

**Bill No. XXIX of 2005**

THE STANDARDS OF WEIGHTS AND MEASURES (ENFORCEMENT)  
AMENDMENT BILL, 2005

A

BILL

*further to amend the Standards of Weights and Measures (Enforcement) Act, 1985.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Standards of Weights and Measures (Enforcement) Amendment Act, 2005.

Short title  
and com-  
mencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

- Amendment of section 5.      **2.** In section 5 of the Standards of Weights and Measures (Enforcement) Act, 1985 (hereinafter referred to as the principal Act),—
- 54 of 1985.
- (a) after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) The Central Government may, by notification, prescribe the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controllers and the Inspectors under sub-section (1).”;
- (b) in sub-section (4), the following proviso shall be inserted, namely:—
- “Provided that the Controller shall exercise his powers and discharge the duties of his office subject to such general or special directions, as the Director may, from time to time, give and such directions shall be binding on the Controller.”.
- Amendment of section 10.      **3.** In section 10 of the principal Act,—
- (a) in sub-section (1), for the words “State Government”, the words “Central Government” shall be substituted;
- (b) after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made in this behalf, direct, in respect of those class of goods or services or undertakings or users specified therein, that no transaction, dealing or contract shall be made except by such weighing or measuring instrument as may be specified in such rules.”;
- (c) in sub-section (2), after the word and figure “sub-section (1)”, the words, figure and letter “or sub-section (1A)” shall be inserted.
- Omission of section 12.      **4.** Section 12 of the principal Act shall be omitted.
- Amendment of section 15.      **5.** In section 15 of the principal Act, in sub-section (1), for the words “Where the State Government”, the words “Where the Central Government” shall be substituted.
- Omission of sections 16, 17 and 18.      **6.** Sections 16, 17 and 18 of the principal Act shall be omitted.
- Amendment of section 19.      **7.** In section 19 of the principal Act, —
- (a) after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) Any licence issued by the Central Government or a State Government to a manufacturer,—
- (a) for selling the weight or measure manufactured by him;
- (b) for repairing the weight or measure manufactured and sold by him,
- shall be valid throughout the country.”;
- (b) in sub-section (7), for the words “two hundred rupees”, the words “one thousand rupees” shall be substituted;
- (c) in sub-section (8), for the proviso, the following proviso shall be substituted, namely:—
- “Provided that no sale of any weight or measure of the prescribed description, not being a weight or measure for use for domestic purposes, shall be made except with the written permission of the Controller or any officer authorised by him in this behalf.”.

8. In section 21 of the principal Act clause (b) shall be omitted. Amendment of section 21.
9. For section 22 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 22.
- “22. No weight or measure shall be sold or offered, exposed or possessed for sale in any transaction, or for industrial production or for protection unless it has been verified and stamped.”. Prohibition of sale of unstamped weight or measure.
10. In section 24 of the Principal Act, — Amendment of section 24.
- (a) in sub-section (1), the following proviso shall be inserted, namely:—
- “Provided that the verification, of the weight or measure as prescribed under the Standards Act, shall be made by the special verification agents under that Act.”;
- (b) in sub-section (2), for the words “as may be prescribed”, the following shall be substituted, namely:—
- “as prescribed under the Standards Act:
- Provided that re-verification, of such weight or measure verified by the special verification agents under the Standards Act, may be made by the agents at such periodical intervals as prescribed under that Act.”;
- (c) in sub-section (3), for the proviso, the following provisos shall be substituted, namely:—
- “Provided that in respect of the weight or measure, as may be prescribed, the Inspector shall take steps for the verification of such weight or measure at the place of its location:
- Provided further that the verification of such weight or measure, as prescribed under the Standards Act, shall be made by the special verification agents under that Act.”;
- (d) sub-sections (4), (5) and (6) shall be omitted.
11. For section 25 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 25.
- “25. (1) Every certificate of verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection. Procedure for verification and display of certificate of verification.
- (2) Where any verification has been made under sub-section (3) of section 24, the Inspector shall grant, to the person referred to in sub-section (1) of that section, a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.
- (3) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable or practicable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Standards Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act on the date on which such certificate was issued.
- (4) Every certificate referred to in sub-section (3) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates.”.

Amendment  
of section 27.

**12.** In section 27 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that in the case of weight or measure verified and stamped by the special verification agents under the Standards Act, the Inspector may inspect only genuineness of such stamping.”.

Insertion of  
new section  
31A.

**13.** After section 31 of the principal Act, the following section shall be inserted, namely:—

Application of  
sections 27 to  
31 to certain  
commodities.

‘31A. The provisions of sections 27, 28, 29, 30 and 31 shall apply in relation to pre-packed commodities and commodities sold by number as they apply in relation to weight or measure referred to in those sections.

*Explanation.*—For the purposes of this section, “pre-packed commodity” with its grammatical variations and cognate expressions, means a commodity or article or articles which, without the purchaser being present, is placed in a package of whatever nature, so that the quantity of the product contained therein has a pre-determined value and such value cannot be altered without the package or its lid or cap, as the case may be, being opened or undergoing a perceptible modification.’.

Substitution of  
new section  
for section 33.

