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FIRST SCHEDULE

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An Act to re-enact, with amendments, the Weights and Measures Act

Date of Commencement: 15th September, 2006

Date of Assent: 5th September, 2006

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title

1. This Act may be cited as the Weights and Measures Act, 2006.

Interpretation

2. In this Act, unless the context otherwise requires —

“article” includes any liquids, foods, wares, merchandise, commodities and other goods of any description and, where necessary, any article and its package;

“assize” or “re-assize”, in relation to an instrument, weight or measure, means to examine or verify, test in the prescribed manner and when found correct, stamp with the stamp of assize and provide with seal of assize, where prescribed, in accordance with the provisions of this Act;

“assizer” means a person appointed as an assizer under section 12 (2);

“authorized measure” means, with reference to the measurement of weight, length or volume, a unit of weight, length or volume referred to in section 5 (1), and “unauthorized measure” shall be construed accordingly;

“Bureau” means the Botswana Bureau of Standards established under section 3 of the Standards Act;

Cap. 43:07

- “calibration” means the set of operations which establish, under specified conditions, the relationship between values indicated by a measuring instrument or measuring system, or values represented by a material measure, and the corresponding known values of a measure”.
- “certificate of competency” means a certificate issued by the Bureau under any regulations, order or notice made under this Act declaring that the holder is competent in the repair of weighing instruments, measuring instruments, weights or measures;
- “correct”, in relation to an instrument, weight or measure, means correct within such limits of error and with such sensitiveness as may be prescribed;
- “inspector” means a person appointed as an inspector in terms of section 12 (2);
- “Managing Director” means the Managing Director of the Botswana Bureau of Standards, appointed in terms of section 6 of the Standards Act;
- “measuring instrument” means an instrument for the measurement of length, area, capacity, volume or quantity;
- “police officer” means a police officer of the rank of Inspector or above;
- “pre-packed”, in relation to an article, means packed or made up in advance ready for sale in a wrapper or container;
- “purchaser” includes a person acting on behalf of a purchaser;
- “rejected”, in relation to an instrument, weight or measure, means examined, tested and found not to comply with the requirements of this Act by an assizer and stamped with a prescribed mark of rejection;
- “sale by retail” means a sale to a person buying otherwise than for the purpose of resale, but does not include a sale to a caterer or manufacturer for the purposes of his catering or manufacturing business, as the case may be;
- “seal of assize” means a prescribed seal of assize;
- “sell” includes to offer, advertise, expose, keep, transmit, convey, deliver, have in possession, or prepare for sale, and to exchange or dispose of for valuable consideration, or to transmit, convey or deliver in pursuance of a sale;
- “stamp” includes to cast, engrave, etch, print or otherwise mark in a manner which is as far as possible indelible;
- “stamp of assize” means a prescribed stamp of assize;
- “standard” means a national, secondary or working standard, as the case may be, referred to in section 7;
- “trade” includes any contract, bargain, sale, dealing and generally any transaction for valuable consideration in pursuance of which articles are weighed, measured or counted, but does not include any contract or bargain for sale of or dealing in land or interest in land;
- “unassized” means not assized, or, in relation to an instrument, weight or measure which under this Act should have been re-assized, not re-assized;
- “use in trade”, in relation to an instrument, weight or measure, means the use thereof for weighing, measuring or counting in trade;

“verification” means the testing of the accuracy of a weighing instrument, measuring instrument, weight or measure;

“weighing instrument” includes scales, balances and all kinds of machines or instruments used for weighing, including those which also compute prices and those which count objects by weighing.

Exemptions

3. The Minister may, by order published in the *Gazette*, exempt any area or article, or class of articles, from all or any of the provisions of this Act.

PART II — *Standard Weights and Measures*

Standard units of weight, length and volume

4. The standard units of measurement in Botswana shall be determined on the basis of the International System of Units established by the General Conference on Weights and Measures.

Units of weight, length and volume in Botswana

5. (1) The standard units of measurement regarding weight, length and volume, for use in Botswana and the symbols therefor are as set out in Parts I to V of the First Schedule.

(2) In addition to the units of measurement, referred to in this section, the non-metric units of measurement and the symbols therefor as set out in the Second Schedule may be used in Botswana for measuring physical quantities.

(3) The Minister, after consultation with the Bureau, may by order published in the *Gazette*, amend the First Schedule by adding new units of weight, length or volume to those specified therein or deleting any units specified therein.

(4) A quantity or measure expressed in non-metric units of measurements set out in the first column of the Third Schedule shall be converted into the International System of units using the conversion table set out in the third column of the Third Schedule.

Relative values of different kinds of units of measurement

6. (1) For the purpose of ascertaining the equivalent in the appropriate International System of Units of any quantity expressed in terms of a measure which is not an International System of Units, a measure specified in the first column of the Third Schedule shall be deemed to express the equivalent of the International System of Units specified in the third column in relation to that measure.

