



RECORDS SECTION  
COUNTY ASSEMBLY OF BUNGOMA  
02 AUG 2023  
RECEIVED  
P.O. Box 1886 50200, BUNGOMA

Del  
27/7/23  
2/8/23  
HBC  
for schedule  
2/8/23  
Doch

## COUNTY ASSEMBLY OF BUNGOMA

Telephone: 055-2030854/020-2030309

Email: [bungomacountyassembly@gmail.com](mailto:bungomacountyassembly@gmail.com)

P.O. BOX 1886-50200,

BUNGOMA, Kenya.

REF: REPORT NO (4)

18<sup>th</sup> July, 2023

### INTERNAL MEMO

**FROM: CHAIRPERSON COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION**

**TO: CLERK OF THE COUNTY ASSEMBLY**

**DATE: 19<sup>th</sup> JULY, 2023**

**RE: REPORT BY THE COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION ON THE WEIGHTS AND MEASURES BILL, 2023.**

The above subject matter refers.

Forwarded herewith, please find the report by the committee Trade, Energy and Industrialization on the Weights and Measures Bill, 2023.

Kindly facilitate its approval for tabling.

Hon. Johnston O Ipara

**CHAIRPERSON-COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION**

COUNTY ASSEMBLY OF BUNGOMA  
(LPCS)  
04 OCT 2023  
TABLED  
By:.....

COUNTY ASSEMBLY OF BUNGOMA  
(LPCS)  
04 OCT 2023  
NOTICE ISSUED  
By:.....



COUNTY GOVERNMENT OF BUNGOMA



COUNTY ASSEMBLY OF BUNGOMA

THIRD ASSEMBLY-SECOND SESSION

A REPORT OF THE COMMITTEE ON TRADE, ENERGY AND  
INDUSTRIALIZATION ON THE BUNGOMA WEIGHTS AND MEASURES  
BILL, 2023

*Clerk's Chambers*

**June, 2023**

*County Assembly of Bungoma*

*P.O BOX 1886-50200*

**BUNGOMA, KENYA**



## TABLE OF CONTENTS

TABLE OF CONTENTS .....	ii
CHAPTER ONE.....	1
1.1 Preface .....	1
1.2 Establishment and Mandate of the Committee.....	1
1.3 Committee Membership .....	2
1.4 Acknowledgement .....	3
CHAPTER TWO .....	4
2.1 Objects and Purpose of the Bill .....	4
2.2 Legal Framework .....	4
2.2.1 The County Assembly of Bungoma Standing Orders.....	5
2.2.2 The weights and measures Act .....	5
2.2.3 The Constitution of Kenya 2010 .....	5
2.3 General overview of the Bungoma County Weights and Measures Bill, 2023 .....	7
CHAPTER THREE.....	9
3.1 Public participation .....	9
CHAPTER FOUR .....	11
4.1 Committee Recommendations .....	11
CHAPTER FIVE.....	17
COMMITTEE OBSERVATIONS AND RECOMMENDATIONS.....	17
5.1 COMMITTEE OBSERVATIONS .....	17
5.2 COMMITTEE RECOMMENDATION .....	17



## CHAPTER ONE

### 1.1 Preface

**Mr., Speaker Sir,**

The Bungoma Weights and Measures Bill, 2023 was committed to the committee on Trade, Energy and Industrialization on 26th April 2023. Members of the Committee and the secretariat, in alignment with the Bungoma County Assembly standing Orders, the 2010 Constitution of Kenya and the Weights and Measures Act, familiarized themselves with the Bill and thereafter considered the contents of the Bill and made recommendations as contained herein. On behalf of the Members of the Committee on Trade, Energy and Industrialization, it is my pleasure and duty to present to this House the Report of the committee on the Bungoma Weights and Measures Bill, 2023.

### 1.2 Establishment and Mandate of the Committee

The Trade, Energy and Industrialization committee was established on 26<sup>th</sup> October; 2022 in accordance with the Standing Order No.179.

The mandate of the Committee is derived from the Standing Order 217 and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of a Sectoral Committee shall be to;-

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Consider quarterly reports of the assigned departments and report to the house within twenty-one sitting days upon being laid
- (c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (d) Study and review all county legislation referred to it;

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***





- (e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and
- (h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

### **1.3 Committee Membership**

**Mr. Speaker Sir,**

The Committee on Trade, Energy and Industrialization as currently constituted, comprises the following members: -

- |                          |                  |
|--------------------------|------------------|
| 1. Hon. Johnston O Ipara | Chairperson      |
| 2. Hon. John K Wanyama   | Vice chairperson |
| 3. Hon. Meshack Simiyu   | Member           |
| 4. Metrine Nangalama     | Member           |
| 5. Hon. Wafula Waiti     | Member           |
| 6. Hon. Kimeta Polycarp  | Member           |
| 7. Hon. Bernard Kikechi  | Member           |
| 8. Hon. Timothy Chikati  | Member           |
| 9. Hon. Alfred Mukhanya  | Member           |
| 10. Hon. Alice Kibaba    | Member           |
| 11. Hon. Brigid Katasi   | Member           |
| 12. Hon. Angeline Rugut  | Member           |
| 13. Hon. Sheila Sifuma   | Member           |
| 14. Hon. Linda Kharakha  | Member           |
| 15. Hon. Aggrey Bosire   | Member           |

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***

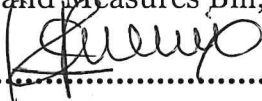


#### **1.4 Acknowledgement**

On behalf of the sectoral committee on Trade, Energy and Industrialization I wish to extend immense gratitude to the Office of the Speaker and the Clerk for the steadfast support towards success of this report.

