

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 6 | Issue 3

---

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Decriminalization of Legal Metrology

---

VILAS PUNDLIKRAO KALODE<sup>1</sup> AND DR. RANJAN DUBE<sup>2</sup>

## ABSTRACT

*The Department of Legal Metrology's work for the Government of India entails, among other things, the implementation of the provisions of the Legal Metrology Act, 2009, and the Rules made thereunder. This is done by standardising the weighing and measuring instruments that are used in Trade and Commerce in order to provide the general public with a promise of the safety and precision of weights and metrics. The previous experience with implementing the Act and its Rules demonstrates that compliance can be secured to accomplish the purposes of the Act due to the prohibitive nature of the measures that are now in place. This is a possibility since the restrictions that are already in place have a dissuasive effect. Because they are afraid of being sued for the second and future offences, members of the Trading Community want to avoid committing repeated infractions. Traders are aware that these cases will go to court if the Legal Metrology Authorities (LMOs) identify a violation under certain non-compoundable components; hence, enforcement officers are not discovering any breaches in this regard. The traders are aware that any infractions would result in legal action. The above information can lead one to the conclusion that the existing limits are an effective enough deterrent and that compliance can be guaranteed. Any attempt to decriminalise the current Act and Rules, particularly critical portions, would decrease the deterrent component of the Act, and the Act's aims would not be attained as a result of such an endeavour. In light of these issues, the objective is to decriminalise some sectors that either do not need men's rea or have more customers who are adversely impacted. The proposal calls for a review of the penalties that are outlined in the legislation between sections 53 and 26 of the Legal Metrology Act. These penalties include the following: the manufacturing or sale of non-standard weights and measures; the tampering with weights and measures licences; the use of non-standard units; the use of nonverified weight measures; the use of non-standard units; the failure to produce required documents; the sale and keeping for sale of non-standard packaging without a declaration; and the failure has been proposed that a compoundable payment may range from one lakh to 10 lakhs; nevertheless, licences would be revoked. As a result of this, imprisonment as a form of punishment is promoted in order to lessen the efficacy of the penalty as a deterrent. It has been suggested, with the goal of achieving the same level of*

---

<sup>1</sup> Author is a Research Student at G. H. Raisoni Law University, Amravati, India.

<sup>2</sup> Author is a Professor at Raisoni Center of Research and Innovation, G. H. Raisoni Law University, Amravati, India.

*decriminalisation, that specific offences, such as tampering with licences or altering weights and measures, should be compoundable for second and subsequent offences.*

**Keywords:** *Legal Metrology, Packaged Commodities, Decriminalization, Weights and Measures.*

## **I. INTRODUCTION**

The purpose of the implementation of the provisions of the Legal Metrology Act, 2009, and the Rules made in accordance with those provisions by the Department of Legal Metrology of the Government of India is to standardise the weighing and measuring instruments that are used in Trade and Commerce in order to guarantee the safety and precision of the weights and measurements. This will be accomplished by the following: The previous experience with implementing the Act and its Rules demonstrates that compliance can be secured to accomplish the purposes of the Act due to the prohibitive nature of the measures that are now in place. This is a possibility since the restrictions that are already in place have a dissuasive effect. Because members of the Trading Community are concerned about facing legal repercussions for repeat offences, they make every effort to abstain from doing such acts in the future. Traders are aware that non-compoundable offences will be prosecuted in court in the event that Legal Metrology Officials (LMOs) find a breakdown in compliance with these rules. The officials are not finding any violations of these non-compoundable provisions in their investigations. Traders are aware that any violation of the rules by the Legal Metrology Officials would result in their being taken to court (LMOs). The above information can lead one to the conclusion that the existing limits are an effective enough deterrent and that compliance can be guaranteed. Any attempt to decriminalise the current Act and Rules, particularly critical portions, would decrease the deterrent component of the Act, and the Act's aims would not be attained as a result of such an endeavour.

