Government Gazette 14634

STATE PRESIDENT'S OFFICE

No. 377 12 March 1993

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:-

NO. 17 OF 1993: TRADE METROLOGY AMENDMENT ACT, 1993.

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Trade Metrology Act, 1973, so as to define certain expressions; to provide for the appointment of verification officers and the designation of accredited laboratories; and to provide for the levying of fees by accredited laboratories for certain services rendered; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 26 February 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 77 of 1973, as amended by section 1 of Act 34 of 1975 and section 1 of Act 15 of 1990

1. Section 1 of the Trade Metrology Act, 1973 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the insertion before the definition of "certify" of the following definition:

"*'accredited laboratory' means any laboratory accredited as contemplated in section 3(k) of the Standards Act, 1982 (Act No.30 of 1982);*";

(b) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of Trade and Industry **and Tourism**;"; and

(c) by the addition of the following definitions:

" *'verification officer' means any person appointed as such in terms of section 3;*

'verify' means certify the accuracy of any measuring instrument on

the basis of a relevant national measuring standard as defined in . section 1 of the Measuring Units and National Measuring Standards Act, 1973 (Act No. 76 of 1973).".

Substitution of section 3 of Act 77 of 1973, as amended by section 3 of Act 15 of 1990

2. The following section is hereby substituted for section 3 of the principal Act:

"Appointment and qualifications of inspectors and verification officers

3. (1) The SABS Council may from time to time, on the recommendation of the director, appoint inspectors *or verification officers* to verify or test all measuring instruments or any particular kind of measuring instrument in accordance with the provisions of this Act **and to perform such other functions as may be assigned to inspectors by this Act**.

(2) No person shall in terms of subsection (1) be appointed *or act* as an inspector *or verification officer*, unless-

(a) he has shown in undergoing an examination a knowledge of the appropriate provisions of this Act and **(a)** has, in accordance with a curriculum laid down from time to time by the director in consultation with the committee, passed an examination in-

(i) subjects so laid down; and

(ii) practical work in verifying and testing all measuring instruments or the kind of measuring instrument in question; **or** *and*

(b) **has satisfied the SABS Council that he holds a certificate qualifying him to act as an inspector, and no person shall act as an inspector in respect of any particular kind of measuring instrument unless** he holds a certificate issued to him by the SABS Council to the effect that he is qualified to act as an inspector *or verification officer* in respect of all measuring instruments or **that** *a particular* kind of measuring instrument.

(3) Subject to the provisions of section 22, no inspector shall derive any profit from or be employed in the making, repair, adjusting or selling of any measuring instrument.

(4) No person shall act as an inspector unless he is employed by and acts on behalf of the South African Bureau of Standards or any statutory body contemplated in section 7(1).

(5) No person shall act as a verification officer unless he is employed by and acts on behalf of an accredited laboratory designated in terms of section 7(2) to verify all measuring instruments or the particular kind of measuring instrument in respect of which such verification officer is qualified to act in terms of subsection (1).

(6) No person shall act as an inspector or verification officer in respect of any particular kind of measuring instrument, unless he holds an appropriate certificate contemplated in subsection (2). ".

Amendment of section 5 of Act 77 of 1973, as substituted by section 5 of Act 15 of 1990

3. Section 5 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to the control of the Minister, this Act shall be administered by the SABS Council and by the director, inspectors, *accredited laboratories, verification officers* and examiners, who shall perform their duties under the control of the SABS Council.".

Amendment of section 6 of Act 77 of 1973, as substituted by section 6 of Act 15 of 1990

4. Section 6 of the principal Act is hereby amended by the substitution for 4 subsection (1) of the following subsection:

"(1) The Minister shall appoint a Metrology Advisory Committee **to examined or cause to be examined applicants for the post of inspector, and** to assist and advise the director in the performance of his functions under sections 3, *4*, 18, 23 and 24 and in connection with such other matters as the Minister may refer to the committee from time to time.".

Substitution of section 7 of Act 77 of 1973, as substituted by section 7 of Act 15 of 1990

5. The following section is hereby substituted for section 7 of the principal Act:

"Carrying out of functions may be assigned to statutory bodies or accredited laboratories

7. *(1)* The Minister may, after consultation with the SABS Council, assign in writing to any statutory body the carrying out, subject to such conditions and requirements as may be prescribed by regulation, of any function specified in this Act.

(2) The SABS Council may in writing, on the recommendation of the director, designate any accredited laboratory to verify measuring instruments or any particular kind of measuring instrument in respect of which such laboratory is accredited.".

Insertion of section 13A in Act 77 of 1973

6. The following section is hereby inserted in the principal Act after section 13:

"Powers and duties of verification officers

13A. (1) For the purposes of this Act any verification officer may verify and test all measuring instruments or a particular kind of measuring instrument contemplated in section 7(2).

(2) If any verification officer in the execution of his powers as : contemplated in subsection (1) finds that any measuring instrument or kind of measuring instrument does not comply with the requirements of

this Act, such measuring instrument or kind of measuring instrument shall be deemed to be rejected in terms of section 25.

(3) No verification officer shall-

(a) consent to the continued use of a measuring instrument that was rejected as contemplated in section 25, or

(b) issue a document to the effect that a measuring instrument is certified under this Act if it is not correct and such measuring instrument is not so certifiable; or

(c) use a certifying stamp for any purpose other than the prescribed purpose or in a manner other than the prescribed manner, or create the impression that he used or may use a certifying stamp in any other capacity than that of a verification officer, or

(d) unless a measuring instrument or a particular kind of measuring 3 instrument has been submitted or made available to him by the owner or user thereof for certification-

(i) falsely create the impression with any owner or user that such measuring instrument is subject to certification by him; or

(ii) compel any owner or user to have a measuring instrument 4 certified by him.