I also take this opportunity to acknowledge all the Members of the Committee for their utmost commitment and dedication during processing of the report. Much appreciation also goes to the committee secretariat for their technical and professional input that guided the committee in all aspects of Bill processing.

It is now my pleasure and duty to present to this House the Report of the committee on the Bungoma Weights and Measures Bill, 2023.

SIGNATURE..........DATE.....*28/05/2023*.....

**Hon. Johnston O Ipara- MCA Tongaren**

**Chairperson; Sectoral Committee on Trade, Energy and Industrialisation**



## CHAPTER TWO

### 2.1 Background

**Mr. Speaker Sir,**

The County Assembly of Bungoma Standing Order no: 140(1) provides that:

A Bill having been read a First Time shall stand committed to the relevant Committee without question put. The Bungoma County Weights and Measures Bill, 2023 (No.4) having been sponsored by Hon. Johston Ipara Chairperson Committee on Trade, Energy and Industrialisation was read a first time on 26<sup>th</sup> April, 2023 and committed to the committee on Trade, Energy and Industrialization for consideration.

### 2.1 Objects and Purpose of the Bill

The Objects and Purposes include:

- (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.

### 2.2 Legal Framework

**Mr. Speaker sir,**

During the processing this report the committee was fortified by a number of standing orders, Statutory provisions and Constitutional provisions which we hereby set out as follows;

- 1) The Bungoma County Assembly Standing Orders
- 2) The Weights and Measures Act Chapter 513 Laws of Kenya
- 3) The Constitution of Kenya 2010

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***



### **2.2.1 The County Assembly of Bungoma Standing Orders**

The county assembly of Bungoma standing orders provide for the establishment of the committee on Trade, Energy and Industrialization vide Standing Order No. 179.

The Committee derives its mandate from the Standing Order 217 and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of the committee on Trade, Energy and Industrialization in relation to this report is to;-

- (a) Study and review all county legislation referred to it including the Bungoma County Weights and Measures Bill;
- (b) Make a report and recommendations to the County Assembly on the proposed legislation.

### **2.2.2 The weights and measures Act**

This is the basic law in Kenya with regard to Weights and measures which has been in operation in the County in the absence of County Laws governing weights and measures. The provisions of the Weights and Measures Act Chapter 513 Laws of Kenya generally inform the provisions of the Bungoma County Weight and Measures Bill, 2023. There are no provisions in this Act relating to County Governments as the same was passed prior to the advent of devolution in Kenya and no amendments have been preferred since. The provisions of the Act have been tailor-made in the Bungoma County Weights and Measures Bill 2023 therefore to suit the circumstances specific to Bungoma County.

### **2.2.3 The Constitution of Kenya 2010**

Article 185 of the Constitution of Kenya provides for the Legislative authority of County Assemblies as follows;

“185. Legislative authority of county assemblies





- (1) The legislative authority of a county is vested in, and exercised by, its county assembly.
- (2) A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.
- (3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.
- (4) A county assembly may receive and approve plans and policies for—
  - (a) the management and exploitation of the county’s resources; and
  - (b) the development and management of its infrastructure and institutions.”

Article 186 provides for distribution of functions between national Government and County Governments

“186. Respective functions and powers of national and county governments

- (1) Except as otherwise provided by this Constitution, the functions and powers of the national government and the county governments, respectively, are as set out in the Fourth Schedule.
- (2) A function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government.
- (3) A function or power not assigned by this Constitution or national legislation to a county is a function or power of the national government.
- (4) For greater certainty, Parliament may legislate for the Republic on any matter.”

PART 2 of the Fourth Schedule to Constitution of Kenya provides for the functions of County Governments. Paragraph 7 thereof provides that;

“The functions and powers of the county are—

7. Trade development and regulation, including—



- (a) markets;
- (b) trade licences (excluding regulation of professions);
- (c) fair trading practices;
- (d) local tourism; and
- (e) cooperative societies.”

Therefore, the regulation of weights and measures falls within the ambits of fair-trading practices as per paragraph 7 (c) of the 2<sup>nd</sup> part of the fourth Schedule to the constitution of Kenya.

### **2.3 General overview of the Bungoma County Weights and Measures Bill, 2023**

**Mr. Speaker Sir,**

Bungoma County Weights and Measures Bill, 2023 is divided into seven parts with at least 46 clauses.

#### **PART I**

This part of the Bill provides for the preliminaries. It highlights the short title, definitions, objects and purposes of the bill

#### **PART II**

Part II of the bill provides for the establishment of the weights and measures office.

#### **PART III**

Part III of the Bill provides for the inspection process and the requirements for the inspection process and the offence and penalties for giving false or misleading information.

#### **PART IV**

This part of the Bill provides for the authorized officers for purposes of implementation the provisions of this bill

#### **PART V**

**Mr. Speaker Sir**

This part of the bill provides for the units of measurements of weight, length, time and electric current. This part also provides for the working standards and testing of equipment.

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***



## **PART VI**

Part VI of the bill provides for the various offences relating to use or possession of measuring instruments, fraud, unjust measuring instruments, misrepresentation amongst others.

## **PART VII**

This part contains miscellaneous provisions outlining general provisions including the powers of entry and seizure, making test purchase and arrest. The bill under this part provides for liability of partners in a firm, offences by corporations, disposal of seized goods, general penalties and prosecution of offences.



