

REPUBLIC OF KIRIBATI

WEIGHTS AND MEASURES ACT 1984

Arrangement of Sections

Section

- 1 Short title, commencement and application
- 2 Interpretation
- 3 Standard weights and measures
- 4 Appointment of inspectors and Chief Inspector
- 5 Powers of inspectors
- 6 What weights and measures to be used
- 7 Goods to be sold by net weight or measure
- 8 Certain goods to be sold only by weight or only by measure
- 9 Pre-packed goods
- 10 Penalty for injuring official weights, etc.
- 11 Penalty for use or possession of unjust measures, etc.
- 12 Penalty for fraud in use of weight, measure or weighing or measuring equipment
- 13 Short weight, etc.
- 14 Safeguards for traders
- 15 Employer answerable for acts of agents and servants
- 16 Confidentiality
- 17 Offences. General
- 18 Power to make regulations

REPUBLIC OF KIRIBATI  
(No. 1 of 1984)

I assent,

*W. Tebani*  
Beretitenti.  
11/6/1984

AN ACT TO REGULATE WEIGHT AND MEASURES  
IN KIRIBATI: AND FOR CONNECTED PURPOSES

Commencement:  
11 June 1984

MADE by the Maneaba ni Maungatabu and assented to  
by the Beretitenti.

Short title and  
commencement.

1. (1) This Act may be cited as the Weights and Measures Act 1984 and shall come into operation on such date as the Minister may by notice appoint.

Application and  
suspension.

(2) This Act shall apply throughout the Republic: Provided that the Minister may by order direct that any or all of the provisions of this Act shall be suspended in relation to any part of the Republic and during the currency of such order the provisions so suspended shall not have effect in relation to that part of the Republic.

Interpretation.

2. In this Act, except where the context otherwise requires -

"inspector" means an inspector appointed under section 4;

"pre-packed" in relation to goods or articles means goods or articles packed or made up in advance ready for retail sale in or on a wrapper or container and where any goods or articles packed or made up in or on a wrapper or container are found on any premises where such goods or articles are packed, kept or stored for sale or are found in the possession of any person engaged in trade, they shall be deemed to be packed or made up in advance for retail sale unless the contrary is proved;

"purchaser" includes any person acting on behalf of the purchaser;

"trade" means dealing in goods sold by weight, measure or number or performing the service of weighing or measuring or performing a service in connection with which payment for goods or services or tolls or duties is assessed by weight or measure;

"weighing or measuring equipment" means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is constructed to give an indication of the measurement made or other information determined by references to that measurement;

Standard weights and measures.

3(1) The Minister shall cause to be maintained Standards of the kilogram, metre and litre and, until the Minister may by order direct, of the pound, yard and gallon which shall be the standards of those units; and a standard of any other unit of weight, length or volume derived wholly or partly from any of those units shall be maintained.

(2) The Minister shall cause to be made or procured copies and models of the several weights and measures so maintained, and such copies shall be verified and made available for reference in such manner as the Minister may decide.

(3) Copies and models of weights and measures claimed by an inspector or otherwise purporting to be verified and made available for reference under subsection (2) shall, until the contrary be proved, be presumed for all purposes to be true and accurate weights or measures.

Appointment of inspectors and Chief Inspector.

4(1) The Minister may appoint a suitable Chief Inspector and one or more inspectors of Weights and Measures for the purpose of this Act.

(2) The Minister shall cause the inspectors to be provided with credentials in such form as he shall decide.

Powers of inspectors.

5(1) An inspector may at any reasonable time and, if requested, on production of his credentials -

(a) enter any premises, aircraft, vessel or vehicle, and for such purpose stop any aircraft, vessel or vehicle, wherein he reasonably suspects (1) any goods are kept or exposed for sale or (2) wherein

or in connection with which weighing or measuring equipment is used for trade;

- (b) examine and test any weights, measures, weighing equipment or measuring instruments that may be used for trade;
- (c) weigh or measure or count, or cause to be weighed or measured or counted, in the presence of a person in charge of the same any goods kept or exposed for sale or in course of sale;
- (d) seize and detain any goods, weights, measures, weighing equipment or measuring equipment which he finds or reasonably suspects to be not in accordance with this Act (and shall give a receipt for same);
- (e) if he has reasonable cause to suspect that an offence under this Act has been committed, may, for the purpose of ascertaining whether it has been committed, require any person carrying on trade or business or employed in connection with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or entry in, any such book or document; and
- (f) may seize and detain any goods, books or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act.