(2) The Minister, after consultation with the Bureau, may by order published in the *Gazette* amend the Third Schedule.

National, secondary and working standards

7. (1) The Bureau shall procure standards representing such units of weight, length and volume specified in the First Schedule and such parts and multiples thereof as it may deem necessary and shall direct which of the standards so procured shall be —

- (a) the national standards;
- (b) the secondary standards; and
- (c) the working standards.

(2) The national standards shall be deposited and kept in such place as the Bureau shall determine, and shall be used solely for the purpose of verification of secondary standards.

(3) The secondary standards shall be kept in the custody of the Bureau at such places as may be prescribed, shall be used for the purpose of verification of working standards and where no working standards are held, may, on the authority of the Bureau, be used as working standards.

(4) Working standards shall be used for the assizing or re-assizing of instruments, weights, or measures.

8. If at any time a standard is lost, destroyed, defaced, damaged or found by the Bureau to be unsuitable, the Bureau shall cause that standard to be replaced by a fresh standard.

Replacement of standards

9. (1) Every standard shall be authenticated in such manner as may be prescribed.

Authentication of standards

(2) Judicial notice shall be taken of every standard authenticated in terms of this section.

10. (1) The Bureau shall cause —

Verification of standards

(a) all national standards to be calibrated in such manner as it thinks fit at intervals not exceeding 10 years;

(b) all secondary standards to be calibrated in comparison with national standards at intervals of not more than three years; and

(c) all working standards to be calibrated in such manner and at such intervals as may be prescribed.

(2) Records of such calibration shall be kept in such form as the Bureau may direct.

11. The Bureau shall procure such suitable instruments, appliances and facilities as may be necessary for the purposes of this Act, and shall provide for such repair, adjustment, maintenance, verification or replacement of the instruments, appliances and facilities as may be required.

Equipment for administration of the Act

PART III — *Administration*

12. (1) The Managing Director of the Botswana Bureau of Standards (hereinafter referred to as “the Managing Director”) shall be responsible for the administration of this Act.

Administration of Act

(2) The Managing Director may, in administering this Act under subsection (1), delegate his or her powers to such employee of the Bureau as he or she may determine.

(3) Any act performed or done by an employee of the Bureau pursuant to subsection (2) shall be a valid act of the Managing Director, and shall be taken as if it was performed or done by the Managing Director in person.

(4) The Minister shall, after consultation with the Managing Director appoint, for the purposes of this Act, such assizers and inspectors as he or she considers necessary for the carrying out of the provisions of this Act.

13. (1) Any person may, on payment of the prescribed fee, make a written application to the Managing Director —

Certificate in respect of design or pattern of instruments, etc.

(a) for the issue of a certificate regarding the suitability for use in trade of any instrument, weight or measure of a design or pattern specified in the application; or

- (b) for the amendment of such certificate if that design or pattern is altered in a manner specified in the application without affecting the principle of the instrument, weight or measure.
- (2) The Managing Director shall, if he or she is satisfied —
 - (a) as to the suitability for use in trade of any instrument, weight or measure of a design or pattern specified in the application, issue a certificate to that effect; and
 - (b) that the alteration of the design or pattern specified in the application does not affect the —
 - (i) suitability for use in trade; and
 - (ii) principle of the instrument, weight or measure,
 he or she shall amend the certificate accordingly.
- (3) The Managing Director may, in issuing a certificate, limit the purposes of trade for which any instrument, weight or measure of that design or pattern may be used and restrict, or impose conditions upon the use in trade of any such instrument, weight or measure.
- (4) If the Managing Director at any time finds a design or pattern of an instrument, weight or measure in respect of which a certificate has been issued under this section to have some quality which might render it unsuitable for all or any purposes of trade or which has become obsolete he or she may cancel such certificate.
- (5) Where the certificate is cancelled under subsection (4), the Managing Director may, upon the payment of the prescribed fee, issue a fresh certificate in place thereof in which he or she may limit the purpose of trade for which the instrument, weight or measure may be used or restrict or impose conditions upon the use in trade of such instrument, weight or measure.

PART IV — Assizing of Instruments, Weights and Measures

Instruments, etc., used in trade to be assized

14. Subject to the provisions of this Act, every instrument, weight and measure used in trade shall be assized or re-assized in accordance with the provisions of this Act.

Fees charged by assizers

- 15.** The Bureau shall charge according to a prescribed tariff, fees —
- (a) in respect of any verification or comparison with or test by means of standards, or assizing or re-assizing, of any weighing or measuring instrument, weight or measure;
 - (b) in respect of the adjustment of any weight or measure; and
 - (c) in respect of the calibration of instruments by the Bureau.

Assizers to reject certain instruments, etc.

16. (1) Any assizer shall reject in the prescribed manner any instrument, weight or measure which he or she finds to be false or defective or not to be correct or not in compliance with the requirements of this Act.