**14.** For section 33 of the principal Act, the following section shall be substituted, namely:—

Provisions of  
the Standards  
Act and the  
rules made  
thereunder  
relating to  
commodities  
in packaged  
form to apply  
to commodi-  
ties in  
packaged  
form sold or  
distributed  
within the  
State.

‘33. The provisions of the Standards Act and the rules made thereunder with regard to commodities in packaged form shall apply to every such commodity which is made, manufactured, packed, distributed, sold, or kept, offered or exposed for sale, in the State as if the provisions aforesaid were enacted by, or made under, this Act subject to the modification that any reference therein to the “Central Government”, “Standards Act” and “Director” shall be construed as references respectively, to the “State Government”, “this Act” and the “Controller”.’.

Amendment  
of section 37.

**15.** In section 37 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Penalty for counterfeiting of seals, fraudulent use of weight or measure, etc.”.

(b) in sub-section (1),—

(i) in clause (vii), after the words “alters in any way any weight or measure”, the words “or uses any weight or measure fraudulently” shall be inserted;

(ii) for the words “imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine” the words “fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to two years” shall be substituted;

(c) in sub-sections (2), (3) and (4), for the words “imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less

than one year but which may extend to five years and also with fine”, wherever they occur, the words “fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to two years” shall be substituted.

**16.** In section 38 of the principal Act,—

Amendment  
of section 38.

(a) for sub-section (1),—

(i) for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted;

(ii) for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted;

(iii) for the words “one year and also with fine”, the words “one year, or with fine, or with both” shall be substituted;

(b) in sub-section (2),—

(i) for the words “five hundred rupees” the words “two thousand rupees” shall be substituted;

(ii) for the words “two thousand rupees” the words “five thousand rupees” shall be substituted;

(iii) for the words “one year and also with fine”, the words “one year, or with fine, or with both” shall be substituted.

**17.** In section 39 of the principal Act,—

Amendment  
of section 39.

(a) sub-section (2) shall be omitted;

(b) in sub-section (3),—

(i) for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted;

(ii) for the words “one year and also with fine”, the words “one year, or with fine, or with both” shall be substituted.

**18.** After section 39 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
39A.

‘39A. Whoever—

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

Penalty for  
short  
measurement,  
etc.

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing, by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to fifty thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

*Explanation.*—For the removal of doubts, it is hereby declared that the condition “contracted for or paid for” as required in clauses (a) to (d) shall not apply to any inspection made under Chapter VIII.’.

- Amendment of sections 40 and 41. **19.** In sections 40 and 41 of the principal Act, for the words “one year and also with fine”, in both the sections where they occur, the words “one year, or with fine, or with both” shall be substituted.
- Amendment of section 42. **20.** In section 42 of the principal Act, for the words “three years and also with fine” the words “three years, or with fine, or with both” shall be substituted.
- Substitution of new section for section 44. **21.** For section 44 of the principal Act, the following section shall be substituted, namely:—
- Penalty for contravention of section 21. “44. Except where he is permitted under the Standards Act so to do, whoever makes or manufactures any weight or measure which, though ostensibly purports to conform to the standards established by or under that Act, does not actually conform to the said standards, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.”.
- Amendment of section 45. **22.** In section 45 of the principal Act,—
- (a) for the words, “one thousand rupees” the words “two thousand rupees” shall be substituted;
- (b) for the words “one year and also with fine”, the words “one year, or with fine, or with both” shall be substituted.
- Amendment of section 46. **23.** In section 46 of the principal Act,—
- (a) for the words “one thousand rupees” the words “two thousand rupees” shall be substituted;
- (b) for the words “one year and also with fine”, the words “one year, or with fine, or with both” shall be substituted.
- Amendment of section 47. **24.** In section 47 of the principal Act,—
- (a) for the words “five hundred rupees”, the words “ten thousand rupees” shall be substituted;
- (b) for the words “one year and also with fine” the words “one year or with fine or with both” shall be substituted.
- Amendment of section 48. **25.** In section 48 of the principal Act,—
- (a) for the words “one thousand rupees” the words “five thousand rupees” shall be substituted;
- (b) for the words “one year and also with fine” the words “one year, or with fine, or with both” shall be substituted.
- Amendment of section 49. **26.** In section 49 of the principal Act, after the words “may extend to two years”, the words “or with fine which may extend to five thousand rupees, or with both” shall be inserted.
- Amendment of section 50. **27.** In section 50 of the principal Act, after the words, “may extend to two years”, the words “or with fine which may extend to ten thousand rupees,” shall be inserted.
- Amendment of section 51. **28.** In section 51 of the principal Act,—
- (a) in sub-section (1), for the words “and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine”, the words “for the second offence, with fine which may extend to ten thousand rupees, and, for the third or subsequent offence, with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Whoever manufactures or packs, or causes to be manufactured or packed, any commodity in packaged form lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, or distributes or sells any commodity in packaged form, lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, knowingly or having reason to believe that the commodity contained in such package is lesser, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.”.

**29.** In section 52 of the principal Act, for the words “one thousand rupees”, wherever they occur, the words “five thousand rupees” shall be substituted. Amendment of section 52.

