

# *The Vihiga County Weights and Measures Bill 2018*

REPUBLIC OF KENYA

VIHIGA COUNTY

THE VIHIGA COUNTY WEIGHTS AND MEASURES BILL 2018

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### **MEMORANDUM OF OBJECTS OF REASON**

# *The Vihiga County Weights and Measures Bill 2018*

## THE VIHIGA COUNTY WEIGHTS AND MEASURES BILL 2018

### A Bill for

**AN ACT** of the County Assembly of Vihiga to establish a legal framework and develop structures of operation to provide a mechanism for the imposition of certain fees and charges for weights and measures related activities and for related purposes.

**ENACTED** by the County Assembly of Vihiga as follows-

### PART 1- PRELIMINARIES

Short title and commencement

1. This Bill may be cited as Vihiga County Weights and Measures Bill, 2018 and shall come into operation upon publication in the Gazette.

Interpretations

2. In this bill, unless the context otherwise requires—

**“Approved”** means approved by the Deputy Director, or by any other person deputed by the Deputy Director to carry out examinations, grant approvals and issue certificates.

**“base unit”** means one of the international system (SI) units of measurement listed in the First Schedule;

**“certificate of qualification”** means a certificate granted by the Institute of Trade Standards Administration, Kenya or any other recognized institute or institution to any person who passes the final examination of that institute or institution, being an examination held for the purposes of ascertaining whether the person possesses sufficient skill and knowledge for the proper performance of the functions and duties of an inspector;

**“check-weighed, in relation to any vehicle”** means weighed with its load by means of a suitable weighing instrument and weighed again after it has been unloaded by means of the same or another suitable weighing instrument;

**“Container”** includes any form of packaging of goods for sale as a single item, to, or winding the goods round some other article and includes a wrapper or confining band;

**“custodian”** means the custodian of working standards

**“Deputy Director”** means the Deputy Director of Weights and Measures appointed under section 4;

**“Derived”** means derived from the base unit of measurement;

**“error”**, in respect of a weighing instrument, includes deficiency in sensitiveness or discrimination;

**“inspection”**, in relation to a weight, measure, weighing or measuring instrument, means an examination of the weight, measure, weighing or measuring instrument by an inspector with the object of checking that it has not been modified after verification, its stamp is valid and that its errors, if any, do not exceed those permitted under this Bill;

**“International Bureau of Weights and Measures”** means the body known as Internationale des Poids et Mesures established under the Convention du Metre, being the body responsible for the conservation of the prototypes of the international standards of weights and measures;

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**“inspector”** means a person appointed under section 4;

**“international definition”** in relation to any unit of measurement, means the definition of that unit recognized by the General Conference of Weights and Measures from time to time convened by the International Bureau of Weights and Measures;

**“measuring instrument”** includes every instrument for the measurement of length, area, volume, capacity and gauge;

**“pre-packed”** means packaged or made up in advance, ready for sale in or on a container;

**“quantity”** includes length, width, height, area, size, volume, capacity, weight and number;

**“sale”** includes an agreement to sell and an offer to sell, and an offer to sell shall be deemed to include the exposing of goods for sale, the furnishing of a quotation and any other Bill whatsoever by which willingness to enter into any transaction of sale is expressed;

**“Secondary reference standard”**: means standards which the Minister has Procured and caused to be verified and authenticated.

**“Secondary standards”**: means copies of the Kenya primary reference standards which the Minister has procured and caused to be verified and Authenticated.

