

GENERAL INFORMATION ON WEIGHTS AND MEASURES SERVICES IN KENYA

1. THE NEED FOR WEIGHTS AND MEASURES(LEGAL METROLOGY) LAWS:

- 1.1 The law relating to weights and measures, known internationally by the name “**Legal metrology**”, is not only a vital instrument of consumer protection but is also vital for the scientific, technical and industrial development of a country.
- 1.2 Legal metrology law has application in almost all spheres of human activity ranging from ordinary trade transactions to those measurements needed for ensuring public health and human safety.
- 1.3 In ordinary **trade transactions**, the law ensures that during the sale of any commodity in loose form, the quantity delivered to the purchaser is not less than the quantity contracted for and paid for. This legal control on the performance, accuracy and use of weighing and measuring equipment saves consumers from huge losses thereby contributing to the protection of their purchasing power and hence to their ability to purchase more.
- 1.4 Legal control on **measurements involving public health and human safety** is equally important from the viewpoint of consumer protection. For example, a clinical thermometer or a blood pressure instrument which is not properly tested may lead to wrong diagnosis and incorrect medication while measurement of axle load on trucks to control overloaded vehicles minimizes damage to roads with the consequent reduction of road fatalities and expenditure on development and maintenance of public roads.
- 1.5 In the case of **pre-packaged commodities**, the primary need is that the packages intended for retail sale should be marked with the correct statement of quantity together with such other information as would help the consumer make an informed choice of the product or commodity he/she intends to buy.

2. THE WEIGHTS AND MEASURES LAWS

- 2.1 The Kenya Weights and Measures laws are contained in two Acts of Parliament, namely, the Weights and Measures Act, Cap.513, Laws of Kenya and the Trade Descriptions Act, Cap.505, Laws of Kenya and have the following four broad objectives:-

- (a) Establishing a uniform system of units of measurement;
- (b) Control on Weighing and Measuring equipment in use for trade;
- (c) Control on the sale of goods, and
- (d) Protecting the public against cheating through the use of falsehood in the sale of goods and in the provision of services.

2.2 Legal Units of Measurement

The only system of units authorized to be used in trade in Kenya is the **International System of Units(SI)**, which is the revised and modern form of the metric system.

2.3 Control on Weighing and Measuring Equipment

2.3.1 Metrological Control of Weighing and Measuring Equipment

This includes-

- approval of Patterns/Types of equipment,
- initial verification,
- periodic verification(or reverification),
- verification after repairs, and
- inspection of the use of the equipment

In **Pattern/Type approval**, one equipment of the same pattern is subjected to vigorous tests with the object of ensuring that the instrument will be able to maintain its accuracy and other metrological qualities and characteristics such as sensitivity, repeatability, durability, etc. for a prolonged period, and under varied conditions, of use.

Initial verification means the verification of a new weighing or measuring equipment before it is sold or brought into trade use. Under the law, every such equipment is required to be duly verified and stamped before being released for sale.

Subsequently verification of the equipment after the initial verification is known as “**periodic verification**” or “**reverification**” and is carried out at prescribed intervals of one year.

A weighing or measuring equipment is required to be reverified every time it has been repaired even if the period of validity of the periodic verification has not expired.

Inspection is a policing operation to check on the compliance with any of the requirements of the law. It is an important element of

metrological control from the viewpoint of consumer protection and is done without notice. Inspections are also sometimes carried out as a result of complaints from the public.

2.3.2 Control on Manufacture, Repair and Sale of Weighing and Measuring Equipment

Manufacturer, repair and sale of weights, measures, weighing and measuring equipment falling within the purview of legal metrology are carried out only by the **authorised persons** who are required to abide by the law.

A manufacturer or repairer must submit all instruments which he has manufactured or repaired, as the case may be, to an inspector for verification and stamping before such instrument is sold or returned to trade use, as the case may be.

