CHAPTER 38.

An Act to amend the Weights and Measures Acts, 1878 to 1926, by making provision with respect to the measuring, sale, and conveyance of sand, ballast and similar materials, and with respect to the discharge of the functions of the Board of Trade; and for purposes connected with the matters aforesaid. [31st July 1936.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Certain dealings with sand or ballast to be by weight or by the cubic yard.

1.—(1) No person shall (whether on his own behalf or on behalf of another person) sell, agree to sell or agree to carry any sand or ballast otherwise than by weight or by the cubic yard:

Provided that this subsection shall not apply—

(*a*) in relation to any sale, agreement for the sale, or agreement for the carriage, of a quantity of sand or ballast the weight of which is less than one ton and the volume of which is less than one cubic yard;

(*b*) in relation to any sale, or agreement for the sale, of any sand or ballast, where it is a term of the sale or agreement that the purchaser is to take delivery in or from a vessel as defined by section seven hundred and forty-two of the Merchant Shipping Act, 1894;

57 & 58 Vict. c. 60.

(*c*) in relation to any agreement for the carriage of any sand or ballast, if and in so far as it is an agreement for the carriage of that sand or ballast by water, and is made for the purpose of giving or taking delivery in pursuance of such a sale or agreement as is referred to in paragraph (*b*) of this proviso;

(*d*) in relation to any sale, or agreement for the sale, as a whole, of ballast produced in the

demolition or partial demolition of a building, where it is a term of the sale or agreement that the purchaser is to take delivery from the site of the building;

(*e*) in relation to any sale, or agreement for the sale, in the state in which it was produced, of ashes or clinker forming a by-product, or any other ballast forming a casual product, of the carrying on of an industrial process on any premises, where it is a term of the sale or agreement that the purchaser is to take delivery from those premises.

(2) No person shall (whether on his own behalf or on behalf of another person) sell, agree to sell, or agree to carry any sand or ballast by the cubic yard, unless the volume of the sand or ballast either is a cubic yard or an integral number of cubic yards, or is any such fraction of a cubic yard as may be prescribed or a multiple of such a fraction.

(3) If any person contravenes this section he shall be guilty of an offence; and every sale or agreement made in contravention of this section shall be void, notwithstanding anything in section nineteen of the principal Act.

(4) Nothing in section nineteen of the principal Act shall be taken to avoid, or to render any person punishable in respect of, any contract, bargain, sale or dealing with regard to sand or ballast, by reason only that the contract, bargain, sale or dealing, as the case may be, is made or had by the cubic yard; and nothing in the said section shall prevent the charging or collection of tolls or duties in respect of sand or ballast by the cubic yard.

(5) An agreement which, in a case where the owner of any sand or ballast undertakes to transfer the property therein to another person in consideration only of an undertaking by that person to remove the sand or ballast from the place at which the property therein passes to him, is made for the purpose of removing the sand or ballast as aforesaid, shall be deemed for the purposes of this Act not to be an agreement for the carriage of that sand or ballast.

Receptacles for measuring sand or ballast by the cubic yard.

2.—(1) Subject to the provisions of this section, no person shall for the purpose of trade—

(*a*) measure sand or ballast by the cubic yard otherwise than in, and by means only of a calibration mark on, a receptacle which, in respect of its form, material, construction, capacity and calibration, and otherwise, conforms with such regulations as may be made by the Board of Trade; or

(*b*) have in his possession for use in measuring sand or ballast by the cubic yard any receptacle other than such a receptacle as is mentioned in paragraph (*a*) of this subsection;

and if any person contravenes this subsection, he shall be guilty of an offence.

(2) For the purposes of this Act the volume of any sand or ballast in such a receptacle as is mentioned in paragraph (*a*) of the preceding subsection shall be taken to be the volume which the sand or ballast appears, according to the calibration of the receptacle, to have when filled in all parts of the receptacle as nearly as the sand or ballast will admit, and when levelled in the receptacle so far as practicable.