### **(A) History of the Metrology:**

Weights and Measures are within the jurisdiction of the Union Parliament thanks to Article 50. Although the legislative authority to enact Weights and Measures legislation in areas other than the adoption of Standards is granted to state legislatures by item no. 29 of the State list, this item is not included on the State list itself. In the year 1956, the Indian Union Parliament passed a bill that created weights and measures. In 1956, Congress passed a law called the Standards of Weights and Measures Act. The legislation needed to implement these conditions was drafted by state legislatures in accordance with entry 29 of the State list, and enforcement was carried out in accordance with the laws prepared by those legislatures. Because India is a signatory to

the metre convention, it is required to pass legislation to give effect to the recommendations of the CGPM, to accommodate them, to make rules that are in step with global trends in Legal Metrology, and to extend the scope of the Standards Act, 1956 to include our industries. Because it was a signatory to the metre convention, India was required to comply. The Standards of Weights and Measures Act, 1976 was passed by the government of India after it was recommended by the committee. Serial No. 29 was transferred from the State list to the Concurrent list as a result of the 42nd Amendment Act. It has been given the new serial number 33A, and any issues about compliance with the law have been moved to the Concurrent list. In 1985, the Union Parliament passed the Standards of Weights and Measures (Enforcement) Act in order to make certain that the Standards of Weights and Measures were followed to the letter. The guidelines for regulated packaged commodities may be found in the Weights and Measures (Packaged Commodities) Rules from 1987. 2009 saw the consolidation of two pieces of legislation: the Standards Act from 1976 and the Standards of Weights and Measures (Enforcement) Act from 1985. The Legal Metrology Act was enacted by the Union Parliament back in 2009, and it has since gone into force.

1) The Legal Metrology Act, 2009
2) The Legal Metrology ( Packaged Commodities ) Rules, 2011
3) The Legal Metrology ( Numeration) Rules,2011
4) The Legal Metrology ( General) Rules,2011
5) The Legal Metrology ( National Standards) Rules,2011
6) The Legal Metrology ( Approval of Models) Rules,2011
7) The Indian Institute of Legal Metrology Rules,2011
8) The Andhra Pradesh Legal Metrology (Enforcement ) Rules,2011
9) The Legal Metrology ( Government Approved Test Centre) Rules, 2013

The Weights and Measures Act of 2009, which is also known as the Legal Metrology Act, is a piece of legislation that was passed in 2009 and is responsible for establishing and enforcing Weights and Measures standards as well as supervising commercial activity throughout the country. In Chapter V of the Legal Metrology Act, offences and their associated penalties are outlined. Infractions of the Legal Metrology Act are on par with other types of criminal activity and might result in incarceration if proven. When a Legal Metrology Officer (LMO) discovers a violation during an inspection or on the basis of a complaint, he is required to send a notification to the individual who is accountable for the infraction. It is possible for the person

to "compound" the offence by paying the necessary compounding fee, at which point the matter will be ended and future actions will be halted if the individual agrees with the notification. In the event that the person who was given notice by the LMO is of the opinion that the accusations made by the Inspector are false, that person has the right to appeal the decision or order made by the LMO to the Controller of Legal Metrology, and subsequently to the State Government. A decision will be made about the case after the appeals have been heard and evaluated. In the case of offences that cannot be compounded, the LMO is required to submit paperwork to the court in order to initiate legal procedures. This is the case regardless of whether or not an appeal is lodged by either the Controller of Legal Metrology or the State Government. The LMO's claims might be upheld by the Court, or they could be dismissed. Infractions of the Legal Metrology Act that are the defendant's first, second, or subsequent offence do not require the defendant's arrest. The cases documented by the Legal Metrology Officer if compounding was not done, or those filed in the Court of Law, and the court, after following the proper procedure, summons the offenders, who may be present in person or by his Advocate. If compounding was done, the cases are documented by the Legal Metrology Officer. In the event that a defendant who is summoned to appear in court does not do so, the court may either issue a fresh summons or an arrest warrant. Bail must be posted if there is a warrant. Infractions of men's rea are required to be adjudicated by a court. In addition, it is the responsibility of the Criminal Courts to control violations that are detrimental to the public interest. Compoundable crimes are ones that are caused by carelessness or inadvertent omission and do not impact the public interest. These crimes may be added together to create a more serious offence. Several state governments are opposed to the concept of decriminalising violations of the 2009 Legal Metrology Act. This is due to the fact that the majority of these violations are done with a minor or criminal intent, or because they impair the public interest. The Weights and Measures Commerce Act of 2009, which is referred to simply as "the Act" was signed into law in 2009 to establish and enforce weights and measures standards as well as to monitor the weights and measurements trade throughout the country. The Act includes a chapter that outlines offences and their associated punishments. Infractions of this Act are considered to be criminal offences, and the prescribed penalty is imprisonment for the offender. During the course of an inspection or in response to a complaint, an Inspector or Legal Metrology Officer will deliver a notice of violation to the offender. The receiver of the notification may compound the offence by paying the fine, at which point the situation will be resolved if he accepts the notice. If the person who received the notice has a different opinion, the case won't be closed. In the event that the receiver of the notice disagrees with the Inspector's assertions, he or she has the right to appeal the

