

**STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION (2005-06)**

FOURTEENTH LOK SABHA

Ministry of Consumer Affairs, Food and Public Distribution

(Department of Consumer Affairs)

TENTH REPORT

O N

- (i) The Standards of Weights and Measures (Amendment) Bill, 2005; and**
- (ii) The Standards of Weights and Measures (Enforcement) Amendment Bill, 2005**



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2005/ Agrahayna 1927 (Saka)

10

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**Presented to Lok Sabha on 23.12.2005
Laid on Rajya Sabha on 23.12.2005**



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2005/ Agrahayna 1927 (Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON FOOD, CONSUMER
AFFAIRS AND PUBLIC DISTRIBUTION – 2005-06**

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Govinda Aroon Ahuja
4. Shri Suresh Angadi
5. Shri Ranen Barman
6. Shri Alakesh Dass
7. Shri Gadakh Tukaram Gangadhar
8. Shri Atma Singh Gill
9. Shri Abdul Mannan Hossain
10. Shri Jaiprakash
11. Shri Baliram Kashyap
12. Shri Avinash Rai Khanna
13. Shri Parsuram Majhi
14. Shri Zora Singh Mann
15. Shri Harish Nagpal
16. Shri Kondapalli Paidithalli Naidu
17. Shri Harikewal Prasad
18. Smt. Daggubati Purandeswari
19. Shri Ajit Kumar Singh
20. Shri Chandrabhan Singh
21. Shri Ramakant Yadav

RAJYA SABHA

22. Shri Santosh Bagrodia
23. Shri T.S. Bajwa
24. Shri Palden Tsering Gyamtso
25. Shri Narayan Singh Kesari
26. Smt. Bimba Raikar
27. Shri Nabam Rebia
28. Shri Thanga Tamil Selvan
29. Shri Vikram Verma
30. Shri Vijay Singh Yadav

SECRETARIAT

1. Shri John Joseph - Secretary
2. Dr. (Smt.) Paramjit Kaur Sandhu - Additional Secretary
3. Shri P.K. Bhandari - Joint Secretary
4. Shri R.S. Kambo - Deputy Secretary
5. Shri B.S. Dahiya - Under Secretary
6. Shri Jagdish Prasad - Assistant Director

INTRODUCTION

1, The Chairman of the Standing Committee on Food, Consumer Affairs and Public Distribution (2005-06) having been authorised by the Committee to submit the Report on their behalf, present this Tenth Report on (i) the Standards of Weights and Measures (Amendment) Bill, 2005; (ii) the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005 relating to Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs).

2. The Standards of Weights and Measures (Amendment) Bill, 2005; and the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005 were introduced in Rajya Sabha on 10th March, 2005. Hon'ble Speaker referred these Bills to the Standing Committee on Food, Consumer Affairs and Public Distribution under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha on 24th March, 2005 for examination and report. The Committee invited Memoranda on the Bills from the public in general and experts/professionals/organizations/associations interested in particular for which the text of the Bills was hosted at the website of Lok Sabha <http://www.parliamentofindia.nic.in> on internet. The Committee also invite views/suggestions of the State Governments/UTs and the Controllers of Legal Metrology, Department of the State Governments/UTs and the Bar Council of India and Bar Councils of the States. Thereafter, the Committee invited officials of the State Governments and organizations/associations/institution/ professionals to hear their views on the subject and sought clarification at its sittings held on 14th, 27th June, 11th July, 12th September & 19th October, 2005. The representatives of the Department of Consumer Affairs deposed before the Committee on 10th May and 27th September, 2005. The Committee have examined both the Bills simultaneously and prepared a comprehensive Report. The Committee considered and adopted the draft Report on the Bills at their sitting held on 21st December, 2005.

