

NOTICE 934 OF 2008**DEPARTMENT OF TRADE AND INDUSTRY****NOTICE OF INTENTION TO AMEND THE REGULATIONS MADE UNDER
SECTION 42 OF THE TRADE METROLOGY ACT, 1973**

Notice is hereby given that the Minister of Trade and Industry intends to amend the regulations published by:

- (a) Government Notice R 2362 of 18 November 1977; and
- (b) Government Notice R 517 of 21 June 2007,

in accordance with the attached schedules.

Interested persons are invited to submit written comments regarding these amendments on or before 30 September 2008, to:

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Block B, 1st Floor (CCRD)
77 Meintjies Street
Sunnyside
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For Attention: Segoane Monnye

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from the existing regulations

_____ Words underlined with a solid line indicate insertions into existing regulations

SCHEDULE**Definitions**

1. In this Schedule "the Regulations" mean the regulations published by Government Notice R. 2362 of 18 November 1977 as amended by Government Notice R. 2052 of 13 October 1978; Government Notice R.527 of 21 March 1980; Government Notice R.1805 of 27 August 1982; Government Notice R.192 of 10 February 1984; Government Notice R.1739 of 9 August 1985; Government Notice R.2110 of 20 September 1985; Government Notice R.1868 of 12 September 1986; Government Notice R.125 of 16 January 1987; Government Notice R.861 of 5 May 1989; Government Notice R.2255 of 28 September 1990; Government Notice R.360 of 1 March 1991; Government Notice R.3250 of 4 December 1992; Government Notice R.169 of 28 January 1994; Government Notice R.1722 of 10 November 1995; Government Notice R.2027 of 13 December 1996; Government Notice R.1270 of 9 October 1998; Government Notice R.1332 of 8 December 2001; Government Notice R.486 of 19 April 2002; Government Notice R.1704 of 21 November 2003; Government Notice R.517 of 21 June 2007.

Amendment of regulation 45 of Part II of the Regulations

2. Regulation 45 of Part II is hereby amended:

by the substitution in subsection (1) for the words following paragraph (b) of the following words:

"shall comply with [SABS 1697: 1998 Verifications] SANS 1697 Verification standards for the verification of mass measuring instruments, including commercial standard masspieces, as amended from time to time.

by the substitution in subsection (2) for the words following paragraph (b) of the following words:

"shall comply with [SABS 1698: 1998] SANS 1698 Verification standards for the verification of mass measuring instruments, including commercial standard masspieces, as amended from time to time.

Amendment of regulation 80 of Part II of the Regulations

3. Regulation 80 of Part II is hereby amended by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) All mechanical water meters of normal bore not exceeding 100mm, excluding combination meters, shall comply with **[SABS 1529-1: 1994]** *SANS 1529-1 Water meters for cold potable water, as amended from time to time***[, published by the SABS]**.
- “(b) In addition to the applicable requirements referred to in paragraph (a) **[of this subregulation]**, mechanical water meters fitted with electronic indicators, electronic water meters and electronic pre-payment water measuring systems, shall comply with **[SABS 1529-9: 2001.]** *SANS 1529-9 Requirements for electronic indicators used with mechanical water meters, electronic water meters and electronic pre-payment water measuring systems, as amended from time to time* **[, published by the SABS]**.

Substitution of Part III of the Regulations

4. The following Part is hereby substituted for Part III of the regulations:

“PART III

MEASURING INSTRUMENTS, VESSELS OR CONTAINERS
EXEMPTED FROM TYPE APPROVAL UNDER SECTION 18 AND
FROM CERTIFICATION UNDER SECTION 23 (1) OF THE TRADE
METROLOGY ACT, 1973 (ACT 77 OF 1973)

Interpretation

1. In this Part any expression to which a meaning has been assigned in the Act shall have the meaning thus assigned to it, and unless the context otherwise indicates-

"correct", with reference to a quantity of goods in prepacked form, means correct within the limits of error specified in any regulation promulgated in terms of the Act;

"SANS 289" means the South African National Standard entitled "Labelling requirements for pre-packaged products (pre-packages) and general requirements for the sale of goods subject to legal metrology control", as amended from time to time; and

"SANS 458" means the South African National Standard entitled "Tolerances permitted for the accuracy of measurements in terms of legal metrology legislation including prepackaged products", as amended from time to time.