judgement or order issued by the Legal Metrology officer to the Controller of Legal Metrology, and the orders issued by the Controller can be appealed to the State Government. The person who received the notice has the option of submitting an appeal if they do not agree with the allegations made by the Inspector. In the event that a violation is not compounded and no appeal is submitted to the Controller or the State Government, the Inspector (LMO) may choose to launch a case in court. It is up to the Court to decide whether or not to sustain the Inspector's case or to dismiss the accusations as unreasonable. It is not necessary to arrest someone for a first, second, or subsequent offence under the Legal Metrology Act. This includes any future infractions. In the event that compounding is not done, cases that have been booked by the Inspector of Legal Metrology (LMO) are brought to the Court of Law, and the Court summons the offenders, who may appear in person or through an Advocate. In the event that compounding is not done, cases that have been booked by the Inspector of Legal Metrology (LMO) are brought to the Court of Law. If a person is ordered to appear in court but fails to do so, the court may either issue a second summons or a warrant for the individual's arrest. Bail must be posted if there is a warrant. In contrast to civil wrongs, criminal offences almost always need evidence beyond the shadow of a doubt, which is a higher standard. There is widespread scepticism over the ability of the criminal justice system to address unethical behaviour; many technically offences may be reclassified as civil liabilities. As a result of this, it is essential to conduct an investigation into the nature of the non-compliance, such as whether it was due to fraud, negligence, or an inadvertent omission, and whether or not the public interest was compromised. In order to be eligible for decriminalisation, criminal offences must be devoid of mens rea and be detrimental to the public interest. The civil and criminal penalties imposed by the Legal Metrology Act of 2009 need to be evaluated to determine whether or not they are appropriate for imposing criminal liability. Conduct research on the Act to determine whether or not certain violations are eligible for compounding. In its current iteration, the Legal Metrology Act stipulates that an appeal can be lodged with the Controller in the event that an order was issued by a Legal Metrology Officer of the State Government, and that an appeal can be lodged with the State Government in the event that the Controller issued an order. In addition, an appeal can be lodged with the Controller in the event that the State Government issued an order. In conclusion, it is necessary to investigate whether the second or subsequent offence should continue to be punished in the same manner as it is now, be reduced to just a fine, be reclassified as a civil offence, be dealt with by a new system, or be eliminated entirely. In the event that the infraction does not make amends for the offence, the Local Municipal Officer (LMO) has the authority to request that the relevant Central or State Government or

Authority revoke the licence or permission in question. It is essential to evaluate the adequacy of the existing criminal and adjudicatory procedures, as well as the practicability of alternative approaches, in order to guarantee prompt and efficient enforcement while preserving the viability of the Legal Metrology Act. This guarantees that the act will have the desired consequence. The recommended amount of the fine is the most that may be imposed; however, state governments have the ability to choose the actual amount depending on the gravity of the infraction.

## **II. NOMINATION**

The Legal Metrology Legislation of 2009, which was passed in 2009 to regulate and enforce corporate weights and measures, has been criticised for its stringent penalties for a significant amount of time. The act was adopted in 2009 to control and enforce corporate weights and measures. The publication of stakeholder consultation on the decriminalisation of the 2009 Legal Metrology Act was carried out by the Department of Consumer Affairs. The much-anticipated respite for directors who are attempting to steer clear of "criminality" is one step closer to being a reality. The development of the Legal Metrology Act in a nutshell Trade has always been the engine that drives economic activity. The necessity for consistency in people's trading practices led to the creation of coins. Coins eventually became the most common form of payment, which led to an increase in both price and quantity. Back then, limits imposed by technology made communication and advertising more difficult. Traditional methods of measuring the amount, such as putting stones in balances, were unsuccessful because they enabled dishonest business practices that were harmful to customers and permitted dishonest business practices. The urge to standardise different weights and units of measurement may be traced back to the beginning of human existence. The United States passed the Standards of Weights and Measures Act in 1956, at a time when the world was becoming a smaller place, economies were becoming more linked, and international organisations such as the International Organisations for Legal Metrology were being established. These occurrences were the impetus for taking this action. In order for the government to remain current with the rapid pace of economic progress, these Acts were amended in 1977 and 1985. Because of this, they were able to meet the most recent unit standard. Globalization gave rise to new challenges as a result of the increased sophistication of businesspeople in contrast to the continued innocence of consumers. The Legal Metrology Act of 2009 was passed into law in order to safeguard the most defenceless customers. Since the Act was passed into law, several social media platforms have emerged, making the production and consumption of information much less complicated. It may just take one post for poor advertising to become widespread. Because there is no limit

to the number of possibilities, cutting corners on quality might be fatal. Outsourcing is commonplace in today's globally integrated economy. It's possible that the Act will have an impact on millions of people all around the globe, all because of one person. As a direct result of this, a shift is essential.

