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Government Notice

OFFICE OF THE PRIME MINISTER

No. 141

1995

**PROMULGATION OF ACT
OF PARLIAMENT**

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 14 of 1995: Trade Metrology Amendment Act, 1995.

**TRADE METROLOGY AMENDMENT
ACT, 1995****EXPLANATORY NOTE:**

- _____ Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.
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ACT

To amend the Trade Metrology Act, 1973, so as to make provision for agreements with metrology agencies for purposes of this Act and assign certain functions to such metrology agencies; to effect certain consequential amendments as a result of the attainment of independence by Namibia; to provide for the adjustment of fines; and to provide for matters connected therewith.

(Signed by the President on 4 August 1995)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 77 of 1973, as amended by section 1 of Act 34 of 1975

1. Section 1 of the Trade Metrology Act, 1973 (hereinafter referred to as the principle Act) is hereby amended -

- (a) by the deletion of the definition of "council";
- (b) by the insertion after the definition of "measuring unit" of the following definition:

"'metrology agency' means a metrology agency referred to in section 7;";

- (c) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of [Economic Affairs] Trade and Industry;";

- (d) by the deletion of the definition of "Republic"; and
- (e) by the deletion of the definition of "statutory body".

**TRADE METROLOGY AMENDMENT
ACT, 1995****Amendment of section 3 of Act 77 of 1973**

2. Section 3 of the principle Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) has, in accordance with a curriculum laid down from time to time by the director [**in consultation with the council**], passed an examination in -

- (i) subjects so laid down; and
- (ii) practical work in verifying and testing all measuring instruments or the kind of measuring instrument in question; or”.

Repeal of section 6 of Act 77 of 1973

3. Section 6 of the principle Act is hereby repealed.

Substitution of section 7 of Act 77 of 1973

4. The following section is hereby substituted for section 7 of the principle Act:

“Agreement with metrology agency

7. (1) The Minister may enter into agreement with -

- (a) any board, council or body of persons established by statute whether in Namibia or elsewhere;
- (b) any department or branch of a foreign government having statutory functions with regard to trade metrology; or
- (c) any laboratory, workshop or other establishment, whether public or private, and whether in Namibia or elsewhere, which is duly accredited, licensed or otherwise authorised by any board, council or body or department or branch or a foreign government referred to in paragraphs (a) and (b) to perform functions with regard to trade metrology,

to be a metrology agency for the performance of any function under this Act.

(2) The Minister shall give notice in the *Gazette* of any agreement entered into under subsection (1) and any such agreement shall take effect for the purposes of this Act upon its publication.”

**TRADE METROLOGY AMENDMENT
ACT, 1995****Amendment of section 8 of Act 77 of 1973**

5. Section 8 of the principle Act is hereby amended -

(a) by the substitution for subsection (3) of the following subsection:

“(3) A departmental standard shall, in regard to accuracy, on request of the director, be verified and certified in accordance with the provisions of subsection (2) by [the Council for Scientific and Industrial Research referred to in section 2 of the Scientific Research Council Act, 1962 (Act No. 32 of 1962),] a metrology agency and shall be reverified and so certified [by the said Council] at intervals not exceeding five years.”; and

(b) by the deletion of subsection (4).

Amendment of section 13 of Act 77 of 1973, as amended by section 3 of Act 34 of 1975

6. Section 13 of the principle Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any inspector or examiner or any employee of a [statutory body] metrology agency furnished in writing with inspection or examination authority by the director, or any police [man] officer, may conduct investigations to ascertain whether the provisions of this Act are being or have been complied with, and may for that purpose open packages containing goods prepacked for sale.”.