"SANS 1841" means the South African National Standard entitled "Control of the quantity of contents in prepacked packages within the legal prescriptions of Trade Metrology Act and Regulations", as amended from time to time;

"the Act" means the Trade Metrology Act, 1973 (Act No. 77 of 1973)

Measuring instruments

2. Subject to regulation 3,
 - (a) an instrument being automatic or non-automatic, used to determine the quantity of goods in prepacked form in consumer and non-consumer packages as defined in SANS 289 and in a measuring unit of mass or volume or by number;
 - (b) an instrument being automatic or non-automatic, used to determine the quantity of goods in prepacked form in consumer packages as defined in SANS 289 and in a measuring unit other than mass or volume or by number; or
 - (c) an automatic instrument used to determine the quantity of goods in prepacked form in non-consumer packages as defined in SANS 289 and in a measuring unit other than mass or volume or by number,

may be used without the user or supplier being compelled to submit the instrument to type approval in terms of section 18 or to comply with the provisions of section 23 (1) of the Act.

Conditions, restrictions and requirements

3. In the case of a measuring instrument falling within the meaning of regulation 2, but excluding instruments used by persons complying with the requirements of SANS 1841 and permitted to apply the "e" mark -
 - (a) both the supplier and the user shall satisfy themselves that such instrument is suitable for the purpose for which it is used or intended to be used and is capable of correct determination of quantity;
 - (b) the owner or the user shall maintain and operate such measuring instrument at all times in such a manner that it determines and discharges the correct quantity of goods to be sold in prepacked form subject to the provisions of items 4.5, 4.6 and 4.8 of SANS 458, whichever is applicable;
 - (c) the user of such measuring instrument shall take such steps as will enable him adequately to detect any incorrect quantities of goods which may have been determined by the instrument;

- (d) the user of such measuring instrument shall keep a suitable certified measuring instrument conforming to the requirements of SANS 458 for the purpose of checking the quantity of goods or articles which may have been determined by the instrument; and
- (e) the records of the checks contemplated in sub-regulation (d) shall be kept for inspection by an authorised officer to prove that the applicable requirements of SANS 458 were complied with at the time of packing.

Declaration of an instrument as unfit

4. (1) If the director is satisfied that any measuring instrument which falls within the meaning of regulation 2, and which is being used is:

- (a) either not suitable for or capable of determining and discharging correct quantities of goods for sale in prepacked form; or
- (b) not being so maintained or operated that it determines and discharges correct quantities of goods for sale in prepacked form,

he or she may declare such measuring instrument as unfit for further use by informing the user thereof in writing to that effect;

- (2) Should the circumstances contemplated in sub-regulation (1) occur, the user shall forthwith:

- (a) either dismantle and remove the instrument in question from his packing premises; or
- (b) immediately take such other steps as will satisfy the director in connection with the continued use of such instrument:

- (3) This regulation shall not apply to an instrument used by a wholesale packer for the purpose of predetermining the quantity of goods measured thereby to an approximate quantity which is thereafter adjusted for correctness by means of a certified measuring instrument by an operator.

Measuring instruments not exempted under regulation 2

5. Despite regulation 2, the following measuring instruments shall be subject to type approval in terms of section 18 and the requirements of section 23 (1) of the Act in so far as they apply, irrespective of whether those instruments are of a design which complies with the description set out in regulation 2:

- (1) any measuring instrument, irrespective of whether or not it is used for direct sales to the public, that is used by or supplied to a retail dealer for the purpose of determining the mass, volume, length, area or number of a:

- (a) quantity of goods taken from bulk and measured at the time of sale in the presence of the purchaser or his agent; or
 - (b) quantity of goods prepacked by him for sale on the premises at which the goods are packed or from another premises;
- (2) any mass measuring instrument used or supplied for the purpose of determining a quantity of goods sold in prepacked form and having a declared mass of more than 100 kg;
- (3) any mass or volume measuring instrument used or supplied for the purpose of determining the quantity of a liquid sold in prepacked form and having a declared volume of more than 250 L;
- (4) any automatic vending machine used or supplied for use, which itself determines the quantity of goods sold by measure of mass, length, area or volume, unless such quantity of goods is exempted under the Act from sale by any such physical quantity;
- (5) any non-automatic instrument used in a prepacking- process to determine the quantity of individual non-consumer prepackages as defined in SANS 289 in a measuring unit other than mass or volume or by number, in which case the error on the instrument will apply to the goods in prepacked form and the requirements of Clause 4.5 of SANS 458 need not be complied with.

