



The Himachal Pradesh Weights and Measures (Enforcement) Act, 1968

Act 23 of 1968

Keyword(s):

Commercial Weight or Measure, Controller, Measuring Instrument, Mint, Official Gazette, Standard Weight or Measure, Sealed Package or Container, Stamping, Use in Transaction for Trade or Commerce, Verification, Weighing Instrument

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

ARRANGEMENT OF SECTIONS

CHAPTER—I

PRELIMINARY

Sections—

1. Short title, extent and commencement.
2. Definitions.

CHAPTER—II

STANDARD WEIGHTS AND MEASURES

3. Working standards.
4. Secondary standards.
5. Reference standards.
6. Standard weighing and measuring instruments.
7. Prohibition of use of weights and measures other than standard weights and measures.
8. Power to prescribe the use of weights only or measures only, in certain cases.

CHAPTER—III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES

9. Marking of denominations on commercial weights and measures.
10. Prohibition of sale of unstamped commercial weights and measures.
11. Prohibition of use of unstamped commercial weights or measures.
12. Power of Government to exempt.
13. Prohibition of manufacture etc., of weights and measures without licence.
14. Marking of weight or measure on sealed containers.
15. Prohibition of quoting price, or expressing quantity of any article otherwise than in terms of standard weight or measure.
16. Appointment of Controller and Inspectors.
17. Verification and stamping by Inspectors.

18. Power to inspect etc.
19. Power of Inspector to adjust weights or measures.
20. Manufacturers etc., to maintain records and documents.
21. Appeals.
22. Levy of fees.
23. Validity of weights and measures duly stamped.

CHAPTER—IV

PENALTIES

24. Penalty for sale or delivery by weight or measure other than standard weight or measure.
25. Penalty for sale of unstamped commercial weights and measures.
26. Penalty for use of unstamped commercial weights and measures.
27. Penalty for manufacture of weights etc., without licence.
28. Penalty for use of weights or measures in contravention of section 8.
29. Penalty for failure to mark weight or measure on sealed containers.
30. Penalty for quoting prices or expressing quantities otherwise than in terms of standard weight or measure in contravention of section 15.
31. Penalty for fraudulent use of weights, measures etc.
32. Penalty for being in possession of false weight or measure etc.
33. Penalty for making or selling false weight or measure.
34. Penalty for delivering or receiving any quantity or article less than, or in excess of, the quantity fixed by the weight or measure in the contract.
35. Penalty for forging etc. of weights, measures, etc.
36. Penalty for neglect or refusal to produce weight or measure etc., for inspection.
37. Penalty for breach of duty by Inspector.

CHAPTER V

MISCELLANEOUS

38. Protection of action taken in good faith.
39. Controller etc. appointed under this Act to be public servants.
40. Cognizance of offences etc.
41. Composition of offences.
42. Stamped weights etc., to be presumed to be correct.
43. Offences by companies.
44. Delegation of powers.
45. Limits of error to be tolerated in weights and measures.
46. Power to make rules.
47. Repeal and savings.

732 THE HIMACHAL PRADESH WEIGHTS AND MEASURES
(ENFORCEMENT) ACT, 1968

(ACT NO. 23 OF 1968)¹

[Received the assent of the President of India on the 13th December, 1968 and was published in R. H. P. Extra., dated the 17th February, 1969 at Page 117—130].

An Act to provide for the enforcement of standard weights and measures and for matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Himachal Pradesh Weights and Measures (Enforcement), Act, 1968.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date² as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act, or for different areas or for different classes of undertakings or for different classes of goods.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “commercial weight or measure” means a weight or measure purporting to be a standard weight or measure used in any transactions for trade or commerce ;

(b) “Controller” means the Controller of Weights and Measures appointed under section 16;

(c) “Government” means the Government of Himachal Pradesh ;

(d) “Inspector” means an Inspector of Weights and Measures appointed under section 16 ;

(e) “measuring instrument” means any measuring instrument other than a weighing instrument and includes any instrument used for determining the length, area, volume or capacity, quantity, temperature or density of any article;

¹ For Statement of Objects and Reasons, see R.H.P. Extra., dated the 13th August, 1968, Page 809.

