**THE NATIONAL ASSEMBLY**

 **QUESTION FOR WRITTEN REPLY**

**Question 1358**

 **Adv A de W Alberts (FF Plus) to ask the Minister of Trade and Industry:**

(1) (a) To what extent the Legal Metrology Act, Act 9 of 2014, is an improvement on the Trade Metrology Act, Act 77 of 1973, and (b) what is the legal effect of any metrology instruments for which it is obligatory to develop standards in terms of the specified Acts, but for which no standards have yet been developed;

(2) whether the specified metrology instruments may be used in the absence of the specified standards; if not, what is the legal effect of any (a) business conducted and (b) accounts generated by the use of the specified metrology instruments in terms of each specified Act; if so, on which legal grounds in respect of each specified Act;

(3) what is the legal effect of any metrology instruments for which it is obligatory to comply with standards already developed, but which do not comply with these;

(4) whether the specified metrology instruments may be used in the absence of such compliance; if not, what is the legal effect of any (a) business conducted and (b) accounts generated by the use of the specified metrology instruments in terms of each specified Act; if so, on which legal grounds in terms of each specified Act? NW1506E

**Response:**

1. (a) The Legal Metrology Act, Act 9 of 2014 is an improvement on the Trade Metrology Act, Act 77 of 1973. The Act expands trade metrology to the legal metrology domain for trade, health care and the environment amongst others, which were previously excluded from appropriate administrative control.

(b) In circumstances where standards have not been developed yet, for any metrology instrument, the CEO of the NRCS, in consultation with the user, may set interim requirements and conditions for the use of such an instrument until such time that relevant standards are developed.

1. (a) The Act makes provision for specified metrology instruments to be used in the absence of specified standards according to the stipulated process outlined above.

(b) The interpretation of the Department of Trade and Industry is that revenue generated in circumstances where there is not yet a standard, is legally permissible.

1. Section 18(1) of the Legal Metrology Act 9 of 2014 confers powers to the NRCS to take appropriate action against a defaulting party who has utilized an instrument, product or service that does not conform to legal metrology technical regulations (standards). The Act allows the NRCS to direct in writing any non-compliant instrument, product or service to be brought into compliance with the relevant standards, failing which the instrument or product may be confiscated, destroyed or returned to the country of origin.
2. Section 17(1) of the Legal Metrology Act, 9 of 2014 states that no person may import, manufacture, sell or supply a measuring instrument or product, or render a service, to which a legal metrology technical regulation applies. Costs incurred by the National Regulator for the confiscation, destruction of non-compliant measuring instrument, product or service may be recovered from the person using such measuring instrument or product, or rendering such service.