2.4 Control on the Sale of Goods

2.4.1. Legal Control on Pre-packed Goods

2.4.1.1 In today's business, weighing and measuring in the presence of the purchaser is steadily giving way to pre-packed goods because of the ease and convenience with which the latter can be transported and marketed.

The role of legal metrology in connection with pre-packed goods is therefore very important from the point of view of consumer protection. Some of the unfair practices in the case of pre-packed goods are:-

- ❑ **insufficient information on the label about the contents of the package;**
- ❑ **deceptive packaging;**
- ❑ **misleading slogans to describe package size;**
- ❑ **proliferation and irrationality in pack sizes making unit price comparison difficult and creating unfair competition in trade; and**
- ❑ **tendency to control price increase or maintain a customary price by making a small reduction in the package contents.**

2.4.1.2 The law requires every package to carry thereon, or on a label securely affixed thereto, the following information:-

- (a) **the name and address of the manufacturer, or packer of the goods;**

- (b) **the common or generic name of the goods contained in the package;**
- (c) **the number or net weight or measure of the goods in the package;**
- (d) **in some cases the date marking showing the last day, month and year by which the goods may be sold.**

This information should be **conspicuous, legible and prominent** so as to be readily seen and understood by a prospective purchaser. The law also requires *this information to be on that part of the package or label which is likely to be seen by the customer under normal conditions of display of the package.*

2.4.1.3 One other important provision made in the law is the **standardization of the package sizes** to help the consumer make price comparisons without difficulty. The standardization is also in the interest of industry as it is one of the factors preventing unfair competition in trade. In the absence of the standardization, there would be a possibility of using “odd size” packages as a means of price-cutting in order to take an unfair commercial advantage.

2.4.1.4 With a view to ensuring accuracy in the net quantity of packages, the law provides for **test checking at the premises of the manufacturer or packer**. A detailed procedure for this purpose is prescribed in the law and is designed in such a way that while the legitimate interest of the manufacturers and the packers are protected, the interests of the consumer are also safeguarded.

The manufacturer or packer is required to control the filling of quantities in such a way that the **average net content** is not less than what is marked on the package.

2.4.1.5 The law also contains suitable provisions to stop production and sale of **deceptive packages**.

A deceptive package is a package which is so designed as to deliberately give to the consumer an exaggerated or misleading impression as to the quantity of the goods contained therein, except where bigger dimensions of the package can be justified on the grounds that such dimensions are necessary for giving protection to the goods in the package or for meeting the requirements of the machine used for filling the package.

Unfilled space in cardboard packages containing commodities such as powder soap, detergents or processed food, and the use of jars and other containers with increasingly thick walls in packing cosmetic creams are examples of deceptive packaging.

2.5 Prohibition of False or Misleading Statements in the Sale of Goods or provision of Services

2.5.1. It is an offence under our law for any person carrying on business **to make a false, misleading or reckless statement** with regard to the sale of goods or provision of services/facilities/accommodation by him. The statement whether by way of word of mouth, by a notice, label, invoice or advertisement, need not be deliberate. **The mere making of an untrue statement, irrespective of intention, is an offence.**

2.5.2. The untrue statement can be about the price of goods, viz-

- *An indication that the price at which goods are offered equal to or less than a recommended price* (e.g. “Recommended Price – 200/=, Our Price – 149/=); or
- *An indication that the price at which goods are offered is less than the price at which the goods, or goods of the same description, are actually being offered or were previously offered by him, (e.g. “20% OFF” or “Prices slashed – Now only X shillings”,etc.) or*

2.5.3. The untrue statement could be about a wide range of matters relating to the goods. It could be about –

- *Identity, quantity, size or gauge* (“Bedsheets – 200cm x 340cm” while the sheets are not of that size)
- *How made or processed* (e.g. “Handmade” while the item is mass-produced)
- *what they are made of* (e.g. “Genuine leather bags” which are made of simulated leather produced from plastic)
- *fitness for purpose* (e.g. “will not shrink”)
- *strength or other physical properties*(e.g. “unbreakable” or “rust-proof”)

- **testing or approval by any person** (e.g. “made to KEBS specifications”)
- **place or date of manufacture or person by whom manufactured** (e.g. “Made in England” or “18th Century antique” or “imported from Italy etc.)
- **previous ownership** (e.g. “formerly the property of Z”) etc.

