



# Legal Metrology Law:

## Complexity and Multiplicity of Compliances

The Packaged Commodity Rules OR the Legal Metrology Laws in India, are driven by a simple logic - “protection of a customer’s interests by making the originator (be it the manufacturer, packer or importer) of goods accountable for such products”, which are meant for consumption by the general public.

The numerous and complex compliance requirements for different types of products and vendors, a lack of practical procedures for revision of the maximum retail price (MRP) and the treatment of imported goods on a par with the domestically manufactured goods (even at the port of import) render these laws highly impractical, ambiguous and prone to litigation. For Example, Rule 6 of the Packaged Commodity Rules alone has more than 30 mandatory compliance requirements for retailers, apart from various other compliances in the subsequent rules. Furthermore, there are many product specific legislations which have their own set of labelling requirements such as the Drugs and Cosmetics Act 1940, the Seeds Act 1966, the Food Safety and Standards Act 2006, the Foreign Trade Policy 2009-2014, Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, etc.

There has been no attempt to consolidate the requirements into a single legislation to make it simpler to follow., the list of compliance requirements involved for labelling sometimes run up to 60– 65 items, which have their source from multiple Acts and Regulations. In view of this stringency, even a very technical instance of non-compliance having no consumer impact whatsoever – for example, making labels in a size marginally smaller than the legal requirement, using non-contrasting colours, smudging the ink (even in a one-off retail pack), failing to mention the net content in the metric system, missing the manufacturing licence number, missing the pin code in the manufacturer’s address, etc. usually leads to the legal metrology officers putting the concerned entity in a precarious situation, issue of show cause notices & thereafter litigations.

As per the last report on India's Foreign Trade prepared by Department of Commerce, Government of India, it reflects that imports during the year 2015, were valued at US \$ 42821.63 million (Rs.264227.44 Crore) representing a growth of 26.79 per cent in Dollar terms and a growth of 24.91 per cent in Rupee terms over the level of imports valued at US \$ 33772.92 million (Rs. 211529.90 Crore) in 2014. Further, as per the Ministry of External affairs, Government of India, the Consumer spending in the country is expected to increase about 2.5 times by 2025. (<http://indiainbusiness.nic.in/newdesign/index.php?param=economylanding/415/1>)

Unfortunately, the Foreign Trade Policy (Specifically Import Policy) has not been amended in line with the amendments made to the Packaged Commodities Rules, and even after the introduction of the new Legal Metrology Law, which makes compliances a nightmare for exporters & importers.

The Ministry of the Consumer Affairs issued proposed amendments to the Act and the Legal Metrology (Packaged Commodities) Rules ("Rules"). The significant amendments to amend the Act and Rules made therein are as under:

1	Definition of Pre-package Commodity	The definition of the term "Prepackage commodity" which is defined under Section 3(l) in the Act presently includes 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.
2	Industrial consumer	In order to exempt items not meant for retail sale, the term "Industrial consumer" which means the consumer who buys packaged commodities directly from the manufacturer for use by that industry the amendment has includes purchase not only from manufacturer but also from importers and wholesale dealers as well. Further, the provision clearly mentions that such purchase is not meant for further retail sale.
3	Declarations on pre-packaged commodities	Section 18 of the Act lays down that no person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed. Rule 6 of the Legal Metrology (Packaged Commodities) Rules, 2011("Rules") explicitly prescribes the mandatory declarations to be specified in all packaged commodities meant for sale, offer for sale distribution, etc. sub clause 3 of Section 18 which states that "the Central Government, may provide for different declarations for different type of pre-packaged commodities as required" is included.
4	Penalties for selling, etc. of non-standard packages:	Section 36 (1) of the Act states that "whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity which does not conform to the declarations on the package as provided in this Act, shall be punished with fine which may extend to twenty-five thousand rupees, for the second offence, with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both."
5	New Provisions	The amendment includes two new Sections i.e. section 36A which states that whosoever fails to comply with the provision of Sub-Section (2) of Section 18 of the Act shall be punished with fine which may extend to ten thousand rupees and for subsequent offence with fine up to fifty thousand rupees. Further Section 36 B states that whoever, sells, distributes, delivers or otherwise transfers any pre-packaged commodity more than the retail sale price shall be punished with fine which shall not be less than five thousand rupees but which may extend to twenty thousand rupees and, for the second or subsequent with fine not less than twenty thousand which may extend to one lakh and for subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

In view of rapid advancement of science & technology and globalization of economies, there has been vast improvement in weighing and measuring techniques and has extended the scope of weights & measures. With the view to establish the standards of Weights & Measures, regulate trade and commerce in Weights & Measures and other goods which are sold or distributed by weight, measure or number and for matter connected therewith or incidental thereto, the Legal Metrology Act, 2009 was enforced on 1-4-2011 and subsequently amendments were made to it. The Legal Metrology Act, 2009 (Act 1 of 2010) repeals and replaces the Standard of Weights and Measures Act, 1976 and the Standards of weights and Measures (Enforcement) Act, 1985. The central government has appointed the date 01.04.2011 from which the provisions of the Act will come into force. The responsibility in relation to legal metrology is shared between the Centre and the States. Matters of national policy and other related functions such as, uniform laws on weights and measures, technical regulations, training, precision laboratory facilities and implementation of the International Recommendation are the concern of the Central Government. The State Governments and Union Territory Administration are responsible for the day to day enforcement of the laws.