**“stamp”**; means a mark for use as evidence of the passing of weights, measures, or weighing or measuring instruments as fit for use for trade, whether applied by impressing, casting, engraving, etching, branding or otherwise, and cognate expressions shall be construed accordingly; **“verification”**; in relation to a weight, measure, weighing or measurement instrument, means the operations carried out by an inspector having the object of ascertaining and confirming that such weight, measure, weighing or measuring instrument entirely satisfies the requirements of this Bill; **“weighing instrument”**; includes all instruments constructed to calculate and indicate prices, compute wages, count or grade articles by use of weighing principles, together with all weights and counterpoises belonging thereto; **“Weighing or measuring equipment”**; includes a weight, measure or a weighing or measuring instrument;

**“working standards”**; means standards this Bill refers to The Weights and Measures Bill 2018

Object and purposes

3. a) To provide a framework within which the County Government may perform its functions and exercise its powers under the Constitution to inspect, license and regulate the use of weights and measures equipment.

b) To establish a framework that will facilitate conduct and regulation of business in the County and

c) Establish a mechanism of reliably raising revenue for the County Government to effectively deliver services.

### **PART II**

#### **ESTABLISHMENT OF THE WEIGHTS AND MEASURES OFFICE**

Appointment of Deputy Director Weights and measures

4. 1) (a) There shall be in the public service of the county an office designated as the office of Deputy Director Weights and Measures.

(b) The Executive Committee Member responsible for trade may designate and

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appoint from time to time for the purposes of this Bill, inspector(s) from among persons holding certificates of qualification for the efficient discharge of the functions conferred or imposed upon them by this Bill.

(2) Notice of a person's appointment to or ceasing to hold office under this bill shall be given by the Executive Committee Member in the Gazette.

(3) Any person who, immediately before the commencement of this Bill, was an inspector appointed under section 27 of the Weights and Measures Bill (Cap.513) (1979) (now repealed), shall be deemed for the purposes of this Bill to be an inspector appointed under this section.

Functions of the  
Deputy Director  
Weights and  
Measure

5. (1) There shall be Deputy Director Weights Measures, Inspectors and as many Assistants of Weights and Measures, as may be necessary for the purposes of this Bill.

(2)The Deputy Director Weights and Measures may delegate in writing all or any of his powers, duties or functions under this Bill, either generally or in any area in the County, or for such periods or purposes as he/she may specify, to any Inspector or to any Assistants, and may at any time revoke or vary such delegation.

(3)The Deputy Director Weights and Measures shall be responsible to the Chief Officer for the custody and maintenance of standards and generally for the operation of the arrangements made to give effect to the purposes of this Bill, and the general supervision of inspectors.

(4) The arrangements made by or on behalf of the Deputy Director Weights and Measures to give effect to the purposes of this Bill may include the provision, under the supervision of the inspector in charge of any area, of a service for the adjustment of weights and measures, but not of other weighing or measuring instruments; and where such a service is so provided, the inspector shall charge such fee in connection therewith as the Executive Committee Member may prescribe.

(5) Without prejudice to the powers and duties of an inspector under any make arrangements whereby an inspector may, at the request of any person and upon payment of the prescribed fee, carry out and submit to that person a report on—

(a)Weighing or measurement of any goods or article submitted for the purpose by that person;

(b)a test of the accuracy of any weight, measure or weighing or measuring Instrument so submitted.

(7) 1. There shall be sub-county weights and measures inspectors heading each sub-county in Vihiga County.

2. The Deputy Director Weights and measures may appoint and delegate duties to the sub county weights and measures inspectors.

3. The Deputy Director Weights and measures will assign/transfer/second weights and measures inspectors to any sub-county.

### **PART III- INSPECTION PROCESS**

Requirement for  
Inspection process

6. The Deputy Director Weights and Measures or authorized officers appointed under Section... may enter into any business premise for purposes of inspecting whether the weights and measures instruments are in good condition and whether the conditions

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are compiled with by the owner, provided that:

- a) The officer shall enter the premise during working hours;
- b) The inspection shall be undertaken when the premise is open.
- c) The officer undertaking the inspection shall at all times have an identification card with him and shall produce his/ her identification or proof of authorization to the business owner.
- d) The officer undertaking the inspection shall, at the conclusion of inspection, complete an approved form for every business inspected.
- e) The owner or agent present at the time of inspection shall sign at the prescribed place on the inspection form and a copy of the duly completed form shall be left with the owner or duly appointed agent present during the inspection provided that where the owner or agent refuses to sign, the officer shall indicate so

