

Legislative Brief

The Legal Metrology Bill, 2008

The Bill was introduced in the Rajya Sabha on October 24, 2008.

The Bill was referred to the Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution (Chairperson: Shri Devendra Prasad Yadav), which submitted its report on February 20, 2009.

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Highlights of the Bill

- ◆ The Legal Metrology Bill, 2008 seeks to repeal the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985. It also seeks to establish uniform standards of weights and measures, regulate trade in weights, and other goods which are sold or distributed by weight, measure or number.
- ◆ The central government may appoint a Director of Legal Metrology to perform duties related to inter-state trade and commerce. The state government may appoint a Controller of Legal Metrology to perform duties related to intra-state trade and commerce.
- ◆ A person has to get approval of the model of a weight or a measure before manufacturing or importing it by the prescribed authority. Also, an importer has to register with the Director.
- ◆ Every manufacturer, repairer and seller has to obtain a licence from the Controller. The Bill allows government approved test centres to verify weights and measures.
- ◆ The central government shall have the power to make rules.

Key Issues and Analysis

- ◆ The Bill allows a company to nominate one of its directors to be responsible if a company commits an offence. However, this provision could be misused by a company wherein it can nominate any person as a Director and make him a scapegoat for any offence committed.
- ◆ The appeals procedure does not follow the principal of separation of power because it allows senior government officers to act as an appellate body instead of courts.
- ◆ The Bill is not clear whether imported pre-packaged goods can display other units in addition to the standard unit of weights and measures. Also, non-metric system is used in land measurement.
- ◆ The Standing Committee examining this Bill recommended that “government approved test centre” to verify weights and measures should not be allowed; rule making powers should remain with the state governments since local conditions differ from state to state and there should be provision for cognizance of offence.

PART A: HIGHLIGHTS OF THE BILL¹

Context

In India, uniform standards of weights and measures based on the metric system are enforced by two laws. The Standards of Weights and Measures Act, 1976 establishes standards of weights and measures and regulates inter-state trade in weights, measures or numbers. The Standards of Weights and Measures (Enforcement) Act, 1985 provides for allowing the state governments to enforce the standards of weights and measures.

Two Bills were introduced in Parliament on March 10, 2005 to amend these two Acts. The Standing Committee on Food, Consumer Affairs and Public Distribution examined the two Bills and recommended that the two Acts should be consolidated into one legislation to bring clarity and remove discrepancies and inconsistencies.² The two Bills were withdrawn in the monsoon session of 2008.

The Legal Metrology Bill, 2008 seeks to repeal the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, get rid of anomalies and make the provisions simple.

Key Features

The Bill seeks to establish uniform standards of weights and measures, regulate trade in weights, and other goods which are sold or distributed by weight, measure or number.

Provisions of the Bill similar to the 1976 and 1985 Acts

Regulation of weights and measures

- Every unit of weight or measure shall follow the metric system based on the international system of units. For example, the base unit of length shall be metre; mass shall be kilogram; and time shall be second.
- The central government shall prepare objects or equipment to derive the value of base units. Any weight or measure conforming to the specified standards shall be the standard weight or measure. The Bill prohibits the use, manufacture or import of weight, measure or numeral which is not of the specified standard. Good or services that are exported do not have to fulfil these requirements.

Regulation of Manufacturers, Repairers, Sellers and Importers

- The central government may appoint a Director of Legal Metrology to perform duties related to inter-state trade and commerce. The state government may appoint a Controller of Legal Metrology to perform duties related to intra-state trade and commerce. The functions of these officials shall be as notified by the central and state government.
- Every manufacturer, repairer and seller has to obtain a licence from the Controller in the manner to be prescribed.
- The Director, Controller or any legal metrology officer has the power to inspect any premise and seize any good if he has reason to believe that an offence has been committed.
- The Bill provides for an appeal procedure against decisions taken by various authorities.

Provisions of the Bill different from the 1976 and 1985 Acts

Table 1: Comparison of the Legal Metrology Bill, 2008 and the 1976 and 1985 Acts

	Legal Metrology Bill, 2008	Standards of W&M Act, 1976 and (Enforcement) Act, 1985
Definitions	"Legal metrology" means the treatment of instruments and units of weights and measures to meet mandatory technical and legal requirements in order to ensure the security and accuracy of the weights and measures.	No definition
Export	Provisions of the Act do not apply if a weight or measure is manufactured exclusively for export.	Export of weight or measure is regulated.
Approval of model	Every person has to get an approval of the model of weight or measure he wants to import or manufacture from an authority to be prescribed. Some categories are exempted such as cast iron, brass, bullion, etc.	Every person has to get an approval of the model of weight or measure he wants to make or manufacture in the manner to be prescribed from the central government. Some categories are exempted such as cast iron, brass, bullion, and any weighing or measuring instrument manufactured for exclusive domestic use unless used by the medical profession.

