

THE [KHYBER PAKHTUNKHWA] STANDARD WEIGHTS AND MEASURES
ENFORCEMENT ACT, 1976.

Peshawar, the 1st April, 1976.

***Khyber Pakhtunkhwa**] ACT No. III OF 1976.

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¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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THE [Khyber Pakhtunkhwa] STANDARD WEIGHTS AND MEASURES
ENFORCEMENT ACT, 1976.

Peshawar, the 1st April, 1976.

21 Khyber Pakhtunkhwa] ACT No. III OF 1976.

(First published after having received the assent of the Governor
of the [Khyber Pakhtunkhwa] Province in the Gazette of '[Khyber
Pakhtunkhwa] (Extraordinary), dated the 1st April, 1976).

AN
ACT

to provide for the enforcement of standard of weights and measures in the
>[Khyber Pakhtunkhwa] and matters connected therewith.

WHEREAS, it is expedient to provide for the enforcement of standard of preamble.
weights and measures in the °[Khyber Pakhtunkhwa] and matters connected therewith;

It is hereby enacted as follows:—

CHAPTER-I

Preliminary.

I. (1) This Act maybe called the [Khyber Pakhtunkhwa] Standard Weights and — ghost title, extent and
Measures Enforcement Act, 1976. commencement.

(2) It shall come into force on such date as Government may, by
notification, appoint, and different dates may be appointed for enforcing different
provisions of this Act for different areas, or in respect of different classes of
undertakings, or goods.

(3) Government may by notification, exempt any person or class of
persons, area, undertakings, goods or class of undertakings or goods from
operation of all or any of the provision of this Act, for such period and subject to
such conditions as may be specified in the notification.

2. In this Act, unless the context otherwise requires,— Definition.

¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

> Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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"commercial weight or measure" means a weight or measure used in a transaction for trade or commerce;

"Controller" means the Controller of Weights and Measures and includes Additional Controller, Deputy Controller and Assistant Controller, appointed under section 19;

"Director" means the Director of Labour, ![Khyber Pakhtunkhwa], or such other officer as may be appointed by Government to be Director;

"Government" means the Government of the 2[Khyber Pakhtunkhwa];

"Inspector" means an Inspector of Weights and Measures and includes an Assistant Inspector of Weights and Measures appointed under section 19;

"measuring instrument" includes an instrument used to measuring area, capacity, energy, length or volume;

"prescribed" means prescribed by rules made under this Act;

"reference standards" means reference standards as defined under the Weights and Measures (International System) Act, 1967;

"secondary standards" means the sets of weights and measures prepared under section 4;

"stamping means marking which may, as far as practicable, be indelible, and includes casting, engraving, etching and branding;

"standard weight or measure" means any unit of mass or measure under section 8 of the Weights and Measures (International System) Act, 1967;

"trade" includes any dealing, or contract not being dealing or contract in respect of land;

"verification or re-verification" with its grammatical variations, means and includes the process of comparing, checking or testing weight or measure or weighing or measuring instrument;

"weighing instrument" means any instrument for weighing and includes scales with the weights pertaining thereto, scale-beams, balances, spring balances, steel yards and other weighing machines; and

¹ Substituted Vide Khyber Pakhtunkhwa Act No. IV of 2011.

² Substituted Vide Khyber Pakhtunkhwa Act No. IV of 2011.

(0) "working standard" means the sets of weights and measures prepared under section 3.

CHAPTER-II

3. (1) For the purpose of verifying the correctness of commercial

weights and measures and weighing and measuring instruments used in transactions for trade or commerce, Government may cause to be prepared as many sets of standard weights and measures including special sets of standard weights and measures for bullion and other precious stones, as it may deem necessary, and such sets shall be called the working standards.

(2) The working standards shall be made of such material, and of such designs and specifications, and shall be prepared, stamped and authenticated in such manner and by such person, agency or authority, as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner, as may be prescribed.

(4) A working standard shall be verified with the secondary standard and verification shall be marked by such persons, in such manner and at such places, and after such intervals, as may be prescribed:

Provided that working standard for bullion and precious stones shall be verified with the reference standard.

(5) A working standard which is not verified and marked under sub-section (4) shall not be used for purposes of this Act.

(6) A working standard which has become defective shall cease to have legal force and shall not be used for the purposes of this Act, until it has been verified and marked under sub-section (4).

4. (1) For the purpose of verifying the correctness of the working standards.

Government may cause to be prepared as many sets of secondary standards as it may deem necessary.