False or Misleading Statements

7. A person who gives false or misleading information required under this bill is guilty of an offence and is liable on conviction to a fine not exceeding twenty five thousand Kenya shillings; or an imprisonment of a period of six months or both.

a)equipment as the deputy director Weights and Measures may from time to time recommend as being proper and sufficient for the efficient discharge by an inspector of his duties under this Bill; and a working standard measure of length or measure of capacity may— be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

b)be either marked in whole or in part with subdivisions representing any multiples of a unit of measurement specified in the Bill or have no such markings

(2)Working standards and testing equipment shall be maintained in such manner as the Executive Committee Member may prescribe.

(3)Working standards should be taken for bi-annual calibration at Nairobi legal metrology laboratory

(4)Every working standard provided under this section shall, until the contrary is proved, be deemed to be true and accurate

### **PART IV -AUTHORIZED OFFICERS**

Authorized officers

8. (1) The Executive Committee Member responsible for weights and measures may appoint one or more persons for the purposes of this bill.

(2) An authorised officer shall have the powers set out in the bill.

### **PART V- UNITS OF MEASUREMENTS**

Unit of measurement

9. (1) Every unit of weight and measure used in Vihiga County shall be metric unit.

Measurement of weight

10.(1) The kilogram shall be the base unit of measurement of mass by reference to which any measurement of weight shall be made in Vihiga County.

(2) The measurement of the weight of an item may be in kilogram or its sub units.

Measurement of length

11. The meter shall be the base unit of measurement of length by reference to which any measurement of length shall be made in Vihiga County.

Measurement of time

12. The second shall be the base unit of measurement of time by reference to which any measurement of time shall be made in Vihiga County.

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- Measurement of electric current 13. The ampere shall be the base unit of measurement of electric current by reference to which any measurement of electric current shall be made in Vihiga County
- Offence to use unauthorized units of measurement 14. Any person who uses for trade any unit of measurement which is not authorized by this Bill shall be guilty of an offence.
- Working standards and testing equipment 15. (1) The Executive Committee Member shall provide for use by an inspector and cause to be maintained working standards of such of the measures and weights, such testing equipment, and such stamping a)equipment as the deputy director Weights and Measures may from time to time recommend as being proper and sufficient for the efficient discharge by an inspector of his duties under this Bill; and a working standard measure of length or measure of capacity may— be provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and  
b)be either marked in whole or in part with subdivisions representing any multiples of a unit of measurement specified in the Bill or have no such markings  
(2)Working standards and testing equipment shall be maintained in such manner as the Executive Committee Member may prescribe.  
(3)Working standards should be taken for bi-annual calibration at Nairobi legal metrology laboratory  
(4)Every working standard provided under this section shall, until the contrary is proved, be deemed to be true and accurate.
- Testing of standards and equipment of other institutions 16. The Deputy director and Measures may, if he thinks fit, on the application of any person, government or institution, accept for testing as to accuracy or compliance with any specifications and for report—  
  
a)any article used or proposed to be used as a standard of a unit of measurement of mass, length, capacity, area or volume; and  
  
b)any weighing or measuring instrument; and  
c)any other metrological equipment; and  
d) any article for use in the manner specified in paragraph (b) or (c), submitted by that person, government or institution for the purpose at such place as the Deputy director weights and measures may direct; and the Deputy director weights and measures may charge a prescribed fee in respect of any article or weighing or measuring instrument accepted by him pursuant to this section.

### **PART VI- OFFENCES**

- Units of measurement weights and measures lawful or use for trade 17. No person shall—  
1) use for trade any weight or measure which is not authorized by this Bill; or  
2) use for trade, or have in his possession or control for use for trade any Weight or measure of a denomination other than those specified in this Bill.  
3) No person shall use the carat (metric) for trade except for the purposes of transactions in precious stones, pearls, precious metals or articles made there for it.  
4) Any person who contravenes the provisions of this section shall be guilty of an offence and any weight or measure used or in the possession of any person or control for use for trade in contravention of any of those provisions shall be forfeited.

