

"707—(1) A police officer, an officer of the Transport Commission, or a person authorized by the corporation may in or by a metered space or on the parking meter thereof place a notice bearing—

Closure of metered spaces.

- (a) the words 'no parking', 'no standing', or other words indicating that the space may not be used for parking vehicles; or
- (b) the words 'no parking without a municipal permit',

and while the notice remains there the space shall be deemed not to be a metered space, its use being subject to the effect of the notice under the *Traffic Act 1925*.

"(2) When a metered space is subject to a notice under paragraph (b) of subsection (1), the mayor or warden or officer of the corporation authorized for the purpose may permit in writing persons specified in the writing, their servants, and invitees, to use, stand, or park vehicles in that space subject to the conditions therein specified and such use in accordance with the permit will be lawful."

5—(1) Until such time as other rules are made under section one hundred and forty-four of the *Justices Act 1959* the Attorney-General may make such rules as could be so made, providing for—

Justices Rules.

- (a) a defendant to plead in writing to a complaint under section seven hundred and five of the *Principal Act* before and in lieu of appearance to answer the complaint; and
- (b) any variation of normal procedure necessary or convenient for the purposes of that section.

(2) This section shall expire on the last day of December 1970.

6 Section thirty-five of the *Local Government Act 1967* is repealed.

Justices Rules.

WEIGHTS AND MEASURES.

No. 25 of 1968.

AN ACT to amend the *Weights and Measures Act 1934*. [10 July 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Weights and Measures Act 1968*.

Short title, citation, and commencement.

(2) The *Weights and Measures Act 1934*, as subsequently amended, is in this Act referred to as the *Principal Act*.

(3) Subject to subsection (4) of this section, this Act shall commence on a day to be fixed by proclamation.

(4) Notwithstanding subsection (3) of this section—

(a) the several sections contained in Part VB of the Principal Act (being the Part so numbered inserted by section five of this Act); and

(b) sections forty, forty A, and forty B of the Principal Act (being the sections so numbered inserted by section eleven of this Act),

shall commence on such days respectively (being later than the day fixed pursuant to that subsection) as may be fixed by proclamation in relation to each of those sections of the Principal Act.

Interpre-
tation.

2 Section four of the Principal Act is amended—

(a) by inserting before the definition of “approving authority” the following definition:—

“‘approved brand’ means a brand approved by the Secretary pursuant to section twenty-five s;”;

(b) by inserting after the definition of “approving authority” the following definitions:—

“‘brand’ includes any mark, device, name, word, letter, numeral, or symbol, and any combination thereof;

“‘business name’ means a business name within the meaning of the *Business Names Act 1962*;”;

(c) by omitting the definition of “package” and substituting therefor the following definitions:—

“‘pack’, in relation to an article, means to—

(a) enclose the article (whether wholly or partly) in or by means of;

(b) put the article in; or

(c) attach the article to, or wind or wrap the article around,

some other article or thing, and ‘packed’ and ‘packing’ have corresponding meanings;

“‘package’ includes anything by means of which—

(a) any one article is packed for sale; or

(b) any two or more articles are packed for sale as a single item,

and, in particular and without prejudice to the generality of the foregoing, includes a wrapper and a confining band;”;

- (d) by omitting the definition of "to sell";
- (e) by inserting after the definition of "Secretary" the following definition:—

“‘sell’ includes—

- (a) offer or expose for sale;
- (b) keep or have in possession for sale;
- (c) barter or exchange;
- (d) deal in or agree to sell;
- (e) send, forward, or deliver for sale or on sale; and
- (f) authorize, direct, cause, permit, or suffer any of those acts or things,

and ‘sale’ and ‘sold’ have corresponding meanings;”;

- (f) by adding at the end of that section the following subsections:—

“(5) For the purposes of this Act—

- (a) an article shall be deemed to be pre-packed if it is packed in advance ready for sale; and
- (b) on premises where articles of any description are so packed, or are kept or stored for sale after being so packed, any article of that description found on those premises (being an article that is contained in a package) shall be deemed to be pre-packed within the meaning of this Act unless the contrary is proved, and it is not sufficient proof to the contrary to show that the package has not been marked in accordance with the provisions of this Act or of any other law with respect to the marking of packages containing articles of that description.

“(6) Except as otherwise prescribed, a reference in this Act to the weight or measure of an article shall be construed as a reference to the weight or measure of the article excluding the weight or measure of the package in which the article is contained.

“(7) A reference in this Act to the weight or measure of an article shall, in the case of an article of a kind that is ordinarily packed or sold by number, be construed as a reference to a quantity of that article counted by number.

“(8) Where, by or under this Act, any particulars or words are, or any statement or expression is, required, permitted, or forbidden to be

marked on a package containing an article, the particulars, words, statement, or expression, if marked on a label attached to the package or to the article shall be deemed to be marked on the package.

“(9) A reference in this Act (however expressed) to the marking of a package with a statement of the weight or measure of the article contained in the package shall be construed as including a reference to the marking with such a statement of a label attached to the package or to the article.

“(10) A reference in this Act (however expressed)—

(a) to a package containing an article, or a package in which an article is contained, shall be construed, where appropriate, as including a reference to a package to which an article is attached or around which an article is wound or wrapped; or

(b) to an article contained in a package, shall be construed, where appropriate, as including a reference to an article that is attached to, wound around, or wrapped around, a package.”.

3 Section twenty-three of the Principal Act is repealed and the following section is substituted therefor:—

Sales to be by
net weight
or measure.

“23—(1) Except as otherwise prescribed by or under this Act or any other Act, no person shall sell an article by weight or measure otherwise than by net weight or measure.

Penalty: Two hundred dollars.

“(2) A person by whom an article is sold shall, if the article is sold by weight or measure and is delivered to the purchaser at a place other than the premises of the seller, deliver or cause to be delivered with the article an invoice or delivery note showing the true net weight or measure of the article.

“(3) Subsection (2) of this section does not apply to or in relation to—

- (a) an exempted article (within the meaning of section twenty-five H);
- (b) a pre-packed article contained in a package on which is marked, in accordance with this Act, the net weight or measure of the article;
- (c) a pre-packed article of a description to which section twenty-five P applies; or
- (d) an article weighed or measured before or at the time of sale and in the presence of the purchaser.

“(4) In the case of liquors that are subject to duties of customs or excise, compliance with the requirements of any Commonwealth Act as to measures in relation to those liquors is sufficient compliance with this section.

“(5) Notwithstanding the foregoing provisions of this section, it is not an offence for a person to sell a prescribed article or an article included in a prescribed class of articles if the article does not vary by more than the prescribed proportion below the weight or measure marked on the package containing the article or shown in the invoice or delivery note delivered with the article as provided in subsection (2) of this section.”.

4 Section twenty-four of the Principal Act is amended by adding at the end thereof the following subsection:—

Provision
for weighing
or
measuring.

“(3) For the purposes of—

- (a) subsection (1) of this section;
- (b) paragraph (d) of subsection (3) of section twenty-three; and
- (c) subsection (2) of section twenty-five H,

an article shall be deemed not to be weighed or measured in the presence of the purchaser unless the instrument by which the article is weighed or measured is so constructed, placed in such a position, and so used as to enable the purchaser to have a clear and unobstructed view of, and to see easily—

- (d) the weight or measure, or indication of the weight or measure, of the article; and
- (e) the operation of the weighing or measuring of the article.”.

5 After section twenty-five F of the Principal Act the following Part is inserted:—

“PART VB.

“SPECIAL PROVISIONS RELATING TO PRE-PACKED ARTICLES.

“25G The provisions of this Part and of the regulations made under this Part shall be construed as being in addition to the provisions of any other law of the State relating to the affixing of labels to articles of any description or to packages containing articles of any description or relating to the particulars, information, statements, words, or other matter to be set forth in any such labels.

Construction
of this Part.

“25H—(1) Nothing in this Part applies to or in relation to—

Exemptions
from the
operation of
this Part.

- (a) an exempted article; or
- (b) a package that contains an exempted article only or two or more exempted articles only.

“(2) Nothing in this Part with respect to the packing of an article for sale or the marking of a package containing an article applies to or in relation to an article that is, otherwise than at the request of the purchaser, weighed or measured before or at the time of sale and in the presence of the purchaser, or to a package containing such an article.

“(3) In this section—

‘exempted article’ means—

- (a) bread;
- (b) solid fuel; and
- (c) an article of any description that is wholly exempted by the regulations from the operation of this Part;

‘solid fuel’ means coal, coke, and firewood.

Name, &c., of
packer to be
marked on
packages.

“25J—(1) No person shall pack an article for sale, or cause, permit, or suffer an article to be packed for sale, unless the package in which the article is contained is marked, in accordance with the regulations—

(a) with—

- (i) his name and the address of the place where the article was packed; or
- (ii) an approved brand; or

(b) if the article is packed for or on behalf of another person (not being the employer of the person who packs the article) with—

- (i) the name and address of that other person; or
- (ii) an approved brand.

Penalty: Two hundred dollars.

“(2) Where an article is packed by a person as an employee of another person (in this subsection referred to as ‘the employer’), the name required by paragraph (a) of subsection (1) of this section to be marked on the package containing the article is the name of the employer.

“(3) Where an article is packed by or for or on behalf of a corporation or by or for or on behalf of a person or of persons trading under a business name—

(a) the name referred to in paragraph (a) or paragraph (b) of subsection (1) of this section is—

- (i) in the case of a corporation, the name under which the corporation is incorporated; or
- (ii) in the case of a person or of persons trading under a business name, the business name as registered under the *Business Names Act 1962* or under a corresponding law; and

(b) the address referred to in paragraph (a) or paragraph (b) of that subsection is—

- (i) in the case of a corporation, the address of its registered office in the State; or

- (ii) in the case of a person or of persons trading under a business name, the address of the sole or principal place of business of that person or those persons in the State.

“(4) No person shall sell a pre-packed article unless the package containing the article is marked as required by subsection (1) of this section.

Penalty: Two hundred dollars.

“(5) In sub-paragraph (ii) of paragraph (a) of subsection (3) of this section, ‘corresponding law’ means a law in force in a State other than this State or in a Territory of the Commonwealth in relation to the registration of business names.

“25K—(1) No person shall, on or after the appointed day, pack for sale, or cause, permit, or suffer to be packed for sale, an article of any description to which this section applies except in a weight or measure of such denomination as may be prescribed in relation to articles of that particular description.

Certain articles to be packed and sold only in certain denominations.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(2) For the purposes of subsection (1) of this section, the appointed day, in relation to articles of any particular description, is such day as the Minister may, by order, declare to be the appointed day in relation to articles of that description.

“(3) No person shall, on or after the appointed day, sell a pre-packed article (being an article of a description to which this section applies) if the article is packed otherwise than as required by subsection (1) of this section.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(4) For the purposes of subsection (3) of this section, the appointed day, in relation to articles of any particular description, is such day as the Minister may, by order, declare to be the appointed day in relation to articles of that description.

“(5) Subsection (3) of this section does not apply to or in relation to the sale of an article of a description to which a permit under section twenty-five M relates.

“(6) An order made by the Minister under this section—

(a) may declare different days as the appointed day for the purposes of subsections (1) and (3), respectively, of this section; and

(b) may declare different days as the appointed day for the purposes of subsections (1) and (3), respectively, of this section in relation to articles of different descriptions,

but a day so declared shall be a day not earlier than one year after the date of commencement of this section and not earlier than the day on which the order is notified in the *Gazette*.

“(7) This section applies to articles of such descriptions as may be prescribed.

Packages, &c., to be marked with particulars of the quantity of the articles contained therein.

“25L—(1) No person shall, on or after the appointed day, pack for sale, or cause, permit, or suffer to be packed for sale, an article of a description to which this section applies unless the package containing the article is marked, in accordance with the regulations, with a statement of the true weight or measure of the article.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(2) For the purposes of subsection (1) of this section, the appointed day, in relation to articles of any particular description, is such day as the Minister may, by order, declare to be the appointed day in relation to articles of that description.

“(3) No person shall, on or after the appointed day, sell a pre-packed article (being an article of a description to which this section applies) unless the package in which the article is contained is marked as required by subsection (1) of this section.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(4) For the purposes of subsection (3) of this section, the appointed day, in relation to articles of any particular description, is such a day as the Minister may, by order, declare to be the appointed day in relation to articles of that description.

“(5) Subsection (3) of this section does not apply to or in relation to the sale of an article to which a permit under section twenty-five M relates.

“(6) An order made by the Minister under this section—

- (a) may declare different days as the appointed day for the purposes of subsections (1) and (3), respectively, of this section; and
- (b) may declare different days as the appointed day for the purposes of subsections (1) and (3), respectively, of this section in relation to articles of different descriptions.

“(7) This section applies to articles of such descriptions as may be prescribed.

Permits for sale of articles that do not comply with the prescribed requirements.

“25M—(1) Where any pre-packed articles were not packed, or the packages containing any such articles are not marked, as required by or under any provision of this Part with respect to the packing of the articles or the marking of the packages in which the articles are contained, and—

- (a) the Minister is satisfied that the articles were, when packed, intended to be exported from Australia and considers that it is just or reasonable that the sale of the articles in the State should be permitted;
- (b) the Minister is satisfied that the articles were packed outside Australia and were brought into the State in such circumstances as, in the opinion

of the Minister, render it just and reasonable that the sale of the articles in the State should be permitted; or

- (c) the Minister is satisfied that the articles were packed within Australia and he considers that, having regard to the date when the articles were packed or to any other relevant circumstances, it is just and reasonable that the sale of the articles in the State should be permitted,

the Minister may, on the application of a person, grant to that person a permit authorizing the sale of the articles in the State by that person.

“(2) A permit under this section may be granted on and subject to—

- (a) such conditions as are specified in the permit with respect to—
- (i) the number of individual articles the sale of which is authorized by the permit;
 - (ii) the form and manner in which the weight or measure of the articles contained in each package shall be indicated; and
 - (iii) the weight or measure of the articles contained in each package; and
- (b) such other conditions (if any), whether or not of the same or a similar kind as the conditions referred to in paragraph (a) of this subsection, as the Minister determines and specifies in the permit.

“(3) A person who sells an article the sale of which is authorized by a permit under this section to another person for the purpose of resale shall, before or at the time of the sale of the article to that other person, inform that other person in writing of the conditions specified in the permit, in default whereof the first-mentioned person is guilty of an offence against this Act.

Penalty: Two hundred dollars.

“(4) No person shall—

- (a) sell an article the sale of which is authorized by a permit under this section otherwise than in accordance with the conditions specified in the permit;
- (b) falsely represent that a permit has been granted under this section or that such a permit has been granted in relation to any particular article;
- (c) sell any article the sale of which was authorized by a permit under this section at any time after the permit has ceased to be in force, whether by reason of its cancellation or of the effluxion of time; or
- (d) being the holder of a permit under this section, sell pursuant to the permit any greater number

of individual articles than the number (if any) of articles to which the permit relates.

Penalty: Two hundred dollars.

“(5) A person to whom a permit under this section is granted shall, while the permit is in force, deliver or forward by post to the Secretary, on or before the fifteenth day of each month, a return, in a form approved by the Minister, containing particulars of all articles sold by that person under the authority of the permit during the preceding month.

“(6) Unless sooner cancelled pursuant to subsection (7) of this section, a permit under this section continues in force for such period as is specified in the permit, but may be renewed by the Minister for such further period or periods as the Minister may think fit.