(2) The secondary standards shall be made of such material, and of such designs and specifications, as may be prescribed, and shall be stamped and authenticated by such person or authority, as Government may direct.

(3) The secondary standards shall be kept at such places, in such custody, and in such manner, as may be prescribed.

(4) A secondary standard shall be verified with the reference standards at least once in every five years, and the verification shall be marked by such person; or authority and in such manner and at such places as may be prescribed.

(5) A secondary standard which is not verified and marked under sub-section (4) shall not be used for the purposes of this Act.

Working standard.

Secondary
standards.

5. The reference standards shall be kept at such places, in such custody, and in such manner, as may be prescribed.

6. (1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade or commerce, Government may cause to be prepared as many sets of weighing and measuring instruments as it may deem necessary and such sets shall be called working instruments.

(2) The working instruments shall be of such kind, and shall be verified and stamped in such manner, as may be prescribed.

(3) The working instruments shall be kept at all such places where secondary standards or working standards are kept.

7. (1) Notwithstanding anything contained in any other law, no unit of mass or measure, other than the standard weight or measure, shall be used in any transaction of trade or commerce, or in any dealing or contract, or for doing any work or selling or delivering any goods, or in other undertakings.

(2) No person shall, demand or receive, or cause to be demanded or received, any quantity of goods or commodity in excess of, or less than, the quantity fixed by the contract or dealing in respect of such goods or commodity and determined in terms of a standard weight or measure.

(3) Any transaction, dealing or contract made or had shall, after the expiry of three months from the commencement of this section, be void, in so far it contravenes the provisions of sub-sections (1) and (2).

8. (1) Notwithstanding anything contained in this Act, Government may, by notification, direct that in any specified trade or class of trades, no transaction, dealing or contract shall be made or had, except only by weight or by measure.

(2) A notification issued under this section shall take effect in such area and from such date, and subject to such conditions, if any, as may be specified in such notification.

CHAPTER-III.

Verification and Stamping of Weights and Measures.

9. Every weight or measure manufactured for use as a commercial weight or measure shall bear the denomination of the weight or measure, which it purports to be, marked legibly on it, in such manner as may be prescribed.

10. No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or re-verified and stamped in the prescribed manner.

Reference
standard.

Standard
weighing

measuring instruments.

Prohibition of use of weights and measures other than standard weights and measures.

Power to prescribe use of weights only or measures only in certain cases.

Marking of denominations commercial weights and measures.

Prohibition of sale of unstamped commercial weights and measures.

11. No weight or measure or weighing or measuring instrument shall be used in any transaction of trade or commerce, unless it has been verified or re-verified and stamped in the prescribed manner.

12. Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it or to be stamped under the provisions of this Act, Government may, by notification, exempt such weight or measure from being so marked or stamped.

13. No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container unless such package or container bears thereon or on a label securely thereto, a description of the net weight or measure of the article contained therein:

Provided that the provisions of this section shall not apply to an article, sold, offered for sale, exposed for sale, or in possession for sale which is not in the opinion of Government ordinarily sold in transactions of trade or commerce by weight or measure.

14. Subject to the Weights and Measures, (International System) Act, 1967, and the rules made there under, Government may prescribe the limits up to which error may be tolerated in secondary standards, working standards, commercial weights and measures or weighing or measuring instruments, or selling articles by weight or measure generally or in any trade or class of trades.

15. (1) No person shall, in the course of trade, manufacture, repair or sell any commercial weight or measure or any weighing or measuring instrument unless he has obtained a license in the prescribed manner.

(2) The Controller or any officer authorized by him in this behalf, shall, subject to such conditions as may be prescribed, be competent to grant license under sub-section (1).

16. (1) A person who has been granted license under section 15 shall, if so required by Government or an authority nominated by Government in this behalf, furnish security in the prescribed manner.

(2) The Controller or any officer authorized by him may, in case of non-compliance of any of the provisions of this Act, or any instructions issued by the Controller, or Inspector, order forfeiture of the security or part thereof in such manner as may be prescribed.

17. A person who manufactures, repairs or deals in, weights and measures or weighing or measuring instruments, or uses such weights or measures of instruments in transactions of trade or commerce, shall maintain such record and account and shall, if so required by an Inspector, produce such record and accounts before him for inspection in such manner as may be prescribed.

Prohibition of use
of unstamped
commercial
weights or
measures.

Power of
Government to
exempt.

Marking of
weights or
measures in sealed
containers.

Limits of error to
be tolerated in
weights and
measures.