**30.** In section 53 of the principal Act, for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted. Amendment of section 53.

**31.** In section 54 of the principal Act, for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted. Amendment of section 54.

**32.** In section 56 of the principal Act,—

Amendment of section 56.

(a) in sub-section (1), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;

(b) in sub-section (2), for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted.

**33.** In section 57 of the principal Act, in sub-sections (1) and (2), for the words “two thousand rupees” wherever they occur, the words “ten thousand rupees” shall be substituted. Amendment of section 57.

**34.** In section 58 of the principal Act, for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted. Amendment of section 58.

**35.** In section 61 of the principal Act, in sub-section (2), for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted. Amendment of section 61.

**36.** In section 62 of the principal Act,—

Amendment of section 62.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Where an offence under this Act has been committed by a company,—

(i) the person, if any, who has been nominated under sub-section (1A) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible); or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

the company,—shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(1A) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the director or the concerned Controller or any officer authorised in this behalf by such Controller (hereafter referred as the authorised officer) in such form and in such manner as may be prescribed, that he has nominated such director as the person responsible, alongwith the written consent of such director for being so nominated.

*Explanation.*—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(1B) The person nominated under sub-section (1A) shall, until—

(i) further notice cancelling such nomination is received from the company by the director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the director or the concerned Controller or the authorised officer under intimation to the company, to cancel the nomination (which request shall be complied with by the director or the concerned Controller or the authorised officer),

whichever is the earliest, continue to be person responsible:

Provided that when such person ceases to be a director of the company, he shall intimate the fact of such cesser to the director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii), the director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.”;

(b) in sub-section (2),—

(i) for the word, brackets and figure “sub-section (1)”, the words “the foregoing sub-sections” shall be substituted;

(ii) after the words “other officer of the company,”, the words, brackets, figure and letter “not being a person nominated under sub-section (1A),” shall be inserted.

Amendment  
of section 65.

**37.** In section 65 of the principal Act, in sub-section (1),—

(a) for the word and figures “section 39”, the words and figures “section 37, section 38, section 39” shall be substituted;

(b) for the words “such sum as the Controller or such other officer may specify”, the words “such sum as may be prescribed” shall be substituted.

Substitution  
of new  
section for  
section 70.

**38.** For section 70 of the principal Act, the following section shall be substituted, namely:—

Levy of fees  
and collec-  
tions thereof.

“70. (1) The Central Government may, having regard to time and labour that may be involved, prescribe such fee not exceeding—

(a) two thousand rupees, for the issue or renewal of a licence for making or manufacturing of any weight or measure;



(b) one thousand rupees, for the issue of a licence for repairing or selling of any weight or measure;

(c) five hundred rupees, for the alteration of any licence;

(d) ten thousand rupees on a graded scale, for the verification of any weight or measure;

(e) one hundred rupees, for the adjustment of any weight or measure;

(f) one hundred rupees, for the issue of a duplicate licence or certificate of verification;

(g) ten rupees, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature;

(h) five hundred rupees, for any appeal preferred under this Act.

(2) The State Government shall collect the prescribed fee under this section.”.

**39.** In section 71 of the principal Act,—

Amendment  
of section 71.

(a) In sub-section (1), for the words “State Government”, the words “Central Government” shall be substituted.

(b) In sub-section (2), for the words “State Government”, the words “Central Government” shall be substituted.

**40.** In section 72 of the principal Act,—

Amendment  
of section 72.

(a) in sub-section (1), for the words “The State Government may, by notification and after consultation with the Central Government”, the words “The Central Government may, by notification,” shall be substituted;

(b) in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

“(a) the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controller and the Inspectors under section 5;

(aa) the class of goods, services, undertakings or users, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number or in respect of which no transaction, dealing or contract shall be made except by such weighting or measuring, instrument as required under sub-section (1) or sub-section (1A) of section 10;”;

(ii) sub-clause (i) of clause (b), clauses (d), (e), and (f) shall be omitted;

(iii) in clause (j), after the words “the controller”, the words “or any officer authorised by him” shall be inserted;

(iv) clause (m) shall be omitted;

(v) for clauses (n) and (o), the following clauses shall be substituted, namely:—

“(n) the weight or measure for the verification of which steps to be taken by the Inspector under sub-section (3) of section 24.

(o) the form in which and the details with which a certificate of verification of any weight or measure as required under sub-sections (2), (3) and (4) of section 25 shall be granted;”;

(vi) clause (r) shall be omitted.

(vii) after clause (t) the following clause shall be inserted, namely:—

“(tt) the form and the manner in which notice by a company may be given to the director or the concerned Controller or the authorised officer under sub-section (2) of section 62;

(ttt) the amount of money to be paid for credit to the State Government under sub-section (1) of section 65.”;

(c) in sub-section (3), for the words “the State Government may”, the words “the Central Government may” shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Amendment  
of section 73.

**41.** In section 73 of the principal Act, in sub-section (2), for the words and figures “section 39, section 40 or section 41”, the words and figures “section 36, section 37 or section 38” shall be substituted.

Insertion of  
new section  
74A.