3. The Committee wish to express their thanks to Shri T. Singaravel-Ex. Controller of Legal Metrology, Maharashtra, Shri K. Venkatesvarulu-Ex. Enforcement Officer, Dr. S.V. Gupta, Former Director, Weights and Measures, Government of India and the representatives of (i) Legal Metrology (W & M), District Inspector and Inspectors Association, Hyderabad (ii) Consumer Coordination Council, Delhi (iii) Eastern Regional Legal Metrology Licensees Association, Kolkata (iv) Scales Weights and Measures Merchants Association, Mumbai (v) All India Legal Metrology Officers Association, Kolkata (vi) Grahak Panchayat, Latur (vii) Reliance Industries Limited Mumbai and (viii) Confederation of Indian Industry (CII) and the Officials of State Governments of (i) Karnataka (ii) Orissa (iii) Punjab (iv) Maharashtra (v) Jammu &

Kashmir (vi) Andhra Pradesh (vii) Arunachal Pradesh (viii) Bihar (ix) Rajasthan (x) Government of NCT, Delhi and (xi) Indian Institute of Legal Metrology, Ranchi for tendering evidence before the Committee and also for furnishing their views/suggestions to the Committee.

4. The Committee also express their thanks to the representatives of Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs), Ministry of Law and Justice (Legislative Deptt.) for tendering evidence before the Committee and for furnishing the Committee their detailed information/material desired in connection with the examination of the Bills.

5. For facility of reference and convenience, observations and recommendations of the Committee have been pointed in bold letters in the body of the Report.

New Delhi
December 21, 2005
Agrahayana 30, 1927 (Saka)

Food,

DEVENDRA PRASAD YADAV
Chairman,
Standing Committee on
Consumer Affairs and
Public Distribution

CHAPTER –I

INTRODUCTORY

The Standards of Weights and Measures Act, 1976 was enacted to establish standards of weights and measures, to regulate inter-state trade or commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and to provide for matters connected therewith or incidental thereto. The Standards of Weights and Measures (Enforcement) Act, 1985 was enacted to provide for enforcement by the State Governments of the Standards of Weights and Measures established by or under the Standards of Weights & Measures Act, 1976 and for matters connected therewith or incidental thereto.

1.2 According to the Ministry of Food, Consumer Affairs and Public Distribution (Department of Consumer Affairs), there has been technological advancement in Legal Metrology in measuring instruments, necessitating a review of the Acts to make them simple, eliminate obsolete regulations ensure accountability, bring transparency and to empower consumers for protecting their rights. The two proposed amendment Bills viz., (i) the Standards of Weights and Measures (Amendment) Bill, 2005 and (ii) the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005 to amend the existing Acts viz., (i) the Standards of Weights and Measures Act, 1976 (ii) the Standards of Weights and Measures (Enforcement) Act, 1985 were introduced in Rajya Sabha on 10.3.2005. Hon'ble Speaker referred the above said two Bills to the Committee on Food, Consumer Affairs and Public Distribution for examination and report.

1.3 The Standards of Weights and Measures (Amendment) Bill, 2005 seeks to provide for:-

- (a) Keeping weighing machines and measuring instruments by prescribed retail dealer for the purpose of use by consumer to check the quantity of products;
- (b) Appointing special verification agents for verification of sophisticated weighing machines or measuring instruments;
- (c) Using specific type of weight or measure, which are user friendly, in public transaction;
- (d) Nominating a Director by a company who shall be responsible for complying with the provision of the enactment;
- (e) Multiple sealing of weight on measure with a view to prevent fraudulent practices;
- (f) Permitting manufactures to inscribe the non-metric units in addition to metric units on certain measuring instruments for information of consumers and for the smooth transition from non-metric to metric units;
- (g) Providing statutory backing for establishment of Regional Reference Standards Laboratories;
- (h) Enhancing the amount of fine for violation of provisions relating to regulation of pre-packed commodities;
- (i) Simplifying the procedure of verification and stamping of weight and measure in relation to inter-state trade;
- (j) Empowering the Central Government to conduct survey or collect statistics in respect of implementation of standards of weights, measures and numeration; and
- (k) Revising fee for various services provided under the enactment to make such fee commensurate with the services rendered.