(3) Every receptacle (whether forming part of a vehicle or not) which, for the purpose of trade, is used or intended to be used in measuring sand or ballast by the cubic yard shall, subject as hereinafter provided, be deemed for the purposes of the Weights and Measures Acts, 1878 to 1926, to be a measure:

Provided that—

(*a*) no such receptacle as aforesaid shall be stamped under section twenty-nine of the principal Act with a stamp of verification unless the receptacle conforms with the regulations made under this section by the Board of Trade;

(*b*) sections three and forty-five of the principal Act (which respectively provide for the uniformity and validity of weights and measures throughout the United Kingdom) shall, in relation to any such receptacle, have effect as if for the references in those sections to the United Kingdom there were substituted references to England; and

(c) nothing in section twenty-four of the principal Act (which makes punishable the use for trade of a measure which is not of the denomination of some Board of Trade standard) shall apply in relation to any such receptacle referred to in this subsection as conforms with the regulations aforesaid.

(4) The power of the Board of Trade under section five of the Weights and Measures Act, 1904, to make regulations as to the functions of inspectors and local authorities with respect to the examination, verification and testing of receptacles which, by virtue of this section, are deemed to be measures, shall include power to make regulations modifying, in relation to such receptacles, the provisions of sections forty, forty-four, forty-eight and forty-nine of the principal Act in so far as those provisions relate to the examination of measures and to the comparison of measures with local standards. 4 Edw. 7. c. 28.

(5) Where any receptacle which, being deemed to be a measure by virtue of this section, has been verified and stamped under section twenty-nine of the principal Act is altered or repaired, no person shall, for the purpose of trade, use the receptacle, or have it in his possession for use, in measuring sand or ballast by the cubic yard, unless and until it has been re-verified and re-stamped by an inspector; and if any person contravenes this subsection, he shall be guilty of an offence.

(6) The regulations made under this section by the Board of Trade may direct that, for such period and subject to such conditions, if any, as may be specified in the regulations, this section shall not prevent the measurement of sand or ballast in, or apply in relation to, any such class of receptacles constructed before the day on which this Act comes into operation as may be so specified.

(7) In this section the expression "trade" has the meaning assigned to that expression by section nineteen of the principal Act.

Restrictions on use of vehicles for conveying sand or ballast.

3.—(1) No sand or ballast shall, in pursuance of a sale or agreement for the sale or carriage thereof made by weight, be conveyed in or on a vehicle unless the tare weight of the vehicle, ascertained in such manner as may be prescribed, is indicated by a mark on the

vehicle (hereafter in this Act referred to as a "tare weight mark") approved by the Board of Trade and affixed in such manner as may be prescribed; and no sand or ballast shall, in pursuance of a sale or agreement for the sale or carriage thereof made by the cubic yard, be conveyed in or on a vehicle unless the receptacle in which the sand or ballast is so conveyed bears a stamp of verification affixed by an inspector under section twenty-nine of the principal Act:

Provided that nothing in this subsection shall restrict—

(*a*) the conveyance of sand or ballast in pursuance of such a sale or agreement as is mentioned in paragraph (*a*) of the proviso to subsection (1) of section one of this Act; or

(*b*) the use of a receptacle in relation to which, by virtue of subsection (6) of the last preceding section, that section does not apply, for conveying any sand or ballast in pursuance of a sale or agreement for the sale or carriage thereof made by the cubic yard.

(2) If any person conveys any sand or ballast in contravention of this section, or causes any sand or ballast to be conveyed in contravention of this section, he shall be guilty of an offence; and if any person, with intent to defraud or deceive,—

(*a*) forges any tare weight mark approved for the purposes of this section by the Board of Trade; or

(*b*) alters or defaces any such tare weight mark placed on a vehicle; or

(*c*) places, or suffers to remain, on a vehicle any such tare weight mark, or any mark so closely resembling such a tare weight mark as to be calculated to deceive;

he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

In this subsection the expression "forges" has the same meaning as in the Forgery Act, 1913.