## CHAPTER THREE

### 3.1 Public participation

**Mr. Speaker sir,**

Public participation is considered as a crucial pillar in the Kenyan Constitution. It promotes democracy by providing the public an opportunity in decision making in government hence promoting national values and principles of governance. Article 196 (1) (b) of the Constitution of Kenya and section 87 of the County Governments Act, provides for public participation and involvement in the legislative and other business of the Assembly and its committees. Further Article 174 (c) provides that the object of devolution of governance is to; “give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.

The Bungoma County Assembly Standing Orders No.140 (1) provides that the Sectoral Committee to which a Bill is Committed shall facilitate public participation on the Bill through an appropriate mechanism, including-

- (a) Inviting submission of memoranda
- (b) Holding public hearings
- (c) Consulting relevant stakeholders in the Sector and;
- (d) Consulting experts on technical subjects

(3) The Sectoral Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.

**Mr. Speaker Sir,** it is on this basis that when this Bill was introduced to the House by Hon. Johnston Ipara, it was committed by the Hon. Speaker to the Committee on Trade, Energy and Industrialization on 26<sup>th</sup> April, 2023 for processing and reporting back to the House.

In regard to this, the office of the Clerk on 9<sup>th</sup> April through an advert in the Daily Nation, invited the public to submit written memoranda concerning the Bill to the Office of the Clerk via email or hand delivery on or before 17<sup>th</sup> April 2023 as annexed (**Annex 1**). Further, the Bill

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***





was published in the Bungoma County Assembly website and copies of the same availed at the Member County Assembly Offices in various Wards for easy public access.

### **Public Views**

By closure of Business on 17<sup>th</sup> April 2023, no submissions had been forwarded to the office of the Clerk concerning the Bill.



## CHAPTER FOUR

### 4.1 Consideration of the Bill

**Hon. Speaker sir,**

Having scrutinized the Bungoma County Weights and Measures Bill, 2023 the committee proposed the following;

#### **PART-1-PRELIMINARY**

**Clause 1** on short title and commencement-Agreed on without amendments

**Clause 2** on Interpretation- Be amended by deleting the words *Deputy* appearing before the word Director -So that as to read;

‘Approved’ means approved by the Director, or by any other person deputed by the director to carry out examinations, grant approvals and issue certificates

**Justification**-The Deputy Director roles in the bill have been transferred to the Director

**Clause 2** on Interpretation of the word Deputy Director- Be amended by removing the word Deputy appearing in the clause so that it reads; Director means the Director of weights and Measures appointed under Section 4.

**Justification**-The deputy director roles in the bill have been replaced by Director

**Clause 3** sub-heading - Be amended by adding a word *the after* the word *of*

So as to read; Objects and purpose the Act

**Clause 3** on Objects and Purpose of the Act- Be amended by adding a letter *i* just after the *h* so as to read;

3.The Objects and purpose of this Act is to-

**Justification**-To remove the typographical errors



## **PART-II-ESTABLISHMENT OF THE WEIGHTS AND MEASURES OFFICE**

Sub-heading '*Appointment of Deputy Director, Weights and Measures*' be amended by removing the word, *Deputy*. So as to read;

Appointment of Director, Weights and Measures.

**Clause 4** on Appointment of Deputy Director Weights and Measures - sub-clause (1) (a) be amended by deleting the word, *Deputy*.

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

**Justifications**-To create the office of the Director instead of Deputy director.

**Clause 5** on Functions of the Deputy Director Weights and Measures sub-clause (1) - Be amended by deleting the word *Deputy* and also by removing the word *many* appearing before the phrase Assistants of Weights Measures, so as to read;

5(1) There shall be director, weights Measures, Inspectors and assistants of weights and Measures, as may be necessary for the purposes of this Act.

**Justification**-It is the office of the director that has been created and also to remove the abuse that may emanate by many appointments without due regards to procedures.

**Clause 5 (5)** -Be amended by deleting the word *deputy*.

So as to read; without prejudice to the powers and duties of the inspector under any, other provisions of this Act, the director weights and Measures may 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-

**Justification**-The office created is the one for a director.

**Clause 5(c)**-Be entirely be deleted.

**Justification**-It is a punitive clause which can easily be abused.

## **PART III-INSPECTION PROCESS**

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***



**Mr. Speaker Sir,**

**Clause 6** on the Requirement for inspection process- Agreed without amendment.

**Clause 7** on false or misleading statements- Agreed without amendment

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

**Clause 8** on Authorized Officers- Agreed without amendments

#### **PART V-UNITS OF MEASUREMENT**

**Clause 9** on Units of measurement- Agreed without amendments

**Clause 10** on measurement of weight- Agreed without amendments

**Clause 11** on measurement of length – Agreed without amendments

**Clause 12** on Measurement of time- Agreed without amendments

**Clause 13** on measurement of electric current- Agreed without amendments.

**Clause 14** on offence to use unauthorized units of measurement- Agreed without amendments

**Clause 15** on working standards and testing equipment- Agreed without amendments

**Clause 16** on testing of standards and equipment of other institutions- Agreed without amendments.

#### **PART VI-OFFENCES**

**Mr. Speaker Sir,**

**Clause 17**-on units of measurements, weights and measures lawful for use for trade- Agreed without amendments.

**Clause 18** on offences for use or possession of certain weighing or measuring instrument- Agreed without amendments.





**Clause 19** on offences relating to false or unjust weights, measures, or weighing or measuring instruments- Agreed without amendments.

**Clause 20** on mode of use of measure of capacity - Agreed without amendments.

**Clause 21** on offences relating to fraud in the use of weights, measures or weighing or measuring instruments- Be amended by deleting the entire phrase after the word forfeited; So as to read;

21. Where a fraud is committed in the use of any weight, measure, weighing or measuring, the person committing the fraud shall be guilty of an offence and the weight, measure, weighing or measuring instrument shall forfeit.