Prohibition of
manufacture, etc,
of weights and
measures without
license.

Security.

Manufactures
etc, to maintain
records and
documents.

18. There shall be levied and charged such fees as may be prescribed —

(a) for the grant of licences under section 15; and

(b) for the verification or re-verification, marking, stamping and adjustment of commercial weights and measures and weighing or measuring instruments.

19. (1) Government may appoint a Controller and as many Additional Controllers, Deputy Controllers, Assistant Controllers, Inspectors and Assistant Inspectors as may be necessary, possessing such qualification as may be prescribed.

(2) Controller, Additional Controller, Deputy Controller, Assistant Controller, Inspector and Assistant Inspector shall exercise the powers and discharge the duties conferred or imposed on them by or under this Act.

Provided that the Controller, Additional Controller, Deputy Controller, Assistant Controller, may, in addition to their own powers and duties, exercise powers and discharge duties conferred or imposed on the Inspectors.

(3) Subject to the provisions of this Act, all Additional Controllers, Deputy Controllers, Assistant Controllers, Inspectors and Assistant Inspectors shall perform their functions under the general superintendence and control of the Controller.

(4) The Controller, Additional Controllers, Deputy Controllers, Assistant Controllers, Inspectors and Assistant Inspectors, appointed under this

Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

20. (1) The Controller or any officer nominated by him may by general or special order, define the local limits within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Act.

(2) Every Inspector shall immediately after his appointment enter into a recognizance with Government, in such sum as may be prescribed, for

(a) the due discharge of his duties;

(b) the due payment of moneys received by him under this Act at such time and in such manner as may be prescribed; and

(c) the safety of the secondary standards, the working standards, working instruments and the stamps and appliances for verification in his charge and their due surrender immediately on ceasing to hold office.

21. (1) An Inspector shall—

(a) attend for the purpose of verification of weights and measures and weighing and measuring instruments, at such

place and time, within his jurisdiction, as may be appointed

Levy of fees.

Appointment of
Controller,
Additional
controllers,
Deputy
controllers,
Assistant
Controllers,
Inspectors and
Assistant
Inspectors.

Jurisdiction of
Inspectors.

Verification and
stamping by
Inspectors.

by the Controller;

(b) verify a weight or measure or weighing or measuring instrument, which is brought to him for the purpose of verification _; and

(c) stamp in the prescribed manner, a weight or measure or weighing or measuring instrument, which on verification as aforesaid he finds to be in conformity with this Act and the rules made there under.

(2) An Inspector may—

(a) inspect at all reasonable times, the weights or measures or, weighing or measuring instruments, which are used in transactions of trade or commerce, or are in the possession of any person or are in any premises or such use, and verify every such weight or measure or weighing or measuring instrument with a secondary standard or working standard or weighing or measuring instrument prescribed for the purpose;

(b) enter at reasonable time with or without the assistance of such persons in the service of Pakistan or in the service of a local authority as he thinks fit, any place where weights or measures, or weighing or measuring instruments, are used or kept for use in the transaction of trade or commerce, and inspect such weights or measures or weighing or measuring instruments;

(c) verify the weight or measure of any article sold or delivered in the course of any transaction, for the purpose for verifying the correctness of any weight or measure used in such transaction;

(d) required at reasonable times, any trader or his employee or agent, to produce before him for inspection all weights and measures and weighing and measuring instruments which are used by or are in possession of, or are kept on any premises used for trade by, such trader or his employee or agent and all documents and records relating thereto;

(e) seize and detain any weight or measure or weighing or measuring instrument in respect of which an offence under this Act has been committed, or which appears to have been used or is likely to be used in the commission of such an offence, and also seize and detain any article sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument, together with any documents or records relating thereto; and

(f) break open the sealed package or container, if he has reason to believe that such package or container does not contain the net weight or measure of the article which it purports to contain and verify its contents and if, on such verification, the net weight or measure of the article found to be correct, the Inspector shall reseal the package or container where it is possible so to do without causing injury to the contents thereof, and attach thereto a certificate stating the correct weight or measure of the article; and if, on such verification, the net weight or measure of the article is found to be incorrect, the Inspector may seize and detain the package or container and the article contained therein.

22. Where Government is of the opinion that it is necessary to adjust the weights or measures or weighing or measuring instruments in any area, it may authorize the Inspector of that area to adjust such weights or measures or weighing or measuring entrustments.