3 & 4 Geo. 5. c. 27.

Conveyance notes in respect of sand or ballast.

4.—(1) Subject to the provisions of the next following subsection, the person in charge of any vehicle being used for conveying any sand or ballast on a journey any part of which is along a highway—

(*a*) shall carry with him a note (hereafter in this Act referred to as a "conveyance note") in such form as may be prescribed, signed by or on behalf of the appropriate person and stating such matters as are required by this section to be stated in the note;

(*b*) shall on demand made by any inspector, and on production by the inspector, if so required, of such document as may be prescribed showing that he is an inspector, produce the conveyance note to that inspector; and

(*c*) if the vehicle is being so used as aforesaid in pursuance of a sale or agreement for the sale or carriage of the sand or ballast, shall, before any of the sand or ballast is unloaded from the vehicle at the place of delivery, deliver the conveyance note to the consignee or his agent.

In this subsection the expression "the appropriate person" means, in a case where the sand or ballast is conveyed in pursuance of a sale or agreement for the sale or carriage thereof, the seller or consignor, as the case may be, or, in any other case, the person causing the sand or ballast to be conveyed.

(2) Nothing in the preceding subsection shall apply in relation to the conveyance of any sand or ballast the weight of which is less than one ton and the volume of which is less than one cubic yard, being sand or ballast conveyed—

(*a*) in pursuance of such a sale or agreement as is mentioned in paragraph (*a*) of the proviso to subsection (1) of section one of this Act; or

(*b*) otherwise than in pursuance of a sale, or agreement for the sale or carriage, of the sand or ballast.

(3) A conveyance note shall state that the sand or ballast to which the note relates is or is not, as the case

may be, being conveyed in pursuance of a sale or agreement for the sale or carriage thereof, and in a case where it is being so conveyed, shall state—

(*a*) that the sale or agreement was made by weight or by the cubic yard, as the case may be;

(*b*) the weight of the sand or ballast or its volume in cubic yards, as the case may be; and

(*c*) if the sale or agreement was made by weight, the tare weight of the vehicle:

Provided that a statement of the weight of the sand or ballast shall not be required in relation to a vehicle whilst proceeding from the place where it was loaded to the nearest available weighing instrument, if the situation of that instrument is stated on the conveyance note.

(4) No person shall sign or use, or cause to be signed or used, for the purposes of this section a conveyance note stating the volume of any sand or ballast in cubic yards unless the volume so stated either is a cubic yard or an integral number of cubic yards, or is any such fraction of a cubic yard as may be prescribed or a multiple of such a fraction.

(5) If any person contravenes or fails to comply with this section, or signs, or causes to be signed, for the purposes of this section a conveyance note which contains a materially incorrect statement, he shall be guilty of an offence.

Where the weight or volume of any sand or ballast in a vehicle is at any time found to be less than the weight or volume, as the case may be, specified in the conveyance note relating thereto, then, for the purpose of any proceedings which may be taken by virtue of this subsection, the weight or volume of the sand or ballast at that time shall, until the contrary is proved, be deemed to have been the weight or volume thereof at the time when the conveyance note was signed.

(6) No vehicle conveying any sand or ballast shall proceed on any journey in relation to which a conveyance note stating the weight or volume of the sand or ballast is required by this section to be carried, unless the person in charge of the vehicle at the time when it first becomes

necessary that a statement of the weight or volume of the sand or ballast should be contained in the conveyance note has satisfied himself, so far as he reasonably can, that the said weight or volume is at that time correctly stated in the conveyance note, and if this subsection is contravened in the case of any vehicle, the person in charge of the vehicle at the said time shall be guilty of an offence.