(2) Where an assizer rejects an instrument, weight or measure in terms of subsection (1) the assizer shall issue to the person in charge of such instrument, weight or measure, if required by that person to do so, a written statement to the effect that it has been rejected.

17. (1) An assizer, inspector or police officer may at all reasonable times —

- (a) enter into any place or vehicle in respect of which he or she has reasonable cause to believe there is any instrument, weight or measure which is used in trade, and may inspect such instrument, weight or measure and cause it to be compared by an assizer with standards; and
- (b) seize and detain any instrument, part of an instrument, weight or measure which he or she has reasonable cause to believe is used contrary to the provisions of this Act.

(2) An assizer, inspector or police officer may at all reasonable times —

- (a) enter any place or vehicle in respect of which he or she has reasonable cause to believe any articles are sold or kept for delivery and may inspect and weigh or measure any article found therein;
- (b) order any person delivering any article to stop and may inspect and weigh or measure any such article;
- (c) for the purposes of paragraph (a) or (b), use any assized or re-assized instrument, weight or measure at the place or vehicle where such article is inspected;
- (d) order the seller of any article to produce for inspection and, if he or she thinks it necessary, seize and detain any invoice, delivery note or other record kept by such seller relating to the weighing or measuring of such article;
- (e) seize and detain any article in respect of which he or she has reasonable cause to believe that an offence has been committed under this Act;
- (f) order any person mentioned in paragraph (b) or (d) or in charge of any place or vehicle mentioned in paragraph (a) to —
 - (i) provide labour for the handling and weighing in terms of this section of any article; and
 - (ii) give his or her name and address and the name and address of his or her employer, if any.

(3) An assizer entering any premises by virtue of this section may take with him or her such other persons and such other equipment as may be necessary.

(4) Any person who fails to comply with any order made in terms of this section commits an offence and, upon conviction, shall be liable to a fine not exceeding P2,000 or, to imprisonment for a term not exceeding three months, or to both.

(5) When exercising any powers conferred by this section, an assizer, inspector or police officer shall, if so required, produce an appropriate identification card.

PART V — *Sale of Articles and use of Instruments,
Weights and Measures*

Contracts to be made by reference to an authorized measure

18. (1) Subject to the provisions of subsection (3), every contract made or effected in Botswana for any work, article or thing other than land or interest in land shall, when the same has been or is to be done, sold, delivered, carried or agreed for by weight or measure, be made or effected by reference to an authorized measure; and if not so made or effected any such contract shall be void.

(2) Subject to the provisions of subsection (3), any person who sells any article by reference to an unauthorized measure commits an offence and, upon conviction, shall be liable to a fine not exceeding P2,000 or, to imprisonment for a term not exceeding three months, or to both.

(3) The provisions of this section shall not apply to any contract made or effected with a view to the exportation from, or the importation into, Botswana of any article.

Containers marked with unauthorized measure

19. Subject to the provisions of this Act, no person shall sell any article in a wrapper or container marked with an unauthorized measure unless its correct equivalent in terms of an authorized measure is also marked on that wrapper or container —

- (a) not less conspicuously than the unauthorized measure; or
- (b) in the prescribed manner.

Sale and delivery of articles

20. (1) Subject to subsection (4), no person shall sell any article by weight unless by net weight.

(2) Subject to the provisions of subsections (3), (4) and (5), a person who sells or has sold an article by weight or measure shall not deliver, cause to be delivered or have in his or her possession or charge for delivery to the purchaser such article without an invoice or delivery note showing the net weight or the measure of such article.

(3) Where a weight has been prescribed for a sack, bag or pocket of any article and that article is sold by such sack, bag or pocket it shall be sufficient if the invoice or delivery note contains only the number of such sacks, bags or pockets sold.

(4) The provisions of subsection (2) shall not apply to —

- (a) bread or milk sold by retail;
- (b) any article weighed and measured in the sight and presence of the purchaser and delivered to the purchaser immediately thereafter; or
- (c) any article sold in a wrapper or container on the outside of which or on a label securely attached to which is clearly and legibly written or printed the net weight of such article at the time of packing.

(5) The provisions of this section shall not apply to any article for which weight is used for the purpose of designating grade or class only.

Sale of pre-packed articles

21. (1) Subject to subsection (2), no person shall sell any pre-packed article by weight or measure unless the net weight or the measure of that article is marked on the wrapper or container in the prescribed manner by reference to an authorized measure.

- (2) Subsection (1) shall not apply to any article —
- (a) weighed or measured in the sight and presence of the purchaser and delivered to the purchaser immediately thereafter;
 - (b) in respect of which a weight has been prescribed for a sack, bag or pocket of that article and the article is sold by such sack, bag or pocket; or
 - (c) for which weight is used for the purpose of designating grade or class only.

(3) The purchaser of any pre-packed article sold by weight or measure may require the seller to confirm in the presence of the purchaser the weight or measure by which such article was sold.

