



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 15 of 1972

An Act to amend the Packages Act, 1967-1969.

[Assented to 30th March, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Packages Act Amendment Act, 1972". Short titles.

(2) The Packages Act, 1967-1969, as amended by this Act, may be cited as the "Packages Act, 1967-1972".

(3) The Packages Act, 1967-1969, is hereinafter referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 4 of the principal Act is amended—

(a) by striking out from paragraph (b) of the definition of "article" in subsection (1) the word "goods" and inserting in lieu thereof the word "foods";

(b) by inserting in the definition of "pack" in subsection (1) after the passage "any pack" the passage "or article";

and

Amendment of
principal Act,
s. 4—
Definitions.

(c) by inserting immediately after subsection (2) the following subsections:—

(2a) For the purposes of this Act, an article shall be deemed to be pre-packed if it is packed in advance ready for sale.

(2b) Subject to subsection (2c) of this section for the purposes of this Act, where articles of any description are packed or are kept or stored for sale after being so packed on premises and any article of that description (being an article that is contained in a pack) is found on those premises that article shall, unless the contrary is proved, be deemed to be pre-packed.

(2c) It shall not be sufficient proof to the contrary for the purposes of subsection (2b) of this section to prove that the articles in question were not packed in a pack marked in accordance with the provisions of this Act for packs of that description.

Amendment of
principal Act,
s. 8—
Power of
Inspectors.

4. Section 8 of the principal Act is amended by inserting after the figure “8” the figure and symbols “(1)”.

Amendment of
principal Act,
s. 20—
Incorrect weight
or measure.

5. Section 20 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (3) the word “or” occurring after the passage “eight fluid ounces” and inserting in lieu thereof the symbol “,”;

and

(b) by inserting in paragraph (a) of subsection (3) after the passage “eight ounces,” the passage “250 millilitres or 250 grams”.

Amendment of
principal Act,
s. 21—
Net weight
when packed.

6. Section 21 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) For the purposes of this section the regulations may provide—

(a) in relation to a prescribed article or a prescribed article of a class, for a permissible deficiency expressed in parts per centum of the weight of that prescribed article;

and

(b) for the marking of a prescribed article or a prescribed article of a class, with the day on which that prescribed article was packed or an indication of that day.

7. Section 32 of the principal Act is amended—

Amendment of
principal Act,
s. 32—
Selling short
weight or
measure.

(a) by striking out from paragraph (a) of subsection (3) the word “or” occurring after the passage “eight fluid ounces” and inserting in lieu thereof the symbol “;”;

(b) by inserting in paragraph (a) of subsection (3) after the passage “eight ounces,” the passage “250 millilitres or 250 grams”;

and

(c) by inserting after subsection (3) the following subsection:—

(3a) Where the true weight or measure of an article is found by an Inspector to be less than the weight or measure stated on the pack containing that article the packer of that article—

(a) shall be deemed to have sold that article to that Inspector at the time at which and the place where the Inspector so found that the true weight or measure of the article was less than the weight or measure on the pack containing that article;

and

(b) shall be liable for the same penalty as he would have been if he had so sold that article to the Inspector.

8. The following sections are enacted and inserted in the principal Act immediately after section 37 thereof:—

Enactment of
s. 37a of
principal Act—

37a. Except as expressly provided by this Act, or by any other Act or regulation, a person shall not—

Sales to be by
net weight or
measure.

(a) sell an article by weight or measure otherwise than by net weight or measure;

or

(b) mark a pack containing an article, or cause, suffer or permit such a pack to be marked with the expression “gross weight” or any expression having a like meaning.

Penalty: Two hundred dollars.

37b. (1) Except as provided in subsection (2) of this section the seller of an article shall, if the article is sold by weight or measure and is delivered to the purchaser at a place other than

Delivery of
invoices or
delivery notes

the premises of the seller, deliver with that article an invoice or delivery note showing the weight or measure of the article so delivered.

(2) Subsection (1) of this section does not apply to or in relation to a pre-packed article contained in a pack marked with the weight or measure of the article.