**42.** After section 74 of the principal Act, the following section shall be inserted, namely:—

Transitional  
provisions.

“74A. (1) Every Additional, Joint, Deputy and Assistant Controller and Inspector appointed immediately before the commencement of the rules made under sub-section (1A) of section 5 shall, on such commencement, be deemed to have been appointed under section 5, notwithstanding any rule prescribing different qualifications.

(2) Any rules made by a State Government under the principal Act which are in force immediately before the commencement of the Standards of Weights and Measures (Enforcement) Amendment Act, 2005, shall remain in force until the Central Government make rules in that behalf.”.

## STATEMENT OF OBJECTS AND REASONS

The Standards of Weights and Measures (Enforcement) Act, 1985 was enacted with a view to provide for enforcement, by the State Governments, of standards of weights and measures established by or under the Standards of Weights and Measures Act, 1976.

2. Since the enactment of the Act, there have been advancement in international practices and development in technological innovations in the field of legal metrology. In order to keep pace with such advancement, to absorb new technological innovations and to provide for better protection to consumers, the necessity to amend the aforesaid enactment. The proposed amendments, *inter alia*, seek to provide for,—

(a) prescribing the qualifications for appointment of Additional, Joint, Deputy and Assistant Controllers of Legal Metrology and Inspectors under the Act for providing quality and professional service, beneficial to consumers and industries;

(b) providing for issue of guidelines by the Central Government for uniform implementation of the provisions of the enactment;

(c) doing away with the requirement of registration of users of weight or measure with enforcement officers;

(d) validating the licence for the whole of the country, for manufacture and repair of weight or measure issued by a State Government and enabling the Central Government also to issue such all India licence, for convenience;

(e) revising penalties for various offences under the enactment to make the provisions more deterrent; and

(f) empowering the Central Government to prescribe fee, to be levied by the State Governments, for the purpose of uniformity of fee.

3. The Bill seeks to achieve the above objects.

SHARAD PAWAR.

NEW DELHI;  
*The 28th February, 2005.*

### *Notes on Clauses*

*Clause 2.*—This clause of the Bill seeks to prescribe qualifications for appointment of Additional, Joint, Deputy and Assistant Controller of Legal Metrology and Inspector and also provide for the Controller of Legal Metrology to function subject to such general or special directions, as the Director may give and such direction shall be binding on the Controller.

*Clause 3.*—This clause seeks to prescribe user friendly weighing or measuring instrument in certain fields of transactions.

*Clause 4.*—This clause seeks to omit section 12 as it has become obsolete.

*Clause 5.*—This clause seeks to empower the Central Government to prescribe the weight or measure where certificate could be issued as a mark of verification instead of sealing the same.

*Clause 6.*—This clause seeks to omit sections 16, 17 and 18 as they are hindrance to trade.

*Clause 7.*—This clause seeks to provide for issue of manufacturing and repairing licence on all India basis by the Central or a State Government with a view to streamline the process of selling of weights and measures by any user.

*Clause 8.*—This clause seeks to omit clause (b) of section 21, which prohibit the additional inscription of non-metric units on measuring instruments, as people are still not conversant with the metric units in certain areas.

*Clause 9.*—This clause seeks to omit the requirement of verification of weights or measures under section 22 as such provision already exists under section 24 of the Act.

*Clause 10.*—This clause seeks to empower the special verification agents to verify prescribed weighing or measuring instrument. It also seeks to do away with the requirement of prescribing the re-verification period of weighing or measuring instrument by the States as it is proposed to empower the Central Government to prescribe in this behalf. Certain procedure for verification of weight or measure is also proposed to be prescribed.

*Clause 11.*—This clause seeks to make some alignment changes in the provisions of the Act for the purpose of clarity.

*Clause 12.*—This clause seeks to provide for ensuring that the measuring instruments verified by special verification agents ought not to be taken up again for verification by the Inspectors.

*Clause 13.*—This clause seeks to provide for regulation of packaged commodities during the course of intra-State transactions.

*Clause 14.*—This clause seeks to make changes in the provisions relating to regulation of packaged commodities for aligning them with the requirements of the Standards of Weights and Measures Act, 1976.

*Clause 15.*—This clause seeks to provide for penalty for counterfeiting of seal, for tampering or fraudulent use of weighing or measuring instrument.

*Clause 16.*—This clause proposes to revise the penalty for sale of commodity or service rendered by non-standard weights or measures. It also provides to exempt certain category of trade or service from the requirement of selling by standard weight or measure due to practical considerations.

*Clases 17 and 18.*—These clauses seek to amend section 39 to divide it in to two sections namely, section 39 relating to penalty for keeping non-standard weight or measure and section 39A relating to penalty for short measurement.

*Clases 19 to 35.*—These clauses seek to revise the penalties provided under sections 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58 and 61.

*Clause 36.*—This clause seeks to provide for enabling a company to nominate one of its directors for ensuring compliance with the provisions of the Act.

*Clause 37.*—This clause seeks to provide for compounding of offences for violation of sections 37 and 38 and also provide for the compounding of fine for uniformity.

*Clause 38.*—This clause seeks to revise the maximum fees and empowers the Central Government to prescribe the fee to be levied within these limits.