General exemptions

- 6. Subject to any condition prescribed in this regulation, the following measuring instruments or parts thereof, as the case may be, may be used for any appropriate prescribed purpose without the user or supplier being compelled to submit the instrument to type approval in terms of section 18 or to comply with the provisions of section 23 (1) of the Act:
 - (a) any measuring instrument, vessel or container used for determining the quantity of-
 - (i) ingredients in a mixture of concrete;
 - (ii) crushed stone by volume, including when coated with cement, tar or bitumen;
 - (iii) ready-mixed concrete, ready-mixed cement mortar, ballast or building sand by volume;
 - (b) any storage tank gauged or calibrated for the purpose of determining excise duty by measurement and calculation or by direct reading of quantity;
 - (c) any massmeter supplied or used for the determination of the mass of persons or supplied for hire or reward for the sole purpose of determining the mass of babies;

- (d) any massmeter used for the grading or sizing of eggs in the shell sold or purchased by number and according to grade and size;
- (e) any meter used in a water supply system other than a water meter as defined in regulation 80 of Part II of the regulations;
- (f) any meter used for measuring the volume of gas other than a meter for measuring combustible gas supplied to a domestic user who pays according to a tariff based on money value per measured unit of volume for the gas consumed by him;
- (g) any measuring instrument used for the grading of grain sold or purchased according to grade and mass;
- (h) any massmeter used on a farm by a farmer for the prepacking of products for which regulations have been promulgated in terms of an Act administered by the national government department responsible for Agriculture;
- (i) any measuring instrument used in land and similar surveying;
- (j) any taximeter;
- (k) any measuring instrument calibrated or indicating in any measuring unit other than a unit of mass, length, area or volume unless it is a measuring instrument which is calibrated in a unit of some other physical quantity and for which certification is specially prescribed by regulation;
- (l) any tank for use by a milk producer and provided with a graduated dipstick;
- (m) any indicator referred to in regulation 27 (b) of Part II of the regulations which is additional to the principal indicator or indicators of a certified measuring instrument and connected to the instrument via an interface approved for such connection in terms of section 18 of the Act."

GENERAL EXPLANATORY NOTE:

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- _____ Words underlined with a solid line indicate insertions into existing regulations

SCHEDULE**Definitions**

1. In this Schedule "the Regulations" mean the regulations published by Government Notice No. R. 517 of 21 June 2007.

Amendment of regulation 1 to the Regulations

2. Regulation 1 is hereby amended by the substitution for the definition of "accredited laboratory" of the following definition:

"accredited laboratory" means a laboratory accredited by the South African National Accreditation System (SANAS) or by a member of the recognition arrangements of the International Laboratory Accreditation Co-operation (ILAC) as contemplated in the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act 19 of 2006) **[an organization recognized by the Minister of Trade and Industry in terms of the Measuring Units and National Measuring Standards Act, 1973 (Act No. 76 of 1973) as an organization that formally recognizes the competence of calibration laboratories]**";

Amendment of regulation 16 of the Regulations

3. Regulation 16 is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

"(2) The represented volume of a quantity of a liquid product packed by volume on the retail premises from which it is sold, must be the volume at the ambient temperature at which it is measured unless such volume has been converted to the volume at 20 °C".

Substitution of regulation 16 of the Regulations

4. The following regulation is hereby substituted for regulation 21:

- "21. The represented volume of a quantity of a liquid product sold by volume and measured at the time of sale, must be the volume at the ambient temperature at which it is measured, unless such volume is converted to the volume at 20 °C for the purposes of the transaction: provided that a quantity of liquid product which has been artificially heated and which has a temperature above 20 °C when being measured, must be the volume of the said product at a temperature of 20 °C".

Amendment of regulation 24 of the Regulations

5. Regulation 24 is hereby amended:

by substitution in subsection (2) for the expression sub-regulation 27(1)" of the expression "regulation 26(1)".

by the substitution in subsection (3) for the expression "sub-regulation 29(1)" of the expression "regulation 28(1)".

by the substitution in subsection (4) for the expression " sub-regulation 25(1) and (3)" of the expression " sub-regulations (1) and (3)".

by the substitution in subsection (5) for the expression "sub-regulation 25(1)" and "sub-regulation 25(3)", of the expression "sub-regulation (1)" and "sub-regulation (3)", respectively.

Amendment of regulation 25 of the Regulations

6. Regulation 25 is hereby amended by substitution for the expression "sub-regulation 27(1) and (2)" of the expression "regulations 26(1) and (2)".

Amendment of regulation 28 of the Regulations

7. Regulation 28 is hereby amended by the substitution in sub-regulation (2) for the expression "regulation 31" of the expression "regulation 30".

Amendment of regulation 29 of the Regulations

8. Regulation 29 is hereby amended by the substitution in sub-regulation (2) for the expression "regulation 31" of the expression "regulation 30".

Amendment of regulation 31 of the Regulations

9. Regulation 31 is hereby amended by the substitution for the expression "sub-regulation 29(4) and 30(4)" and "regulation 31", respectively of the expression "regulations 28(4) and 29(4)" and "regulation 30", respectively.

Amendment of regulation 32 of the Regulations

10. Regulation 32 is hereby amended by the substitution for the expression "regulation 29 and 30" of the expression "regulations 28 and 29".