**Justification-**To avoid ambiguity in the clause

**Clause-22** on What if weight, measure, weighing or measuring instrument is unjust. Agreed without amendments.

**Clause 23** on Offences for sale of incorrect weights measures, weighing or measuring instrument- Agreed without amendments.

**Clause 24** on offences in connection with stamping of weights, measures, weighing or measuring instruments - Agreed without amendments.

**Clause 25** on verification of weights, measures, weighing of measuring instrument- Agreed without amendments.

**Clause 26** on offences in connection with obstruction of inspector- Agreed without amendments.

**Clause 27**-on short weight- Agreed without amendments.

**Clause 28**-on misrepresentation- Agreed without amendments.

**Clause 29** on quantity less than stated- Agreed without amendments.

**Clause 30** on the incorrect statement- Agreed without amendments.

**Clause 31** on offences due to default of third person- Agreed without amendments.

***Report of Committee on Trade, Energy and Industrialisation on the Bungoma County Weights and Measures Bill, 2023***



**Clause 32** on making quantity known to a person- Agreed without amendments.

**Clause 33** on weighing in presence of a person- Agreed without amendments.

**Clauses 34** on Revenue register - Be deleted

**Clause 35** on Approved forms- Be deleted

**Justification-** Clause 34 & 35 are irrelevant clauses.

## **PART V-MISCELLANEOUS PROVISIONS**

**Mr. Speaker Sir,**

**Clause 36** on the powers of entry and seizure- Agreed without amendments.

**Clause 37** on an inspector authorized under this section- Agreed without amendments.

**Clause 38** on powers to make test purchase- Agreed without amendments.

**Clause 39** on powers of arrest- Agreed without amendments.

**Clause 40** on employer answerable for acts of servant, etc- Agreed without amendments.

**Clause 41** on Liability of partners in a firm- Agreed without amendments.

**Clause 42** offences by co-operations- Agreed without amendments.

**Clause 43** on Disposal of seized goods sub-clause (3) -Be amended by correcting the word Act so as to read act;

**43(3)** Where any perishable goods have been seized under any provision of this act, the inspector who has seized the goods shall forthwith report to a magistrate the act of 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.

**Justification-**To remove typographical errors.

**Clause 44** on General penalties- Agreed without amendments.

**Clause 45** on Prosecution offences- Agreed without amendments.



**Clause 46** on Regulations- Be amended by deleting the phrase Deputy appearing before Director in sub- clause 2 (f) so as to read;

46 (2) (f) the performance of the functions, the exercise of the powers and the discharge of the duties of the Director and other Weights and measures officers under this Act

The **Schedule**- Be amended by deleting the entire column -*Approved charges 2021/22*

The column on *proposed Charges 2022/23* be amended by deleting the words *proposed and 2022/23* so as to read; Charges.

**Justification** –To conform to the Finance bill latest drafting procedure.



## CHAPTER FIVE

### COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

#### 5.1 COMMITTEE OBSERVATIONS

**Mr Speaker sir,**

The following were the committee's observations:

1. That the public had not submitted any memoranda to the office of the Clerk concerning the Weights and Measures Bill, 2023.
2. The drafting of the bill was as per the current standards of drafting.
3. The bill if enacted into law will give the County Government to regulate and license the weights and measures equipment

#### 5.2 COMMITTEE RECOMMENDATION

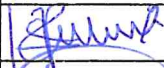
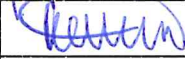
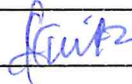




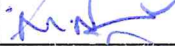




The Bill to move to the next stage with the amendments made on it.





## Adoption Schedule

We the undersigned Members affix our signatures adopting this report with the contents within.

	MEMBER'S NAME	DESIGNATION	SIGN
1.	Hon. Johnston O Ipara	Chairperson	
2.	Hon. John Kennedy Wanyama	Vice Chairperson	
3.	Hon. Meshack Simiyu	Member	
4.	Hon. Wafula Waiti	Member	
5.	Hon. Kimeta Polycarp	Member	
6.	Hon. Benard Kikechi	Member	
7.	Hon. Brigid Katasi	Member	
8.	Hon. Alice Kibaba	Member	
9.	Hon. Alfred Mukhanya	Member	
10.	Hon. Metrine Nangalama	Member	
11.	Hon. Sheila Sifuma	Member	
12.	Hon. Linda Kharakha	Member	
13.	Hon. Angeline Rugut	Member	
14.	Hon. Timothy Chikati	Member	
15.	Hon. Aggrey Bosire	Member	



## **ANNEXURES**

1. A copy of the Bungoma County Weights and Measures Bill, 2023.
2. Daily Nation Advert on submission of memoranda concerning Bills.
3. Adoption of report writing Minutes.



**SPECIAL ISSUE**

*Kenya Gazette Supplement No.5 (Bungoma County Bills No. 4)*



REPUBLIC OF KENYA

---

***KENYA GAZETTE SUPPLEMENT***

**BUNGOMA COUNTY BILLS, 2023**

---

**NAIROBI, 11th April, 2023**

---

CONTENT

	PAGE
Bill for Introduction into the County Assembly of Bungoma—	
The Bungoma County Weights and Measures Bill, 2023 .....	1



THE BUNGOMA COUNTY WEIGHTS AND MEASURES BILL,  
2023

ARRANGEMENT OF CLAUSES

*Clause*

**PART I — PRELIMINARY**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objects and Purpose of the Act.

**PART II— ESTABLISHMENT OF THE WEIGHTS AND MEASURES OFFICE**

- 4—Appointment of Deputy Director Weights and Measures.
- 5—Functions of the Deputy Director Weights and Measures.