“(7) The Minister may, at any time, by notice in writing to the holder of a permit under this section, cancel the permit if the Minister is satisfied that it is desirable in the public interest to do so.

“(8) Where a permit under this section is cancelled pursuant to subsection (7) of this section, the holder thereof shall forthwith deliver up the permit to the Secretary.

Incorrect
weight or
measure.

“25N—(1) Subject to this section, where the true weight or measure of a pre-packed article is less than the weight or measure of the article marked on the package containing the article the person who packed the article, or who caused, permitted, or suffered the article to be packed, is guilty of an offence against this Act.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(2) For the purposes of subsection (1) of this section, the true weight of a pre-packed article of any description to which section twenty-five P applies shall be deemed to be less than the weight of the article marked on the package containing it unless the true weight of the article is, at the time when it is packed and at all times thereafter during the day on which it is packed, equal to or greater than the weight so marked.

“(3) Subject to this section, a person who sells a pre-packed article the true weight or measure of which is less than the weight or measure of the article marked on the package containing the article is guilty of an offence against this Act.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(4) The foregoing provisions of this section have effect in relation to any pre-packed article whether or not the package containing the article is required, by or under this Part, to be marked with a statement of the weight or measure of the article.

“(5) Where a package is marked with a statement of the weight or measure of an article contained therein expressed in Commonwealth legal units of measurement related to the yard, the pound, or the gallon, and is, in addition, marked, pursuant to the regulations, with a statement of the weight or measure of its contents expressed in terms of some other unit of measurement, the true weight or measure of the article shall, for the purposes of this section, be deemed to be less than the weight or measure of the article marked on the package if that true weight or measure is less than the weight or measure specified in either of those statements.

“(6) Subject to subsection (3) of section twenty-five P and to subsection (3) of section twenty-five Q, a pre-packed article shall, for the purposes of this Part, be deemed to be of a true weight or measure equal to the weight or measure marked on the package in which the article is contained—

- (a) if any deficiency in the weight or measure of the article does not exceed five parts per cent of the weight or measure marked on the package or, where the article is contained in a glass bottle the stated contents of which do not exceed eight ounces or eight fluid ounces, seven and one-half per cent of the stated contents; and
- (b) there is no average deficiency in the contents of twelve packages containing the article taken at random by an inspector or, where there are less than twelve such packages available, in the contents of all the available packages, being not fewer than six.

“(7) Where a pre-packed article is sold at a stated price per unit of weight or measurement and the statement of the price of the article marked on the package containing the article is inconsistent with the price correctly computed from the true weight or measure of the article and the stated price per unit of weight or measurement, the person who marked the package with the statement of price, or who caused, permitted, or suffered the package to be so marked, and the person who sold the article, are both guilty of an offence against this Act.

Penalty: Two hundred dollars.

“(8) In proceedings in respect of an offence against subsection (3) of this section, it is a defence for the person charged to prove—

(a) that—

- (i) the person from whom he purchased the article or who packed the article furnished him with a written guarantee

that the weight or measure of the article marked on the package containing the article was correct; and

- (ii) he sold or delivered the article in the same state as it was when delivered to him; or

(b) that—

- (i) he purchased the article in a package that was marked as required by sections twenty-five J and twenty-five L;
- (ii) he sold or delivered the article in the same state as it was when delivered to him; and
- (iii) the person who packed the article or the agent of that person or of the manufacturer of the article, from which agent the person charged purchased the article, is resident in the State,

and, in such a case, the marking on the package of the weight or measure of the article contained therein constitutes, for the purposes of this Act a warranty by the person who packed the article or, as the case requires, by that agent that the true weight or measure of the article is as marked on the package.

“(9) Where the true weight or measure of an article contained in such a package as is referred to in sub-paragraph (i) of paragraph (b) of subsection (8) of this section is found by an inspector to be less than the weight or measure marked on the package containing the article, any person who appears from the marking on the package to have packed the article or, if that person is not resident in the State, the agent referred to in that subsection—

- (a) shall be deemed to have sold the article to the inspector on the day when, and at the place where, the inspector weighed or measured the article or caused it to be weighed or measured; and
- (b) is liable to the same penalty as if he had actually sold the article to the inspector on that day and at that place.

“(10) A person who gives such a guarantee as is referred to in paragraph (a) of subsection (8) of this section that is false or misleading in a material particular is guilty of an offence against this Act.

Penalty: Four hundred dollars.

“(11) In proceedings against a person in respect of an offence against subsection (10) of this section, it is a defence for the person charged to prove that any discrepancy between the true weight or measure of the article to which the proceedings relate and the weight or measure of the article as stated in the guarantee—

- (a) arose after the giving of the guarantee and was attributable wholly to factors for which reasonable allowance was made in stating the weight or measure of the article;
- (b) was attributable wholly to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in the weight or measure of that article or of any other article; or
- (c) is due to the act or default of some other person after the article had passed from the control of the person charged.

“(12) Subsections (8) and (11) of this section do not apply unless the person charged has, not less than two days before the date set down for the hearing of the proceedings, notified the complainant that he intends to avail himself of the protection of subsection (8), or, as the case may be, of subsection (11), of this section, giving the reasons relied on for claiming that protection.