1.4 The Standards of Weights and Measures (Enforcement)

Amendment Bill, 2005 seeks to provide for:-

- (a) Prescribing the qualifications for appointment of Additional, Joint, Deputy and Assistant Controllers of Legal Metrology and Inspectors under the Act for providing quality and professional service, beneficial to consumers and industries;
- (b) Providing for issue of guidelines by the Central Government for uniform implementation of the provision of the enactment;
- (c) Doing away with the requirement of registration of users of weight or measure with the Departments;
- (d) Validating the licence for the whole of the country, for manufacture and repair of weight or measure issued to a manufacturer by a State Government and enabling the Central Government also to issue such all India licence, for convenience;
- (e) Revising penalties for various offences under the enactment to make the provisions more deterrent; and
- (f) Empowering the Central Government to prescribe fee, to be levied by the State Governments, for the purpose of uniformity of fee.

1.5 The Secretariat made available the above said amendment on the web-site of Lok Sabha <http://www.parliamentofindia.nic.in> on Internet and also telecast on television for general public and invited the comments/suggestions on the said Bills from the public at large. The Committee received a large number of representations/memoranda from experts/NGOs/State Governments containing their suggestions/opposition to the proposed amendments.

1.6 The Committee took evidence of the representatives of the Department of Consumer Affairs (Nodal Department) and Ministry of Law and Justice, various NGOs, experts and State Governments on 10th May, 14th and 27th June, 11th July, 12th and 27 September and 19th October, 2005.

1.7 The Committee's views on the basis of examination of written replies received from the Department of Consumer Affairs and the evidence of NGOs, experts and State Governments are given in the following paragraph:-

1.8 The Committee note that a large number of amendments have been proposed in these two Bills. Out of the total of 160 Sections in both the Acts, 87 Sections are proposed to be amended. Further 21 Sections are to be omitted and 13 new Sections are to be inserted as shown in the Tables given below:-

Table -I

	Existing	Amended
Standards Act:	85	45
Enforcement Act:	75	42
Total	160	87

Table -II

	Omitted	Added
Standards Act:	17 (6, 7, 8, 9, 10, 11, 23, 40, 41, 42, 43, 44, 45, 46, 53, 62 and 63)	10 (27A, 46A, 46B, 46C, 46D, 46E, 46F, 46G, 63A and 86)
Enforcement Act:	4 (12, 16, 17, 18)	3 (31A, 39A, 74A)
Total	21	13

1.9 The Committee's examination has revealed that Section 3 of the Standards Act and Section 4 of the Enforcement Act override all the provisions pertaining to weights and measures in other Acts and this position needs to be maintained throughout. But the amendments proposed do not maintain this position as explained below.

(i) Section 2 (b) defining "Commodities in Packaged form" in the Standards Act 1976 should have been omitted and definition of "Pre Packed Commodity" given in clause 13 of the Standards of Weights and Measures Enforcement Bill, 2005 adding an Explanation to section 31A should have been inserted, instead.

(ii) Though clause 21 of the Standards of Weights and Measures (Amendment) Bill 2005 has proposed two Amendments, it has not amended Section 52 for dropping the following words to bring it in line with Section 3 of the Standards Act:

"Except where any weight or measure is made or manufactured, with the permission of the Central Government exclusively for export, every person who makes or manufactures any weight or measures which does not conform to the standards of weight or measures established by or under this Act, shall where such offense is not punishable under any other Law relating to Weights and Measures for the time being in force, be punished with imprisonment for a term which may extend to two thousand rupees, or with both, and, for the second or subsequent offence with imprisonment for a term which may extended to three years and also with fine."