² Enforced w.e.f. the 1st June, 1969, vide Not. No. 1-64/68-1nd(W&M), dated the 25th April, 1969 (Appended).

- (f) "mint" means mint of the Central Government,
- (g) "Official Gazette" means Rajpatra, Himachal Pradesh ;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "reference standards" means the sets of standard weights and measures supplied to the Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956, (Central Act 89 of 1956.)
- (j) "standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956, (Central Act 89 of 1956,) and includes any other weight or measure permitted to be used by the Central Government in pursuance of sub-section (1) of section 14 of the said Act;
- (k) "sealed package or container" means a closed packet, bottle, casket, tin, barrel, case, receptacle, bag, sack, wrapper or other thing in which any article is placed or packed and which is intended to be sold with its contents, without any weighment or measurement of such contents at the time of sale;
- (l) "stamping" means marking in such manner as to be, so far as practicable, indelible and includes casting, engraving, etching and branding;
- (m) "use in transaction for trade or commerce" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of length, area, volume, capacity or weight in or in connection with,—
- (i) any contract, whether by way of sale, purchase, exchange or otherwise;
- (ii) any assessment of royalty, toll, duty or other dues, ; or
- (iii) the assessment of any work done or services rendered otherwise than in relation to research or scientific studies or in individual house-holds for house-hold purposes ;
- (n) "verification" with its grammatical variations used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument and also includes re-verification; and

- (o) "weighing instrument" means any instrument for weighing and includes scales with the weights belonging thereto, scale-beams, balances, spring balances, steel-yards and other weighing machines.

CHAPTER—II

STANDARD WEIGHTS AND MEASURES

3. Working standards.—(1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of authenticated standard weights and measures as it may deem necessary to be called the working standards.

(2) The working standards shall be made of such material and according to such designs and specifications and shall be prepared by such agency and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner, as may be prescribed.

(4) A working standard shall be verified with the secondary standard and marked by such persons, at such places, at such intervals and in such manner, as may be prescribed.

(5) A working standard which is not so verified and marked within the prescribed period shall not be deemed legal or be used for the purposes of this Act.

(6) A working standard which has become defective shall not be deemed legal or be used for the purposes of this Act, until it has been verified and marked in the prescribed manner.

4. Secondary standards.—(1) For the purpose of verifying the correctness of the working standards, the Government may cause to be prepared at the mint as many sets of authenticated standard weights and measures as it may deem necessary to be called the secondary standards.

(2) The secondary standards shall be made of such material and according to such designs and specifications as may be prescribed and shall be stamped and authenticated by such person or authority as the Government may direct.

(3) The secondary standards shall be kept at such places, in such custody, and in such manner, as may be prescribed.

(4) A secondary standard shall be verified with the reference standard at least once in every period of five years and shall be marked with the date of verification in the prescribed manner by such person or authority as the Government may direct.

(5) A secondary standard which is not so verified and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Act.

5. Reference standards.—The reference standards shall be kept at such places, in such custody, and in such manner, as the Government may direct.

6. Standard weighing and measuring instruments.—(1) For the purpose of verifying the correctness of commercial weights and measures and of weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of weighing and measuring instruments as it may deem necessary.

(2) Such instruments shall be of such kind, kept in such number and shall be verified and stamped in such manner as may be prescribed.

(3) Such instruments shall be kept at all places where secondary standards or working standards are kept.

7. Prohibition of use of weights and measures other than standard weights and measures.—(1) Notwithstanding anything contained in any other law or any custom, usage or practice, no unit of mass or measure, other than the standard weights or measures shall be used in any transactions for trade or commerce or any dealing or contract or for any work to be done or goods to be sold or delivered in any area or class of goods or undertakings in respect of which this Act has come into force or be kept in any premises where such transactions are usually conducted.