2.5.4. With regard to services, facilities or accommodation a person commits an offence if he **makes an untrue statement** about:-

- **the nature of any service, accommodation or facility**, (e.g. *charging for parts on repair or service which have not been fitted*)
- **the time at which, manner in which, or persons by whom, any services, accommodation or facilities are provided** (eg. “*same day delivery*” when it takes a week to deliver or “*dry-cleaning in 24 hours*” when it is impossible to do it in that time.
- **Location of amenities of any accommodation** (e.g. “*ideal rooms for conference*” or “*air-conditioned rooms*” when the same is not true

IMPORTANT INFORMATION AND USEFUL HINTS TO THE TRADER

1. In Relation to Weighing and Measuring Equipment:

- 1.1 The International System of Units (SI) is the only legal system of weights and measures in Kenya.
- 1.2 All weighing and measuring instruments are required by law to be tested for accuracy and stamped by the Inspectors of Weights and measures before they are sold or brought into trade use and thereafter once every year.

Ensure that every piece of equipment in your possession bears a valid stamp of verification before buying it and that it is duly tested in time thereafter.

- 1.3 ***Check*** from time to time ***that the stamp has not been accidentally defaced*** perhaps by being knocked during cleaning of the equipment, etc.
- 1.4 ***If an Inspector tests your equipment and reports to you that it is inaccurate and that he has obliterated the stamp, take that equipment out of use at once and ensure that no member of your staff puts it back into your trading premises before it is repaired and re-stamped.***
- 1.5 If the accuracy of your equipment is suspect for any reason, take it from the premises or call an Inspector to check it for you. **A slight inaccuracy in a weighing machine may result in serious losses in your business. Such losses eat up profits of an otherwise flourishing business and may be the difference between success and failure.**
- 1.6 ***Remember that short delivery is punishable under the Weights and Measures Act and that fraudulent use of weights and measures attracts stringent penalty under the Act.***

2. In Relation to Sale of Goods:

- 2.1 When you want to start pre-packing goods, ***ask for advise from your nearest Weights and Measures Office*** as to the requirements for the commodities to be sold, i.e. whether they must be packed in prescribed quantities and how they must be labeled, etc.

- 2.2 **Select a weighing or measuring equipment which is suitable for the job.** The equipment should have a maximum capacity as near as possible to the actual quantity to be packed and should be of a suitable type capable of packing to the required standard of accuracy.
- 2.3 **Instruct your staff** adequately **on how to operate the equipment** to ensure that no underweight or undermeasure is packed and that overweight or measure does not occur above an amount which is acceptable to you and which removes the risk of any shortages caused by loss of weight or measure during storage.
- 2.4 Ensure that all goods sold from bulk and which are weighed or measured at the time of sale are marked with the price per unit quantity by means of a notice or display ticket.

Ensure also that the customers' side of the weighing machine is clear and unobstructed. In the event of accidental sale of short weight, the obstruction of the customer's side of the weighing machine can give rise to suspicion that it was deliberate.

- 2.5 Ensure that packaged goods sold by you bear on the body of the package, or on a label securely affixed thereto, the following information-
- **name of the goods.**
 - **name and address of the manufacturer or packer of the goods and in the case of imported packaged goods, the name and address of the importer of the goods.**
 - **The quantity of the goods in the package in terms of net weight, measure or number.**
 - **In the case of some particular goods listed in the Schedule to the Weights and Measures (Sale and Labelling of Goods) Rules, the last day, month and year by which such goods may be sold.**

3. In relation to Misdescription of Goods or Services:

- 3.1 The cardinal rule in order to avoid trouble with false trade descriptions is to **say nothing about the goods unless the accuracy of the statement is known.**
- 3.2 **Make sure that all goods sold in your shop are properly described** and then give precise instructions to your staff, preferably in writing, as to exactly what they can say when dealing with customers to avoid the possibility of implied false trade descriptions.