Registration	A person has to register with the Director in order to import any weight or measure. The imported weight or measure has to conform to specified standards.	A person has to register with the Director in order to import or export any weight or measure. All users of weights and measures have to register with the Controller (except itinerant vendors).
Verification	Weight or measure to be used for transaction has to be verified in the prescribed manner by the Controller. Allows Government approved Test Centre to verify prescribed weights and measures. The centres shall be notified by either the central or state government.	Weight or measure to be used for transaction has to be verified in the prescribed manner by the Controller. It has to be re-verified periodically (exempted if exclusively for domestic use). Not allowed
Liability of Company	A company can nominate a Director who shall be responsible for complying with the provision of the law.	Every person who was in charge of the company shall be liable in case a company has committed an offence.
Rules	Central government has the power to make rules.	State govt may make rules related to enforcement after consulting central govt.
Packaged commodity	Every pre-packaged commodity has to be manufactured, packed, imported or sold in such standard quantities or numbers as may be prescribed.	Commodities in packaged form shall be made or sold with a label that states the identity of the commodity, the net quantity, accurate number of the commodity (if sold by number), sale price and unit sale price.
Penalties	Enhances fines for offences and in some cases terms of imprisonment.	Prescribes fines and imprisonment for offences such as use, manufacture or sale of non-standard weight or measure; use of unverified weight or measure; and uses counterfeit seals.

Sources: Legal Metrology Bill, 2008; The Standards of Weights and Measures Act, 1976; the Standards of Weights and Measures (Enforcement) Act, 1985; PRS

PART B: KEY ISSUES AND ANALYSIS

Nomination of director

Clause 49(1)(2) The Bill allows a company to nominate one of its directors to be responsible if a company commits an offence. However, this provision could be misused by a company wherein it can nominate any person as its director and make him the scapegoat for any offence committed. The Standing Committee³ examining the Bill also stated that in cases of second or subsequent offence the company may change the nominated person and avoid penalty of imprisonment. It recommended that the Board of Directors should be held responsible.

Appeals

Clause 50(1) According to the Bill, every decision of legal metrology officers can be appealed to the Director of Legal Metrology. Appeals of decisions of the Director shall lie with an officer authorised by the central government. Appeals against decisions of the Controller lie with the Director or the state government. Thus, appeals are decided by senior government officers and not by courts. This violates the principle of separation of powers.

Use of non-metric system

Clauses 11 and 7 The Bill states that only standard weight, measure or numeral shall be used and defines standard weights and measures as weights and measures which follow the metric system. Use of non standard weight or measure is a punishable offence. It is not clear if goods may display other units (such as pounds) in addition to standard units; this issue may frequently occur in case of pre-packaged goods imported from countries that use different systems.

Currently, non-metric measurements are frequently used in some fields such as land measurement. This Bill would require all such measurements to use the metric system only.

Standing Committee Recommendations

Key recommendations of the Standing Committee on this Bill include the following.³

- Instead of allowing “government approved test centre” to verify weights and measures, the state government organisations should be strengthened, trained and equipped through central grant to carry on verification.
- Rule making powers should remain with the state governments since local conditions differ from state to state.
- There should be provision for cognizance of offence.

The Standing Committee had made several recommendations to the two Bills introduced in 2005, which have been withdrawn. The table below compares some of these recommendations with the provisions in the 2008 Bill.

Table 2: Standing Committee recommendations for Amendment Bills, 2005 and Legal Metrology Bill, 2008

Amendment Bills, 2005	Standing Committee Recommendations	Legal Metrology Bill, 2008
Amends 87 sections, omits 21 sections and adds 13 sections	The amendments proposed are highly confusing, lack clarity and at times contradict each other. The government should amalgamate both the Acts into a single piece of legislation.	Repeals both Acts and introduces single legislation to regulate the sector.
Inspectors have the power to summon registers or records but the Director does not have the power.	The Director of Legal Metrology should have the power to summon registers and records.	The Director of Legal Metrology has the power to summon registers and records.
Has different types of standards: International Standard, National Standard, Reference Standard, Secondary Standard, Working Standard and Commercial Standard	Should explore possibilities of keeping the types of standards to a bare minimum.	Has International Standard, Reference Standard, Secondary Standard, Working Standard.
It allows special verification agents to verify weights and measures. A Central Advisory Board shall be constituted to consider applications for special verification agents and make recommendations to the central government who shall issue the licence.	Special Verification Agents should not be used for verification; instead government should upgrade and strengthen the existing facilities	Every user has to get his weight or measure verified by any authority specified by the Controller before it can be used for transaction or protection. Allows government approved test centres to verify weights and measures.
Central govt may prescribe the qualifications of Additional, Joint, Deputy and Assistant Controller and the Inspectors. Also orders of the Director shall be binding on the Controller of Legal Metrology.	These amendments should be dropped and status quo should be maintained because the central government may not have knowledge of ground realities.	The qualifications of legal metrology officers shall be prescribed by the central government.
Central government shall have the power to make rules.	The power to make rules should remain with the state government.	Central government shall have the power to make rules.

Sources: The Legal Metrology Bill, 2008; The Standards of Weights and Measures Act, 1976; The Standards of Weights and Measures (Enforcement) Act, 1985; Amendment Bills, 2005; PRS

Notes

1. This Brief has been written on the basis of the Legal Metrology Bill, 2008, which was introduced in the Rajya Sabha on Oct 24, 2008. The Bill was referred to the Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution (Chairperson: Shri Devendra Prasad Yadav), which submitted its report on February 20, 2009.
2. “The Standards of Weights and Measures (Amendment) Bill, 2005 and The Standards of Weights and Measures (Enforcement) Amendment Bill, 2005,” 10th Report of the Standing Committee on Food, Consumer Affairs and Public Distribution, Dec 23, 2005.
3. “The Legal Metrology Bill, 2008,” 29th Report of the Standing Committee on Food, Consumer Affairs and Public Distribution, Feb 19, 2009.

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