(2) Any custom, usage, practice or method of whatever nature which permits in any trade or trader, seller or buyer to demand, receive or cause to be demanded or received any quantity of article in excess of, or less than, the quantity fixed by the weight or measure by which the contract or dealing in respect of the said article has been made, shall be void.

(3) Any transaction, dealing or contract made or had after the expiry of three months from the commencement of this Act shall, in so far as it contravenes the provisions of sub-section (1), be void.

8. Power to prescribe the use of weights only or measures only, in certain cases.—(1) Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, direct that in any specified trade or class of trades no transaction, dealing or contract shall be made or had except by weight only, or except by measure only.

(2) A notification issued under this section shall take effect in such area, with effect from such date, and subject to such conditions, if any, as may be specified therein.

CHAPTER—III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES

9. Marking of denominations on commercial weights and measures.—Every weight or measure manufactured for use as a commercial weight or measure shall bear the description of the weight or measure, which it purports to be marked legibly on it in such manner as may be prescribed.

10. Prohibition of sale of unstamped commercial weights and measures.—No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

11. Prohibition of use of unstamped commercial weights or measures.—No weight or measure or weighing or measuring instrument shall be used in transactions for trade or commerce unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

12. Power of Government to exempt.—Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it under the provisions of section 9 or to be stamped under the provisions of section 10 or section 11, the Government may, by notification in the Official Gazette, exempt such weight or measure from being so stamped.

13. Prohibition of manufacture etc. of weights and measures without licence.—No person shall, in course of trade, manufacture, repair or sell any weight or measure or any weighing or measuring instrument, unless he has obtained in the prescribed manner a licence in this behalf from the Government or any officer authorised by it.

14. Marking of weight or measure on sealed containers.—No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container unless such package or container bears thereon, or on a label securely attached thereto, a description of the net weight or measure of the article contained therein :

Provided that the provisions of this section shall not apply to any article contained in a sealed package or container, if such articles are ordinarily sold in transactions for trade or commerce by counting their number :

Provided further that the Government may, if it is satisfied that the size of any class of such packages, or containers renders it impracticable to comply with the provisions of this section, by notification in the Official Gazette, exempt such class from the operation of this section.

15. Prohibition of quoting price, or expressing quantity of any article otherwise than in terms of standard weight or measure.—No person shall, in any transaction for trade or commerce, quote the price, or express the quantity, of any article otherwise than in terms of the standard weight or measure.

16. Appointment of Controller and Inspectors.—(1) The Government may appoint a Controller of Weights and Measures for Himachal Pradesh and as many Inspectors of Weights and Measures as may be necessary for exercising the powers and discharging the duties conferred or imposed on them by or under this Act.

(2) The Government may, by general or special order, define the local limits¹ within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Act.

(3) Subject to the provisions of this Act, all Inspectors shall perform their functions under the general superintendence and control of the Controller. The Controller may, in addition to the powers and duties conferred or imposed on him by or under this Act, exercise any power or discharge any duty so conferred or imposed on Inspector.

17. Verification and stamping by Inspectors.—(1) Every Inspector shall, for the purpose of verification of weights and measures and weighing and measuring instruments, attend at such place and time within his jurisdiction as may be appointed in this behalf by the Controller.

(2) The Inspector shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification and if he finds such weight or measure or weighing or measuring instrument correct and in conformity with the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), and the rules made thereunder, he shall stamp the same with a stamp of verification in the prescribed manner.

18. Power to inspect etc.—(1) An Inspector may, within the area under his jurisdiction, inspect at all reasonable times, the weights, measures and weighing and measuring instruments which are used in transactions for trade or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or weighing or measuring instrument prescribed for the purpose.

¹For such local limits, see Not. No. IND(W&M)-ESTT. 6/66, dated the 30th October, 1973, appended to this Act.

(2) For the purpose of verifying the correctness of any weight or measure used in any transaction, an Inspector may also verify the weight or measure of any article sold or delivered in the course of the transaction.

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection or verification all weights, measures, and weighing and measuring instruments which are used by him or are in his possession or are kept on any premises used for trade and all documents and records relating thereto and such trader, employee or agent shall comply with such requirement.

(4) An Inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which might be used in the commission of such an offence, and may also seize and detain any articles sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents or records relating thereto.

(5) Where an Inspector has reason to believe that sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents; and, if on such verification, the net weight or measure of the article is found to be correct, the Inspector shall reseal the package or container where it is possible so to do without injury to the contents thereof and attach a certificate thereto stating the correct weight or measure of the article, and where it is not possible to reseal such package or container, he shall tender the fair price thereof and may require a written acknowledgement therefor. But if, on the other hand, the net weight or measure of the article is found, on such verification, to be incorrect the Inspector may seize and detain the package or container and the article contained therein after tendering the fair price thereof where the seizure is made from any person other than the manufacturer and may file a complaint against the seller or manufacturer or both for contravention of the provisions of section 14.

(6) For the purpose of such inspection, an Inspector may, at all reasonable times, enter into any place where weights, measures or weighing or measuring instruments are used or kept for use in transaction for trade or commerce and inspect such weights and measures and weighing and measuring instruments.

Explanation.—Where any premises is partly used for trade and partly for dwelling purposes, the whole of such premises shall for the purpose of this sub-section be treated as a place where weights or measures or weighing or measuring instruments are used or are kept for use in transactions for trade or commerce.

19. Power of Inspector to adjust weights or measures.—Where it appears to the Government desirable that an Inspector should be allowed in any area to adjust the weights or measures or weighing or measuring instruments, it may, if it thinks fit, authorise such Inspector to adjust weights or measures or such instruments accordingly.

20. Manufacturers etc. to maintain records and documents.—(1) Every manufacturer, repairer or dealer in weights or measures or weighing or measuring instruments and every person using them in transaction for trade or commerce shall maintain such records and accounts as may be prescribed and if required so to do by an Inspector, shall produce such records and accounts before him.

(2) Notwithstanding anything contained in sub-section (1), if the Government is of opinion that, having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, it may, by order, exempt such person or class of persons from the operation of that sub-section.

21. Appeals.—(1) Subject to the provisions of sub-section (2), an appeal shall lie,—

(a) from every decision of an Inspector under this Act to the Controller ; and

(b) from every decision of the Controller under this Act, not being a decision made in appeal under clause (a), to the Government or any officer specially authorised in this behalf by the Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, decide the appeal and the decision of the appellate authority shall be final.

22. Levy of fees.—The Government may charge such fees,—

(a) for the grant of licenses under section 13 for manufacture, repair or sale of weights and measures and weighing and measuring instruments ; and

(b) for the verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments, as may be prescribed.

23. Validity of weights and measures duly stamped.—A weight or measure, or weighing or measuring instrument, duly stamped by an Inspector under this Act, shall be a legal weight or measure, or weighing or measuring instrument in all places in which this Act has come into force unless it is found to be false or defective and shall not be liable to be restamped by reasons merely of the fact that it is used in any place other than that in which it was originally stamped.

CHAPTER IV

PENALTIES

24. Penalty for sale or delivery by weight or measure other than standard weight or measure.—Whoever, after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade or commerce any article by any denomination of weight or measure other than one of the standard weights or measures, or whoever after the commencement of this Act, keeps any unit of mass or measure other than one of the standard weights and measures in any premises where such transactions are usually conducted shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

25. Penalty for sale of unstamped commercial weights and measures.—Whoever sells or delivers any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable with fine which may extend to two thousand rupees.

26. Penalty for use of unstamped commercial weights and measures.—Whoever uses in any transaction for trade or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable, for a first offence, with fine which may extend to two thousand rupees and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Explanation 1.—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader, employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for transactions for trade or commerce.

Explanation 2.—Where any weight or measure or weighing or measuring instrument is used or possessed in contravention of this section by any employee or agent of a trader on behalf of such trader, such trader shall, unless he proves that the offence under this section was committed by his employee or agent without his knowledge or consent, be also deemed to be guilty of the offence.

27. Penalty for manufacture of weights etc. without licence.—If any person manufactures, repairs, or sells any weight or measure or weighing or measuring instrument without obtaining a licence as required by section 13, he shall be punishable with imprisonment for a period which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

28. Penalty for use of weights or measures in contravention of section 8.—Whoever contravenes any of the provisions of a notification issued under section 8 shall be punishable with fine which may extend to two thousand rupees.

29. Penalty for failure to mark weight or measure on sealed containers.—Whoever contravenes the provisions of section 14 shall be punishable with fine which may extend to two thousand rupees.

30. Penalty for quoting prices or expressing quantities otherwise than in terms of standard weight or measure in contravention of section 15.—Whoever contravenes the provisions of section 15 shall be punishable with fine which may extend to two thousand rupees.

31. Penalty for fraudulent use of weights, measures etc.—Whoever fraudulently uses any standard weight or measure or weighing or measuring instrument which he knows to be false shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

32. Penalty for being in possession of false weight or measure etc.—Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

33. Penalty for making or selling false weight or measure.—Whoever makes, sells or disposes of or causes to be made, sold or disposed of any standard weight or measure or weighing or measuring instrument which

he knows to be false in order that the same may be used as true or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

34. Penalty for delivering or receiving any quantity or article less than, or in excess of, the quantity fixed by the weight or measure in the contract.—Whoever—

(i) in selling any article by weight or measure delivers or causes to be delivered to the purchaser any quantity of that article less than, or

(ii) in buying any article by weight or measure demands or receives or causes to be demanded or received from the vendor any quantity of that article in excess of,

the quantity fixed by the weight or measure by which the contract or dealing in respect of that article has been made, shall be punishable with fine which may extend to two thousand rupees.

35. Penalty for forging etc. of weights, measures etc.—(1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any standard weight or measure or weighing or measuring instrument, or possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument, or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) Whoever knowingly uses, sells, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or a measure so increased or diminished shall be punishable with imprisonment for a period which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

36. Penalty for neglect or refusal to produce weight or measure etc. for inspection.—Whoever—

(a) refuses or neglects to produce for inspection under section 18, any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises ; or

- (b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record ; or
- (c) obstructs the entry of an Inspector under section 18 ; or
- (d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act;

shall be punishable with fine which may extend to five hundred rupees.

37. Penalty for breach of duty by Inspector.—If any Inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules made thereunder, he shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

CHAPTER V

MISCELLANEOUS

38. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Controller or any Inspector or any other person appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or rules made thereunder.

39. Controller etc. appointed under this Act to be public servants.—The Controller and every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

40. Cognizance of offences etc.—(1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the Controller or any officer authorised in this behalf by the Controller by general or special order.

(2) No court inferior to that of a magistrate of first class shall try any offence punishable under this Act.

41. Composition of offences.—(1) Any offence punishable under section 24, section 25, section 26, section 28, section 29, section 34 or section 36 other than a second or subsequent offence under section 24 or section 26 may, either before or after the institution of the prosecution, be compounded by the Government on payment of such sum as it thinks fit.

(2) On payment by the offender of such sum, the offender, if in custody, shall be set at liberty and if any proceedings in any criminal court have been

instituted against the offender in respect of the offence, the composition shall be deemed to amount to an acquittal and no further criminal proceedings shall be taken against him in respect of such offence.

42. Stamped weights etc. to be presumed to be correct.—A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act and the rules made thereunder shall be presumed to be correct until its inaccuracy is proved, if this is produced in any court by any Inspector having charge thereof or by any person acting under the general or special authority of the Controller.