*Clause 39.*—This clause seeks to empower the Central Government to delegate its powers excisable under the legislation to subordinate officers for administrative convenience.

*Clause 40.*—This clause seeks to provide for enabling the Central Government to make rules to carry out the provisions of the legislation.

*Clause 41.*—This clause seeks to rectify some printing error in the Act.

*Clause 42.*—This clause seeks to provide for transitional provision for protecting the interest of enforcement officers already functioning in the States with lesser qualification than those proposed to be prescribed under section 5 of the Act.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 40 of the Bill seeks to amend section 72 of the Standards of Weights and Measures (Enforcement) Act, 1985, which provides for power to make rules by the Central Government. Sub-section (2) of that section enumerates in detail the matters with respect to which rules may be made. The matters in respect of which rules may be made under the Bill relate, *inter alia*, to prescribing the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controller of Legal Metrology and the Inspectors under section 5, prescribing the class of goods, services, undertakings or users, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number under sub-section (1), or in respect of which no transaction, dealing or contract shall be made except by such weighing or measuring instrument under sub-section (1A), of section 10, the weight or measure where certificate could be issued or a mark of verification instead of sealing the same, the weight or measure which are required to be verified by special verification agents under sub-section (3) of section 24, prescribe the weight or measure which are required to be verified at the place of its to action under section 24(3) the form in which and the details with which a certificate of verification of any weight or measure under section 25 be granted, the form and the manner in which notice by a company may be given to the Director or the concerned Controller or the authorised officer under sub-section (2) of section 62, the amount of money to be paid for credit to the State Government under sub-section (1) of section 65 and the fees that may be levied under sub-section (1) of section 70.

2. The matters with respect to which such rules may be made pertain to matters of administrative procedure or detail. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE STANDARDS OF WEIGHTS AND MEASURES  
(ENFORCEMENT) ACT, 1985

(54 OF 1985)

\* \* \* \*

CHAPTER II

APPOINTMENT OF CONTROLLERS, INSPECTORS AND OTHER OFFICERS

5. (1)\* \* \* \*

(4) Subject to the provisions of this Act, every Additional Controller, Inspector and other officer appointed under sub-section (1), shall exercise his powers and discharge the duties of his office under the general superintendence, direction and control of the Controller and shall exercise those powers and discharge those duties in the same manner and with the same effect as if they had been conferred or imposed on him directly by or under this Act and not by way of authorisation.

Appointment of Controllers, Inspectors and other officers and staff.

\* \* \* \*

10. (1) The State Government may, by rules made in this behalf, direct that in respect of the classes of goods, services or undertakings or users specified therein—

Use of weights only or measures only in certain cases.

- (a) no transaction, dealing or contract shall be made or had, or
- (b) no industrial production shall be undertaken, or
- (c) no use for protection shall be made,

except by such weight, measure or number as may be specified therein.

(2) Any rule made under sub-section(1) shall take effect in such area, from such future date and subject to such conditions, if any, as may be specified therein.

\* \* \* \*

CHAPTER IV

CUSTODY AND VERIFICATION OF STANDARD EQUIPMENTS

12. Every reference standard shall be kept at such place and in such custody as may be prescribed, and no such reference standard shall be deemed to be a reference standard and shall be used as such unless it has been verified, authenticated and maintained in accordance with the rules made under the Standards Act.

Custody and verification of reference standards.

\* \* \* \*

15. (1) Where the State Government is of opinion that by reason of the size or nature of any secondary standard or working standard, it is not desirable or practicable to put a stamp thereon, it may direct that instead of putting a stamp on such secondary standard or working standard, a certificate may be issued to the effect that such secondary standard or working standard conforms to the standards established by or under the Standards Act and every secondary standard or working standard so certified shall be deemed to have been duly stamped under this Act on the date on which such certificate was issued.

Secondary or working standard which may not be stamped.

\* \* \* \*

CHAPTER V

REGISTRATION OF USERS OF WEIGHTS AND MEASURES

Persons using weights or measures for transactions or industrial production or for protection to get themselves registered.

16. No person, not being an itinerant vendor, shall use any weight or measure in any transaction or for industrial production or for protection unless he is registered in accordance with the provisions of this Chapter.

Procedure of registration.

17. (1) Every person, who intends to commence, or carry on, the use of any weight or measure in any transaction or for industrial production or for protection, shall make, within such time and containing such particulars as may be prescribed, an application for the inclusion of his name in a register to be maintained for the purpose (hereinafter in this section referred to as the "Register of Users").

(2) The Register of Users shall be maintained in such form and in such manner as may be prescribed.

(3) The application referred to in sub-section (1) shall be made to the Controller or to such other person as the Controller may, by general or special order in writing, authorise in this behalf and every such application shall be made in such form, in such manner and on payment of such fee as may be prescribed.

(4) On receipt of the application referred to in sub-section (1), the Controller or the person authorised by him shall include the name of such person in the Register of Users and issue to the applicant a certificate to the effect that his name has been so included.

(5) A certificate issued under sub-section (4) shall be valid for the period specified therein and may be renewed from time to time for such further period and on payment of such fee as may be prescribed.