22. (1) Subject to this Act, where any person sells by retail, in a shop or store or in or from any vehicle any article by weight, he or she shall provide an assized weighing instrument and, where necessary, weights capable of weighing such article and shall keep and operate the same in such place and manner that the weighing and the weight indicated by the instrument are clearly visible to the purchaser at all times.

Provisions
and
operation of
weighing
instruments

(2) The provisions of subsection (1) shall not apply to any person selling bread from a vehicle.

(3) Subject to this Act, any person responsible for the management of any mill, refinery, creamery, fresh produce store or other place where agricultural or dairy produce is purchased shall provide an assized weighing instrument and, where necessary, weights capable of weighing such produce and shall keep and operate the same in such place and manner that the weighing and the weight indicated by the instrument are clearly visible to the person delivering such produce.

(4) Whenever an automatic instrument is used for the packing for sale of articles, the person packing such articles shall keep in close proximity to such automatic packing instrument such assized weighing or measuring equipment as may be necessary to verify the correct operation of such automatic packing instrument and shall use such assized weighing or measuring instrument at such frequent intervals as may be necessary to ensure that the automatic packing instrument is operating accurately and correctly.

23. (1) Notwithstanding anything to the contrary in this Act, the Minister may by order published in the Gazette restrict or prohibit the use or possession of weighing and measuring instruments, weights, measures and containers to such extent as he or she deems necessary for achieving the object of effecting the application of the metric system of weights and measures in Botswana to the exclusion of any other system of weights and measures.

Restriction or
prohibition of
use or
possession of
certain
instruments

(2) A restriction or prohibition referred to in subsection (1) may apply —

- (a) either in the whole of Botswana or in any specified portion thereof;
- (b) in respect of the use of the instrument, weight, measure or container in connection with all goods or specified classes or kinds of goods; and

- (c) in respect of a specified class or kind of weighing or measuring instrument, weight, measure or container or an instrument, weight, measure or container of a specified make, or in respect of an instrument, weight, measure or container possessed for use in trade or intended to be used in trade, or possessed for use for any other purpose.

Price lists

24. (1) Subject to subsection (2), no person shall print, publish, make, circulate or cause to be printed, published, made or circulated any price list, catalogue or other paper containing a statement of current prices of articles for sale by weight or measure in Botswana in which measures of weight, length and volume of those articles are expressed otherwise than by reference to an authorized measure or denote or imply a greater or lesser measure of weight, length and volume than is denoted or implied by an authorized measure.

(2) Subsection (1) shall not apply to any price list, catalogue or other paper, emanating from outside Botswana which —

- (a) clearly shows that references to measures of weight, length or volume contained therein are not applicable to Botswana; or
- (b) bears a statement showing the accurate equivalent by reference to an authorized measure of the measures contained in that price list, catalogue or other paper.

False statements as to measure, weight, etc.

25. Any person who, by any means whatsoever, whether directly or indirectly —

- (a) makes a false, incorrect or untrue declaration or statement as to the weight, length, gauge, width, area, volume or number of any article in connection with its purchase, sale, weighing or measurement; or
 - (b) sells or causes to be sold anything by weight or measure short of the quantity demanded of, or represented by, the seller,
- commits an offence and, upon conviction, shall be liable to a fine not exceeding P6,000 or to imprisonment for a term not exceeding six months, or to both.

Use of prohibited instruments, etc.

26. (1) Subject to the provisions of this Act, any person who knowingly uses in trade or has in his or her possession or charge for use —

- (a) any instrument, weight or measure the use in trade of which is prohibited under this Act or which is false, defective or not correct;
- (b) any unassized or rejected instrument, weight or measure; or
- (c) any instrument, weight or measure for any purpose of trade —
 - (i) for which according to a certificate issued under section 13 it may not be used; or
 - (ii) contrary to any restriction or condition imposed in such certificate,

commits an offence and, upon conviction, shall be liable to a fine not exceeding P6, 000 or, to imprisonment for a term not exceeding six months, or to both.

(2) Any person charged with contravening the provisions of —

- (a) paragraph (a) or (b) of subsection (1) shall be presumed to have known at the time when the offence was committed that the instrument, weight or measure to which the charge relates is such as is described in those paragraphs; and

(b) paragraph (c) of subsection (1) shall be presumed to have known at the time when the offence was committed the purposes of trade for which, and the restrictions or conditions subject to which, the instrument, weight or measure to which the charge relates, may be used, unless the contrary is proved.

27. (1) Any person who has in his or her possession for use in trade any unassized instrument, weight or measure shall, without undue delay —

(a) cause that instrument, weight or measure to be assized or re-assized;
(b) obtain a written authority for the use in trade of such instrument, weight or measure from an assizer in terms of subsection (2).