Enactment of
s. 42a of
principal Act—

9. The following section is enacted and inserted in the principal Act immediately after section 42 thereof:—

General
provisions as
to offences.

42a. (1) Where by or under this Act, an act is directed to be done or directed not to be done, a person, who fails to do that act or, as the case may be, does that act in contravention of any such direction, is guilty of an offence against this Act.

(2) A prosecution for an offence against this Act may be presented—

(a) within the period of twelve months from the day on which the offence is alleged to have been committed;

or

(b) within the period of six months from the day on which the alleged offence comes to the knowledge of the complainant,

whichever period is the later, but no such prosecution shall be presented more than two years after the day on which the offence is alleged to have been committed.

(3) Where it appears to the Warden of Standards that—

(a) an offence against this Act has been committed by a person;

(b) the offence was due to an act or default of some other person;

and

(c) the first mentioned person could establish a defence under this Act in proceedings for that offence,

the Warden of Standards may take or cause to be taken proceedings against that other person without taking or causing to be taken proceedings against that first mentioned person and in any such proceedings that other person may be charged with the offence referred to in paragraph (a) of this subsection and on proof that the commission of the offence was due to the default of that other person that other person may be convicted of that offence and in any such proceedings that first mentioned person shall be a competent and compellable witness.

10. The following section is enacted and inserted in the principal Act immediately after section 45 thereof:—

Enactment of
s. 45a of
principal Act—

45a. (1) In any prosecution or legal proceedings under this Act no proof shall, unless evidence is given to the contrary, be required of the appointment of the Warden of Standards or any other officer or person employed in the administration of this Act.

Evidentiary
provision.

(2) Any document apparently certifying that—

(a) specified weights or measures in the possession of an Inspector are Inspectors' Standards within the meaning of the Weights and Measures Act, 1971;

(b) such weights or measures have been verified or reverified within a period set out in the document;

or

(c) a specified person is or was acting under this Act in the capacity stated therein,

and any other document relating to or arising out of the administration of this Act shall, if purporting to be signed by the Warden of Standards be received as evidence in all courts and be deemed to be issued or written by or under the direction of the Warden of Standards without proof unless the contrary is shown.

11. Section 47 of the principal Act is amended by inserting in subsection (1) immediately after paragraph (b) the following paragraphs:—

Amendment of
principal Act,
s. 47—
Regulations.

(ba) regulating, controlling and restricting the sale or supply of articles by means of a vending machine (as defined in the regulations) and prohibiting the sale or supply of articles by means of such a machine otherwise than in accordance with the regulations;

(bb) for ensuring that articles that are sold by means of a vending machine (as defined in the regulations) are so sold only if there is displayed in or on the machine such particulars or statements, with respect to such matters, as may be prescribed, and the manner in which the particulars or statements so prescribed shall be so displayed;

(bc) for or with respect to the units of weight or measurement to be used in marking or displaying on packs or vending machines (as defined in the regulations) any particulars or statements required to be marked or displayed thereon, either generally or in respect of any prescribed description

of articles, and the manner in which those units of weight or measurement shall or may be expressed (whether in figures or words or figures and words) and the abbreviations that may or may not be used for the purposes of expressing those units;

(*bd*) for or with respect to the method in which, and the conditions under which, the weight or measure of articles is to be determined in connection with the marking or displaying on packs or on vending machines (as defined in the regulations) of any particulars or statements referred to in the foregoing provisions of this subsection;

(*be*) permitting, in the case of such articles and in such circumstances as may be specified in the regulations, the weight or measure of any articles used in packing the first mentioned articles for sale as may be so specified to be included in the net weight or measure of the first mentioned articles;

(*bf*) exempting (either wholly or to such extent as may be prescribed) or authorizing a prescribed person to exempt (either unconditionally or subject to such conditions and restrictions as that person may determine) from all or any of the provisions of this Act—

(i) articles of any description prescribed or referred to in the regulations and packs containing any such articles;

or

(ii) prescribed transactions or sales of a prescribed class.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor