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AN ANALYSIS ON LEGAL METROLOGY ACT 2009,
WITH JAN VISHWAS (AMENDMENT OF
PROVISIONS) ACT, 2023

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Abstract

"Customers don't expect you to be perfect but they expect you to fix things when they go wrong." – Donald Porter.¹

In order to amend the Legal Metrology (Packaged Commodities) Rules, 2011, the Ministry of Consumer Affairs, Food, and Public Distribution notified the Legal Metrology (Packaged Commodities) Amendment Rules, 2023 on June 10, 2023. On January 1, 2024, the provisions will take effect.

There existed a mutually beneficial association between metrology and the state. The State demanded measurements in order to supply the data required for efficient coordination, preparation, defense, and taxation. This type of accounting concentrated on standardizing computations over broad geographic regions, a range of industrial and agricultural operations, and work organization. Conversely, Metrology insisted on the State's mandate to guarantee adherence to the measurement standards.

In metrology confidence is generally used to indicate the extent to which the technical requirements for consistency have been met, trust relates to the normative relationship between parties to a transaction. Virtually every commercial transaction has within itself an element of trust, certainly any transaction conducted over a period of time. It can be plausibly argued that

¹ <https://www.google.com/amp/s/guardian.ng/business-services/famous-quotes-on-consumer-awareness/amp> - visited on 19th December,2023

much of the economic backwardness in the world can be explained by the lack of mutual confidence.²

Keywords: Customer, Legal metrology, Packaged commodity, Consumer Affairs

Introduction

The scientific study of measurement is known as metrology. Standards for the control of measurements and measuring equipment are provided by legal metrology. In addition to being crucial for fair trade, legal metrology protects consumers, merchants, the environment, and public safety.

The importer is required by the Legal Metrology (Packaging Commodities) Amendment Rules, 2023, to adhere to the Act's regulations within the allotted time frame. The Legal Metrology (Packaging Commodities) Amendment Rules, 2023 aid in making sure that all producers, importers, and packagers follow the regulations stating the amount, volume, and net weight that must be included in the package in accordance with the Act.

Historical Background of Metrology System:

Legal metrology developed over 5000 years ago with the development of civilizations that required consistency of a wide range of measurements used in everyday life. These included; Time and the calendar, Distance and area, Weights and measures. Babylonians had also units for area and had a fairly accurate water clock. Even though there were many different systems of measurement with entirely different bases these ancient people showed amazing progress in the science of metrology.³

Paralleling the development of the Babylonian civilization was the development of civilization in Egypt. Many historians disagree as to the origin of the Egyptian system. By reading the ancient Greek historian Herodotus we would be led to believe the Babylonian system came first. He speaks of the royal cubit of Babylon and compares it to the Greek cubit.

² Kenneth J. Arrow, *The Limits of Organisation*, W.W.Norton, 1974

³ William Hallock, *Outlines of the Evolution of Weights and Measures and the Metric System*, Wentworth Press, Edition 1907, Pp 14-16

Whichever came first, body measurements served as the foundation for both the Babylonian and Egyptian measuring systems. The rooms in the great pyramid, which dates to 4,000 B.C., have lengths and widths that are equal to one thousand cubits. Some of the oldest pyramids had pictures of balances on their walls, and hieroglyphic tablets have been found to record a wide variety of weight measurements. The use of standard stone weights by the Egyptians was perhaps their greatest contribution to weighing technology. Due to new applications and the impact of conquerors on the nation, the names and bases for weights and measures have changed over time. There's just too much. It would be confusing to try to identify just one set of terms and values as the Egyptian system of measurements.

In Mohen jodaro era (3000B.C.), the size of the bricks all over the region was same. The length, breadth and width of bricks are always in the ratio of 4:2:1 and taken as standard. During Maurya Empire (400 BC), Chanakya (Kautilya) in his famous book, Arthashastra laid down the units of weights and measures and principles of enforcement i.e., legal metrology. In Arthashastra, Chanakya mentions two types of dhanushas as units for measuring lengths and distances. One is the ordinary dhanusha, consisting of 96 angulas, and the other dhanusha is mentioned as garhpatya dhanusha and consists of 108 angulas, used for measurement of roads and distances. Chanakya also mentions that a Dhanurgraha consists of 4 angulas and a yojana consists of 8000 dhanushas. The smallest unit of length was parmanu.⁴

Present legal Framework:

Legal Metrology is the application of legal requirements to measurements and measuring instruments. The objective of Legal Metrology is to ensure public guarantee from the point of view of security and accuracy of the weighments and measurements. Constitutional provisions related with Weights and Measures are:

- Establishment of Standards of Weights and Measures – Under UNION LIST –Entry 50: To frame the Act and Rules, Specification of Standards and International Relations, Training in Legal Metrology etc.⁵
- Weights and Measures except establishment of Standards – under CONCURRENT LIST – Entry 33 A: Enforcement of Legal Metrology.⁶

⁴ Sanjay Kumar Srivastava, MEASUREMENT UNITS OF LENGTH, MASS AND TIME IN INDIA THROUGH THE AGES, International Journal of Physical and Social Science, Vol. 7 Issue 5, May 2017, PP 40-43

⁵ 7th schedule of Constitution of India

⁶ ibid

The Legal Metrology Act, 2009: An Analysis

The Central Government has enacted Legal Metrology Act 2009 which had come into force on 1st April, 2011. This Act rationalizes the units for measurement to be used in India. Act also specifies the Metric System (metre, kilogram etc.) to be used. It regulates the manufacture, sale and use of standard weights and measures. The Legal Metrology Act, 2009 is a single Act covering the provisions of the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985.⁷ It also regulates trade in weights and other goods that are sold or distributed according to weight, measure, or number by establishing uniform standards for weights and measures.

A Director of Legal Metrology may be appointed by the Central Government to carry out tasks pertaining to interstate trade and commerce. A Controller of Legal Metrology may be appointed by the State Government to handle tasks pertaining to intrastate trade and commerce. Before producing or importing a weight or measure, one must obtain the appropriate authority's approval for the model. Additionally, an importer needs to register with the relevant Director. Each manufacturer, seller, and repairer must get a license from the appropriate Controller. Top Each manufacturer, seller, and repairer must get a license from the appropriate Controller. The Act permits test centers approved by the government to confirm weights and measures. The Central Government will have the authority to enact regulations. The following are some of the Act's more salient provisions in brief:

Standard Weights and Measures:

The Act provides that every unit of weight or measure shall be in accordance with Metric System based on the International System of Units.⁸ The base unit of weights and measures as per Sec. 5 of the Act is as under:

- For 'Length' – metre;
- For 'Mass' – kilogram;
- For 'Time' – second;
- For 'Electric current' – ampere;
- For 'Thermodynamic temperature' – Kelvin;

⁷ Vineet Sahay, Legal Metrology Act, 2009: Establish the standards of Weights & Measures, regulate trade and commerce. Indian Legal Metrology System, Available on: <http://www.legalservicesindia.com/>

⁸ Sec. 4 and Sec. 5 of The L.M. Act 2009

- For 'Luminous intensity' – candela;
- For 'Amount of substance' – mole.

The Act provides that the base unit of numeration shall be the unit of international form of India numerals. Every numeration shall be made in accordance with the decimal system. The decimal multiples and sub-multiples shall be of such denominations and be written in such manner as may be prescribed.⁹

Use of Weights or Measures and Prohibition of Quotation:

The Act provides that any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made by such weight, measure or number as may be prescribed.¹⁰ Sec. 11 deals with the prohibition of quotation etc., otherwise than in terms of standard units of weight, measure or numeration. This Section provides that no person shall, in relation to any goods, things or service –

- quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or
- issue or exhibit any price list, invoice, cash memo or other document, or
- prepare or publish any advertisement, poster or other document, or
- indicate the net quantity of a pre-packaged commodity or
- express in relation to any transaction or protection, any quantity or dimension,

Otherwise than in accordance with the standard unit of weight, measure or numeration. The provisions of Sec. 10 will not be applicable for export of any goods, things or service.

Rules frame under the Act:

The following Six rules have been framed under the Act:

- **The Legal Metrology (General) Rules, 2011:** Specifications for weighing and measuring instruments have been prescribed in the Legal Metrology (General) Rules, 2011 which include around 40 types of weighing and measuring instruments such as electronic weighing instruments, weighbridges, petrol pumps, water meter, sphygmomanometer, clinical thermometer etc. These weighing and measuring

⁹ Sec. 6 and Sec. 7 of The L.M. Act 2009

¹⁰ Sec. 10 and Sec. 11 of The L.M. Act, 2009

instruments are used by industries, traders, hospitals and various government and non-government organizations for the weighing and measurement purpose and the end results of the weighing and measuring is directly for the benefit of the common people.¹¹ These weighing and measuring instruments are periodically verified by the State Government officers using the Standard Weights and Measures and the procedure prescribed in the Rules.