(2) An assizer may, upon receipt of —

(a) the prescribed fee; and

(b) a written statement by the holder of a certificate of competency that an unassized instrument, weight or measure is correct and assizable,

issue written authority to any person to use that instrument, weight or measure in trade during such period and subject to such conditions, if any, as the assizer may specify therein.

28. (1) Subject to subsection (2), any person who mends or repairs an assized or rejected instrument, weight or measure shall first permanently obliterate the stamp of assize or the rejection mark thereon and before such instrument, weight or measure is thereafter used in trade, cause such instrument, weight or measure to be assized.

(2) If such person cannot without undue delay cause such mended or repaired instrument, weight or measure to be assized, he or she may apply to an assizer for written authority for the use in trade of such instrument, weight or measure in terms of subsection (3).

(3) An assizer may, upon receipt of —

(a) the prescribed fee; and

(b) a written statement by the holder of a certificate of competency that an instrument, weight or measure which has been mended or repaired and not subsequently assized is correct and assizable,

issue written authority to any person to use that instrument, weight or measure in trade during such period and subject to such conditions, if any, as the assizer may specify therein.

29. (1) No person shall use metric carat weights except for weighing precious stones.

(2) A measure of volume or capacity or cubic content or a measure of weight may be used in selling fluids, unless otherwise provided.

Lawful use of certain unassized instruments, etc.

Repairs to instruments, etc.

Use of certain weights and measures for particular purposes

PART VI — *General*

30. (1) Subject to subsection (3), the Minister may by regulations, prescribe all matters which are required or permitted to be prescribed, or which are necessary or convenient for the carrying out of or giving effect to this Act.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may, by regulations, provide for —

- (a) the manner in which the process of assizing or re-assizing shall be carried out;
- (b) the material, construction and marking of instruments, weights and measures for use in trade and the manner in which the denominations of standard units of weight, length or volume and any multiples or parts thereof may be represented on or by such instruments, weights or measures;
- (c) the placing, erection and protection of instruments, weights and measures;
- (d) instruments, weights or measures which, or circumstances in which, an assizer shall refuse to assize or re-assize;
- (e) prohibiting the use in trade of instruments, weights and measures which in his or her opinion are easily liable to become incorrect or generally unsuitable for use in trade;
- (f) limiting the purposes of trade for which certain instruments, weights or measures may be used and restricting, or imposing conditions upon the use in trade of instruments, weights and measures;
- (g) defining the limits of error which may be allowed and the sensitiveness required in any instrument, weight or measure and the limits of error which may be allowed in the weight or volume of any article;
- (h) particulars to be specified in an invoice or delivery note relating to any article or class of articles;
- (i) regulating and controlling the sale by weight, measure or number of any article, and requiring that the same shall be sold by such weight or measure only, or according to prescribed quantities;
- (j) the manner in which the Managing Director, an assizer, inspector, or police officer shall carry out his or her duties under this Act;
- (k) the conditions upon which any fluids may be sold by weight only or by volume only;
- (l) the manner in which the weight, measure or number of an article shall be marked on packages or containers;
- (m) tables showing the equivalents which may be used in trade of one authorized measure in terms of another authorized measure;
- (n) the forms to be used in connection with this Act;
- (o) the quality and tolerance and the conditions for the supply, custody, care and verification of standards and associated equipment;
- (p) exempting classes of instruments, weights or measures from all or any provisions of this Act;
- (q) exempting, subject to such conditions as may be prescribed, any area or article or class of articles from all or any provisions of this Act;
- (r) cost recovery fees in respect of the assizing, re-assizing and rejection of instruments, weights and measures;

- (s) the period during which, notwithstanding the provisions of this Act, an instrument, weight or measure assized in any specified country may be sold, or used for purposes of trade, in Botswana;
 - (t) the issue of certificates regarding suitability of design or pattern of instruments, weights or measures for use in trade or the amendment of such certificates;
 - (u) the limitations on the use in trade of any design or pattern;
 - (v) the examination, testing, verification and stamping of any instrument, weight or measure belonging to or in use by the Government of Botswana;
 - (w) the circumstances in which a person may be issued with an assizer's certificate;
 - (x) the examination of candidates for assizer's certificates and the syllabus, conditions of and fees for such examination;
 - (y) the issue of a certificate of competency in the repair of weighing instruments, measuring instruments, weights or measures.
- (3) In regulations made in terms of subsection (1), the Minister may make different provisions for different classes of persons, articles or trades, and for different areas.

(4) Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations, order or notice prescribed under this section be complied with, the Minister may, if he or she thinks fit, in writing dispense with the observance of that requirement subject to compliance with such written conditions, if any, as he or she thinks fit to impose.