(7) If any person in charge of a vehicle conveying sand or ballast uses in relation thereto, for the purposes of this section, a conveyance note which to his knowledge contains a materially incorrect statement, he shall be guilty of an offence:

Provided that no person shall, by virtue of this subsection, be liable to any penalty by reason only of the weight or volume of any sand or ballast in a vehicle being found to be less than the weight or volume, as the case may be, specified in the conveyance note relating thereto, if it is proved that the deficiency is solely attributable to the draining away of normal moisture from the sand or ballast during the journey on which the vehicle was at the material time engaged, or, as the case may be, to the consolidation of the sand or ballast in the vehicle during that journey.

(8) Different forms of conveyance notes may be prescribed in relation to different circumstances.

Inspection, weighing and measuring of sand or ballast and vehicles conveying it.

5.—(1) Any inspector, on producing, if so required, such document as may be prescribed showing that he is an inspector, may, so far as it is reasonable so to do for the purpose of giving effect to this Act, inspect any vehicle which is being used for conveying any sand or ballast, and either—

(*a*) cause the vehicle, as loaded, to be weighed by means of a weighing instrument stamped by an inspector, or cause the vehicle to be unloaded and the vehicle or the sand or ballast or both to be weighed by means of such a weighing instrument as aforesaid; or

(*b*) cause the sand or ballast to be levelled in the vehicle, or to be unloaded and measured:

Provided that neither the vehicle nor the sand or ballast shall be required to be moved for a distance of

more than two miles for the purpose of being weighed or measured under this subsection.

(2) If, in exercising with respect to a vehicle any of his powers under the preceding subsection, an inspector finds—

(*a*) that a conveyance note produced to him in relation to any sand or ballast in the vehicle contains a materially incorrect statement; or

(*b*) in a case where the vehicle is required by this Act to be marked with a tare weight mark, that the vehicle is not so marked or bears a mark which purports to indicate the tare weight of the vehicle, but which either does not accurately indicate that weight or is not a mark approved by the Board of Trade and affixed in the prescribed manner;

then, without prejudice to any proceedings which may be taken by reason of the matters aforesaid, the inspector shall cause the conveyance note to be corrected in such manner as may be prescribed, or, as the case may be, shall do, or request the person in charge of the vehicle to do, all such things as are necessary to secure that the vehicle is marked, as required by this Act with a tare weight mark accurately indicating the tare weight of the vehicle, and that any other marks on the vehicle purporting to indicate its tare weight are removed or obliterated.

(3) If any person obstructs, or fails to comply with any request made by, an inspector in the discharge of his functions under this section, that person shall be guilty of an offence.

52 & 53 Vict. c. 21.

(4) Section twenty-six of the Weights and Measures Act, 1889 (which authorises the provision, and regulates the operation, by local authorities of weighing instruments for weighing coal), shall apply with respect to weighing instruments for weighing sand and ballast and with respect to vehicles carrying sand and ballast, as that section applies with respect to weighing instruments for weighing coal.

Penalties.

6.—(1) Every person who is convicted of an offence under this Act in respect of which no special penalty is thereby provided, or of an offence under the

Weights and Measures Acts, 1878 to 1926, of which he is guilty by virtue of this Act, shall be liable to a fine not exceeding five pounds or, upon a second or subsequent conviction of such an offence, to a fine not exceeding twenty pounds:

Provided that nothing in this subsection shall affect the amount of a fine which may be imposed by virtue of section thirty-two of the principal Act, as amended by this Act (which section provides for the punishment of persons forging or counterfeiting stamps used under that Act).

(2) Section four of the Weights and Measures Act, 1889, as amended by the Weights and Measures Act, 1904 (which section provides for imprisonment for a term not exceeding two months in the case of an offence committed with intent to defraud), shall apply in relation to an offence punishable under the preceding subsection, as it applies in relation to any other offence being an offence under the principal Act, except that the reference in that section to two months shall be construed as a reference to six months.