### **III. LEGISLATION**

For the purpose of discouraging unethical business practices, the Act establishes both criminal and civil penalties. In most cases, criminal consequences are meted out when offences are not piled on top of one another. There are then two repercussions. It increases the bar for proving an offence, leaving an opening for those who do wrongdoing to slip through. The inability of law enforcement to establish a crime "beyond a reasonable doubt," particularly men's rea, is a significant obstacle. Both on a micro and a macro scale, this is terrible for the Indian market since it casts doubt on the validity of items. This is bad for consumer rights on a micro-scale and terrible for the market on a macro one (suspicion on the printed date of manufacturing, date of import, weight claimed, marketed by, etc). Men's rea is an intriguing legal concept because to the fact that it sets a high standard for determining culpability and often results in criminal punishment even when the violation was not done with intent. Second, the Act has an impact on business activities that take place in India. In order to ensure that the "person(s) in charge of the business" are held criminally responsible for the majority of the offences that are covered by the Act, the definition of "person(s) in charge of the business" has gone through a number of iterations over the course of the Act's history. At one point, it included the board of directors; at another point, it was restricted to a single nominated director.

### **IV. PROPOSED AMENDMENTS**

#### **(A) Penalties and Preventive Measures**

In light of these issues, the objective is to decriminalise some sectors that either do not need men's rea or have more customers who are adversely impacted. The proposal calls for a review of the penalties that are outlined in the legislation between sections 53 and 26 of the Legal Metrology Act. These penalties include the following: the manufacturing or sale of non-standard weights and measures; the tampering with weights and measures licences; the use of non-standard units; the use of nonverified weight measures; the use of non-standard units; the failure to produce required documents; the sale and keeping for sale of non-standard packaging without a declaration; and the failure. It has been proposed that a compoundable payment may range from one lakh to 10 lakhs; nevertheless, licences would be revoked. As a result of this, imprisonment as a form of punishment is promoted in order to lessen the efficacy of the penalty



as a deterrent. To reiterate, in order to achieve the same level of decriminalisation, some offences, such as tampering with licences or weights and measures, filing false reports, and keeping fraudulent records, should be compoundable for second and subsequent offences.

### **(B) Person in charge of the conduct of business**

Because of the need that a director is nominated as a "person in charge of the conduct of business," in accordance with Section 49 of the Legal Metrology Act, nominations should be made at the management level. According to Section 49 of the Legal Metrology Act, a director has to be a "person in charge of the conduct of business." in order to be eligible for the position. The day-to-day operations of the organisation are handled by its Managers, not its Directors. That is the reason. This is the thinking behind the policy. A gap in the 1976 Act was filled by Section 49 of the 2009 Act, which authorised the filing of criminal charges against a company's directors or partners for the first time. The Act of 2009 rectified this error. It is necessary, in accordance with the method, to move the problem forward by one step in order to absolve the directors of any legal responsibility and put the managers in the line of fire.

### **(C) Selling above MRP – Section 36 (1) A**

In conclusion, the recommendation proposes adding subsection A to section 36 in order to deal with excessive pricing. Regulation of excessive pricing may be found in Section 32(3) of the Legal Metrology (Packaged Commodities) Rules, 2011, which was updated in 2013. The breach of selling an item for more than its MRP is considered to be compoundable and is subject to a punishment of 2,000 rupees for a wholesaler or retailer and 5,000 rupees for a manufacturer or importer. This is supported by a regulation that was made in 2018 that makes it illegal to declare two MRPs. If the Criminal Procedure Code is amended by adding section 36 (1) A, the amount of the fine for first-time offenders will rise to between 5,000 and 25,000 rupees, while the amount of the fine for second and subsequent offences would increase to between 50,000 and 1 lakh rupees.