43. Offences by Companies.—(1) If the person committing an offence under this Act is a company, every person who, at the time of the commission of the offence, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals ; and

(b) “director” in relation to a firm, means a partner in the firm.

44. Delegation of powers.—The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

45. Limits of error to be tolerated in weights and measures.—Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), in this behalf, the Government may prescribe the limits of error which may be tolerated,—

- (a) in secondary standards referred to in section 4 ;
- (b) in working standards referred to in section 3 ;
- (c) in commercial weights and measures or in selling articles by weight or measure generally or as regards, any trade or class of trades ; and
- (d) in weighing and measuring instruments.

46. Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules¹ to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the material of which, and the designs and specifications according to which, working standards may be made, the agency by which such standards may be prepared, the person by whom, or the authority by which, and the manner in which, such standards may be stamped and authenticated, the places at which, and the custody and manner in which, such standards may be kept ;
- (b) the procedure for the verification or re-verification and marking of working standards, the persons by whom, the places at which, and the intervals at which, they may be marked ;
- (c) the material of which, and the designs and specifications according to which, secondary standards may be made, the places at which, and the custody and manner in which, such standards may be kept ;
- (d) the procedure for the verification or re-verification and marking of secondary standards and the manner in which they may be marked ;
- (e) the number of weighing and measuring instruments to be kept, the manner in which they may be verified and stamped and necessary particulars regarding the same ;

¹Rules framed, —*vide* Not. No. 2-192/69-SI(WM), dated the 11th May, 1970 (Appended).

- (f) the manner in which commercial weights and measures may be marked by manufacturers ;
- (g) the form and manner in which, and the conditions subject to which, licences may be granted to persons for manufacture, repair or sale of weights and measures and weighing and measuring instruments ;
- (h) the qualifications, functions and duties generally of Inspectors under this Act ;
- (i) verification and stamping of weights and measures and weighing and measuring instruments and the period within which they are to be verified ;
- (j) inspection of weights and measures and weighing and measuring instruments used in transactions for trade or commerce ;
- (k) the seizure, detention and disposal of weights and measures which are not authorised by this Act ;
- (l) the books, accounts and records relating to weights and measures and weighing and measuring instruments to be maintained and the manner in which they may be maintained or produced ;
- (m) the limits of error which may be tolerated in secondary or working standards ;
- (n) the limits of error which may be tolerated in weights and measures and weighing and measuring instruments used or intended to be used in transactions for trade or commerce ;
- (o) the limits of error which may be tolerated in selling articles by weights or measures generally or as regards any trade or class of trades ;
- (p) the form and manner in which appeals may be preferred against decisions of Inspectors and the procedure for hearing appeals ;
- (q) the fees which may be charged for the grant of licences under section 13 and for verification, re-verification, adjustment and stamping of weights and measures and weighing and measuring instruments and the collection and levy of the same ;
- (r) the material, form and specification and manufacture and sale of commercial weights and measures and weighing and measuring instruments ; and
- (s) any other matter which has to be, or may be, prescribed.

(3) In making any rule under this section the Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

(5) Every rule made under this Act, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

47. Repeal and savings.—(1) The Rajasthan Weights and Measures (Enforcement) Act, 1958 (32 of 1958), as applied to Union Territory of Himachal Pradesh, and the Punjab Weights and Measures (Enforcement) Act, 1958, (22 of 1958) as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), are hereby repealed :

Provided that,—

(a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Acts so repealed shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any other appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act ;

(b) any proceeding relating to the trial of any offence punishable under the provisions of the Acts so repealed, shall be continued and completed as if the said Acts have not been repealed but have continued in operation, and any fine imposed in such proceeding shall be recovered under the Acts so repealed, as if the said Acts have not been repealed.

(2) Nothing in this Act shall apply to weights or measures or weighing or measuring instruments used by or in any unit or establishment of the Armed Forces of the Union.