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- Offences for use or possession of certain weighing or measuring instruments
18. Every person who uses or has in his possession or control for use for trade a weighing or measuring instrument not constructed to indicate in terms of some weight or measure authorized by this Bill shall be guilty of an offence and the weighing or measuring instrument shall be forfeited.
- Offences relating to false or unjust weights, measures or weighing or Measuring Instruments.
19. Every person who uses or has in his possession or control for use for trade any weight, measure, weighing or measuring instrument which is false or unjust shall be guilty of an offence and the weight, measure, weighing or measuring instrument shall be liable to be forfeited
- Mode of use of measure of capacity
20. (1) In using a measure of capacity, the same shall not be heaped, but either shall be stricken with a round stick or roller straight and of the same diameter from end to end, or if the article sold cannot from its size or shape be conveniently stricken it shall be filled in all parts as nearly to the level of the brim as the size and shape of the article permits.  
2) Any person who uses a measure of capacity for trade otherwise than in accordance with subsection (1) shall be guilty of an offence.
- Offences relating to fraud in the use of weights, measures or weighing or measuring instruments.
21. Where a fraud is committed in the use of any weight, measure, weighing or measuring instrument, the person committing the fraud, shall be guilty of an offence and the weight, measure, weighing or measuring instrument shall be forfeited; except so however that where the Court is satisfied that the weight, measure or weighing or measuring instrument is the property of a person other than the person committing, or a person being a party to the commission of, the fraud, the Court may waive the forfeiture.
- What weight, measure, weighing or measuring instrument is unjust.
22. Every weight, measure or weighing or measuring instrument which has a greater error than the limit of error prescribed under this Bill shall be deemed to be false or unjust for the purposes of this Bill
- Offences for sale of incorrect weights, measures, weighing or measuring Instruments.
23. (1) A person shall not make for sale or cause to be made for sale or sell or cause to be sold, any false or unjust weight, measure, weighing or measuring instrument, and no person shall sell or expose for sale any weight, measure, Weighing or measuring instrument, intended for use for trade unless the same bears a valid stamp of verification of a date not earlier than one year previous to such sale or exposure.  
(2) This section shall not apply to—  
a. a weighing or measuring instrument of a type which when made was not intended or designed for use for trade and which was then marked with the words —Not Legal for Trade Use|| permanently and clearly on some conspicuous part thereof; or  
b. a measure, weighing or measuring instrument which is required by this Bill to be permanently installed at the place where it is to be used before it is verified.  
(3) Any person who contravenes the provisions of this section shall be guilty of an offence and the weight, measure, weighing or measuring instrument in respect of which the offence is committed shall be forfeited.
- Offences in connection with stamping of
24. (1) Any person who, in the case of any weight, measure or weighing or measuring instrument used or intended to be used for trade—

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weights, measures,  
weighing or  
measuring  
instruments

- (a) not being an inspector or a person billing under the instructions of an inspector, marks in any manner any plug or seal used or designed for use for the reception of a stamp;
- (b) forges, counterfeits or, except as permitted by or under this Bill, in any way alters or defaces any stamp;
- (c) removes any stamp and inserts it into any other such weight, measure or weighing or measuring instrument;
- (d) makes any alteration in the weight, measure or weighing or measuring instrument after it has been stamped such as to make it false or unjust; or
- (e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the weight, measure or weighing or measuring instrument, shall be guilty of an offence: Provided that nothing in this subsection shall apply to the destruction or obliteration of any stamp, plug or seal, or anything done in the course of the adjustment or repair of any weight, measure or weighing or measuring instrument by, or by the duly authorized agent of, a person who is a manufacturer of or regularly engaged in the business of repairing, such weight, measure or weighing or measuring instrument.
- (2) Any person who uses for trade, sells exposes or offers for sale or in any manner disposes of any weight, measure or weighing or measuring instrument which to his knowledge—
- (a) bears a stamp which is a forgery or counterfeit or which has been transferred from another weight, measure or instrument, or which has been altered or adjusted otherwise than as permitted by or under this Bill; or
- (b) is false or unjust as a result of an alteration in the weight, measure, weighing or measuring instrument after it has been stamped, shall be guilty of an offence.
- (3) Any weight, measure or weighing or measuring instrument in respect of which an offence under this section is committed and any stamp or stamping instrument used in the commission of the offence shall be forfeited.

Verification of  
weights, measures,  
weighing of  
measuring  
instruments

25. (1) An inspector shall, not more often than once in every year call upon persons in any area having weights, measures, weighing or measuring instruments in use for trade to produce the same for the purpose of their being examined, verified, stamped or re-stamped at such time and place within that area as he may appoint.
- (2) For the purposes of subsection (1) there shall be published a notice in the Gazette and in a newspaper circulating within such area stating the time and place so appointed, such time not being earlier than fourteen days after the publication of the notice.
- (3) Where a weight, measure, weighing or measuring instrument, by reason of it being permanently fixed or of its heavy weight or delicate construction cannot be conveniently moved or where a weight, measure, weighing or measuring instrument is situated at a distance exceeding twenty kilometres from the nearest place appointed in pursuance of subsection (1) it shall be sufficient for the purposes of this section if the person who has the same for use for trade notifies in writing its position to the inspector or some other officer authorized by the inspector to receive the notification at least three days in advance of the date the verification falls due.
- (4) An inspector shall attend with the working standards and testing equipment in his custody at the time and place notified under subsection (2) and upon payment of the prescribed fee, shall examine every weight, measure, weighing or measuring instrument brought or submitted to him which is of denomination or a pattern

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authorized by or under this Bill, and shall compare or test it with the working standard and testing equipment and if he finds the weight, measure, weighing or measuring instrument to be accurate and correct, he shall stamp it with a stamp of verification in the prescribed manner.

(5) Where a notification has been given under subsection (3) an inspector shall, upon payment of the prescribed fee, attend with the working standards and testing equipment in his custody at the place notified and shall test or examine and stamp any weight, measure, weighing or measuring instrument so notified in the same manner as if such weight, measure, weighing or measuring instrument had been brought or submitted to him.

(6) In case of any measure, weighing or measuring instrument which is required by this Bill to be verified only after it has been installed at the place where it is to be used for trade if after the same has been so verified and stamped it is dismantled and re-installed, whether in the same place or some other place, it shall not be used for trade after being so re-installed until it has been verified and stamped by an inspector; and if any person knowingly uses, or causes or permits any other person to use any measure, weighing or measuring instrument in contravention of this subsection or knowing that the same is required by virtue of this subsection to be so re-verified disposes of it to some other person without informing him of that requirement, he shall be guilty of an offence.

(7) Whenever an inspector verifies any weight, measure, weighing or measuring instrument and finds it correct, he shall issue to the person bringing or submitting the same to him a certificate in respect thereof in such form as may be prescribed.

(8) Subject to subsection (3), any person who fails to comply with any notice published under subsection (2) shall be guilty of an offence.

Offences in connection with obstruction of inspector

26. Any person who refuses or fails to produce to an inspector any weight, measure, weighing or measuring instrument in his possession or custody, Weights and Measures control for use for trade, whereof the inspector requires the production under this Bill, or who obstructs or hinders or assaults an inspector in the performance of any duty or bill imposed or authorized by this Bill or who fails to comply with any reasonable request made by an inspector in the course of his duty under this Bill, shall be guilty of an offence.

Short weight

27. (1) Any person who, in selling or purporting to sell any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer— (a) a lesser quantity than that purported to be sold; or (b) a lesser quantity than corresponds with the price charged, shall be guilty of an offence.  
(2) For the purposes of this section any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net weight of the goods.

Misrepresentation

28. (1) Any person who—  
(a) On or in connection with the sale or purchase of any goods;  
(b) In exposing or offering any goods for sale;  
(c) In purporting to make known to the buyer the quantity of any goods sold;  
Or

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(d) In offering to purchase any goods, makes any misrepresentation, whether oral or otherwise as to the quantity of the goods, or does any other bill calculated to mislead a person buying or selling the goods as to the quantity of the goods, shall be guilty of an offence.

Quantity less than stated

29. (1) If, in the case of any goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then, (a) Any person who has those goods in his possession for sale shall be guilty of an offence; and

(b) If it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by the buyer, any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, shall be guilty of an offence.

(2) If—

(a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods; or

(b) in the case of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document containing such a statement, the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by the buyer, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence.

Incorrect statements

30. (1) If in the case of any goods required under this Bill to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document for the purposes of this Bill while that statement was contained in the document, shall be guilty of an offence.

Offences due to default of third person

31. Where the commission by any person of an offence in respect of any goods is due to the bill or default of some other person not being a person under the control of the first-mentioned person, the other person shall be guilty of an offence and may be charged with and convicted of the offence

Making quantity known to a person

32. (1) For the purposes of this Bill, and without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner, that quantity shall be taken to be made known to that person—

(a) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person;

(b) if the goods are made up in or on a container marked with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person; or

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(c) Upon such a statement in writing being delivered to that person.

Weighing in presence of a person

33. For the purposes of this Bill, a person shall not be taken to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any weighing instrument used for the purpose to be so placed or conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that person a clear and unobstructed view of the weighing or measuring instrument, if any, and of the operation, and of any indication of quantity given by any such instrument as the result of that operation.

revenue collector is required.

(1) Attend and give evidence before the county revenue collector, including on oath administered by the county revenue collector.

(2) if a person fails to comply with a notice under subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 shillings

Revenue register

34. (1) The county revenue collector must establish a revenue register and keep it up to date.

(2) The register must contain the prescribed information and may be kept in such form as the county revenue collector decides.

Approved forms

35. The county revenue collector may approve forms for the purpose of a revenue law.

### **PART V- MISCELLANEOUS PROVISIONS**

Powers of entry and seizure

36. (1) An inspector may at any reasonable time inspect and test all weights, measures or weighing or measuring instruments which are used or are in any person's possession, or upon any premises for the purposes of trade, and may cause such weights, measures or weighing or measuring instruments to be compared with the working standards, and may apply such test as may be necessary to determine the accuracy thereof, and may seize and detain such of them as are liable to forfeiture under this Bill.

(2) For the purposes of subsection (1), an inspector may enter any shop, factory, store or warehouse, stall, yard or other premises wherein he has reasonable cause to believe that there are any weights, measures, weighing or measuring instruments which he is authorized under this Bill to inspect or where any goods are bought, sold, exposed, pre-packed or kept for sale, or weighed or measured for sale or for conveyance or carriage or for any other trade purpose.

(3) An inspector authorized under this section may also inspect and weigh or otherwise measure or count any goods on any premises or at any place where goods are bought, sold or exposed for sale, and may stop any vehicle or person carrying goods for sale or delivery to a purchaser and may enter any premises where goods have been delivered to a purchaser in order to ascertain that the provisions of this Bill have been complied with and for any such purpose may use any weighing or measuring instrument which complies with the provisions of this Bill and which may be upon such premises; and the inspector may require the production of any documents or records appertaining to the quantity or gauge of such goods and such

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reasonable assistance from any person present and having an interest in those goods as may be necessary.

(4) An inspector may weigh or otherwise measure any container in or on which any goods are made up and may do anything else as respects the goods or container which is reasonably necessary, and which does not damage or depreciate the goods or container to ascertain whether the requirements of this Bill are complied with.

(5) For the purposes of subsection (4), an inspector may if necessary break open any container of goods or open any vending machine in which goods are offered or exposed for sale.

(6) Where an inspector has reasonable cause to believe that any document produced to him under subsection (3) contains any inaccurate statement of quantity or gauge or may be required as evidence in proceedings under this Bill, he may seize and detain the document giving in exchange thereof a certificate in the prescribed manner, signed by him to the effect that the document has been seized and giving reasons for the seizure.