Punishment for non registration.

18. Whoever uses, after the expiry of the period prescribed under sub-section (1) of section 17, any weight or measure in any transaction or for industrial production or for protection shall, unless he is registered in accordance with the provisions of this Chapter, be punishable with fine which may extend to five hundred rupees, and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

CHAPTER VI

MANUFACTURE, REPAIR OR SALE OF WEIGHTS OR MEASURES

Prohibition on the manufacture, repair or sale of weights or measures without licence.

19. (1)\* \* \* \*

(7) The Controller may require every repairer licensed under this Act to furnish to the State Government security for such sum, not exceeding two hundred rupees, as may be prescribed.

(8) Nothing contained in this section shall apply to the sale by a user (who is not a maker, manufacturer, dealer or repairer) of any weight or measure:

Provided that no sale of any weight or measure of the prescribed description shall be made except with the written permission of the Controller.

\* \* \* \*



21. Save as otherwise provided in the Standards Act, no person shall—

Manufacture of weights or measures.

\* \* \* \*

(b) make or manufacture any weight or measure with indications thereon of any weights or measures in accordance with any unit other than the units of weight or measure specified by or under the Standards Act.

22. No weight or measure shall be sold, or offered, exposed or possessed for sale, or used or kept for use in any transaction or for industrial production or for protection unless it has been verified and stamped:

Prohibition of sale or use of unstamped weights or measures.

Provided that nothing in this section shall apply to any weight or measure which has been initially verified and stamped with a special seal referred to in sub-section(3) of section 41 of the Standards Act.

\* \* \* \*

CHAPTER VII

VERIFICATION AND STAMPING OF WEIGHTS OR MEASURES

24. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or likely to be, used by him in any transaction or for industrial production or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time), on payment of such fees as may be prescribed.

Verification and stamping of weights or measures.

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

*Explanation.*—For the removal of doubts it is hereby declared that no periodical re-verification shall be necessary in relation to any weight or measure which is used exclusively for domestic purposes.

(3) Every Inspector shall, for the purpose of verification of any weight or measure, attend the specified place (within the local limits of his jurisdiction) at the specified time and verify every weight or measure which is brought to him at such place and within such time and shall, if he is satisfied that such weight or measure conforms to the standards established by or under the Standards Act, put his stamp thereon:

Provided that where any weight or measure is such that it cannot, or should not, be moved from its location, the Inspector shall take such steps for the verification of such weight or measure at the place of its location as may be prescribed.

(4) Where any verification has been made under sub-section (3), the Inspector shall grant to the person referred to in sub-section(1) a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(5) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable or practicable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Standards Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act on the date on which such certificate was issued.

(6) Every certificate referred to in sub-section (5) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates.

Display of certificate of verification.

**25.** Every certificate of verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection.

\* \* \* \*

**CHAPTER VIII**

**INSPECTION, SEARCH, SEIZURE AND FORFEITURE**

Power to inspect.

**27. (1)** An Inspector may, within the local limits of his jurisdiction, inspect and test at all reasonable times, any weight or measure which—

(i) is in the possession, custody or control of any person, or—

(ii) is in or on any premises,

in such circumstances as to indicate that such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection, and may also verify whether such weight or measure is in conformity with the standards established by or under the Standards Act.

\* \* \* \*

**CHAPTER IX**

**PROVISIONS WITH REGARD TO THE SALE AND DISTRIBUTION OF COMMODITIES  
IN PACKAGED FORM WITHIN THE STATE**

Provisions of the Standards Act and the rules made thereunder relating to commodities in packaged form to apply to commodities in packaged form sold or distributed within the State.

**33. (1)** The provisions of the Standards Act and the rules made thereunder, as in force immediately before the commencement of this Act, with regard to commodities in packaged form shall, as far as may be, apply to every commodity in packaged form which is distributed, sold, or kept, offered or exposed for sale, in the State as if the provisions aforesaid were enacted by, or made under, this Act subject to the modification that any reference therein to the “Central Government”, “Standards Act” and the “Director” shall be construed as references respectively, to the “State Government”, “this Act” and the “Controller”.

(2) The State Government may make rules, not inconsistent with the Standards Act or any rule made thereunder to regulate the packaging of any commodity intended to be sold or distributed, within the State, in packaged form, or to regulate the sale or distribution, within the State, of any commodity in packaged form.

*Explanation.*—For the purpose of this section, “commodity in packaged form” shall have the meaning assigned to it in the Standards Act, and shall include a pre-packed commodity.

\* \* \* \*

Penalty for counterfeiting of seals, etc.

**37. (1)** Whoever—

(vii) increases or diminishes or alters in any way any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby.

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine.

(2) Whoever obtains, by unlawful means, possession of any seal specified by or under this Act or the Standards Act and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the Standards Act shall be punished with

imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine.

(3) Whoever, being a lawful possession of a seal specified by or under this Act or the Standards Act uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine.

(4) Whoever sells, or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine.

**38.** (1) Except where he is permitted under the Standards Act so to do, whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year and also with fine.

Penalty for sale or delivery of commodities, etc., by non-standard weight or measure.