(2) An inspector entering any premises, vessel or vehicle by virtue of this Act may take with him such other persons as are engaged full-time in Government service and such equipment as may appear to him necessary to perform his duties under this Act.

(3) All weighing or measuring equipment, books, documents and goods seized under this section shall, if a court so directs, be forfeited and disposed of as the court may direct.

(4) Every person who wilfully obstructs or impedes any inspector or person with him by virtue of subsection (2) in the performance of his duty under this Act or who refuses without reasonable cause to produce and deliver any book, document, weighing or measuring equipment in use for trade when required so to do by an inspector or, without reasonable cause, fails to give an inspector any other assistance or information which the inspector may reasonably require for the

purposes of this Act shall be liable to a fine of \$300 and to imprisonment for 6 months.

What weights and measures to be used.

6(1) All goods or other things sold by weight shall be sold by the kilogram or any other unit of weight derived therefrom:

Provided that all such goods or other things may be sold by the pound or any unit of weight derived therefrom until such time as the Minister may by order direct.

(2) All goods or other things sold by length or area shall be sold by the metre or any other unit of measurement derived therefrom:

Provided that all such goods or other things may be sold by the yard or any unit of length or area derived therefrom until such time as the Minister may by order direct.

(3) All goods or other things sold by volume shall be sold by the litre or any unit of volume derived therefrom:

Provided that all such goods or other things may be sold by the gallon or any unit of volume derived therefrom until such time as the Minister may by order direct.

Goods to be sold by net weight or measure.

7. Save with the consent of the Minister, which consent may be given generally or in a particular case, goods sold by retail by weight or measure shall be sold only by net weight or measure.

Certain goods to be sold only by weight or only by measure.

8. The Minister may from time to time by order require generally or by reference to special circumstances or areas that any goods shall be sold only by weight or only by measure.

Pre-packed goods.

9. Any person who sells or offers or exposes for sale by retail any pre-packed goods required by order under section 8 to be sold only by weight or only by measure, shall correctly and clearly indicate the net weight or measure on the wrapper or container or on a ticket, card or label placed where it may clearly be seen by a prospective purchaser, purchaser or inspector and so as to be clearly applicable to the goods.

Penalty for injuring official weights, etc.

10. Any person who falsifies or wilfully injures any copy or model of any weight or measure verified and made available for reference under section 3(2) shall be liable to a fine of \$300 and to imprisonment for 6 months and to pay the cost of rectifying the copy or model.

Penalty for use  
or possession of  
unjust measures,  
etc.

11. Every person who uses or has in his possession for use for trade any weighing or measuring equipment which is false or unjust shall be liable to a fine of \$300 and to imprisonment for 6 months, and the weighing or measuring equipment shall be liable to be forfeited.

Penalty for fraud  
in use of weight,  
measure or  
weighing or  
measuring equip-  
ment.

12. Where any fraud is wilfully committed in or in connection with the use or purported use of any weighing or measuring equipment, the person committing such fraud, and every person party to the fraud, shall be liable to a fine of \$300 and imprisonment for 6 months, and the weighing or measuring equipment shall be liable to be forfeited.

Short weight,  
etc.

13(1) Subject to the provisions of this Act, any person who, whether on his own behalf or on behalf of another person, offers or exposes for sale, sells or agrees to sell any goods by weight or other measurement or by number, or delivers or causes to be delivered to the purchaser a lesser quantity than that purported to be sold or than corresponds with the price charged, shall be liable to a fine of \$300 and to imprisonment for 6 months.

(2) Subject to the provisions of this Act, any person who sells or offers or exposes for sale by retail any goods or purports to make known to the purchaser thereof the quantity of any goods sold, or in offering to purchase any goods, makes any misrepresentation either by word of mouth or otherwise as to the quantity of the goods, or does any other act calculated to mislead a person buying or selling the goods, as to the quantity thereof, shall be liable to a fine of \$300 and to imprisonment for 6 months.

(3) Where any person offers or exposes for sale by retail by weight or measure any goods not being goods pre-packed by a person other than the seller or his agent, he shall have in a convenient place, capable of being easily seen by a prospective purchaser, suitable weighing or measuring equipment and shall at the point of sale, at the request of a prospective purchaser or a purchaser to whom any such goods are represented as being sold or are sold as being of a given weight or measure, or at the request of an inspector, weigh or measure the goods at that time and place in the presence of the prospective purchaser, purchaser or inspector.

(4) Save as expressly provided in or under this Act with respect to goods of a specified kind, nothing in this Act shall prevent the sale or subject a person to a penalty under this Act for

the sale of goods in any vessel where such vessel is not represented as containing any amount of standard weight or measure, nor render a person liable to a penalty under this Act for the possession of a used or intended for use as a measure.

Safeguards for traders.

14. Subject to and without prejudice to Part IV of the Penal Code Chapter 67,

- (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 may disregard any inconsiderable variation in the weight or measure of a single article, but shall have regard to the average weight or measure of a reasonable number of other articles of the same kind (if any) sold or delivered by the defendant, or in his possession for the purpose of sale or delivery, on the same occasion, and generally to all the circumstances of the case.
- (2) In any proceedings under this Act, if the defendant proves to the satisfaction of the court that he took all reasonable precautions and exercised all due diligence to avoid commission of an offence, the defendant shall be discharged from the prosecution.
- (3) In any proceedings under this Act in respect of an alleged deficiency in the weight of any article delivered to a purchaser, the defendant shall be discharged from the prosecution if he proves to the satisfaction of the court that the alleged deficiency was due to unavoidable evaporation or drainage and that due care and precaution had been taken to avoid such deficiency.
- (4) For the purposes of any proceedings under this Act the weight or measure of any article sold or in the possession of any person for the purpose of trade shall be deemed to be correct if it is proved to be correct within the margin of error permitted by regulations made under this Act in respect of the weighing or measuring equipment by which such article was lawfully weighed or measured for purpose of such sale or exposure for sale.

Employer answerable for acts of agents and

15. Any person who employs in his shop, store or other place of business any agent, servant or other person shall be answerable for the acts or omissions of such agent, servant or other person, in so far as they concern the business of the employer, and if such agent, servant or other person commits

any act or makes any omission which is an offence under this Act, or which would be an offence if made or committed by such employer, such employer and his agent, servant or other person shall each be guilty of the offence and shall be jointly and severally liable to the penalties provided by this Act.

Confidentiality.

16. If any person discloses to any other person any information obtained by him in pursuance of this Act he shall be liable to a fine of \$300 and to imprisonment for 6 months unless the disclosure was made in or for the purpose of the performance by him or any other person of functions under this Act.

Offences.  
General.

17(1) Subject to Section 14 hereof any person who fails to comply with or contravenes any provision of or under this Act commits an offence and if no penalty is elsewhere in this Act expressly provided for a particular offence such person shall be liable for that offence to a fine of \$100 and to imprisonment for 3 months.

(2) Save with the consent of the Attorney General, no prosecution for an offence under this Act shall be commenced after the expiration of 3 years from the commission of the offence or 6 months from its discovery by the prosecutor, whichever is the earlier.

(3) In any prosecution under this Act any copy of a book, document or entry taken under the provisions of section 5(1)(e) shall be deemed prima facie correct and shall be receivable in evidence by a court and be of the same probative value as its original.

Power to make  
regulations.