31. (1) Any person —

- (a) who makes use of any fraudulent art, device or contrivance for the purpose of evading this Act;
- (b) who forges or counterfeits or utters or unlawfully has in his or her possession a forged or counterfeit stamp or die for the assizing or re-assizing of an instrument, weight or measure;
- (c) who makes use of any weighing or measuring instrument which generates prices in foreign currency;
- (d) who, except as is provided in section 28 —
 - (i) tampers with an instrument, weight or measure; or
 - (ii) increases or diminishes a weight or measure used in trade;
- (e) other than an assizer, who places on any instrument, weight or measure any stamp or mark purporting to indicate that such instrument, weight or measure has been assized or re-assized; or
- (f) who wilfully commits or is a party to or aids in or incites any other person to the commission of any fraud or deception in the use of any instrument, weight or measure,

commits an offence and, upon conviction, shall be liable to a fine not exceeding P6,000 or to imprisonment for a term not exceeding six months, or to both.

Offences

(2) Any person —

- (a) who hinders or obstructs any assizer, inspector or police officer in the exercise of his or her functions under this Act;
- (b) who impersonates an assizer or inspector;
- (c) other than an assizer, and except as is provided in section 28, who obliterates or removes from any instrument, weight or measure any stamp or seal of assize or a part thereof;
- (d) who in any way alters any portion of the material or the weight or principle of construction of any instrument, weight or measure in respect of the design or pattern of which a certificate in terms of section 13 is in force and who, by any means whatsoever, whether directly or indirectly, represents such altered instrument, weight or measure to any person as an instrument, weight or measure in respect of the design or pattern of which such certificate is in force;
- (e) who contravenes or fails to comply with any provision of this Act or of any regulations made thereunder;
- (f) who knowingly contravenes any condition imposed with respect to any instrument, weight or measure by virtue of section 30 (4), commits an offence and, except as is otherwise specially provided in this Act, upon conviction, shall be liable to a fine not exceeding P6, 000 or to imprisonment for a term not exceeding six months, or to both.

(3) A person charged with an offence under this Act shall be entitled to have brought before the court in those proceedings, any person whose act or default is alleged by the person charged to have caused the commission of the offence.

(4) Any person who wishes to avail himself or herself of the provisions of subsection (3) shall give the prosecutor not less than three clear days of his intention to do so.

(5) If it is proved that the commission of the offence was due to the act or default of the person brought before the court in terms of subsection (3) that person may be convicted of the offence.

(6) Where a person is charged with an offence in terms of subsection (5) any articles sold by or in the possession of the person originally charged with the offence shall be deemed to have been sold by or in the possession of the person charged.

(7) The person originally charged with committing the offence shall be acquitted of the offence if he or she proves that he or she exercised all due diligence to avoid the commission of the offence by himself or herself or any other person under his or her control.

Forfeiture

32. Upon conviction of a person under this Act, the court may, if it thinks fit, either in addition to or without imposing any other penalty, order that any article, instrument, weight or measure in respect of which the offence was committed shall be forfeited to the Republic, unless the owner of such article, instrument, weight or measure or any person acting on his or her behalf or having a right in that article, instrument, weight or measure shows cause to the contrary.

33. (1) Whenever any manager, agent or employee of any person (hereinafter referred to as the “principal”) does or omits to do any act which would be an offence under this Act for such principal to do or omit to do, then, unless it is proved that all reasonable steps were taken by the principal to prevent any act or omission of the kind in question, the principal shall be presumed himself or herself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof.

Acts or omissions by managers, agents or employees

(2) Whenever any manager, agent or employee of a principal does or omits to do any act which would be an offence under this Act to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the principal.

(3) Any such manager, agent or employee may be so convicted and sentenced in addition to the principal.

34. (1) In any proceedings under this Act in respect of an alleged deficiency of weight or measure of any pre-packed article or of bread, the court shall disregard any inconsiderable variation in the weight or measure of a single article, and shall have regard to the average weight or measure of a reasonable number of other articles of the same kind, if any, sold by the accused, or in his or her possession for the purpose of sale, on the same occasion, and generally to all the circumstances of the case.

Safeguards to traders

(2) It shall be a defence to any proceedings under this Act in respect of an alleged deficiency of weight, length, gauge, width, area, volume or number if the accused proves that such deficiency was due to a bona fide mistake or an accident, evaporation or drainage, or other causes beyond his or her control, and in spite of all reasonable precautions being taken by him or her to prevent the occurrence of such deficiency.

35. (1) A document purporting to be signed by an assizer and certifying that an instrument, weight or measure specified therein was inspected or examined and compared with standards by him or her on a specified date and the finding of his or her inspection or examination shall be received in any court on production by any person, and without further proof, as prima facie evidence of the facts stated therein.

Documents to be prima facie evidence

(2) A document purporting to be signed by an assizer, inspector or police officer and certifying that an article specified therein was weighed, measured or counted by him or her on a specified date and was found to be of a weight, measure or number stated therein shall be received in any court on production by any person, and without further proof, as prima facie evidence of the facts stated therein.