(2) Whoever renders, or causes to be rendered, any service in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year and also with fine.

**39.** (1) \* \* \* \* \*

Penalty for keeping non standard weights or measures for use and for other contraventions.

(2) Whoever,—

(i) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for and paid for, or

(ii) in rendering any service by weight, measure or number, renders that service less than the service contracted for and paid for, or

(iii) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for and paid for, or

(iv) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for and paid for,

shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever enters, after the commencement of this Act, into any contract or other agreement (not being a contract or other agreement for export) in which any weight, measure or number is expressed in terms of any standard other than the standard weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**40.** Whoever, in relation to any specified class of goods, services, undertakings or users of weights or measures, uses in any transaction or for industrial production or for protection, any weight, measure or number, other than the weight, measure or number specified

Penalty for contravention of section 10.

by rules made under section 10, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for  
contravention  
of section 11.

**41.** Except where he is permitted under the Standards Act so to do, whoever, in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered,—

(a) quotes any price or charge, or makes any announcement with regard to the price or charge, or

(b) issues or exhibits any price list, invoice, cash memo, or other document, or

(c) mentions any weight or measure in any advertisement, poster or other document, or

(d) indicates the weight, measure or number of the net contents of any package or on any label, carton or other thing, or

(e) expresses, in relation to any transaction, industrial production or protection, any quantity or dimension,

otherwise than in accordance with the standard weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for  
contravention  
of section 19.

**42.** Whoever, being required to obtain a licence under this Act, makes, manufactures, repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence empowering him to do so, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

\* \* \* \*

Penalty for  
contravention  
of section 21.

**44.** Except where he is permitted under the Standards Act so to do, whoever makes or manufactures any weight or measure which,—

(a) though ostensibly purports to conform to the standard established by or under that Act, does not actually conform to the said standards, or

(b) bears thereon any indication of weight or measure which is not in conformity with the standards of weight or measure established by or under that Act, whether such indication is or is not in addition to the indication of weight or measure in accordance with the said standards,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

Penalty for  
contravention  
of section 22.

**45.** Whoever,—

(a) sells, offers, exposes or possesses for sale, any weight or measure which has not been verified and stamped under this Act, or

(b) uses, or keeps for use, any weight or measure which, being required to be verified and stamped under this Act, has not been so verified and stamped,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine:

Provided that nothing in clause (b) shall apply, in relation to any weight or measure which is used for domestic purposes.

- 46.** Whoever, being required by section 23 to maintain any record or register, omits or fails to do so, or being required by an Inspector to produce any records or registers for his inspection, omits or fails to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 23.
- 47.** Whoever, being required by section 24 to present any weight or measure for verification or re-verification, omits or fails, without any reasonable cause to do so, shall be punished with fine which may extend to five hundred rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 24.
- \* \* \* \*
- 48.** Whoever, being required by an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, to produce before him for inspection any weight or measure or any document or other record relating thereto, omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 28.
- 49.** Whoever obstructs the entry of an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, into any premises for the inspection and verification of any weight or measure or any document or other record relating thereto or the net contents of any packaged commodity or for any other prescribed purpose, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years. Penalty for contravention of section 29.
- 50.** Whoever prevents the Controller or any officer authorised by the Controller in this behalf, from searching any premises or prevents an Inspector from making any seizure of any weight, measure, packaged commodity, goods, document, record or label, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine. Penalty for contravention of sections 30 and 31.
- 51.** (1) Whoever manufactures, distributes, packs, sells or keeps for sale or offers or exposes for sale, or has in his possession for sale, any commodity in packaged form, shall, unless each such package conforms to the provisions of the Standards Act and the rules made thereunder, read with section 33, be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine. Penalty for contravention of section 33.
- (2) Whoever manufactures, packs, distributes or sells, or causes to be manufactured, packed, distributed or sold, any commodity in packaged form, knowing or having reason to believe that the commodity contained in such package is lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.
- Explanation.*—In determining, for the purpose of this sub-section, whether the quantity contained in a package is lesser than the quantity declared on the package or label thereon, the maximum permissible error specified under the Standards Act in relation to the commodity contained in such package, shall be taken into account.
- 52.** Whoever sells any commodity be heaps without complying with the provisions of section 35, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Penalty for contravention of section 35.
- 53.** Whoever alters or otherwise tampers with any licence issued or renewed under this Act or any rule made thereunder, otherwise than in accordance with any authorisation Penalty for tampering with licence.

Penalty for selling or delivering rejected weights and measures.

made by the Controller in this behalf, shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to one year, or with both.

**54.** Whoever sells, delivers or disposes of, or causes to be sold, delivered or disposed of, any weight or measure which has been rejected on verification under this Act or the Standards Act, or any rule made under either of the said Acts, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that nothing in this section shall apply to the sale, as scrap, of any rejected weight or measure which has been defaced in the prescribed manner.

\* \* \* \* \*

Penalty for giving false information or maintaining false records or registers.

**56. (1)** Whoever gives information to a Controller, Additional Controller or an Inspector or any other officer authorised by the Controller, which he may require or ask for in the course of his duty and which such person either knows or has reason to believe to be false or does not believe to be true, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, being required by or under this Act so to do, submits a return or maintains any record or register which is false in any material particular, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Wilful verification or disclosure in contravention of Law.