(iii) Section 75 of the Standards Act and the section 66 of the Enforcement Act have ousted the jurisdiction of Chapter XIII of IPC dealing with weights and measures. But both the Standards Act and the Enforcement Act have said nothing about Section 153 of the Code of Criminal Procedure. It should have specifically stated whether it is ousted or not to bring it in line with Section 3 of the Standards Act and Section 4 of the Enforcement Act.

1.10 Yet other instances of discrepancies which came to the notice of the Committee are given below:

(i) Clause 38 of the Standards of Weights and Measures (Amendment) Bill, 2005 proposing to amend Sub-Section 3 of Section 73 of the Standards of Weights and Measures Act 1976 omits the following words “ *if in custody, shall be discharged forthwith.*” Unfortunately clause 37 of the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005 proposing to amend Section 65 of the Standards of Weights and Measures (Enforcement) Act 1985 has not omitted the following words “*if in custody, shall be discharged forthwith.*”

(ii) Clause 36 of Standards of Weights and Measures (Enforcement) Amendment Bill 2005 provides for the prosecution of a Director nominated by instead of the all the Directors of the company under Section 62 and clause 39 of Standards of Weights and Measures Amendment Bill 2005 also provides for prosecution of such Director nominated by the Company in Section 74. However Sub-Section (3) (4) and (5) provided under Section 74 of the Standards of Weights and Measures Act 1976, could have been inserted in Section 62 of the Standards of Weights and Measures (Enforcement) Act, 1985 also.

(iii) Officers of Legal Metrology of the Government of India and the Governments of the States respectively have powers of search conferred by Section 29 (l) (a) of the Standards Act and Section 27 (l) of the Enforcement Act. For misuse of powers of search by the officers of Legal Metrology, penal provisions respectively have been made in the parallel Sections 71 (l) (b) of the Standards Act and 58 (l) (b) of the Enforcement Act. These two sub-sections give rise to the false impression of possession of powers of search of ‘persons’ by these officers. Actually these officers have only powers of entry and search of ‘premises’ as defined in Section 2 (r) of the Standards Act, which definition has been made applicable to Enforcement Act by virtue of Section 3 (o) of that Act. They are not conferred the powers of search of ‘persons.’: Section 71 (l) (b) of the Standards Act penalizes vexatious search of ‘Persons’ by the authorized officers and such penalty under Section 58 (l) (b) of the Enforcement Act for vexatious search of ‘Persons’ by the Inspector or any other person of Legal Metrology exercising powers under this Act.

When an officer of Legal Metrology searches a house, conveyance, or place for any incriminating documents kept therein, the officer can be easily dodged by the accused person if, he removes such documents from the 'premises' being searched and carries it on his person, as it happens with hawkers carrying their wares on head loads, when checking squad comes to seize their ware. If the officer persists in searching the person of the accused in the 'premises' keeping such incriminating documents, on his person, that officer is liable for the penalty laid down Section 71 (I) of the Standards Act or Section 58 (I) of the Enforcement Act, as the case may be. The point being made here is that clause (b) in these Sections, gives a misleading impression of existence of the power of search of person, which is not true. Power of search, conferred is thus, ambiguous and inadequate. It affects effective implementation of these Acts and the Amendments should get rid of these ambiguity.

(iv) Director, Legal Metrology and his subordinates have only powers of inspection of records and registers under Section 29 of the Standards Act. They are not empowered to summon the registers and records to their offices or elsewhere for inspection. Rather they have to go to the premises of the licensed Manufactures, Dealers and Repairers, if they wanted to inspect the registers and records. But, on the other hand all the Inspectors of Legal Metrology in the States are conferred powers under Section 28 of the Enforcement Act to summon the registers and records for inspection to their offices. Amendments should set right this discrepancy.