36. (1) In any proceedings under this Act in which it is necessary, in order to establish the charge against a person, to prove that he or she had at any time used in trade, or have, in his or her possession or charge for such use, any instrument, weight or measure he or she shall, if it is proved that he or she carried on trade at that time and that such instrument, weight or measure was then in his or her possession or charge, be presumed, unless the contrary is proved, to have at that time used in trade or to have had in his or her possession or charge for such use, as the case may be, the said instrument, weight or measure.

Burden of proof

(2) Where an article is found in or on any place or vehicle which is used by any person for trade that article shall, unless the contrary is proved, be deemed for the purposes of this Act, to be in or on that place or vehicle for sale.

(3) Where an article packed or made-up in a wrapper or container is found in or on any place or vehicle which is used by any person for trade, that article shall, unless the contrary is proved, be deemed for the purposes of this Act, to be a pre-packed article.

Recovery of fees

37. The Minister may by action in any court of competent jurisdiction recover the amount of a fee payable in terms of this Act.

Repeal of Cap. 43:06

38. The Weights and Measures Act is hereby repealed.

Savings and transitional provisions

39. Notwithstanding the repeal effected under section 38 —

- (a) every statutory instrument made under the repealed Act, and in force immediately before the coming into operation of this Act, shall continue in force as if made under this Act; and
- (b) any application or process commenced; or any authentication, verification, seizure, detention, certification, or order made, or authority given, under the repealed Act, immediately before the coming into operation of this Act, shall be deemed to have been made under this Act.

Act to bind the Republic

40. This Act binds the Republic.

FIRST SCHEDULE

(section 5)

Units of measurement of weight, length, area and volume or capacity to be used in Botswana.

PART I — *Weight*

| <i>Name of Unit</i> | <i>Symbol of Unit</i> | <i>Value of Unit expressed in kilograms</i> |
|---|-----------------------|---|
| Microgram | µg | 0.000 000 001 |
| Milligram | mg | 0.000 001 |
| Gram | g | 0.001 |
| Kilogram | Kg | 1 |
| Tonne (Metric) | t | 1000 |
| For trade with precious stone only; Metric carat | C.M | 0.000 2 |

PART II — *Length*

| <i>Name of Unit</i> | <i>Symbol of Unit</i> | <i>Value of Unit expressed in metres</i> |
|---------------------|-----------------------|--|
| Micrometre | µm | 0.000 001 |
| Millimetre | mm | 0.001 |
| Centimetre | cm | 0.01 |
| Decimetre | dm | 0.1 |
| Metre | m | 1 |
| Kilometre | km | 1000 |

PART III — *Volume*

| <i>Name of Unit</i> | <i>Symbol of Unit</i> | <i>Value of Unit expressed in litres</i> |
|---------------------|-----------------------|--|
| microlitre | µL | 0.000 001 |
| millilitre | mL | 0.001 |
| litre | L | 1 |
| decalitre | daL | 10 |
| hectolitre | hL | 100 |
| kilolitre | kL | 1000 |
| megalitre | ML | 1000 000 |

PART IV – *Area*

| <i>Name of Unit</i> | <i>Symbol of Unit</i> | <i>Value of Unit expressed in Square Metres</i> |
|---------------------|-----------------------|---|
| Square millimetre | mm ² | 0.000 001 |
| Square centimetre | cm ² | 0.000 1 |
| Square decimetre | dm ² | 0.01 |
| Square metre | m ² | 1 |
| Square kilometre | km ² | 1 000 000 |

PART V — *Cubic Measures*

| <i>Name and Symbol of SI Unit</i> | <i>Name and Symbol of equivalent litre Unit</i> | <i>Value of Unit expressed in cubic decimetres or litres</i> | | |
|-----------------------------------|---|--|----|-----------|
| Cubic millimetre | mm ³ | microlitre | µL | 0.000 001 |
| Cubic centimetre | cm ³ | millilitre | mL | 0.001 |

| | | | | | |
|-----------------|-----------------|------------|---|-----|----------|
| Cubic decimetre | dm ³ | litre | - | L | 1 |
| | | decalitre | - | daL | 10 |
| | | hectolitre | - | hL | 100 |
| Cubic metre | m ³ | kilolitre | - | kL | 1000 |
| | | megalitre | - | ML | 1000 000 |

SECOND SCHEDULE

(Section 5)

PERMITTED NON-SI-UNITS

Non-SI-units which may, in addition to SI units, be used in Botswana

| <i>Physical Quantity</i> | <i>Name of Unit</i> | <i>Symbol of Unit</i> | <i>Meaning</i> |
|---------------------------------|---------------------|-----------------------|---|
| Time | minute | min | 60 seconds of time (SI-Unit) |
| | hour | h | 60 minutes of time (SI-Unit) |
| | day | d | 24 hours (SI-Unit) |
| Speed of vehicles, wind, etc | kilometre per hour | km/h | |
| Plane angle | degree | ° | 1/90 of the straight plane angle |
| | minute | ' | 1/60 of a degree of angle |
| | second | '' | 1/60 of a minute of angle |
| Temperature | Degree Celsius | °C | One Degree Celsius is an interval of temperature identical in value to the SI-unit for thermo dynamic temperature Kelvin, symbol K. The zero point of |

the Celsius scale is set to 273.15 K. corresponding to the freezing point of pure water.