**57. (1)** If any Inspector or any other officer exercising powers under this Act or any rule made thereunder wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) If any Inspector or other officer who enters into any premises in the course of his duty wilfully discloses, except in the performance of such duty, to any person any information obtained by him from such premises with regard to any trade secret or any secret in relation to any manufacturing process, he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Vexatious search.

**58.** An Inspector or any other officer, exercising powers under this Act or any rule or order made thereunder who knows that there are no reasonable grounds for so doing, and yet—

(a) searches, or causes to be searched, any house, conveyance or place, or

(b) searches any person, or

(c) seizes any weight, measure or other movable property,

shall, for every such offence, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

\* \* \* \* \*

When employer to be deemed to have abetted an offence.

**61. (1)\*** \* \* \* \*

(2) Whoever is deemed under sub-section (1) to have abetted an offence against this Act shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

*Explanation.*—Dismissal or termination of service of an employee after the expiry of the period specified in the proviso to sub-section (1) shall not absolve any employer of his liability under this sub-section.

**62.** (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

\* \* \* \* \*

**65.** (1) Any offence punishable under section 39, section 40, section 41, section 42, section 44, section 45, section 46, section 47, section 48, section 51, section 52, section 54 or section 59 or any rule made under sub-section (3) of section 72, may either before or after the institution of the prosecution, be compounded, by the Controller or such other officer as may be authorised in this behalf by the Controller, on payment, for credit to the State Government, of such sum as the Controller or such other officer may specify:

Compounding of offences.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

\* \* \* \* \*

**70.** The State Government may, by rules made under section 72, levy such fees not exceeding —

Levy of fees.

(a) five hundred rupees, for the application for the issue or renewal of a licence for making or manufacturing of any weight or measure,

(b) one hundred rupees, for the issue of a licence for repairing or selling of any weight or measure,

(c) fifty rupees, for the alteration of any licence,

(d) five thousand rupees, on a graded scale, for the verification of any weight or measure, having regard to the time and labour which may be involved in making such verification,

(e) ten rupees, for the adjustment of any weight or measure,

(f) ten rupees, for the issue of a duplicate licence or certificate of verification,

(g) one rupee, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature,

(h) twenty-five rupees, for any appeal preferred under this Act,

(i) five rupees, for application for registration or renewal of registration under section 17.

Delegation of powers.

71. (1) The State Government may, by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 69 (relating to appeal) or section 70 (power to lay down scale of fee) or section 72 (power to make rules), in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the State Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

Power to make rules.

72. (1) The State Government may, by notification and after consultation with the Central Government, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the class of goods, services, undertakings or users in relation to which no transaction, dealing or contract, or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number as required by section 10;

(b) the places at which, and the custody in which, the following standards shall be kept, namely:—

(i) reference standards,

\* \* \* \* \*

as required by section 12 and sub-section (5) of section 14;

\* \* \* \* \*

(d) the time within which an application referred to in sub-section (1) of section 17 shall be made, the particulars which such application shall contain and the form and manner in which such application shall be made;

(e) the form and manner in which the register referred to in sub-section (2) of section 17 shall be maintained;

(f) the form and manner in which an application shall be made under sub-section (3) of section 17;

\* \* \* \* \*

(j) the description of weight or measure which may not be sold by a user except with the written permission of the Controller as required by sub-section (8) of section 19;

\* \* \* \* \*

(m) the period within which weights or measures shall be verified or re-verified as required by sub-section (2) of section 24;

(n) the steps to be taken for verifying any weight or measure which cannot, or should not, be moved from its location, as required by the proviso to sub-section (3) of section 24;

(o) the form in which a certificate of verification of any weight or measure shall be granted as required by sub-section (4) of section 24 and the form in which the certificate referred to in sub-section (5) of section 24 shall be issued and the details which such certificate shall contain, as required by sub-section (6) of section 24;

\* \* \* \* \*



(r) the manner in which, and the conditions, restrictions and limitations subject to which,—

(i) any commodity intended to be sold or distributed, within the State, shall be packaged, or

(ii) the sale or distribution of any commodity in packaged form shall be made within the State,

as required by sub-section (2) of section 33;

\* \* \* \* \*

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

\* \* \* \* \*

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

\* \* \* \* \*

**73. (1)\* \* \* \***

(2) Where the State Government makes a direction under sub-section (1) in relation to any type of weight or measure, any contravention of the provisions of section 39, section 40 or section 41 of the Standards Act in relation to that type of weight or measure shall be an offence punishable under this Act and the punishment provided therefor in the Standards Act shall be deemed to be the punishment provided therefor in this Act as if the said provisions relating to punishment were enacted by this Act.

\* \* \* \* \*

Power of State Government to make provisions of the Standards Act relating to approval of models applicable to models of weights or measures intended to be used exclusively within the State.

RAJYA SABHA

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further to amend the Standards of Weights and Measures (Enforcement) Act, 1985.

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*(Shri Sharad Pawar, Minister of Agriculture, Consumer Affairs,  
Food and Public Distribution)*