**PART III—INSPECTION PROCESS**

- 6—Requirement for inspection process.
- 7— False or Misleading Statements.

**PART IV—AUTHORIZED OFFICERS**

- 8— Authorized officers.

**PART V—UNITS OF MEASUREMENTS**

- 9—Units of measurement.
- 10—Measurement of weight.
- 11—Measurement of length.
- 12—Measurement of time.
- 13—Measurement of electric current.
- 14—Offence to use unauthorized units of measurement.
- 15—Working standards and testing equipment.
- 16—Testing of standards and equipment of other institutions.

**PART VI—OFFENCES**

- 17—Units of measurement, weights and measures lawful for use for trade.
  - 18—Offences for use or possession of certain weighing or measuring instruments.
  - 19—Offences relating to false or unjust weights, measures or weighing or measuring instruments.
  - 20—Mode of use of measure of capacity.
-

- 21—Offences relating to fraud in the use of weights, measures or weighing or measuring instruments.
- 22—What weight, measure, weighing or measuring instruments is unjust
- 23—Offences for sale of incorrect weights, measures, weighing or measuring instruments.
- 24—Offences in connection with stamping of weights, measures, weighing or measuring instruments.
- 25—Verification of weights, measures, weighing of measuring instruments.
- 26—Offences in connection with obstruction of Inspector.
- 27—Short weight.
- 28—Misrepresentation.
- 29—Quantity less than stated.
- 30—Incorrect statements.
- 31—Offences due to default of third person.
- 32—Making quantity known to a person.
- 33—Weighing in presence of a person.
- 34—Revenue register.
- 35—Approved forms.

#### **PART VII—MISCELLANEOUS PROVISIONS**

- 36—Powers of entry and seizure.
- 37— An Inspector authorized under this section.
- 38— Power to make test purchase
- 39— Powers of arrest.
- 40— Employer answerable for acts of servant, etc.
- 41— Liability of partners in a firm.
- 42— Offences by corporations.
- 43— Disposal of seized goods.
- 44— General penalties.
- 45— Prosecution of Offences.
- 46— Regulations.



**THE BUNGOMA COUNTY WEIGHTS AND MEASURES BILL,  
2023**

**A Bill for**

**AN ACT of the County Assembly of Bungoma to establish a legal framework to 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 Bungoma, as follows—

**PART I— PRELIMINARIES**

**Short title and commencement**

1. This Act may be cited as the Bungoma County Weights and Measures Act, 2023 and shall come into operation upon publication in the *Gazette*.

**Interpretation**

2. In this Act 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 (IS) 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 Act;

“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;

“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 Act 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 Cabinet Secretary 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 Act;

“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 Act refers to the Weights and Measures Act, 2023.

### **Objects and Purpose of Act**

3. The Objects and purpose of the Act is to—

- (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 appoint from time to time for the purposes of this Act, Inspector(s) from among persons holding certificates of qualification for the efficient discharge of the functions conferred or imposed upon them by this Act.
- (2) Notice of a person’s appointment to or ceasing to hold office under this Act shall be given by the Executive Committee Member in the *Gazette*.
- (3) Any person who, immediately before the commencement of this Act was an Inspector appointed under section 27 of the Weights and Measures Act (Cap. 513) (1979) (now repealed), shall be deemed for the purposes of this Act to be an Inspector appointed under this Section.

**Functions of the Deputy Director, Weights and Measures**

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 Act.

(2) The Deputy Director, Weights and Measures may delegate in writing all or any of his powers, duties or functions under this Act, 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 Act, 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 Act 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, other provisions of this Act, the Deputy Director Weights and Measures may 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;
- (6) (i) there shall be a Sub-County Weights and Measures Inspectors heading each sub-county in Bungoma County;
- (ii) the Deputy Director Weights and measures may appoint and delegate duties to the sub county weights and measures Inspectors;
- (c) 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 8 may enter into any business premise for purposes of inspecting whether the weights and measures instruments are in good condition and whether the conditions are complied 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/her 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 Act is guilty of an offence and is liable on conviction to a fine not exceeding Kenya shillings twenty five thousand (KSh. 25,000) or an imprisonment of a period of six months or both.

### **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 administration Act.

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

### **PART V—UNITS OF MEASUREMENTS**

#### **Units of measurement**

9. (1) Every unit of weight and measure used in Bungoma 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 Bungoma 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 Bungoma 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 Bungoma County.

**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 Bungoma 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 Act 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 measures and weights, such testing equipment, and such stamping 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 Act; and a working standard measure of length or measure of capacity may—

- (a) 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 Act 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, Weights 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 for use for trade**

17. No person shall—

- (a) use for trade any weight or measure which is not authorized by this Act; or
- (b) 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 Act;
- (c) 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;
- (d) 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.

**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 Act 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 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 sub-section (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 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.

