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**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**WEIGHTS AND MEASURES (AMENDMENT) BILL 1991**

**EXPLANATORY MEMORANDUM**

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Attorney-General  
Terry Connolly, MLA

**EXPLANATORY MEMORANDUM****Weights and Measures (Amendment) Bill 1991****GENERAL OUTLINE**

This Bill amends the *Weights and Measures Act 1929* so that it will cover only the sale of bread in the Territory. Other aspects of trade measurement previously covered by the Act will be regulated by the proposed *Trade Measurement Act 1991* and the *Trade Measurement (Administration) Act 1991*.

The retention and amendment of the *Weights and Measures Act 1929* is necessary because the proposed *Trade Measurement Act 1991* presently excludes the trade measurement of bread.

The Bill also provides for the up-dating of penalty provisions by replacing the outdated general penalty provisions with penalties relating to specific offences.

**FINANCIAL IMPACT**

This Bill involves no cost to the Government over and above that already noted with respect to the administration of other elements of the new Trade Measurement legislation.

## NOTES ON CLAUSES

### Short Title

Clause 1 provides for the short title of this amending Act to be the *Weights and Measures (Amendment) Act 1991*.

### Commencement

Clause 2 provides that this Act will commence on the same day as the substantive provisions of the *Trade Measurement Act 1991*.

### Principal Act

Clause 3 provides that wherever mentioned in this Bill the words "Principal Act" refer to the *Weights and Measures Act 1929*.

### Long Title

Clause 4 provides that the long title of the amended Act will be "An Act relating to the sale of bread".

### Short Title of Principal Act

Clause 5 provides that the short title of the amended Act will be the *Weights and Measures (Sale of Bread) Act 1929*.

### Repeal

Clause 6 repeals Section 3A of the Act so that none of the Regulations under the *Weights and Measures Act (NSW)* continue to apply in the Territory.

### Substitution

Clause 7 replaces Sections 5, 6 and 7 with new Sections 5 and 6 follows:

- . Section 5 provides for a streamlined interpretation provision providing that the definitions of terms used are consistent with those used in related trade measurement legislation.
- . Section 6 is amended so that the amended Act will apply to the Crown in the same way as the *Trade Measurement Act 1991* does.

### Repeal

Clause 8 repeals Part II - ADMINISTRATION and Part III - STANDARDS AND UNITS . These matters will be covered in the *Trade Measurement (Administration) Act 1991* and the *Trade Measurement Act 1991* respectively.

Omission

Clause 9 provides that the heading Part IV - THE LAW OF WEIGHTS AND MEASURES is omitted and the part is renamed PART II - SALE OF BREAD.

Substitution

Clause 10 replaces Sections 19, 20 and 21 with a new Section 21 which applies only to the sale of bread by weight. The amended section provides as follows:

- . If bread is sold by weight it must be sold by net weight: Subsection 21(1);
- . When the seller delivers the bread he or she must give the buyer an invoice or delivery note showing the net weight of bread: Subsection 21(2);
- . An invoice or delivery note is not necessary where delivery takes place at the premises of the seller or the bread is weighed at the premises of the buyer: Subsection 21(3);
- . It is an offence for anyone to sell bread enclosed in a package without the net weight of the bread written legibly on the outside of the package or on a label attached to the package: Subsection 21(4).

The penalty for this offence is updated to provide for fines of up to \$5,000 for individuals and up to \$25,000 for corporations.

Net Weight not correctly stated

Clause 11 amends Section 22 so that it applies only to the sale of bread. The amended section provides as follows:

- . It is an offence to sell bread with the net weight incorrectly stated on the invoice, delivery note or package: Subsection 22(1);
- . Sellers have a defence if they have a written guarantee from the person from whom the bread was bought. The guarantee must state that the weight marked on the package is correct and the bread must have been offered for sale in the same state in which it was bought. Guarantors, individual and corporate, must be resident or registered in the Territory: Subsection 22(2);
- . The form of the guarantee may be prescribed under the Act: Subsection 22(3);
- . It is an offence to give a false guarantee: Subsection 22(4).

The penalty for offences under Subsections 22(1) and 22(4) is updated to provide for fines of up to \$5,000 for individuals and up to \$25,000 for corporations.

#### Repeal

Clause 12 repeals Section 23 (Provision for weighing or measuring). Retail buyers of bread remain protected by the operation of amended Sections 21 and 22.

#### Misleading conduct

Clause 13 amends Section 24 providing for an offence relating to misleading conduct in relation to the sale of bread. The amended section states that it is an offence to directly or indirectly mislead anyone about the number or weight of any bread sold or delivered by him or her, or to sell or deliver or cause any bread to be sold or delivered by weight or number short of the quantity ordered or bought.

The penalty for offences under this section is updated to provide for fines of up to \$5,000 for individuals and up to \$25,000 for corporations.

#### Repeal

Clause 14 repeals Section 25 (Fraud using weights), Part V - VERIFICATION AND STAMPING and Part VI - SALE OF COAL AND FIREWOOD. These matters will be included in the *Trade Measurement Act 1991*.

#### Omission

Clause 15 omits the heading of Part VIA - THE SALE OF BREAD.

#### Power of inspectors

Clause 16 amends Section 34B in order to substitute the term "vehicle" for "cart" wherever it occurs. The penalty for offences under this section is updated to provide for fines of up to \$1,000 for individuals and up to \$5,000 for corporations.

#### Sale of bread in shops

Clause 17 amends Section 34C to update the penalties for the offences of selling underweight bread and selling bread of a size other than provided for in Section 34A. The amended fines are up to \$5,000 for individuals and up to \$25,000 for corporations.

Substitution

Clause 18 repeals Section 34D. The substituted provision requires scales to be provided in baker's shops and modifies the existing offence under Subsection (3) by requiring that a baker must comply with a 'reasonable' request of a person to weigh bread in the person's presence. The updated penalty is a fine of up to \$5,000 for individuals and up to \$25,000 for corporations.

Repeal

Clause 19 repeals Section 35 relating to the inspection of weights, measures and instruments. These matters are be covered by the *Trade Measurement Act 1991*.

Inspection - general

Clause 20 amends Section 36 relating to the inspection of articles in packages so that the Section applies only to inspections and seizure of packages containing bread.

Substitution

Clause 21 repeals Sections 37 to 43. The matters covered in Section 37 (Obstruction of inspector), Section 38 (Forged stamp), Section 40 (Forfeiture) and Section 41 (Seizure of weights forfeited) will be covered by the *Trade Measurement Act 1991*. Section 39 (Imprisonment for fraud) is repealed because it is not an appropriate penalty for any of the offences under the amended Act.

A new Section 43 (Evidence - Use of measuring instruments) is inserted to provide that it is evidence that a measuring instrument is used in connection with the manufacture or sale of bread if it is found in the possession of a baker or found in a bakery, premises or vehicle from which bread is sold.

Repeal

Clause 22 repeals Section 46A (Powers of the Minister to determine fees) and Section 47 (Fees to be paid into Consolidated Revenue). These matters will be covered in the *Trade Measurement (Administration) Act 1991*.

Regulations

Clause 23 amends Section 48 which empowers the Minister to make regulations under the Act. Save for the power relating to the method of marking upon bread its weight and the power to impose penalties for breaches of regulations, all other powers are repealed. The updated penalty for breach of a regulation is a fine of \$500.

Repeal

Clause 24 repeals the Schedules to the Act none of which relate to the sale of bread.