| | | | |
|-------------------|---------------|-----|--|
| Electrical energy | kilowatt-hour | kWh | Equal to 3 600 000 joule, symbol J. the SI-unit of energy. |
| Pressure | bar | bar | Equal to 100 000 pascal, symbol Pa, the SI-unit of pressure. |

THIRD SCHEDULE
(sections 5 and 6)

| <i>Designation of unit to convert</i> | <i>Meaning the same as</i> | <i>Size in appropriate SI Unit</i> |
|---------------------------------------|----------------------------|------------------------------------|
| <i>Units of length</i> | | |
| Inch (in) | - | 0.025 4 m |
| foot (ft) | 12 inches | 0.304 8 m |
| yard (yd) | 3 feet | 0.914 4 m |
| fathom | 6 feet | 1.828 8 m |
| chain | 22 yards | 20.116 8 m |
| mile | 1 760 yards | 1.6093 km |
| pouce (French) | - | 0.027 07 m |
| pied (French) | 12 pouces (French) | 0.324 84 m |
| toise | 6 pieds (French) | 1.949 0 m |
| perche | 20 pieds (French) | 6.496 8 m |
| aune | 44 pouces (French) | 1.191 08 m |
| <i>Units of area</i> | | |
| square inch (in ²) | | 0.000 645 16 m ² |
| square foot (ft ²) | 144 square inches | 0.092 903 m ² |
| square yard (yd ²) | 9 square feet | 0.836 127 m ² |
| acre | 4840 square yards | 4 046.86 m ² |
| square mile (mile ²) | 640 acres | 2.589 99 km ² |
| pied carre (French) | | 0.105 522 m ² |
| toise carre | 36 pieds carres (French) | 3.798 8 m ² |
| perche carre | 400 pieds carres (French) | 42.208 8 m ² |
| arpent | 100 perches carres | 4 220.88 m ² |

Units of volume and liquid capacity

| | | | |
|-------------------------------|--------------------|-------------|-----------------------|
| cubic inch (in ³) | - | 16.387 1 | cm ³ |
| cubic foot (ft ³) | 1 728 cubic inches | 0.028 316 8 | m ³ |
| cubic yard (yd ³) | 27 cubic feet | 0.764 555 | m ³ |
| UK fluid ounce | - | 28.413 1 | cm ³ or ml |
| UK pint | 20 UK fluid ounces | 0.568 261 | dm ³ or L |
| UK gallon | 4 UK quarts | 4.546 09 | dm ³ or L |
| US fluid ounce | - | 29.573 5 | dm ³ or L |
| US gallon | 23 1 cubic inches | 3.785 41 | dm ³ or L |
| US barrel (petroleum) | - | 158.287 | dm ³ or L |

Units of weight

| | | | |
|-------------------------|--------------|--------------|----|
| ounce (oz) | - | 28.349 5 | g |
| UK (and US) pound (lb) | 16 ounces | 0.453 592 37 | kg |
| UK stone | 14 pounds | 6.350 29 | kg |
| UK hundred weight (cwt) | 112 pounds | 50.802 3 | kg |
| UK central (ctl) | 100 pounds | 45.359 2 | kg |
| UK (long) ton | 2 240 pounds | 1 016.05 | kg |
| US (short) ton | 2 000 pounds | 907.185 | kg |
| UK (and US) ounce troy | - | 31.103 5 | g |

Units of force

| | | | |
|----------------------|---|------------|----------|
| pound-force (lbf) | - | 4.448 22 N | (newton) |
| kilogram-force (kgf) | - | 9.806 65 N | (newton) |

Units of pressure

| | | | |
|--|---------------------------|-------------|----------|
| pound-force per square inch (lbf/in ² or p.s.i.) | - | 6 894.76 Pa | (pascal) |
| kilogram-force per square cm (kgf/cm ²) | technical atmosphere (at) | 98 066.5 Pa | (pascal) |

Units of energy

| | | | |
|---------------------------------|---|------------|---------|
| British thermal unit (Btu) | - | 1 055.06 J | (Joule) |
| Scientific gramcalorie (cal 15) | - | 4.185 5 J | (Joule) |

| | | |
|--|---|----------------------|
| International steam table gramcalorie | - | 4.186 8 J (Joule) |
| <i>Units of power</i> | | |
| Metric horse power | - | 735.499 W (watt) |
| Horse power | - | 745.700 W (watt) |

PASSED by the National Assembly this 26th day of July, 2006.

A. MATLHAKU,
Clerk of the National Assembly.