“25P—(1) Where an article of a description to which this section applies (being a pre-packed article) is of such a nature and is so packed that the weight of the article is, or is likely by reason of climatic conditions or evaporation to be, subject to variation after the packing of the article, the regulations may provide that packages containing articles of that description may be marked, in the prescribed form and manner, with the words ‘Net weight when packed’, or words to the like effect.

Articles that may be marked “Net weight when packed”.

“(2) No person shall mark, or cause, permit, or suffer to be marked, the words ‘Net weight when packed’, or words to the like effect on a package containing any article other than an article to which this section applies.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(3) Notwithstanding anything in subsection (6) of section twenty-five N, where—

- (a) an article of a description to which this section applies is contained in a package marked, pursuant to this section, with the words ‘Net weight when packed’ or words to the like effect;
- (b) articles of that description are declared by the regulations to be articles that are subject to the provisions of this subsection; and
- (c) at any time subsequent to the day when the article was packed—
 - (i) there is a deficiency of weight of the article exceeding such number of parts per cent (being greater than five parts per cent) of the weight marked on the package as is prescribed for the purposes of this subsection in relation to articles of that description; or

- (ii) there is an average deficiency exceeding such number of parts per cent of the weight marked on the package as is prescribed as the permissible average deficiency for the purposes of this subsection in relation to articles of that description in the contents of twelve packages containing the article taken at random by an inspector or, where there are less than twelve such packages available, in the contents of all the available packages, being not fewer than six,

the article shall, for the purposes of this Part, be deemed not to have been, at the time when the article was packed and at all times thereafter during the day on which the article was packed, of a true weight equal to the weight stated on the package.

“(4) The regulations may require that, in addition to any other particulars required by or under this Act to be marked on the package containing an article of any description that is subject to the provisions of subsection (3) of this section, the package shall be marked with the date when the article was packed or with an approved brand indicating that date.

“(5) This section applies to articles of such descriptions as may be prescribed.

Articles that may be marked “Net weight at standard condition”.

“25Q—(1) A package (not being a hermetically-sealed package) containing an article of a description to which this section applies may be marked, in the prescribed form and manner, with the words ‘Net weight at standard condition’ or words to the like effect.

“(2) No person shall mark, or cause, permit, or suffer to be marked, the words ‘Net weight at standard condition’ or words to the like effect on a package containing an article unless—

- (a) the article is an article of a description to which this section applies; and
- (b) where the regulations so provide, there is also marked on the package such a statement as is referred to in paragraph (b) of subsection (4) of this section.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(3) Notwithstanding anything in subsection (6) of section twenty-five N, an article of a description to which this section applies that is contained in a package marked as provided in subsection (1) of this section shall be deemed to be of a true weight equal to the weight marked on the package if—

- (a) any deficiency of weight of the article does not exceed such number of parts per cent as is prescribed in relation to articles of that description; and
- (b) where the regulations prescribe a permissible average deficiency in relation to articles of that description, the average deficiency in the contents of twelve packages containing the article taken at random by an inspector or, where there are less than twelve such packages available, in the contents of all the available packages, being not less than six, does not exceed the permissible average deficiency so prescribed.

“(4) The regulations may—

- (a) generally, or in relation to an article of any particular description, or in relation to articles that are composed of two or more different materials, prescribe and regulate the manner in which any deficiency referred to in paragraph (a) or paragraph (b) of subsection (3) of this section shall or may be determined; and
- (b) either generally or in relation to an article of any particular description, provide that where a package containing an article is marked as provided in subsection (1) of this section the package shall also be marked with a correct statement of the proportion by weight of the several types of material of which the article is composed.

“(5) This section applies to articles of such descriptions as may be prescribed.

“25R—(1) Subject to this section, if a prohibited expression or a restricted expression is marked on a package containing a pre-packed article, the person who packed the article, or who caused, permitted, or suffered the article to be packed, is guilty of an offence against this Act.

Prohibition
and restriction
of use of
certain
expressions
on packages.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.

“(2) Subject to this section, a person who sells a pre-packed article contained in a package on which a prohibited expression or a restricted expression is marked is guilty of an offence against this Act.

“(3) The provisions of subsections (1) and (2) of this section do not apply to or in relation to an article contained in a package on which a restricted expression is marked if, in addition to that expression—

- (a) there is marked on every part of the package on which the restricted expression appears such a statement as to the weight or measure of the article contained in the package as is referred to in subsection (1) of section twenty-five L, whether or not the article is an article of a description to which that section applies;

- (b) the restricted expression and that statement are so placed and so marked that both may be seen clearly at the same time; and
- (c) each of the letters or figures contained in that statement—
 - (i) is of a size not less than the minimum size of print prescribed by the regulations in relation to the dimension of the package;
 - (ii) is of a size not less than one-third of the size of the largest letter or figure contained in the restricted expression; and
 - (iii) is marked in a colour of a distinct contrast to the colour of its background.

“(4) In this section—

‘prohibited expression’ means any expression (whether consisting of a single word or of more words than one and whether in an abbreviated form or not) that directly or indirectly relates to or qualifies a unit of measurement of a physical quantity and, without prejudice to the generality of the foregoing, includes any expression declared by the regulations to be a prohibited expression for the purposes of this section;

‘restricted expression’ means any expression (not being a prohibited expression), and whether consisting of a single word or of more words than one or of any word or words in combination with any figure or figures and whether in an abbreviated form or not, that directly or indirectly relates to the size of the package containing the article (not being such a statement as to the weight or measure of the article as is required by subsection (1) of section twenty-five L) and without prejudice to the generality of the foregoing, includes any expression that is declared by the regulations to be a restricted expression for the purposes of this section.