23. Any weight or measure or weighing or measuring instrument, which has been stamped by an Inspector under this Act shall have legal validity in such areas in which the relevant provisions of this Act are in force, and shall not be re-stamped by reason of it being used in an area other than that in which it was originally stamped.

24, (1) If any difference arises between any person and Inspector with regard to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument or any other matter under this Act or rules made there under, the Inspector on request of such person shall, or at his own initiative may, refer such difference to the Controller, whose decision shall, subject to the provisions of sub-section (2), be final

(2) An appeal shall lie—

(a) from a decision of an Inspector, Assistant Controller or Deputy Controller to the Controller; and

(b) from a decision of the Controller not being a decision made in appeal under clause (a), to the Director or any other officer authorized by him in this behalf.

(3) An appeal under this section shall be preferred within sixty days from the date of the decision.

(4) On receipt of the appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard, and after making such enquiry as it deems fit, make an appropriate order which shall be final.

25. Any person aggrieved by an order made under section 24, not being the order of the Director, may apply for revision of such order to such person or authority and within such period as may be prescribed and the order made by the such person or authority shall be final.

Inspectors to
adjust weight or
measure.

Validity of
weights and
measures duty
stamped.

Appeals.

Revision.

[Provided that no order under this section shall be made unless the aggrieved person is given an opportunity of being heard].

CHAPTER—IV.

Penalties.

26. (1) Whoever, after the expiry of three months from coming into force of this section, sells or causes to be sold, or delivers or causes to be delivered in the course of any transaction of trade or commerce, any article by any denomination of weight or measure other than one of the standard weight or measure, shall, on conviction for a first offence, be punished with fine which may extend to *[twenty] thousand rupees, and on conviction for subsequent offence be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

(2) Whoever contravenes the provisions of section 7 shall be punishable with fine which may extend to *[twenty thousand rupees].

27. Whoever sells or delivers or causes to be sold or delivered any commercial weight or measure, or any weighing or measuring instrument, which has not been verified, or stamped under this Act and the rules made there under, shall be punished with fine which may extend to “[twenty] thousand rupees.

28. Whoever uses in any transaction of trade or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument, which has not been verified, or re-verified or stamped under this Act and the rules made there under, shall, on conviction, for a first offence be punished with fine which may extend to °[twenty] thousand rupees, and on conviction for a subsequent offence be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation 1. — When any such weight or measure, or weighing or measuring instrument, is found in the possession of any trader, or his employee or agent, such trader, employee or agent shall, until the contrary is proved, be presumed to possess it for use in transaction of trade or commerce.

Explanation 2. — Where any employee or agent of a trader uses or has in possession for use, on behalf of such trader, any weight or measure or weighing or measuring instrument mentioned in this section such trader shall, unless he proves that the offence is committed without his knowledge or consent, also be liable for such offence.

¹ Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1985, S. 2.

? Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.2(a).

* Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.2(b).

* Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.3.

5 Substituted vide The Khyber Pakhtunkhwa Act No. I of 2013, S.4.

Penalty for sale or
delivery by weight or
measure other than
standard weights and
measures.

Penalty for sale of
unstamped commercial
weights and measures.

Penalty for use or
possession of
unstamped commercial
weights and measures.

29. Whoever contravenes provisions of a notification issued under section 8, shall be punished with fine which may extend to ![twenty] thousand rupees.

30. Where any person manufactures, repairs or sells any commercial weight or measure or weighing or measuring instrument, without a license under section 15, he shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 2[twenty] thousand rupees, or with both.

31. Whoever contravenes the provisions of section 13 shall be punished with fine which may extend to °[twenty] two thousand rupees.

32. Whoever fraudulently uses any weight or measure or weighing or measuring instrument, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

33. Whoever has in his possession a weight or measure or weighing or measuring instrument, which he knows to be false, intending that it may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

34. Whoever sells any article by weight or measure and delivers or causes to be delivered to the purchaser less than what is purported to be sold shall, if the deficiency exceeds the prescribed limit of error, be punished with imprisonment of either description which may extend to one year, or with fine which may extend to 4[thirty] thousand rupees, or with both.

35. (1) Whoever forges or counterfeits any stamp used for stamping any standard weight or measure or weighing or measuring instrument, or possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument, or willfully increases or diminishes a weight or measure so stamped, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(2) Whoever knowingly uses or sells or offers for sale or disposes of, any weight or measure or weighing or measuring instrument with forged or counterfeit stamp thereon, or a weight or a measure increased or diminished as aforesaid, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

¹ Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.5.