Amendment of section 18 of Act 77 of 1973

7. Section 18 of the principle Act is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

(1) (a) Any person desiring to sell or make available -

(i) any new model of a measuring instrument of a class or kind which or of which the material, design or construction is in terms of any regulation required to be approved by the director, shall, with a view to have issued to him or her a certificate in terms of subsection (2);

(ii) for any prescribed purpose in respect of which it is prescribed by regulation that an approved measuring instrument shall be used, a modified model of a measuring instrument in respect of which a certificate has been issued in terms of subsection (2), shall, with a

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ACT, 1995**

view to have such certificate endorsed or an addition made to it to the effect that it also relates to the modified model,

submit to the director a specimen of that new model, modified model or part thereof, as the case may be, together with the certificate of approval referred to in paragraph (b).

- (b) Any person intending to submit to the director a specimen of a new model of a measuring instrument or a modified model or a modified part of a measuring instrument for the purposes of subparagraph (i) or (ii) of paragraph (a), as the case may be, shall, before the particular specimen is so submitted and on his or her own costs, submit that specimen to a metrology agency for examination, and whereupon the metrology agency shall, if it is satisfied that such specimen is suitable for any prescribed purpose, issue to that person a certificate of approval on such conditions as it may deem necessary.
- (c) The director shall, with due regard to the certificate of approval contemplated in paragraph (a), examine any specimen submitted to him or her under that paragraph with reference to the material from which, the principle according to which and the manner in which it has been made and such other circumstances as the director may deem fit, and he or she may, before issuing any certificate in terms of subsection (2)(a) or endorsing or making an addition to in a certificate in terms of subsection (2)(b), as the case may be, require such alterations to be made to such model, modified model or modified part thereof, as he or she may deem fit.
- (d) If, with a view to the issue of a certificate in terms of subsection (2), any specimen of any new model of a measuring instrument exempted by regulation or in terms of section 23(2) from the provisions of section 23(1), is submitted to the director, he or she may in his or her discretion agree or refuse to deal therewith in terms of this section.”;

(b) by the deletion of subsection (5); and

(c) by the substitution for subsection (9) of the following subsection:

“(9) Notwithstanding the provisions of this section, the use of any attachment, device or ancillary equipment connected with the use of any approved model of a measuring instrument for any prescribed purpose, may by regulation be made subject to examination by a

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ACT, 1995**

metrology agency and examination and approval by the director on payment of such fees as may be prescribed in the tariff of fees referred to in subsection (8).”.

Amendment of section 23 of Act 77 of 1973, as substituted by section 7 of Act 34 of 1975

8. Section 23 of the principle Act is hereby amended by the deletion of subsection (5).

Amendment of section 24 of Act 77 of 1973

9. Section 24 of the principle Act is hereby amended by the deletion of subsections (2) and (3).

Amendment of section 27 of Act 77 of 1973

10. Section 27 of the principle Act is hereby amended by the deletion of subsection (8).

Amendment of section 40 of Act 77 of 1973

11. Section 40 of the principle Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The [provisions of paragraphs (b), (c), (d) and (e) of subsection (1) shall not apply to any article which is specially exempted by regulation from any of or all the provisions of those paragraphs] Minister may by regulation exempt any article from any provision of subsection (1), and paragraphs (b) and (d) of that subsection shall not apply to goods taken from bulk and measured at the time of sale in the presence of the purchaser or his or her agent and sold by volume or net mass determined at such measuring.”.

Substitution of section 43 of Act 77 of 1973

12. The following section is hereby substituted for section 43 of the principle Act:

“Offences and penalties

43. Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall be liable, on a first conviction to a fine not exceeding [**one thousand rand**] N\$2 000 or imprisonment for a period not exceeding six months, and on a second or subsequent conviction to such fine or such imprisonment or to such imprisonment without the option of a fine.”.

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ACT, 1995**

Repeal of section 45 of Act 77 of 1973

13. Section 45 of the principle Act is hereby repealed.

Substitution of certain words in Act 77 of 1973

14. The principle Act is hereby amended by the substitution for the words "the Republic", wherever it occurs, of the word "Namibia".

Short title

15. This Act shall be called the Trade Metrology Amendment Act, 1995.