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Enforcement of Standards and Weights and Measures Act is entrusted with the Directorate of Legal Metrology in each state which is essentially a 3-tier Organisation comprising Inspectors of legal Metrology at the field level, Assistant Controller of Legal Metrology at the district level and Controller of Legal Metrology with four Deputy Controllers sitting at the State Level. Legislations enacted by Central Government to regulate Legal Metrology:

1. The Legal Metrology Act, 2009
2. The Legal Metrology (Packaged Commodities) Rules, 2011
3. The Legal Metrology (General) Rules, 2011
4. The Legal Metrology (Approval of Models) Rules, 2011
5. The Legal Metrology (National Standards) Rules, 2011
6. The Legal Metrology (Numeration) Rules, 2011
7. The Indian Institute of Legal Metrology Rules, 2011

### Compliance under the Act :

SI	Provisions	Details
1	Applicability:	Persons Engaged in : Manufacturing, Retail or Wholesale trading, Repairing of any weight or measure, Importing and/or Packaging any item. Persons who are using any weight or measure in any transaction or Industrial Production or Protection.
2	Maximum Retail Price (MRP):	The commodities to have the Maximum Retail Price (MRP) printed on the packages along with the words “inclusive of all taxes”.
3	MRP once printed cannot be increased.	Certain items may be packed to offer any free quantity provided it is included in the standard size and the MRP is reduced proportionately. As per the Packaged Commodity Rules, the net content shall not be disclosed if the commodities are given free of cost.
4	Principal display panel	Total area of the pack where all the mandatory requirements are specified in one place, on one side of the pack. No separate sticker should be affixed; No over writing
5	Statutory Declarations on Products	The following mandatory declarations shall be made on the packages either at the factory level or at manufacturing level (depot of the factory). a. The name and address of the manufacturer or packer or importer. b. The common or generic name of the commodity. c. The net quantity of the content. d. Month and year of manufacturer or packing or import. e. Retail sale price: MRP (including all taxes) f. Size/dimension of the commodity when relevant.

		g. Name, address and telephone no. of the Consumer complaint Cell. h. Marking "GM" for genetically modified food items.
6	Re-stickering: Re-stickering is not permissible	Packers are not permitted to affix individual stickers or labels on the package for altering or making declarations. However for reducing the MRP, a sticker with revised lower MRP (inclusive of all taxes) may be affixed and the same shall not cover the MRP declaration made by the manufacturer or the packer, on the label of the package.
7	Import of Products:	To ensure that proper registration is obtained for importing the products. The pre-packed commodities to carry the specific declarations on their labels as specified in the import policy. The importer has to comply with all the necessary declaratory compliances before selling, distributing, delivering, displaying or storing the imported goods.
8	Double stamping	A weight or measure or product manufactured in one state and sold or transferred to another state will require double verification and stamping - both at the end of manufacturing state and at the end of user state.

Note: The provisions of Legal Metrology Act are not applicable for the commodities meant for Industrial Use.

License: Sec. 23 provides that no person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller. No licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.

Section 25 to 47 states penalties for various offences: Sec. 48 deals with the compounding of offences punishable under Section 25, Sections 27 to 39, Sections 45 to 47 or any rule made either before or after the institution of the prosecution on payment for credit to the Government of such sum as may be prescribed. Such sum shall not exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded. Penalties range from Rs 5,000 to Rs 1,00,000 & imprisonment up to two years; and for the second and subsequent offence imprisonment up to 5 years.

Offences By Companies On Nomination: Any company, as per Sec. 49 may, by order in writing, nominate directors to be responsible under Legal Metrology Act for preventing the company of any offence or the company has to give notice to Legal Metrology Director/ Controller/ Authorized legal metrology office in a prescribed form indicating such director has been nominated along with written consents and where a company has different establishments /branches/ units, different persons to be responsible can be nominated. This section also provides nomination to continue until he ceases to be a director or any cancellation notice is received from the company or nominee himself makes a request to cancel the nomination.

The company so convicted under this Act for contravention of any of the provisions thereof, the penalty will be to publish an advertisement in newspapers at the expense of the company as the court may direct. Every decision or order under Sections 15 to 20, Sec. 22, Sections 27 to 39, Section 41 or any rule made there by the legal metrology officer are appealable under Section 50 of the Act.

If convicted or penalty levied, The Directors responsible attract disqualification under section 164 of the Companies Act, 2013 & he shall vacate office under section 167.

### **Challenges**

- There is a lack of practical procedures available for revision of the Maximum Retail Price (MRP) of the products.
- There is a lack of procedure with regard to the treatment of imported goods on par with the domestically manufactured goods (Even at the point of import). This lack would render the Packaged Commodity Rules highly impractical, ambiguous and prone to litigation.
- The Packaged Commodity rules alone have more than 30 mandatory compliances required to be adhered to by the retailers, apart from various other compliances in the subsequent rules.

d. It is very difficult to explain the concerned officers when the goods are meant for wholesale, industrial or institutional consumption. The labelling requirements shall not be applicable if the goods are not meant for retail sale. Therefore, the industry is forced to approach the courts to give relief from the ambiguity and inflexibility of legal metrology and labelling law regime in the country.

e. The exporter located in a foreign territory would be unaware of the Indian labelling laws therefore such goods are always prone to inadvertent non-compliance.

f. Similarly when the transactions are not linear (i.e. Goods passed on to many buyers through high sea sale agreement) there is very little scope for complying with the labelling laws.

3M India Limited (3M) was recently involved in a litigation with the officers of the Legal Metrology Department in Mumbai for not disclosing an email id for consumer complaints, thereby allegedly violating Section 6(2) of the Legal Metrology (Packaged commodities) Rules, 2011. A criminal complaint was filed against 3M and its entire Board of Directors and certain products of 3M were seized by the department. The company later filed an application before the Bombay High Court seeking quashing of the complaint and setting aside of the impugned complaint and order of issuance of summons, The Bombay High Court was pleased to quash the entire criminal complaint.