1.11 The Committee have noticed that both these Acts viz. (i) The Standards of Weights and Measures Act, 1976 and (ii) The Standards of Weights and Measurement (Enforcement) Act, 1985 contain 21 pairs of parallel Sections in respect of substantive as well as procedural offences as shown in **Annexure**. On being enquired whether both these Acts can be merged into one, the Secretary, Department of Consumer Affairs during evidence was candid in admitting that "it is entirely

possible and desirable that we should have one Act rather than having this hugely complicated things”. There are discrepancies in the mode of trial for the parallel offences and the discrepancies are also noticed in the classification of offences as compoundable and non compoundable as can be seen in the table given below:-

Table III

Sr. No.	Enforcement Act		Classification	Standards Act		Classification
	Provision	Penal Provision		Provision	Penal Provision	
1	10	40	Summary	32	55	Regular
2	21 (a)	44(a)	Regular	22	52	Summary
3.	22	45	Summary	41 (3) (4)	62	Regular
4	39(2)	39 (2)	Summary	34	57	Regular

Table IV

Sr. No.	Enforcement Act		Classification	Standards Act		Classification
	Definition	Penal		Definition	Penal	
1	21 (a)	44(a)	Compoundable	22	52	Non-Compoundable
2	38 (1)(2)	38 (1) (2)	Non-Compoundable	21	50	Compoundable

1.12 The Committee has noticed over- lapping of similar offences in the same act with different punishments in each instance. Further, the Committee also found that in some cases penalty has been prescribed in the same Section and in other case the penalty has been prescribed in different section as may be seen form the Table below. Section 21 (a) of the Enforcement Act 1985 prohibits the manufacture of Weights and Measures not conforming to the Standards laid down. Section 36 of the same act prohibits the manufacture of non standard Weights and Measures. Penalty for section 21 (a) is given in Section 44 and that for Section 36 is given in the same section.

Table –V

Enforcement Act, 1985		
Provision	Penal Provision	Penalty
21(a)	44(a)	1st Offence Imprisonment upto 1 year upto two thousands or both* 2nd and subsequent Offence- Imprisonment upto 3 years and also fine,
36	36	1st Offence – Imprisonment not less than three months and upto 1 year. 2nd and subsequent offence-Imprisonment not less than six months and upto 3 years and also fine.

(* Penalty proposed in the Amendments)

1.13 Similar instances have also come to the notice of Committee, under The Standards of Weights and Measures Act, 1976. For instance Section 33 (d), deals with indication in non-standards units on packages and Section 39 (a) (b) (c) (ii) and (iii) prohibits packaging of commodities in non-Standard units. Penalty for Section 33(d) is given in Section 56 and that for the latter is given in Section 63 as can be seen in Table given below:.

Table –VI

Standards Act, 1976		
Definition	Penal	Penalty
33 (d) & (e)	56	Ist Offence – Fine upto 5000/- * IInd and subsequent Offence- Imprisonment upto 3 years or with fine or with both.
39 (i) (a) (b) (c) (ii) and (iii)	63 (1)	Ist Offence – Fine upto 5000/- * IInd Offence- Fine upto 10,000/- and for subsequent offence imprisonments upto 5 years or fine upto Rs. 50,000 or both.
	63 (2)	Ist Offence – Imprisonment upto 2 years or fine upto Rs. 20,000/- or with both. IInd and subsequent Offence- Imprisonment upto 5 years and also with fine.

(* Penalty proposed in the Amendments)

1.14 The Committee has noticed that there are discrepancies also in the power of the officers' of Legal Metrology to compound an offence or other-wise as can be seen in the following paragraph:-

Section 73 of the Standards Act, 1976 enumerates offences punishable under the following twelve sections as Compoundable Offences: 50, 55, 56, 57, 58, 59, 60, 63, 64, 65, 66 and 67. Director, Legal Metrology or Officers authorized by him are empowered to compound these offences. Out of the 12 compoundable Sections, Section 60 provide for penalty of imprisonment even for the first offence.