(4) Any person who falsely holds himself out to be a verification officer as contemplated in section 3-shall be guilty of an offence.".

Amendment of section 16 of Act 77 of 1973

7. Section 16 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

"(c) that a notice under section 19(1) **or that the provisions of section 19(2)** should, in respect of any measuring instrument, have been complied with, it shall be presumed that at all relevant times the accused possessed such measuring instrument for a prescribed purpose in the area to which the notice in question **or the provisions of section 19(2)** applies, until the contrary is proved.".

Amendment of section 17 of Act 77 of 1973, as substituted by section 4 of Act 34 of 1975

8. Section 17 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 18 of Act 77 of 1973, as amended by section 1 of Act 14 of 1984 and section 8 of Act 15 of 1990

9. Section 18 of the principal Act is hereby amended-

(a) by the substitution in subsection (6) for the words following upon paragraph (b) of the following words: "shall be certified or

recertified by any inspector *or verification officer*."; and

(b) by the insertion in subsection (7) after the word "inspector" of the words "or verification officer".

Amendment of section 19 of Act 77 of 1973, as amended by section 5 of Act 34 of 1975

10. Section 19 of the principal Act is hereby amended-

(a) by the deletion of subsection (2); and

(b) by the substitution for subsections (3) and (4) of the following subsections, respectively:

"(3) The director may in his discretion take such steps as he may deem expedient to bring any notice published under subsection (1) **or (2)** to the attention of persons affected by it.

(4) Any person who fails to comply with **(a)** a notice published in the Gazette under subsection (1) **or (b) the provisions of subsection (2)** shall be guilty of an offence.".

Amendment of section 21 of Act 77 of 1973

11. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any inspector *or verification officer* shall, at the time and place appointed under section 19(1) or when any order given by him under section 3 20(1) has been complied with, inspect and verify or test every measuring instrument which is produced or, in accordance with any such order, otherwise made available to him for the purpose of certifying or recertifying it and shall, after verification or testing and subject to the provisions of subsections (2) and (3) certify or recertify, in such manner as to indicate the year of such certification or recertification, every such measuring instrument which he finds to be correct and to comply with the requirements of this Act.".

Amendment of section 22 of Act 77 of 1973, as substituted by section 2 of Act 14 of 1984

12. Section 22 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

"*(2) Any accredited laboratory may charge in respect of the verification, testing, adjustment, certification or recertification of any measuring instrument and costs incurred by it in connection therewith, such fees and costs as may be agreed upon by such accredited laboratory and the person submitting the measuring instrument for certification or recertification.*".

Substitution of section 22A of Act 77 of 1973, as inserted by section 9 of Act 15 of 1990

13. The following section is hereby substituted for section 22A of the principal Act:

"Disposal of fees

22A. *(1)* Any fees collected and costs recovered in terms of section 18 or **22** *22(1)* shall constitute revenue of the SABS Council and shall be dealt with in accordance with the provisions of the Standards Act 1982 (Act No. 30 of 1982).

(2) Any fees collected and costs recovered in terms of section 22(2) shall constitute revenue of the accredited laboratory concerned.".

Amendment of section 24 of Act 77 of 1973, as amended by section 10 of Act 15 of 1990

14. Section 24 of the principal Act is hereby amended-

(a) by the insertion in subsection (1) after the word "inspector", wherever it occurs, of the words "or verification officer"; and

(b) by the insertion in subsection (2) after the word "inspector" of the words "or verification officer".

Substitution of section 25 of Act 77 of 1973

15. The following section is hereby substituted for section 25 of the principal Act:

"Defacing of certifying stamp

25. (1) Any inspector *or any verification officer* shall, in the manner prescribed by regulation, deface the certifying stamp on any measuring instrument which he finds to be false, defective or inaccurate or not to comply with the requirements of this Act or any limitation or condition regarding certification or recertification in terms of section 18(2)(a) or any requirement made by the director in terms of section 24(1)(c), and thereupon such measuring instrument shall be deemed to be uncertified or rejected.

(2) Any inspector *or any verification officer* who defaces any certifying stamp on any measuring instrument referred to in subsection (1) shall at the same time issue to the person in charge thereof a certificate stating the reason for the defacement.".

Amendment of section 33 of Act 77 of 1973

16. Section 33 of the principal Act is hereby amended-

(a) by the substitution for paragraph (c) of the following paragraph:

"(c) otherwise than in the capacity of an inspector, *a verification officer,* a repairer or *a* registered mechanic acting in terms of any regulation and save as provided in section 34, obliterates or removes from any measuring instrument any certifying stamp or seal or any part thereof, or"; and

(b) by the substitution for paragraph (e) of the following paragraph:

"(e) otherwise than in the capacity of an inspector *or a*

verification officer, places upon any measuring instrument any stamp or mark purporting to indicate that such measuring instrument has been certified or recertified; or".

Amendment of section 36 of Act 77 of 1973

17. Section 36 of the principal Act is hereby amended by the insertion in subsection (6) after the word "inspector' of the words "or verification officer".

Amendment of section 42 of Act 77 of 1973, as amended by section 12 of Act 34 of 1975 and section 3 of Act 14 of l984

18. Section 42 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a)providing for the examination of candidates for appointment as inspectors *or verification officers*, and prescribing the syllabus, conditions and **if it is deemed necessary** fees in respect of such examinations;".

Short title

19. This Act shall be called the Trade Metrology Amendment Act, 1993.