(7) An inspector entering any premises by virtue of this section may take with him such other person and such equipment as may appear to him necessary.

(8) If any person discloses to any other person any information with respect to any secret manufacturing process or trade secret obtained by him in premises where he has entered by virtue of this section or any information obtained by him in pursuance of this Bill he shall be guilty of an offence unless the disclosure was made in or for the purposes of the performance by him or any other person of the functions under this Bill.

(9) For the purposes of this section the powers of an inspector shall include power to require the person in charge of any vehicle carrying goods for sale, or for delivery after sale, by weight or measure to a purchaser to have it check weighed.

Power to make test purchase

37. (1) An inspector may make such test purchases of goods as may appear expedient for the purposes of determining whether or not the provisions of this Bill are being complied with; and the expenses incurred in making any such purchase shall be met from public funds.

(2) An inspector may, in connection with the investigation of any alleged offence arising out of a test purchase involving payment with money, search any person for the money; or enter and search premises, or search any box or receptacle and the contents thereof at the place at which such test purchase has been made, and may seize the money so found and retain any change received for the purchase as evidence of the transaction.

(3) Any goods purchased in pursuance of subsection (1) in respect of which no court proceedings are instituted shall be disposed of in such a manner as the Minister may prescribe.

Powers of arrest, search and seizure

38. In addition to any other powers conferred by this Bill, an inspector shall have the following powers—

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(a) he may stop and detain, or may arrest without warrant, any person suspected of an offence under this Bill or being in possession of any goods, or any weight, measure or weighing or measuring instrument in respect of which he has reason to believe that such an offence has been committed and may search any person so stopped and detained or arrested;

(b) he may seize and detain any goods or thing, or any weight, measure or weighing or measuring instrument in respect of which he has reason to believe that an offence under this Bill has been committed or which he has reason to believe to be evidence of such an offence: Provided that no person shall be arrested under this section unless he obstructs or hinders the inspector or it appears to the inspector that such a person is likely to fail to answer to a summons, or such a person refuses to give his name and address to the inspector and to produce to him satisfactory evidence of his identity, or such person gives a name and address which the inspector has reason to believe to be false. [Rev. 2012] CAP. 513 Weights and Measures 35 [Issue 1]

Employer answerable for bills of servant, etc.

39. Any person who employs in his shop, store, or other place of business any agent, servant, or other person shall be answerable for the bills or omissions of the agent, servant or other person in so far as they concern the business of the

employer and if such agent, servant or other person commits any bill or makes any omission which is an offence if committed or made by such employer, such employer and his agent, servant or other person shall each be guilty of the offence and shall be jointly and severally liable to the penalties provided by this Bill.

Liability of partners in a firm.

40. Any partner in any firm shall be answerable for the bills or omissions of any other partner in the same firm in so far as they concern that firm; and if any partner commits any bill or makes any omission which is an offence under this Bill, every partner in the firm shall be jointly and severally liable to the penalties provided by this Bill.

Offences by corporations

41. Where an offence under this Bill which has been committed by a body corporate is proved to have been committed with the consent and connivance of or to be attributable to any manager, secretary or other similar officer of the body corporate, or any other person who was purporting to bill in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Disposal of seized goods

42. (1) Where any vehicle, instrument, goods or money has been seized under this Bill, the same may be retained for a period not exceeding three months or if, within that period, proceedings are commenced for any offence under this Bill, until the final determination of those proceedings.

(2) Where any goods are seized and detained under this Bill, they shall be returned, less any portion which has been reasonably utilized for the purpose of any tests, to the person from whom they were seized within a period of three months after the date of seizure unless within such period some person is charged with an offence under this Bill and such offence was committed in relation to or in connection with such goods.

(3) Where any perishable goods have been seized under any provision of this Bill, the

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inspector who has seized the goods shall forthwith report to a magistrate the bill of the seizure and if the Magistrate is satisfied that the goods are perishable, he may authorize the inspector to dispose of the goods as the Magistrate may think fit.