## **V. CONCLUSIONS**

### **(A) Increase in Penalties**

The Act's problems are solved by decriminalisation, which does not compromise the Act's aims in any way. A fine or the suspension of a driver's licence may be just as effective as serving time in prison. They would not be able to escape with men's rea if they were subjected to further penalties. Because of the increased burden of proof, many people who have committed wrongdoing are not brought to justice. Offenders may be able to reduce their court petitions by

pleading guilty and paying compounding fees as the number of compoundable offences they commit increases. Helps to cut down on court work.

### **(B) Cancellation of Licenses**

It is possible that revoking or suspending licences for violating the majority of rules is not the appropriate reaction; the issue has to be managed with prudence. A severe penalty is not required given that the elimination of criminal penalties would lessen the burden of the courts. To do so would result in an increase in the number of legal cases, which would be counterproductive to the overall goal. Instead, it would have a substantial impact on the firm, which would find itself footing the bill for the acts of a third party without bearing any responsibility for those actions. If one of a company's locations violates the terms of its licence, the whole company runs the danger of having all of its licences revoked. The presence of many locations increases the likelihood of a violation. This would contravene the ethics and fairness of the law, making it more difficult to do business.

### **(C) Nomination of Managers**

The idea that directors should be held responsible for the poor performance of managers even when they are not actively involved in day-to-day operations is the second essential component of the proposal to decriminalise drug use. Directors are entitled to a part of the company's profits, whereas managers are only paid their salaries. The participation of the Board guarantees compliance. This modification may be nullified if all of the charge's responsibilities were transferred to management, which would defeat its purpose. Even while the whole board of directors cannot be held liable for their actions, individual managers are nonetheless required to answer for their behaviour.

### **(D) Introduction of Section 36(1)A**

Although it is desirable in many contexts, decriminalisation is not a "one size fits all" improvement option that can be applied universally. For some offences, incarceration serves as an appropriate kind of atonement. Selling items at a price that is higher than the MSRP violates the rights of consumers and is an insult to honest and ethical business practices. It's the Coronavirus of everyday corporate misconduct, which means it's incredibly infectious across company sectors and organisational structures. In other words, it's a business crime epidemic. When it comes to cons that involve a million dollars, a few thousand dollars is not very much. The government has to give some thought to how severe sanctions may be enforced in order to make this kind of behaviour illegal. The examination of digitization that is required by the Legal Metrology Act is also eagerly expected, and the fact that it is not included in the plan has left

many questions unanswered. The government is required by the Legal Metrology Act to investigate the possibility of digitalizing the process. From this vantage point, the future of customers seems to be bright. The Indian government is keen to improve efficiency and transparency through digitization for its consumers, as shown by the notification dated October 13, 2020, which announced the online nomination of directors and required online nomination requests. The notice's intention was to safeguard consumers. Because of the flaws in the Legal Metrology Act, it is important to work for decriminalisation.

\*\*\*\*\*

## VI. REFERENCES

### BOOKS

- Dr Madhav Sanap (Dr FPC) --- Manual of Legal Metrology 2011.
- Special Inspector General of Police (Dr.) and Ex-Controller of Legal Metrology, Maharashtra
- T. Singerwel (IPS), Ex-Controller of Legal Metrology, Maharashtra Packaged Commodities, - Compendium of Laws and Rules, Published by, Saket Enterprises, Mumbai.
- Jain M. P. (Prof.) - Indian Constitutional Laws, - Sixth Edition, Published by Lexis Nexis.
- Pande J. N. (Dr.) - Constitutional Laws of India, - Fourth Edition.
- T. Padma (Dr.) - The Research Methodology.

### INTERNET WEBSITES COLLECTIONS

- [www.legal metrology.com](http://www.legal metrology.com)
- [www.isspa.org](http://www.isspa.org)
- [www.legalservices india.com](http://www.legalservices india.com)
- [www.lakshmisri.com](http://www.lakshmisri.com)
- [www.news andpublicationarticals.com](http://www.news andpublicationarticals.com)

### ACTS

- The Legal Metrology of Weights Act-2009
- The Standards of Weights and Measures Act-1976.
- The Standards of Weights and Measures (Enforcement) Act 1985
- The Standards of Weights and Measures (Packaged Commodities) Rules-1977
- The Legal Metrology (Packaged Commodities) Rules 2011
- The Maharashtra Legal Metrology (Enforcement) Rules 2011
- The Consumer Protection Act-1986.
- The Right of Information Act 2005.

\*\*\*\*\*