

# Legal Metrology Act, 2009

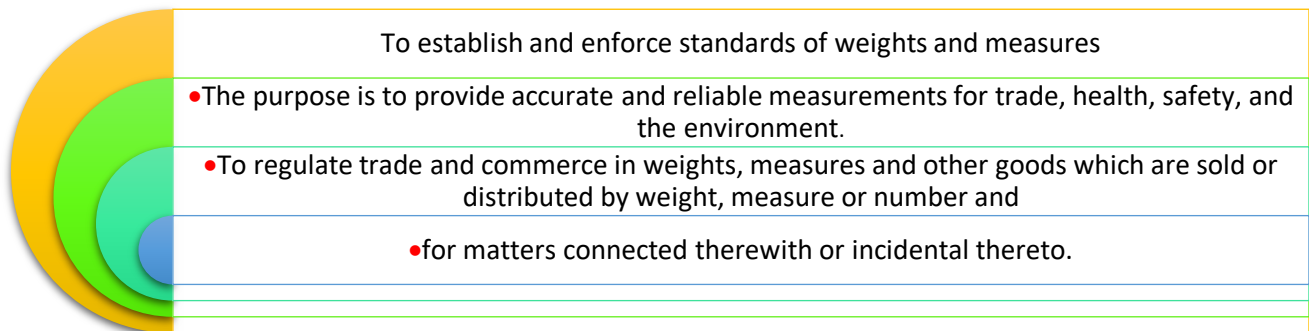
## Introduction –

**Legal Metrology** is the application of **legal** requirements to measurements and measuring instruments.

The purpose of **Legal Metrology** is to ensure public guarantee from the point of view of security and accuracy of the weighments and measurements

## Objective of the Act –

Objective of Legal metrology Act, 2009 are as follows –



## International Organization of Legal Metrology (OIML) –

### A) What is OIML?

- The International Organization of Legal Metrology (OIML) is an **intergovernmental organisation (IGO)**.
- It was created in the year 1955 to promote the global harmonization of legal metrology procedures.

### B) Founder – founded in the year 1955,

### C) Headquarters – Paris, France.

### D) Legal metrology as defined by OIML –

According to OIML legal Metrology is the entirety of the legislative, administrative and technical procedures **established by, or by reference to public authorities, and implemented on their behalf in order to specify and to ensure, in a regulatory or contractual manner,** the appropriate quality and credibility of measurements related to official controls, trade, health, safety and the environment.

### E) Categories of members of OIML –

There are two categories of OIML Members –

- a) Member States; and
- b) Corresponding members.

#### **OIML Certificate System for Measuring Instruments –**

- 1) The OIML Certificate System for Measuring Instruments was **introduced in 1991**
- 2) The System provides the possibility for a manufacturer to obtain an OIML Certificate and a Test Report indicating that a given instrument type (pattern) complies with the requirements of the relevant OIML International Recommendations.
- 3) Certificates are delivered by OIML Member States that have established one or several Issuing Authorities responsible for processing applications by manufacturers wishing to have their instrument types (patterns) certified.

#### **Important Definitions under the Act –**

##### **Legal Metrology – Section 2(g)**

Legal Metrology means that part of metrology which treats units of weight and measurement, methods of weight and measurement and weighing and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the weighments and measurements

##### **Manufacture – Section 2(i)**

“manufacturer” in relation to any weight or measure, means a person who –

- manufactures weight or measure,
- manufactures one or more parts, and acquires other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,
- does not manufacture any part of such weight or measure but assembles parts thereof manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,
- puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be;

##### **Person – Section 2(m)**

“Person” includes –

- ✓ a Hindu undivided family,
- ✓ every department or office,
- ✓ every organisation established or constituted by Government,
- ✓ every local authority within the territory of India,
- ✓ a company, firm and association of individuals,
- ✓ trust constituted under an Act,
- ✓ every co-operative society, constituted under an Act,
- ✓ every other society registered under the Societies Registration Act, 1860;

##### **Premises – Section 2 (n)**

“Premises” includes—

- a place where any business, industry, production or transaction is carried on by a person, whether by himself or through an agent, by whatever name called, including the person who carries on the business in such premises,
- a warehouse, godown or other place where any weight or measure or other goods are stored or exhibited,
- a place where any books of account or other documents pertaining to any trade or transaction are kept,
- a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade,
- a vehicle or vessel or any other mobile device, with the help of which any transaction or business is carried on

### Standard Weights and Measures –

#### 1) Section 4 =

Section 4 of the Act provides that every unit of weight or measure shall be in accordance with the metric system based on the international system of units.