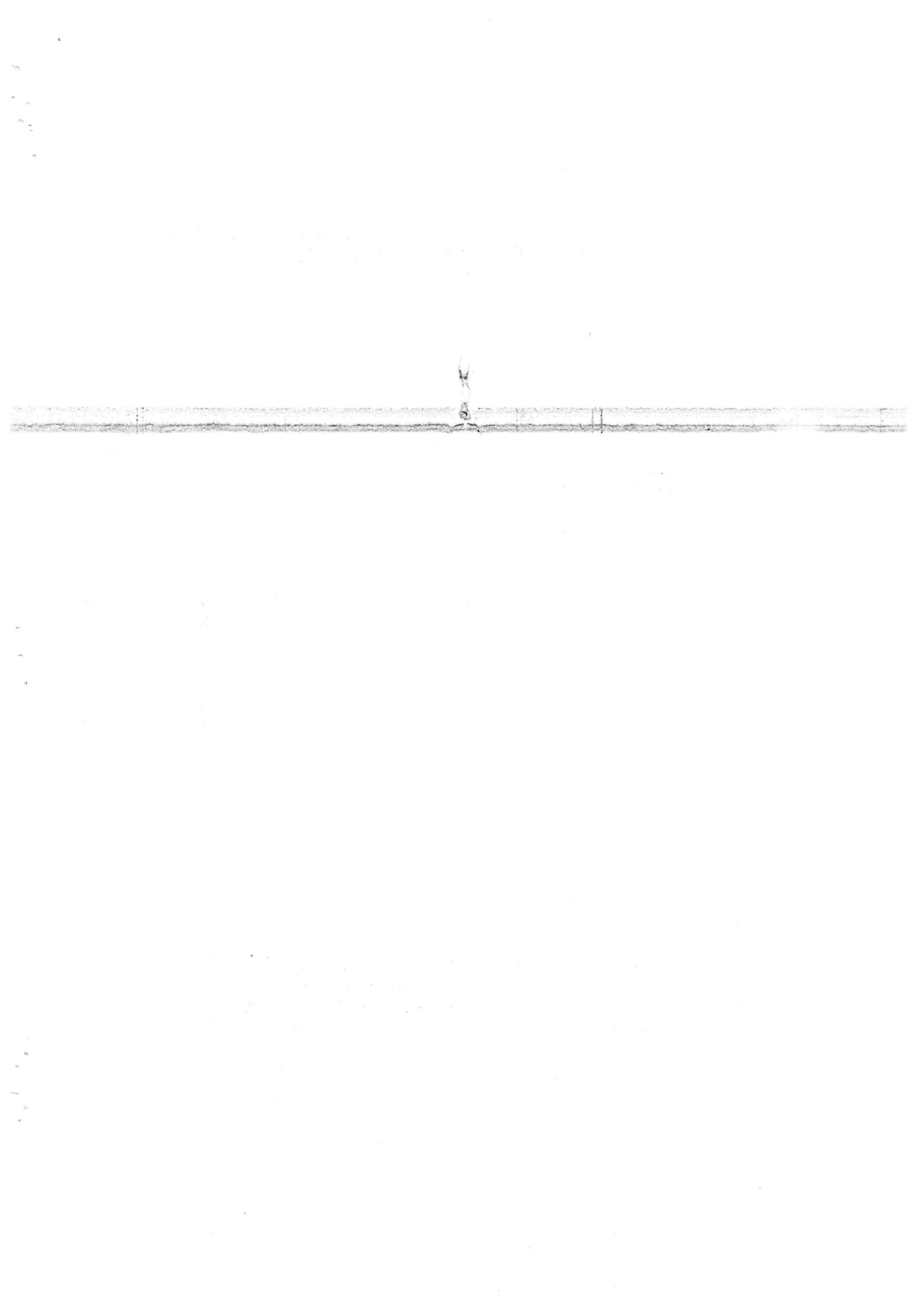
**What weight, measure, weighing or measuring instruments is unjust?**

22. Every weight, measure or weighing or measuring instrument which has a greater error than the limit of error prescribed under this Act shall be deemed to be false or unjust for the purposes of this Act.

**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





(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, Weights 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 for use for trade**

17. No person shall—

(a) use for trade any weight or measure which is not authorized by this Act; or

(b) 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 Act;

(c) 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;

(d) 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.

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 Act 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 weights, measures, weighing or measuring instruments**

24. Any person who, in the case of any weight, measure or weighing or measuring instrument used or intended to be used for trade—

- (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 Act, 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 sub-section 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 Act; 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 sub-section (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 pursuant to sub-section (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 of the 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/her custody at the time and place notified under sub-section (2) and upon payment of the prescribed fee, shall examine every weight, measure, weighing or measuring instrument brought or submitted to him/her which is of denomination or a pattern authorized by or under this Act, and shall compare or test it with the working standard and testing

equipment and if he/she finds the weighing or measuring instrument brought or submitted to him/her which is of denomination or a pattern authorized by or under this Act, 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/she shall stamp it with a stamp of verification in the prescribed manner.

(5) Where a notification has been given under sub-section (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/her.

(6) In case of any measure, weighing or measuring instrument which is required by this Act 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 sub-section or knowing that the same is required by virtue of this sub-section to be so re-verified, disposes of it to some other person without informing him of that requirement, he/she shall be guilty of an offence.

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

(8) Subject to sub-section (3), any person who fails to comply with any notice published under sub-section (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/her possession or custody, Weights and Measures control for use for trade, whereof the Inspector requires the production under this Act, or who obstructs or hinders or assaults an Inspector in the performance of any duty or Act imposed or authorized by this Act or who fails to comply with any reasonable request made by an Inspector in the course of his duty under this Act, 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
- (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 Act 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/her 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 Act 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 Act 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 Act 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 Act, 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
- (c) upon such a statement in writing being delivered to that person.

**Weighing in presence of a person**

33. For the purposes of this Act, 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 to—

- (a) attend and give evidence before the county revenue collector, including on oath administered by the county revenue collector.
- (b) if a person fails to comply with a notice under sub-section (1), the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 shillings or to an imprisonment for a term not exceeding six months or both.