18(1) The Minister may make regulations for the better carrying out of the provisions and purposes of this Act, and in particular and without prejudice to the generality of the foregoing power, such regulations may provide for any or all the following purposes :

- (a) prohibiting the importation into the Republic of certain types of weighing or measuring equipment;
- (b) the methods of inspecting, verifying and stamping weights, measures, copies and models thereof, all other weighing or measuring equipment, and of certifying such verification;
- (c) prescribing the amount of error that may be tolerated in weighing or measuring equipment;



- (d) requiring the marking on weights and measures of their denominations and on other weighing or measuring equipment of their capacities, and prescribing the manner of so doing;
- (e) exempting any particular classes of weighing or measuring equipment from the requirements of this Act;
- (f) limiting the purposes for which certain weighing or measuring equipment may lawfully be used and prescribing the types of such equipment to be used in certain trades;
- (g) prescribing the types of weighing or measuring equipment that shall or shall not be legal for use in trade and how they shall be marked to so indicate;
- (h) prohibiting the use of any particular kind or kinds of weighing or measuring equipment except in compliance with the conditions set out in the regulations;
- (i) requiring weighing or measuring equipment to be inspected, verified and stamped or, if necessary, the stamp obliterated;
- (j) prescribing the requirements to be observed, the facilities, apparatus and assistance to be provided and the proper storage of testing equipment to be furnished by owners of weighing or measuring equipment for the purpose of inspection and verification thereof;
- (k) prohibiting the sale by retail of any goods therein specified otherwise than in the prescribed net weights or measures;
- (l) prescribing the manner of marking of wrappers or containers of pre-packed goods sold by weight or measure or on tickets, cards or labels associated therewith, to indicate the contents of the wrapper or container;
- (m) regulating the sale with regard to the determination of weight or measure of particular goods when such goods are sold by weight or measure;

- (n) as to the method by which and the conditions under which quantity is to be determined in connection with any requirement under this Act;
  - (o) requiring persons who sell, make, possess, offer, expose or carry for sale any goods which they are prohibited from selling otherwise than by net weight or measure to provide, for the use of persons buying or proposing to buy such goods from them, the means of verifying or checking the net weight or measure of the goods;
  - (p) prohibiting the importation of pre-packed goods for sale within the Republic which do not comply with the requirements of this Act.
- (2) Regulations made under this Act may be made applicable throughout, or to any part of, the Republic.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 21st May, 1984, and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba  
ni Maungatabu

Published by exhibition -

(a) at the Public Office of the Beretitenti  
this 11th day of June 1984.



Secretary to the Cabinet.

(b) at the Maneaba ni Maungatabu on 14th  
June 1984.



Clerk to the Maneaba  
ni Maungatabu.

WEIGHTS AND MEASURES ACT 1984

EXPLANATORY MEMORANDUM

The aim of this Act is to provide legislation which will permit imperial and metric systems of weights and measures to operate side by side in Kiribati until such time as the Republic is ready to metricate completely. This is effected by empowering the Minister to maintain the necessary standard models of both systems (Section 3). There are no complicated formulae to which the models must conform: it is left to the Minister to obtain models which conform to the accepted international standards.

The Minister has been given wide powers. He has complete discretion to appoint suitable persons as inspectors (Section 4). He may suspend the operation of the legislation throughout the Republic or any part of it (Section 1(2)). For example the failure of a weighbridge may render impossible the weighing of bulk goods arriving at, or being sent from, a particular island.

The powers of the inspectors are set out in Section 5: these powers also are wide. It will be noted that an inspector may enter any premises where he reasonably suspects that there are goods or weighing or measuring equipment which are kept for trade.

With regard to penalties, the maximum punishment for minor offences is a fine of \$100 and imprisonment for 3 months (Section 17(1)). For the more serious offences involving an element of fraud (Sections 10, 11, 12 or 13), obstruction of inspectors (Section 5(4)) or breach of confidentiality (Section 16) the maximum punishment proposed is \$300 and imprisonment for 6 months. The general rules and defences to criminal responsibility, laid down in Part IV of the Penal Code Chapter 67 are expressly referred to, and section 14 provides the usual safeguards for persons who have taken reasonable steps to avoid committing offences. Prosecutions of offences should normally be within 6 months of the discovery (Section 17(2)). Otherwise the consent of the Attorney General has to be obtained to prosecute.

The Minister is given wide powers to make regulations for the purposes of the legislation (Section 18).

MICHAEL N. TAKABWEBWE  
Attorney General

LEGAL REPORT

I hereby certify my opinion that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

MICHAEL N. TAKABWEBWE  
Attorney General

7th October, 1983.