#### 2) Section 5 =

The base unit of weights and measures as per section 5 is as follows –

Particulars	Base unit
Length	Meter
Mass	Kilogram
Time	Second
Electric current	Ampere
Thermodynamic Temperature	Kelvin
Luminous intensity	Candela
Amount of substance	Mole

#### 3) Section 6 =

- Section 6 states that the base unit of numeration shall be the unit of the international form of Indian numeral.
- Every numeration shall be made in accordance with the decimal system.
- The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as may be prescribed.

#### 4) Section 8 =

- No weight, measure or numeral, other than the standard weight, measure or numeral, shall be used as a standard weight, measure or numeral.
- No weight or measure, shall be manufactured or imported unless it conforms to the standards of weight or measure

#### Note –

**The aforesaid provisions shall not apply for manufacture done exclusively for export or for the purpose of any scientific investigation or research.**

**5) Section 11 =**

Any person shall not quote or make announcement of any price or charge whether by word of mouth or otherwise 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 which is not in accordance with the standard unit of weight, measure or numeration.

**Note –**

**Provisions mentioned above shall not be applicable for export of any goods, things or service.**

**6) Section 12 –**

Any custom, usage, practice or method which permits a person to demand, receive or cause to be demanded or received, any quantity of article, thing or service in excess of or less than, the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, **shall be void.**

**Appointment and Power of Director, Controller and legal metrology officers –**

**1) Appointment by CG – Section 13**

- a) **CG has the power** to appoint a Director of legal metrology, Additional Director, Joint Director, Deputy Director, Assistant Director and other employees for exercising the powers and discharging the duties under this Act in relation to inter-State trade and commerce.
- b) Every legal metrology officer shall exercise powers and discharge duties under control of the Director.

**Note –**

- **The Director, the Controller and every legal metrology officer shall be deemed to be a public servant**
- No suit, prosecution or other legal proceeding shall lie against the Director, the Controller and legal metrology officer authorised to perform any duty in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made

**Power to delegate (transfer) –**

The Central Government with the consent of the State Government delegate the powers of the Director to the Controller of legal metrology in the State, and such Controller if he is of opinion that it is necessary in the public interest so to do, delegate such of the powers delegated to him to any legal metrology officer and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

**2) Appointment by SG – Section 14**

- SG may appoint a Controller of legal metrology, Additional Controller, Joint Controller, Deputy Controller, Assistant Controller, Inspector and other employees for the State for

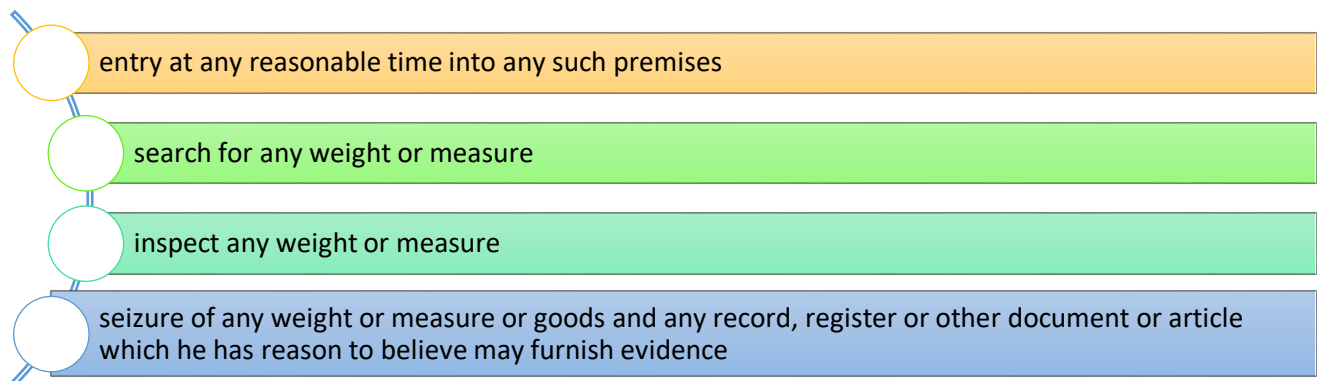
exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to intra State trade and commerce.