**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 therefor, and may seize and detain such of them as are liable to forfeiture under this Act.

(2) For the purposes of sub-section (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 Act 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 Act have been complied with and for any such purpose may use any weighing or measuring instrument which complies with the provisions of this Act 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 reasonable assistance from any person present and having an interest in those goods as may be necessary.

**An Inspector authorized under this section**

37. (1) 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 Act are complied with.

(2) For the purposes of sub-section (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.

(3) Where an Inspector has reasonable cause to believe that any document produced to him under sub-section (3) contains any inaccurate statement of quantity or gauge or may be required as evidence in proceedings under this Act, 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.

(4) 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.

(5) 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/she has entered by virtue of this section or any information obtained by him in pursuance of this Act 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 Act.

(6) 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**

38. (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 Act 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 pursuant to sub-section (1) in respect of which no court proceedings are instituted shall be disposed of in such a manner as the County Executive Committee member may prescribe.

**Powers of arrest**

39. In addition to any other powers conferred by this Act, an Inspector shall have the following search and seizure powers—

- (a) He/she may stop and detain, or may arrest without warrant, any person suspected of an offence under this Act 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/she may seize and detain any goods or thing, or any weight, measure or weighing or measuring instrument in respect of which he/she has reason to believe that an offence under this Act has been committed or which he/she has reason to believe to be evidence of such an offence; Provided that no person shall be arrested under this section unless he/she 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/her name and address to the Inspector and to produce to him/him satisfactory evidence of his/his identity, or such person gives a name and address which the Inspector has reason to believe to be false.

**Employer answerable for acts of servant, etc.**

40. Any person who employs in his/her shop, store, or other place of business any agent, servant, or other person shall be answerable for the acts 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 Act or makes any omission which is an offence if committed or made by such employer, such employer and his/her 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 Act.

**Liability of partners in a firm**

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

**Offences by corporations**

42. Where an offence under this Act 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 act 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 be prosecuted accordingly.

**Disposal of seized goods**

43. (1) Where any vehicle, instrument, goods or money has been seized under this Act, 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 Act, until the final determination of those proceedings.

(2) Where any goods are seized and detained under this Act, 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 Act 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 Act, the Inspector who has seized the goods shall forthwith report to a magistrate the Act 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 Act, 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**

44. (1) Any person guilty of an offence under this Act 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 Act, the court convicting him/her 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**

45. All offences under this Act may be prosecuted by an Inspector.

### **Regulations**

46. (1) The County Executive Committee member may with the approval of the county assembly, make regulations generally for the better carrying out of the purpose of this Act.

(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 Act;
- (b) the fees and charges to be paid in respect of any matter required for purposes of this Act;
- (c) the manner and forms of application of weights, measures, weighing and measuring instrument manufactures and Authorised Mechanics;
- (d) the dates and locations, during which weights and measures officers will visit to verify, calibrate and stamp weights, Measures, Weighing and measuring instruments;
- (e) the general operation and license of Authorised Mechanics;
- (f) 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 Act; and
- (g) any other matter necessary to give effect to the provisions of this Act.

**SCHEDULE: WEIGHTS AND MEASURES**

<b>Item</b>	<b>Description of fee or charge on service</b>	<b>Approved Charges 2021/22</b>	<b>Proposed Charges 2022/23</b>
	<b>Weights</b>		
	<b>Capacity</b>		
1001	5kg and under	40	40
1002	10 and 20kg	200	200
1003	50kg	1,000	1,000
1004	200kg	2,000	2,000
1005	500kg	4,000	4,000
	<b>Weighing Instruments</b>		
	<b>Capacity</b>		
1011	15kg counter scale (Roberval)	200	200
1012	100kg SSB	1,000	1,000
1013	250kg 3901 Platform	1,000	1,000
1014	500kg dial Platform	2,000	2,000
1015	1 ton dial Platform	3,000	3,000
1016	30 ton weighbridge (Mechanical)	12,400	12,400
1017	30kg counter scale (Electronic)	800	800
1018	150kg Platform (Electronic)	1,200	1,200
1019	500kg Platform (Electronic)	2,000	2,000
1020	1 ton Platform (Electronic)	5,000	5,000
1021	15 ton axle weigher (electronic)	8,400	8,400
1022	60 ton weighbridge (electronic)	28,400	28,400
1023	80 ton weighbridge (electronic)	32,400	32,400
1024	160 ton multi deck weighbridge (Electronic)	64,400	64,400
	<b>Measuring Instruments</b>		
	<b>Capacity</b>		
1030	Technician's check pump (5ltr-20lt)	200	200
1031	Mechanical Dispensing pump	1,000	1,000
1032	Electronic Dispensing pump	1,200	1,200
	<b>Mileage</b>		
1041	Per km	50	50

**MEMORANDUM OF OBJECTS AND REASONS**

The Constitution of Kenya, 2010 mandates and empowers the county governments to deal with weights and measures. There is need to enact legislation that regulates weights and measures within Bungoma County and bring it in line with the enabling laws.

This Bill therefore seeks to establish a legal framework to regulate the aspect of weights and measures within the county. The purpose of the Bill is to establish a legal framework and develop structures of operation to provide a mechanism for the imposition of certain requirements, fees and charges for weights and measures and for related purposes. The structure of the Bill is as follows;

**PART I** of the Bill provides for the preliminaries. It highlights the short title, definitions, objects and purposes of the Bill.

**PART II** of the Bill provides for the establishment of the weights and measures office.

**PART III** of the Bill provides for the inspection process and the requirements for the inspection process and the offence and penalties for giving false or misleading information.