Approval
of brands.

“25s—(1) On the application of a person whose business is or includes the packing of articles for sale, the Secretary may approve in writing of a brand for use by that person for the purpose of marking on packages—

- (a) the name and address referred to in paragraph (a) of subsection (1) of section twenty-five J;
- (b) the name and address referred to in paragraph (b) of that subsection; or
- (c) where the regulations so require, the dates when the articles contained in the packages were packed,

and a package on which such a brand is marked in accordance with the approval shall, for the purposes of this Part, be deemed to be marked as required by subsection (1) of section

twenty-five J with the name and address referred to in paragraph (a) or paragraph (b) of that subsection, or, as the case may be, with the date when the article contained therein was packed.

“(2) An approval under subsection (1) of this section may be granted subject to such conditions (if any) as the Secretary determines and specifies in the approval, and may be cancelled by the Secretary at any time by notice in writing to the person to whom the approval was granted.

“(3) A person to whom an approval under subsection (1) of this section has been granted subject to conditions shall not mark a package containing an article, or cause, permit, or suffer such a package to be marked, with the brand specified in the approval otherwise than in compliance in all respects with those conditions.

Penalty: Two hundred dollars.

“(4) Where an approval has been granted to a person under this section of a brand for use by that person for the purpose of marking on packages the name and address referred to in paragraph (a) of subsection (1) of this section, or the name and address referred to in paragraph (b) of that subsection, no person other than the person to whom that approval was granted or a person having his authority to do so shall mark a package containing an article with the brand specified in the approval or with any other brand so closely resembling the brand specified in the approval as to be likely to lead to the belief that it is the brand specified in the approval.

Penalty: Two hundred dollars.

“25T—(1) The Governor may make regulations for the Regulations.
purposes of this Part and, in particular and without prejudice to the generality of the provisions of this section, may make regulations—

- (a) for or with respect to the form and manner in which packages required or permitted by or under any provision of this Part or of the regulations to be marked with any name, particulars, statement, words, or approved brand shall or may be so marked, and authorizing a prescribed person, in the case of packages containing articles of a description approved by him for the purpose, to be marked otherwise than in the prescribed form and manner subject to such conditions and restrictions as he may determine or as may be prescribed ;
- (b) for or with respect to the denominations of weight or measure in which articles of any prescribed description shall or may be packed or sold ;
- (c) 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;

- (d) for securing 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;
- (e) for or with respect to the units of weight or measurement to be used in marking or displaying on packages 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 purpose of expressing those units;
- (f) for or with respect to the method by which, and the conditions under which, the weight or measure of articles generally or of any prescribed description of articles is to be determined for any of the purposes of this Part or of the regulations;
- (g) prescribing, in the case of articles of any particular description, what shall be deemed to constitute the net weight or measure of the articles for any of the purposes of this Part or of the regulations;
- (h) 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;
- (i) exempting (either wholly or to such extent as may be prescribed) or authorizing a prescribed person to exempt (either wholly or to such extent, and either unconditionally or subject to such conditions and restrictions, as that person may determine or as may be prescribed) from all or any of the provisions of this Part or of the regulations—
 - (i) articles of any description prescribed or referred to in the regulations and packages containing any such articles; and
 - (ii) prescribed transactions and classes of sales;

- (j) prescribing standard specifications of capacity for or in relation to packages used in the packing or sale of prescribed articles, prescribing distinctive marks for packages made to those specifications, and providing that any such articles, when packed, shall be sold only in prescribed packages made to those specifications and bearing the prescribed distinctive marks;
- (k) requiring packages containing articles of a prescribed description to be marked with a statement of the sale price per unit of weight or measurement of the articles;
- (l) generally regulating and controlling the packing of articles or of articles of prescribed descriptions and the marking of packages in which pre-packed articles are contained; and
- (m) imposing penalties, not exceeding one hundred dollars, for offences against the regulations.

“(2) The regulations—

- (a) may make different provision in relation to different descriptions of articles, packages, transactions, and classes of sales;
- (b) may be made so as to apply generally or only in respect of the packing or sale of articles of denominations of weight or measure greater than or less than some other prescribed multiple of a prescribed denomination;
- (c) may be of general or specially limited application; and
- (d) may differ according to differences in time, locality, place, or circumstance.

“(3) The regulations shall not be regarded as invalid on the ground that they delegate to or confer on the Minister or on the Secretary a discretionary authority.”.

6 Section twenty-six of the Principal Act is amended—

- (a) by adding at the end of paragraph (d) of subsection (1) thereof the words “and, in the case of a pre-packed article, select and weigh or measure or cause to be weighed or measured any such article and, if necessary, break open any package containing any such article”; and
- (b) by inserting after that subsection the following subsection:—

“(1A) If a person in whose presence any article may, by virtue of paragraph (d) of subsection (1) of this section, be examined or selected and weighed or measured, when requested by the inspector to be present at that examination or selection and weighing or measuring, refuses or fails to be present then, not-

Power of
inspector to
enter shops,
&c., and
examine
weights.

withstanding the provisions of that paragraph, the inspector may examine or select, and may weigh or measure, the article in the absence of that person.”.