(3) Nothing in the Weights and Measures Acts, 1878 to 1926, as amended by this Act, shall render liable to forfeiture any railway truck or waggon or any receptacle forming part of a vehicle.

Laying of regulations before Parliament.

7. Any regulations made under this Act by the Board of Trade shall, as soon as may be after they are made, be laid before Parliament, and if either House of Parliament, within the next subsequent twenty-eight days on which that House has sat after any such regulations are laid before it, resolves that the regulations be annulled, they shall thenceforth be void, but without prejudice to anything previously done thereunder or to the making of new regulations.

Legal proceedings.

8.—(1) Sections fifty-six to sixty-one and sections seventy-two to seventy-five of the principal Act (which contain provisions as to legal proceedings in respect of offences under that Act), and sections fourteen and thirty-three of the Weights and Measures Act, 1889, (which respectively provide for the publication of convictions and for saving liabilities at common law), shall apply in relation to offences under this Act as they apply in relation to offences under either of those Acts.

16 & 17 Geo. 5. c. 63.

(2) Nothing in section twelve of the Sale of Food (Weights and Measures) Act, 1926, shall apply in relation to any proceedings taken by virtue of this Act.

Duties of inspectors.

9. The duties of an inspector under any of the provisions of this Act or any regulations made under this Act shall be deemed to be duties under the principal Act.

Expenses and combinations of local authorities.

10. The expenses incurred for the purposes of this Act by a local authority shall be defrayed as expenses incurred by the local authority under the principal Act, and section fifty-two of the principal Act (which empowers local authorities to combine for all or any of the purposes of that Act) shall have effect as if the purposes of this Act were purposes of that Act.

Discharge of functions of Board of Trade.

11. Anything required or authorised by or under the Weights and Measures Acts, 1878 to 1926, or this Act to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board, any Secretary, Under Secretary or Assistant Secretary of the Board or any person authorised in that behalf by the President.

Interpretation.

12. In this Act the following expressions have the meanings hereby assigned to them, that is to say :—

" ballast " means—

(*a*) gravel, shingle, ashes or clinker, or

(*b*) any material commonly known in the building and engineering trades as ballast, stone chippings, granite chippings or hard core of brick, stone, stone ware or concrete, or

(*c*) any similar material commonly known and used in the said trades as an aggregate for constructional work;

" cubic yard " means a volume equal to a cube each edge of which measures one yard;

" inspector " means an inspector of weights and measures appointed by the local authority under section forty-three of the principal Act;

" local authority " means a local authority for the purposes of the principal Act;

" prescribed " means prescribed by regulations made under this Act by the Board of Trade;

"the principal Act" means the Weights and Measures Act, 1878; 41 & 42 Vict. c. 49.

"stamp" and "stamping" have respectively the same meanings as in the principal Act and "stamped" and "re-stamped" shall be construed accordingly;

"vehicle" means any lorry, cart, waggon, truck or other means of conveying sand or ballast by land, however drawn or propelled, but does not include a railway truck or waggon;

"weighing instrument" has the meaning assigned to that expression by section thirty-five of the Weights and Measures Act, 1889.

Short title, citation, commencement and extent.

13.—(1) This Act may be cited as the Weights and Measures Act, 1936; and the Weights and Measures Acts, 1878 to 1926, and this Act may be cited together as the Weights and Measures Acts, 1878 to 1936.

(2) This Act shall come into operation on such day as the Board of Trade may by order appoint.

(3) This Act shall not extend to Scotland or to Northern Ireland.

CHAPTER 39.

An Act to amend the Firearms Act, 1920, and the Firearms Act, 1934, and in connection therewith to amend subsection (2) of section five of the Firearms and Imitation Firearms (Criminal Use) Act, 1933. [31st July 1936.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendments as to firearms certificates.

1.—(1) An application for the grant or renewal of a certificate under section one of the principal Act shall be made to the chief officer of police for the area in which the applicant resides in such form as may be prescribed