- 3.3 Remember that it is an offence simply to supply something to which someone else has applied a false trade description. **“People in business are expected to know their business”** and you are therefore expected to be able to spot false descriptions which would be within the knowledge of a reasonably competent businessman in his trade. **The law holds you responsible for any false statements on the goods in your shop even though the false statements may have been made by the manufacturer.**

The only safe rule for you as the trader is to **ensure that the goods are checked before being sold.** If a consignment of goods arrive in your shop and there is anything on the label, invoice, advertising material or the product itself, which appears doubtful, **contact the supplier at once and ask for an assurance in writing** that the goods do comply with all descriptions applied to them.

The written assurance from the manufacturer or supplier is a defence for yourself in the event of trouble at a later date.

- 3.4 To **safeguard yourself** from the offence of giving a false indication about price, **simply tell the strict truth** and take great care to ensure that all claims of reduced price are actually correct.

Remember that **to claim a reduction** from a price previously charged, **your original price must have been in operation for a continuous period of not less than 28 days in the preceding six months.**

- 3.5 To avoid making a false or reckless statement about the provision of services, **the golden rule is to be truthful about all services provided.**

Ensure that in case of a repair, any new parts fitted and charged for should be itemized on account and the old parts should be available for inspection by the customer.

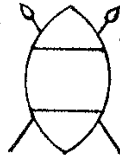
Avoid making exaggerated claims about the effectiveness or longevity of a repair. Such statements as “as good as new” can lead you into trouble.

USEFUL HINTS TO THE CONSUMER

1. Weights and Measures laws **ensure consumer protection and fair trade practices.** Get to know the Inspector of Weights and Measures in your area.
2. All weights, measures, weighing and measuring instruments in use by a trader **are required by law to be tested for accuracy and stamped** by the Inspector of Weights and Measures **once every year.**

Look for the stamp of verification on the weighing or measuring equipment as this is your only guarantee that the equipment has been tested and found accurate.

The stamp of verification is of the following design:-



It is accompanied by a date mark indicating the year of stamping and in some cases by a letter of the alphabet indicating the month (i.e. 'A' for January, 'B' for February, etc.).

A—January	B—February	C—March
D—April	E—May	F—June
G—July	H—August	I—September
J—October	K—November	L—December

If any instrument is tested by an Inspector and found to be inaccurate, its **stamp is obliterated** by a mark of the following design:-



Such an instrument is regarded as “**rejected**” and should not be used for trade. Look out for it.

3. Insist on delivery of the correct quantity in your purchase. **Learn to read the scale indications and observe the weighing of your purchase.**
4. Buy your requirements in round units of weight like 1 kilogram, 500grams, etc. to make your calculation of total price easier.

Avoid buying by “money’s worth” e.g. “sh.30.00 worth of meat”, etc.

5. Petrol dispensers are periodically checked by Inspectors of Weights and Measures for supply of accurate quantity of petrol.

In case of suspected short supply, report the matter to the Weights and Measures office in your area.

6. Ensure that the packaged commodities bought by you bear the **marking relating to the net contents as well as the date of expiry.**
7. While taking delivery of cooking gas or such other commodities which are required to have a seal, **ensure that such seals are intact.**
8. When buying **ready-made clothes**, buy only **by actual measurements** as opposed to “Large” or “Small” sizes.

Different manufacturers use different sizes and you may find yourself in clothes which do not fit you.

9. **Report suspected inaccuracies or violations of the Weights and Measures laws to the Weights and measures office near you (See list o addresses)**