Incorrect
statement of
net weight
or measure.

7 Section thirty-three of the Principal Act is repealed.

8 After section thirty-four A of the Principal Act the following sections are inserted:—

Prohibition of
marking of
certain words
on packages.

“34B Except as otherwise prescribed by or under this Act or any other Act, no person shall mark a package containing an article (whether a pre-packed article or not), or cause, permit, or suffer such a package to be marked, with the words ‘Gross weight when packed’ or words to the like effect.

Penalty: Two hundred dollars.

Offence in
relation to
statement of
weight or
measure in
invoices, &c.

“34C A person who sends or delivers to a purchaser an invoice or a delivery note relating to an article (whether a pre-packed article or not) sold to the purchaser which states as the weight or measure of the article a weight or measure that is greater than the true weight or measure of the article so sold is guilty of an offence.

Penalty: For a first offence, two hundred dollars; for a second or subsequent offence, four hundred dollars.”.

9 After section thirty-five of the Principal Act the following sections are inserted:—

Liability of
principal
for acts
of agent.

“35A—(1) Notwithstanding any other law or rule of law, where a person (in this section referred to as ‘the agent’) acting, otherwise than as an employee, for or on behalf of another person (in this section referred to as ‘the principal’) packs an article for sale, marks a package containing an article, or sells an article, and commits an offence in relation to that packing, marking, or sale, the principal is guilty of an offence against this Act in like manner as the agent and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and that he took all reasonable precautions and used all due diligence to avoid the commission of the offence.

“(2) The principal may be proceeded against and convicted pursuant to subsection (1) of this section notwithstanding that the agent has not been proceeded against or has not been convicted under this Act.

“(3) Nothing in subsection (1) of this section prejudices or affects any liability imposed by or under this Act on a person by whom an offence against this Act is actually committed.

Liability of
employer for
offence by
employee.

“35B—(1) Notwithstanding any other law or rule of law, where a person, as the employee of another person (in this section referred to as ‘the employer’), packs an article for

sale, marks a package containing an article, or sells an article, and commits an offence in relation to that packing, marking, or sale, the employer is guilty of an offence against this Act in like manner as the employee (whether or not the offence was committed without his authority or contrary to his orders or instructions) and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.

“(2) The employer may be proceeded against and convicted pursuant to subsection (1) of this section notwithstanding that the employee has not been proceeded against or has not been convicted under this Act.

“(3) Nothing in subsection (1) of this section prejudices or affects any liability imposed by or under this Act on a person by whom an offence against this Act is actually committed.”.

10 Section thirty-six of the Principal Act is amended by omitting from subsection (1) thereof the words “forty dollars” and substituting therefor the words “one hundred dollars”. Penalty and forfeiture.

11 After section thirty-nine of the Principal Act the following sections are inserted:—

“40 In proceedings in respect of an offence against this Act in relation to a pre-packed article— Evidentiary provisions.

- (a) the marking on the package in which the article is contained indicating the name of the person who packed the article is evidence that the article was packed by that person;
- (b) the marking on the package in which the article is contained indicating the name of a person for or on whose behalf the article was packed is evidence that the article was packed for or on behalf of that person;
- (c) the marking on the package in which the article is contained indicating the place where the article was packed is evidence that the article was packed at that place;
- (d) the marking on the package in which the article is contained indicating the date when the article was packed is evidence that the article was packed on that date;
- (e) a document purporting to be certified by the Secretary to be a copy of a permit granted by the Minister under section twenty-five M is evidence of the grant of the permit and of the conditions (if any) specified in the permit;

(f) a certificate purporting to be signed by the Secretary and stating—

- (i) that a return required by subsection (5) of section twenty-five M to be delivered or forwarded to him has not been so delivered or forwarded;
- (ii) that a permit granted by the Minister under subsection (1) of section twenty-five M has been cancelled;
- (iii) that a permit cancelled under subsection (7) of section twenty-five M has not been delivered up to the Secretary; or
- (iv) that an approval granted by the Secretary under subsection (1) of section twenty-five S has been cancelled,

is evidence of the matters stated in the certificate; and

(g) a document purporting to be certified by the Secretary to be a copy of an approval granted by him under subsection (1) of section twenty-five S of a brand for use by a person for the purpose of marking on packages—

- (i) the name and address referred to in paragraph (a) of subsection (1) of section twenty-five J;
- (ii) the name and address referred to in paragraph (b) of that subsection; or
- (iii) the date when the articles contained in any packages were packed,

is evidence of the approval and of the conditions (if any) subject to which the approval was granted, and the fact that such a brand is marked on a package containing an article is evidence that—

- (iv) the article was packed by the person to whom the approval was granted and at the place the address of which is specified in the approval as the address indicated by the brand;
- (v) the article was packed for or on behalf of the person whose name and address are indicated by the brand; or
- (vi) the article was packed on the date indicated by the brand,

as the case requires.

Defences.

“40A—(1) In proceedings in respect of an offence against section twenty-five J, it is a defence for the person charged to prove that the article to which the proceedings relate was packed on any premises for sale on those premises to some other person for the purpose of consumption or use and not for the purpose of resale.