1.15 The Committee has come across anomalies in the provisions of appeal as illustrated below:-

In the Standards Act, there is a provision for appeals to the Director, Legal Metrology against the orders of his subordinate and to Central Government against the orders of the Director in respect of orders passed under Section 30 (forfeiture of Weight & Measures or false packages seized and orders passed under Section 36 regarding approval of models). It has been further noted that in the Enforcement Act, Section 69 provides for appeal to Controller of Legal Metrology against the order passed under Chapter V to X of Enforcement Act and to State Government against the order passed under Chapter V to X by the Controller, Legal Metrology. Non-compoundable offences are sent for trial to the courts and there is no question of offenders of non-compoundable offences coming to the Controller or the State Government in appeal. However, the offenders of compoundable offences may come up before Controller in appeal against the orders for compounding passed by his subordinate or they may come up to the Government in appeal against the orders passed by Controller. All the Compoundable offences in the Enforcement Act and penalty thereto fall under Chapter XI & XII. However, these two Chapters do not fall in the ambit of appeal in Section 69. Only Chapter V to X falls in the ambit of Section 69.

1.16 The Committee find that the Standards of Weights and Measures Amendment Bills have been introduced to give effect to the advancements in the international practices and technological innovations made in the field of Legal Metrology. It also attempts to weed out obsolete provisions, ensure enforcement and bring about transparency to the consumers in protecting their rights. The Committee find that out of 160 Sections in both the Acts, the Government have proposed amendments in 87 Sections. Further as many as 21 Sections have been omitted and another 13 added in both the Acts. The Committee are of the view that such a large number of amendments in these Bills is nothing short of revision of these two Acts. The Committee are sad to note that the amendments proposed are highly confusing and at times some of them contradict each other. Even after a large number of proposed amendments, there is a lack of clarity, leading to confusion. The Committee also find that the amendments contemplated do not clearly reflect the concern of the various State Governments and are not in consonance with the federal structure of our Constitution. The Committee, therefore, desire that the Government should have a relook at both the Bills in the light of the observations of the Committee contained in this Report.

1.17 The Committee note that both the Standards of Weights and Measures Act 1976 and the Standards of Weights and Measures (Enforcement) Act 1985 mostly follow a pattern of defining the offences under some chapters and lay down specific penalties for those offences in other Chapters. There are 21 pairs of parallel offences, each pair consisting of one Section from the Standards Acts and one Section from the Enforcement Act. Certain offences under the Act are compounded. Discrepancies in classifying the pair of offences as compoundable and non-compoundable have been noticed. Further overlapping of definition of parallel offences in the same Act with different punishments in each pair have also been observed. Certain offences specified in these Acts can be tried under summary procedure by the courts while others are to be decided by the regular trials. The incompatibility and incoherency in structuring the various amendments, have turned these Acts even more complex and incomprehensible, thus defeating the very purpose, for which the amendments have been proposed. In the opinion of the Committee the inconsistency and lack of harmony in these Acts even after proposed amendments, does not augur well and not conducive for

effective implementation of the Acts. Such discrepancies and inconsistencies could be harmonized, only if both the Acts are consolidated into once piece of Legislation. In this context, the Committee concurs with the views of Secretary (Department of Consumer Affairs), who during evidence before the Committee was candid enough to admit that these Acts can be consolidated, and recommend that the Government should amalgamate both the Acts into a single piece of legislation.

1.18 The Committee note that the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985 are basically regulatory in nature and therefore neither the Officers of Legal Metrology of the Central Government nor those of the State Governments have been conferred the powers of arrest under these Acts. However, the provision pertaining to the compounding of offence in the Standards Act vide Section 73(3) and the Enforcement Act vide Section 65(3), which have identical wording "and the offender, if in custody, shall be discharged forthwith" have got a clause which gives rise to doubts about the existence of powers of arrest. The Committee find that this anomaly has been rectified in clause 38 of the proposed amendments to Section 73(3) of the Standards of Weights and Measures Act, 1976 but this anomaly still persists in the Standards of Weights and Measures (Enforcement) Act [Section 65(3)]. The Committee, therefore, desire that the words which give rise to doubt may also be deleted in the Standards of Weights and Measures (Enforcement) Act, 1985 on the lines being done in the Standards of Weights and Measures Act, 1976.

