section shall be guilty of an offence.

### **Part IX – Inspections and powers of inspectors**

#### **45. Controller to arrange for inspection**

The controller shall arrange inspections in order to prevent the use of any measuring instrument or container which falls within the purview, but which does not comply with the applicable requirements, of this Act, and in order to prevent the sale of goods which, in respect of quantity or the manner in which they are offered for sale, do not comply with the requirements of this Act.

#### **46. Power of inspectors**

- (1) Any inspector may conduct an investigation to ascertain whether this Act is being or has been complied with and may, for that purpose, open packages containing goods prepacked for sale.
- (2) Subject to subsection (3), any inspector may at all reasonable times—
  - (a) enter any place or stop and enter any vehicle—
    - (i) in respect of which he has reason to believe there is on or in it any measuring instrument or container used or intended to be used for trade or goods for sale;
    - (ii) in respect of which he has reason to believe that it is connected with any measuring instrument or container used, or intended to be used, in trade or the sale of goods;
  - (b) inspect any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods, or order that for purposes of inspection such measuring instrument, container, goods or document be placed at his disposal;
  - (c) inspect, test or verify in the manner prescribed by specification any measuring instrument or container used in trade and which is in the possession of any person or is found on any premises;
  - (d) inspect and measure the quantity of goods by means of an official measuring instrument or by means of a verified measuring instrument found at the place where such goods are or on any vehicle on which such goods are carried for sale;

- (e) seize and retain any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods.
- (3) Any inspector shall furnish to the person in charge of any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods, or to the agent or employee of such person, a receipt of any measuring instrument, container, goods or document seized and retained under subsection (2).

#### **47. Withdrawal of goods and measuring instruments**

- (1) Any inspector who finds goods for sale or any measuring instruments or containers used in trade which do not comply with the requirements of this Act may in writing order the person in whose possession or on whose premises such goods, measuring instruments, containers are found or the agent or employee of such person, to withdraw the whole or any part of such goods forthwith from sale or to withdraw any such measuring instrument or container from further use or to take such other steps as may be deemed necessary by such inspector for the protection of prospective purchasers or of any other person concerned.
- (2) A person who fails to comply with an order of an inspector under this section shall be guilty of an offence.

#### **48. Duties of persons using measuring instruments or selling goods**

- (1) Any person in charge of measuring instruments, containers or goods which are being inspected by any inspector or any agent or employee of such person shall at the request of such inspector render such assistance as may be necessary for the purpose of inspecting, testing or verifying such measuring instrument or container or of measuring or counting the quantity of such goods.
- (2) Any person using any measuring instrument in trade, which in terms of this Act is required to be verified shall, on demand by any purchaser desiring to ascertain whether such instrument is verified, produce such instrument and where applicable any document relating to the verification thereof to such purchaser for his examination.
- (3) No person shall hinder or obstruct any inspector in the exercise of his powers under this Act.
- (4) A person who hinders or obstructs an inspector in the performance of his duties under this Act or a person who falsely represents himself to be an inspector under this Act shall be guilty of an offence.

### **Part X – Measuring units**

#### **49. Measuring units in Swaziland**

- (1) Subject to subsection (2), the measuring units in Swaziland, the symbols therefor and the rules in connection with the use thereof, shall be—
  - (a) the units and the appropriate symbols and rules of SI as may be published from time to time by the Minister by notice in the *Gazette*;
  - (b) such other units, such symbols therefor and such rules in connection with the use thereof as the Minister may from time to time prescribe by notice in the *Gazette*.
- (2) The Minister may by notice in the *Gazette*—
  - (a) prescribe the manner in which measuring units shall be used;
  - (b) prohibit the expression of any quantity or of the dimensions of any goods in terms of certain measuring units or in any other manner not authorised by this Act;
  - (c) prescribe the permissible equivalent in which a measuring unit may be expressed in terms of another measuring unit of the same physical quantity or of another physical quantity;

- (d) prescribe the measuring unit in respect of which any trade dealing shall be effected.

## **Part XI – Burden of proof, presumptions, confiscation, acts or omissions, offences and penalties**

### **50. Burden of proof and presumptions**

- (1) If in any prosecution for an offence under this Act it is proved that the accused used in trade or had in his possession for such use, any measuring instrument or container which was not permitted by this Act or which was false, defective or inaccurate or which did not comply with any requirement of this Act, the accused shall be presumed to have known that such measuring instrument or container was not so permitted or was false, defective or inaccurate or did not comply with the requirements of this Act, unless the contrary is proved.
- (2) If in any prosecution for an offence under this Act it is necessary in order to establish a charge against the accused to prove—
- (a) that the accused did at any time or place use in trade or have in his possession for such use, any measuring instrument or container, and it is proved that the accused carried on trade at such time or place and that such measuring instrument or container was then in his possession, it shall be presumed that the accused at such time and place used in trade or had in possession for such use, such measuring instrument or container until the contrary is proved; or
- (b) that the accused did at any time or place sell or have in his possession for sale any goods, and it is proved that at that time and place he carried on trade and that such goods were then in his possession, it shall be presumed that at such time and place he sold or had in his possession for sale such goods until the contrary is proved.

### **51. Confiscation of measuring instruments or goods**

- (1) The court convicting any person of an offence under this Act may order the confiscation of any measuring instrument, container, goods or other things in respect of which such offence has been committed.
- (2) Any measuring instrument, container, goods or other things confiscated under subsection (1) shall be disposed of in such manner as the Minister may direct.

### **52. Acts of omissions by managers, agents or employees**

- (1) Where any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do so or omit to do, then unless it is proved that—
- (a) in doing or omitting to do such act such manager, agent or employee was acting without the connivance or permission of such person; and
- (b) all reasonable steps were taken by such person to prevent any such act or the omission to do any such act; and
- (c) the act or omission charged was not within the scope of the authority or in the course of the employment of such manager, agent or employee,

such person shall be presumed to have done or omitted to do that act, and shall be liable to be convicted and sentenced in respect thereof and the fact that he issued instructions forbidding any such act or omission shall not in itself be sufficient proof that he took all reasonable steps to prevent such act or omission.

- (2) If any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do or omit to do, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he were such person.

### **53. Offences and penalties**

Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and liable on first conviction to a fine not exceeding one thousand emalangeni or six months imprisonment or both and on second or subsequent conviction to a fine not exceeding two thousand emalangeni or twelve months imprisonment or both.

## **Part XII – General and miscellaneous**

### **54. Regulations**

The Minister may, in addition to such regulations as may be provided for in any other part of this Act, make regulations not inconsistent with this Act—

- (a) providing for the examination of candidates for appointment as inspectors and prescribing the syllabus and conditions in respect of such examinations;
- (b) regulating the manner in which the controller or inspector shall carry out his duties under this Act;
- (c) prescribing compulsory use or possession of particular measuring instruments in particular cases;
- (d) prescribing the forms to be used in connection with this Act;
- (e) with regard to any other matter which in terms of this Act is required or permitted to be prescribed, and generally for carrying out of the objects and purposes of this Act.

### **55. Repeal of Order No. 27 of 1975**

- (1) Subject to the provisions of subsection (2), the Weights and Measures Order, 1975 is hereby repealed.
- (2) Any regulation, notice, approval, authority, certificate or document issued, made, given or granted, and any other action taken under any provision of the Order repealed by subsection (1), shall be deemed to have been issued, given or granted or taken under the corresponding provisions of this Act.