- The Controller and every legal metrology officer so appointed shall exercise such powers and discharge such functions in respect of such local limits as the State Government may specify.
- Every legal metrology officer shall exercise and discharge the duties under the general superintendence, direction and control of the Controller.

#### Power of inspection, seizure – Section 15

- If Director, Controller or any legal metrology officer has any reason to believe that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation then such Director, Controller or any legal metrology officer will have power of inspection.
- Such information may be received from any person or from personal knowledge or otherwise

**Powers of** Director, Controller or any legal metrology officer during inspection –



#### Note –

Where any goods seized are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

#### Forfeiture –

- Every non-standard or unverified weight or measure and every package used in any trade and commerce and seized under section 15, shall be liable to be forfeited, to the State Government.
- However, such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.
- Every weight, measure or other goods seized under section 15 but not forfeited shall be disposed of by such authority and in such manner as may be prescribed.

#### Manufacturers. etc., to maintain records and registers – Section 17

- ✓ Every manufacturer, repairer or dealer of weight or measure shall maintain such records and registers as may be prescribed.
- ✓ The records and registers maintained shall be produced at the time of inspection to the persons authorised for the purpose of Inspection.

#### **Declarations on pre-packaged commodities – Section 18**

- a) 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.
- b) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.

#### **Registration for importer of weight or measure – Section 19 and 20**

- No person shall import any weight or measure unless he is registered with the Director in such manner and on payment of such fees, as may be prescribed – Section 19
- No weight or measure, whether singly or as a part or component of any machine shall be imported unless it conforms to the standards of weight or measure established by or under this Act – Section 20

#### **Approval of model –**

- Every person, before manufacturing or importing any weight or measure shall seek the approval of model of such weight or measure from such authority as may be prescribed.
- **However, such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors.**

#### **Note –**

If the prescribed authority is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established under this Act then he may approve such model without any test or after such test as he may deem fit.

#### **Prohibition manufacture, repair or sale of weight or measure without licence – Section 23**

- ✓ Any person shall not 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.
- ✓ However, 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.

#### **Verification and stamping of weight or measure – Section 24**

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 is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified.

**Offences and penalties –**

Grounds for Penalty	Penalties
Penalty for use of non-standard Weight or measure – <b>Section 25</b>	fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.
Penalty if any person tampers with, or alters in any way, any reference standard, secondary standard or working standard or increases or decreases or alters any weight or measure with a view to deceiving any person – <b>Section 26</b>	fine which may extend to fifty thousand rupees and for the second and subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine or with both.
Penalty if any person who manufactures or causes to be manufactured or sells or offers, exposes or possesses for sale, any weight or measure which does not conform to the standards of weight or measure specified by or under this Act – <b>Section 27</b>	fine which may extend to twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both.
penalty for transaction in contravention of standard weight or measure – <b>Section 30</b>	fine which may extend to ten 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
Penalty for failure to submit returns, maintain any record or register or failure to produce any weight or measure or any document, register or other record for inspection for inspection to the officers – <b>Section 31</b>	fine which may extend to five 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 rendering any service through means other than the standard weight or measure – <b>Section 35</b>	fine which shall not be less than two thousand rupees but which may extend to five 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, or with fine, or with both.
Penalty for any person who 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 – <b>Section 36</b>	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
Penalty for vexatious search – Any officer who knows that there are no reasonable grounds for so doing, and yet searches, or causes to be searched, any house,	with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

<p>conveyance or place; or searches any person; or seizes any weight; measure or other movable property – <b>Section 42</b></p>	
<p><b>Penalty for counterfeiting or seals – Section 44</b>  <b>Any person who</b> counterfeits any seal specified under this Act or sells or otherwise disposes of any counterfeit seal or possesses any counterfeit seal, or counterfeits or removes or tampers with any stamp specified under this Act or affixes the stamp so removed on, or inserts the same into, any other weight or measure.</p>	<p>imprisonment for a term which shall not be less than six months but which may extend to one year 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 five years.</p>

**Compounding of offence –**

- ✓ Offences under the Act is compoundable.
- ✓ Offences can be compounded after making payment to the government.
- ✓ 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.