(4) Where any proceedings are taken for any offence under this Bill, the Court by or before which the alleged offender is tried may make such order as to the forfeiture of the goods in respect of which such offence was committed or as to the disposal of any goods or money seized in connection therewith as the court shall see fit.

(5) In this section —goods|| shall be construed as including the proceeds of the sale of any goods, where such goods have been sold.

General penalties

43. (1) Any person guilty of an offence under this Bill shall be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both.

(2) Where any person has been convicted of an offence under this Bill, the court convicting him may, in addition to any other penalty to which the convicted person may be liable, make such order as the Court thinks fit to prevent the person from continuing to deal with or in the same goods or articles in respect of which the offence was committed.

Prosecution of Offences

44. All offences under this Bill may be prosecuted by an inspector

Regulations

45. The County Executive Committee member may with the approval of the county assembly

(1) make regulations generally for the better carrying out of the purpose of this Bill –

(2) Without prejudice to the generality of the foregoing, Regulations made under this section may provide for –

a) The manner of service of any notice required under this Bill;

b) The fees and charges to be paid in respect of any matter required for purposes of this Bill;

c) The manner and forms of application of weights, measures, weighing and

d) measuring instrument manufactures and Authorised Mechanics

e) The dates and locations, during which weights and measures officers will visit to verify, calibrate and stamp weights, Measures, Weighing and measuring instruments.

f) The general operation and license of Authorised Mechanics.

g) The performance of the functions, the exercise of the powers and discharge of the duties of the Deputy director and other weights and measures officers under this bill; and

h) Any other matter necessary to give effect to the provisions of this Bill.

### **MEMORANDUM OF OBJECTS AND REASON**

This Bill seeks to provide a framework for developing and promoting fair trade practices and consumer protection.

The purpose of this bill is to establish a framework and provide a mechanism for the imposition of certain charges and fees.

The bill is divided into seven parts;

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**Part I** of the Bill explains preliminary matters such as interpretation and the object of the Bill.

**Part II** of the bill outlines the establishment of weights and measures office, appointment of deputy director and establishment of sub county offices which shall be headed by an inspector of weights and measures

**Part III** of the bill outlines requirements for the inspection process by a weights and measures inspector and assistants including identification, times of visit, filling of necessary forms after inspection and obligation of the trader in terms of cooperation. This part also states the penalties to traders who give false information during the inspection process.

**Part IV** of the bill includes the requirements for the appointment of weights and measures officers by the County Executive Committee Member in charge of weights and measures and their powers.

**Part V** of the bill provides for units of measurement, definitions for and standard international units for weight, length, electric current and time are also given. Metric units of measurement as the only unit of measurement are allowed in this section and bill. This part also provides penalties for the use of unauthorized units of measurement. This part also outlines provision and maintenance of working standards.

**Part VI** of the bill outlines offences and penalties in the use of weights, measures weighing and measuring instruments which include penalties for offence for use or possession of certain weighing or measuring instruments, use of false and unjust weighing instruments, committing of fraud using weighing and measuring instruments and offer for sale goods with incorrect weight.

Offences relating to illegal stamping of weights, measures, weighing and measuring instruments, obstruction of a weights and measures officer on duty, personification of inspector of weights and measures and sale of goods less than stated and their penalties have been provided for in this part.

**Part VII** of the bill gives miscellaneous provisions. It outlines the powers of an inspector of weights and measures which include and are not limited to power of entry and seizure, powers to make test purchase where necessary and powers to arrest. This part also provides for steps to be followed in disposal of seized goods, general penalties and vicarious liability between employer and employee.

This part equally gives prosecution powers of weights and measures offences to gazetted inspectors of weights and measures.

**Dated the .....November, 2018**

**Hon. Calystus Ayodi Amuhaya**

**Chairperson, Trade, Industry, Tourism and Entrepreneurship Committee.**