**PART IV** of the Bill provides for the authorized officers for purposes of implementation the provisions of this Bill.

**PART V** of the Bill provides for the units of measurements of weight, length, time and electric current. This part also provides for the working standards and testing of equipment.

**PART VI** of the Bill provides for the various offences relating to use or possession of measuring instruments, fraud, unjust measuring instruments, misrepresentation amongst others.

**PART VII** contains miscellaneous provisions outlining general provisions including the powers of entry and seizure, making test purchase and arrest. The Bill under this part provides for liability of partners in a firm, offences by corporations, disposal of seized goods, general penalties and prosecution of offences.

The enactment of this Bill shall occasion additional expenditure of public funds.

IPARA OKASIDA,  
*Chairperson, Trade, Energy and  
Industrialization Committee.*



# COUNTY ASSEMBLY OF BUNGOMA

P.O BOX 1886-50200, BUNGOMA, Kenya. Telephone: 055-2030854/020-2030309,  
Email: bungomacountyassembly@gmail.com

## INVITATION FOR SUBMISSION OF MEMORANDA ON BILLS UNDER CONSIDERATION.

The under-listed Bills have been tabled in the County Assembly and committed to various committees.

1. The Bungoma County Inspectorate, Compliance and Enforcement Bill, 2023
2. The Bungoma County Public Markets (Amendment) Bill, 2023
3. The Bungoma County Weights and Measures Bill, 2023
4. The Bungoma County Cooperative Societies Bill, 2023
5. The Bungoma County Public Entertainment and Amenities Bill, 2023
6. The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023
7. The Bungoma County Revenue Administration and Management (Amendment) Bill, 2023

Article 196(1) (b) of the Constitution of Kenya, and Section 87 of the County Governments Act, provides for Public participation and involvement in the legislative and other business of the Assembly and its Committees.

In compliance with the above laws, the Committee invites members of the Public to submit written representations they may have on the aforementioned document. The Bills can be accessed from the County Assembly website at <http://www.bungomaassembly.go.ke>. Hard copies of the Bills are available at the Member of County Assembly Offices in the various wards.

The representations may be forwarded to Clerk of the County Assembly, P.O Box 1886-50200 Bungoma; hand-delivered to the office of the Clerk, Main County Assembly building or emailed to [info@bungomaassembly.go.ke](mailto:info@bungomaassembly.go.ke); to be received on or before 17<sup>th</sup> May 2023.

**CHARLES W. WAFULA,**  
CLERK OF THE COUNTY ASSEMBLY,  
COUNTY GOVERNMENT OF BUNGOMA.





**MINUTES OF THE TRADE, ENERGY AND INDUSTRIALIZATION  
COMMITTEE MEETING HELD ON 28<sup>TH</sup> JUNE, 2023 AT DIVINE HOMES  
HOTEL**

**MEMBERS PRESENT:**

1. Hon. Johnston O	Ipara	Chairperson
2. John Kennedy	Wanyama	Vice Chairperson
3. Hon. Wafula	Waiti	Member
4. Hon. Brigid	Katasi	Member
5. Hon. Alice	Kibaba	Member
6. Hon. Alfred	Mukhanya	Member
7. Hon. Bernard	Kikechi	Member
8. Hon. Metrine	Nangalama	Member
9. Hon. Sheila	Sifuma	Member
10. Hon. Linda	Kharakha	Member
11. Hon. Angeline	Rugut	Member
12. Hon. Timothy	Chikati	Member
13. Hon. Aggrey	Bosire	Member

**SECRETARIAT**

1. Leonard	Momos	DCL
2. Millicent	Bosire	Committee Clerk
3. Edward	Musumba	Legal Clerk
4. Celestine	Moshong	Legal Counsel
5. Lucy	Imenje	S.S.A.A
6. John	Muchungi	Hansard Technician

**AGENDA**

1. Preliminaries
  - i) Prayer
  - ii) Adoption of the agenda



iii) Communication from the chair

2. Consideration of the Bungoma County Weights and Measures Bill, 2023.

**MIN TEI: 01/28/05/2023- PRELIMINARIES**

**i. Prayer**

The meeting was called to order at 1145 hrs and a prayer said by **Hon. John Wanyama**.

**ii. Adoption of the agenda**

The day's agenda was adopted for discussion without amendments upon proposal by **Hon. Alice Kibaba** and seconded by **Hon. Timothy Chikati**.

**iii. Communication from the chair**

The chairperson welcomed the Hon. Members and thanked them for keeping time.

**MIN TEI: 02/28/05/2023- CONSIDERATION OF THE BUNGOMA WEIGHTS AND MEASURES BILL,2023.**

Hon. Members were taken through the Bungoma County Weights and Measures Bill,2023 clause by Clause. After proper scrutiny of the Bill, some clauses were agreed to without amendments as others were amended and justification provided.

The following were the committee's observations:

1. That the public had not submitted any memoranda to the office of the Clerk concerning the Weights and Measures Bill,2023.
2. The drafting of the bill was as per the current standards of drafting.
3. The bill if enacted into law will give the County Government to regulate and license the weights and measures equipment

The committee recommended that the Bill to move to the next stage with the amendments made on it.

The committee unanimously adopted the Bill with amendments.

**ADJOURNMENT**



There being no other business the meeting ended at 5:00 P.M hrs.

**CONFIRMATION**

**HON. JOHNSTON IPARA**

**CHAIRPERSON**

DATE 28/05/2023 SIGN 

**MILLICENT BOSIRE**

**COMMITTEE CLERK**

DATE 28/05/2023 SIGN 