“(2) In proceedings in respect of an offence against subsection (1) of section twenty-five K or subsection (1) of section twenty-five L, it is a defence for the person charged to prove that the article to which the proceedings relate was packed for export from Australia and that the marking on the package containing the article clearly so indicated.

“(3) In proceedings in respect of an offence against subsection (4) of section twenty-five J, subsection (3) of section twenty-five K, subsection (3) of section twenty-five L, paragraph (a) of subsection (4) of section twenty-five M, subsection (3) or subsection (7) of section twenty-five N, subsection (2) of section twenty-five R, or section thirty-four C, it is a defence for the person charged to prove—

- (a) that the commission of the offence was due to a cause or to causes beyond his control;
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence in respect of the article to which the proceedings relate; and
- (c) that he purchased the article from another person and sold or delivered it in the same state as it was when delivered to him.

“(4) A cause beyond the control of a person charged with an offence against any provision mentioned in subsection (3) of this section is not a defence under that subsection if the court before which the proceedings are brought is of the opinion that the cause was one that the person charged could reasonably have foreseen or for which he could reasonably have made allowance.

“(5) In proceedings against a person who packed an article, or who caused, permitted, or suffered an article to be packed, in respect of an offence against subsection (1) of section twenty-five N or against section thirty-four C it is a defence for the person charged to prove—

- (a) that any deficiency in the weight or measure of the article to which the proceedings relate arose after the packing of the article and the marking of the package and was attributable wholly to factors for which reasonable allowance was made in stating the weight or measure of the article; or

(b) that—

- (i) the commission of the offence was due to a cause or to causes beyond his control; and
- (ii) he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence in respect of the article to which the offence relates,

but a cause beyond the control of the person charged is not a defence under paragraph (b) of this subsection if the court before which the proceedings are brought is of the opinion

that the cause was one that the person charged could reasonably have foreseen or for which he could reasonably have made allowance.

“(6) Subsections (3) and (5) of this section do not apply unless the person charged has, not less than two days before the date set down for the hearing of the proceedings, notified the complainant that he intends to avail himself of the protection of this section, giving the reasons relied on for claiming that protection.

Certificate of
incorrect
guarantee or
warranty.

“40B—(1) Where a person is charged with an offence against subsection (3) of section twenty-five N and the court before which the proceedings are brought is satisfied that—

- (a) the article to which the alleged offence relates was packed by a person other than the defendant;
- (b) the defendant was furnished with such a guarantee as is referred to in paragraph (a) of subsection (8) of that section or the marking on the package containing the article constitutes a warranty pursuant to that subsection;
- (c) the defendant sold or delivered the article in the same state as it was when delivered to him; and
- (d) the guarantee or warranty, as the case may be, was false in a material particular,

the court may, on the application of the complainant, grant a certificate as to its findings.

“(2) In proceedings in respect of an offence against subsection (1), or subsection (3), or subsection (10) of section twenty-five N, a certificate purporting to have been granted under subsection (1) of this section or under a corresponding law is evidence of the matters stated therein.

“(3) In this section, ‘corresponding law’ means a law, or a specified provision of a law, of a State other than this State or of a Territory of the Commonwealth that is declared by the Minister, by order, to be a corresponding law for the purposes of this section.

Institution of
proceedings.

“40C—(1) A prosecution for an offence against this Act may be instituted at any time within a period of six months after the commission of the offence or within a period of six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

“(2) Where it appears to the Secretary that an offence against this Act has been committed by a person and the Secretary is of the opinion that the offence was due to an act or default of some other person and that the first-mentioned person could establish a defence under this Act applicable to the offence, the Secretary may take or authorize the taking of proceedings against that other person without first taking or

authorizing the taking of proceedings against the first-mentioned person, and in any such proceedings that other person may be charged with and, on proof that the commission of the offence was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged, and in any proceedings against that other person the first-mentioned person is a competent and compellable witness.”.

12—(1) On the making of regulations for the purposes of section twenty-five K or section twenty-five L of the Principal Act, a person may, without being liable to a penalty under that Act or any other law of the State, pack for sale, or cause, permit, or suffer to be packed for sale, or sell—

Transitory provisions.

- (a) articles of any description to which section twenty-five K of the Principal Act applies by virtue of the regulations made for the purposes of that section in a weight or measure of a denomination prescribed for the purposes of that section in relation to articles of that description; or
- (b) articles of any description to which section twenty-five L of the Principal Act applies by virtue of the regulations made for the purposes of that section in a package marked, in accordance with those regulations, with the statement required by subsection (1) of that section.

(2) Subsection (1) of this section has effect on and after the day on which such regulations as are referred to therein are made whether or not those regulations have, or the section of the Principal Act for the purposes of which those regulations are made has, commenced.

(3) Nothing in this section permits a person to pack for sale, or cause, permit, or suffer to be packed for sale, or to sell, articles of any description referred to in paragraph (a) or paragraph (b) of subsection (1) of this section in pursuance of a regulation that has been rescinded.

WAR SERVICE LAND SETTLEMENT.

No. 26 of 1968.

AN ACT to amend the *War Service Land Settlement Act 1950*. [10 July 1968.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *War Service Land Settlement Act 1968*. Short title and citation.