² Substituted vide Khyber Pakhtunkhwa Act No. I of 2013,S.6.

³ Substituted vide Khyber Pakhtunkhwa Act No. I of 2013,S.7.

⁴ Substituted vide Khyber Pakhtunkhwa Act No. I of 2013,S.8.

Penalty for
manufacture, repair or
sale of weights etc.,
without license.

Penalty for failure to
mark weight or measure
on sealed containers.

Penalty for fraudulent
use of weights,
measures, etc.

Penalty for being in
possession of false
weight or measure, etc.

Penalty for giving short
weight or measure etc.

Penalty for forging etc.,
of weights measures,
etc.

36. Whoever—

(a) refuses or neglects to produce for inspection under section 21 any weight or measure or weighing or measuring instrument, or any document, or record relating thereto in his possession or on his premises, or obstructs or in any manner hinders an Inspector in the performance of his duties under this Act; or
(b) fails to maintain the records or accounts or to produce such record before an Inspector under section 17; shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to [fifty thousand rupees], or with both.

37. Whoever makes, sells or disposes of, or causes to be made, sold or

disposed of, any weight or measure or weighing or measuring instrument, which he knows or has reason to believe to be false, in order that the same may be used as true or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

38. Where an officer appointed under this Act knowingly acts or discharges his duties in contravention of this Act or the rules made there under shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

39. If a person committing an offence under this Act or rules made there under is a company or other body corporate, every Director, Manager, Secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent such commission of the offence, be deemed to be guilty of such offence.

40. A weight or measure or weighing or measuring instrument in respect of which an offence has been committed under this Act or rules made there under shall be forfeited to Government

41. If an Inspector or any person acting under general or special authority of the Controller produces in court any weight or measure or weighing or measuring instrument which has been stamped under the provisions of this Act and the rules made there under, such weight or measure or weighing or measuring instrument shall be presumed to be correct until contrary is proved, the burden of which shall be on the person challenging its correctness.

42. Government may, by notification, direct that any power exercisable by it

' Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.9.

Penalty for neglect or
refusal to produce
weights or measures,
etc. for inspection.

Penalty for making or
selling false weights or

measures, etc.

Penalty for breach of
duty.

Offences by companies
and corporation.

Forfeiture.

Stamped weights etc, to
be presumed to be
correct.

Delegation of powers.

under this Act shall, in relation to such matters and subject to such conditions as may be specified, be exercisable also by any officer or authority subordinate to it.

43. Where the Federal Government has, by notification issued under sub-section (2) of section 22 of the Weights and Measures (International System) Act, 1967, permitted the use of such weights and measures in such area or in respect of such class of goods or undertakings for such period as specified in the notification, then the provisions of this Act shall not apply in that area or in relation to that class of goods or undertakings, but notwithstanding section 47 the provisions of the laws in force immediately before coming into force of this Act shall continue to have effect in such areas or in relation to such class of goods or undertakings.

44. No suit, prosecution or other legal proceedings shall lie against any person, in respect of anything which is done or intended to be done, in good faith, under this Act or rules made thereunder.

45. No court inferior to that of a Magistrate of the First Class shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Controller or an officer authorized by him in this behalf.

45A. '[The provisions of this act shall have an overriding effect notwithstanding anything to the contrary contained in any other law for the time being in force.]

46. (1) Government may make rules to carry out the purposes of this Act.

(2) The power to make rules under this section shall be subject to previous publication in the official Gazette.

(3) | Such rules may provide that a breach thereof shall be punished with fine which may extend to 2[twenty] thousand rupees.

47. (1) | The West Pakistan Weights and Measures Ordinance, 1965 (W. P. Ord No. XXXIII of 1965), and the *[Khyber Pakhtunkhwa], Standard Weights and Measures Enforcement Ordinance, 1976 ("[Khyber Pakhtunkhwa] Ordinance No. III of 1976), are hereby repealed.

(2) Anything done or action taken (including any , appointments, rules and orders made, notification or licenses issued and appeals preferred) under the Ordinance so repealed shall be deemed to have been done or taken under this Act as if this act were in force on the day on which such thing was done or action was taken.

¹ Inserted vide Khyber Pakhtunkhwa Act No. | of 2013,S.10.

² Substituted vide Khyber Pakhtunkhwa Act No. I of 2013, S.11.

³ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

22 (2) of Act No. V of
1967.

Protection of action
taken in good faith.

Cognizance of offences.

Act to override other
laws.

Power to make
rules.

Repeal.