- **The Legal Metrology (Packaged Commodities) Rules, 2011:**

‘Pre-packaged commodity’ is defined under the Act as, ‘a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity’¹²

As per the Legal Metrology (Packaged Commodities) Rules, 2011 certain mandatory declarations have to be made on every package, which are:

- i. Name and address of the manufacture/ packers/ importer;
- ii. Country of origin in case of imported packages;
- iii. Common or generic name of the commodity contained in the package;
- iv. Net quantity, in terms of standard unit of weight or measure or in number;
- v. Month and year of manufacture/ pack/ import;
- vi. Retail sale price in the form of Maximum Retail Price (MRP) Rs..... Inclusive of all taxes;
- vii. Consumer care details.

Besides the above, the Government has made it mandatory to pack 19 commodities in the prescribed sizes in the interest of common consumer.

- **The Legal Metrology (Approval of Models) Rules, 2011:**

Before manufacturing or importing any weighing and measuring equipment that is prescribed under the Legal Metrology Act, 2009 and its rules, manufacturers or importers must obtain approval from the Indian government. Certain tools, such as beam scales, cast iron, brass, bullion, or carat weight, length measures (apart from measuring tapes), which are typically used in retail trade to measure textiles or wood, and capacity measures, which don't exceed twenty liters in capacity, don't need to be approved by the model.

¹¹ Available on: <https://consumeraffairs.nic.in/organisation-and-units/division/legal-metrology/overview>

¹² Section 2(l) of L.M. Act, 2009

- **The Legal Metrology (National Standards) Rules, 2011:**
 - Under the Rules there is provision of National Prototypes/various standards are kept at National Physical Laboratory.
 - Reference Standards of weights and measures are kept at Regional Reference Standard Laboratory at Ahmedabad, Bangalore, Faridabad, Bhubaneswar and Guwahati.
 - Reference Standards are used for the verification of Secondary Standards Weights & Measures which are part of state government laboratories.
 - The Working Standard Weights & Measures are available at the district level which are used for the verification of any Weight & Measures used by traders and manufacturers for the transaction and protection purposes. The Working Standard Weights & Measures are verified by the Secondary Standard Weights & Measures.
- **The Legal Metrology (Numeration) Rules, 2011:** Under these rules the provision is made for making Numeration and the Manner in which numbers shall be written.
- **Indian Institute of Legal Metrology Rules, 2011:** Indian Institute of Legal Metrology, Ranchi is the training institute for providing training in the field of Legal Metrology to the Legal Metrology Officers of States/ UTs/ Union of India, under the administrative control of this Department. Under these rules provisions regarding Courses to be imparted at the Institute, Obligatory functions of the Institute, Qualification of persons to be eligible for admission in the Institute are prescribed.

Jan Vishwas (Amendment of Provisions) Act, 2023

(“Amendment Act”)

The objective behind enacting the Jan Vishwas (Amendment of Provisions) Act, 2023 (“Amendment Act”) by the Government of India is to decriminalize and rationalize the offences to further enhance trust-based governance for ease of living and doing business. To reduce the compliance burden on individuals and businesses, the Government took the initiative to reform the archaic rules and regulations that were causing trust deficit amongst the general public and entrepreneurs. It is essential to highlight and analyze the reforms made by the Amendment Act under the Legal Metrology Act, 2009 (“Act”) particularly with respect to decriminalizing certain

offences under the Act.¹³

Through The Jan Vishwas (Amendment of Provisions) Bill, 2023, a total of 183 provisions are being proposed to be decriminalized in 42 Central Acts administered by 19 Ministries/Departments. Decriminalization is proposed to be achieved in the following manner:-

- i. Both Imprisonment and/or Fine are proposed to be removed in some provisions.
- ii. Imprisonment is proposed to be removed and fine retained in few provisions.
- iii. Imprisonment is proposed to be removed and Fine enhanced in few provisions.
- iv. Imprisonment and Fine are proposed to be converted to Penalty in some provisions.
- v. Compounding of offences is proposed to be introduced in few provisions.

For effective implementation of the above, the bill proposes measures such as

- a) pragmatic revision of fines and penalties commensurate to the offence committed;
- b) establishment of Adjudicating Officers;
- c) establishment of Appellate Authorities; and
- d) Periodic increase in quantum of fine and penalties It is also ensured that degree and nature of punishment is commensurate with the severity of the offence.¹⁴

¹³ <https://www.google.com/amp/s/www.livelaw.in/amp/law-firms/law-firm-articles-/jan-vishwas-amendments-legal-metrology-act-2009-ahlawat-and-associates-241409>, visited on 21-12-2023

¹⁴ <https://pib.gov.in/PressReleasePage.aspx?PRID=1945263>, visited on 22-12-2023