1.19 The Committee find that Section 3 of the Standards of Weights and Measures, Act 1976 and Section 4 of the Standards of Weights and Measures (Enforcement) Act, 1985, override all the provisions pertaining to weights and measures in other Acts and this position is required to be maintained throughout. The Committee, however, note that this has not been done at all. The Committee desire that this anomaly should also be rectified.

1.20 The Committee are concerned to note the existence of an anomaly in the matter of preferring an appeal by the accused violating the provision of the Standards of Weights and Measures Act, 1976 and Standard of Weights and Measures (Enforcement) Act, 1985. Surprisingly, even after the proposed amendments the anomaly persists. The Committee are of the view that the provision of appeal thus becomes infructuous. Similarly, the powers to arrest and search are nebulous and vague. Further, powers to summon registers/records and inspections thereof is contradictory as the same is available to the Inspectors in the States while the same power is not available with the Director and his subordinates. The Committee do not appreciate the ambiguity and lack of clarity which hamper the implementation of the Acts and thus defeat the purpose for which the amendments have been suggested in the Acts. The Committee, view these with seriousness and desire that while amalgamating these Acts into a single piece of legislation, the anomalies, the discrepancies and deficiencies pointed out be rectified, so as to protect the interest of the consumers.

1.21 The Committee note that at present the Standards Act 1976 provide for different types of Standards viz. International Standard [Section 2(l)], National Standard, Reference Standard [Section 2(t)], Secondary Standard [Section 2(x)], Working Standard [2(ze)] and also Commercial Standard. The Committee feel that a large number of standards lead to confusion in the minds of ordinary citizen. These standards may only be useful for the purpose of hierarchy in different Standards and a layman may not be able to understand the technicalities attached to such standards. The Committee, therefore, recommend that the Government should explore the possibility of reducing the numbers of such standards to a barest minimum so that it does not create confusion in the mind of a common man. The Committee also desire that the arrangements of various clauses and the language used in both the Acts too complex and is not easily understandable. The Committee desire that while recasting the Acts as proposed in this Report, the Government should attempt to make the language of the Acts as simple as possible.

CHAPTER – II
THE STANDARDS OF WEIGHTS AND MEASURES
(AMENDMENT) BILL, 2005

Section 2 (O) Definition of “Manufacturer”

2.1 The Government have proposed that for clause (o) the following clause shall be substituted namely:-

(o) “manufacturer”; in relation to any-

(a) weight or measure, means a person who, or a firm or a Hindu undivided family, which:-

(i) makes or manufactures such weight or measure,

(ii) makes or manufactures one or more parts, and acquires the other parts, of such weight or measure and, after assembling those parts, claims the end products to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not make or manufacture any part of such weight or measure but assembles parts thereof made or manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his or its own mark on any complete weight or measure made or manufactured by any other person and claims such products to be a weight or measure made or manufactured by himself or itself, as the case may be.

Explanation:-Where any manufacturer despatches any weight or measure or any part thereof to any branch office maintained by him or it, such branch office shall not be deemed to be a manufacturer even though the parts so despatched to it are assembled at such branch office;

(b) commodity in packaged form, means a person who, or a firm or a Hindu undivided family which, produces, makes or manufactures such commodity and includes a person who, or a firm or a Hindu undivided family which, puts or causes to put, any mark on any packaged commodity, not produced, made or manufactured by him or it, and the mark claims the commodity in the package to be commodity produced, made or manufactured by such person, firm or Hindu undivided family, as the case may be;

(c) in clause (y), in the explanation, for the word “branding” the words “branding affixing pre-stressed paper seal” shall be substituted.

2.2 The Government of Andhra Pradesh has suggested that in clause 2 (o)(b) of the Bill, an explanation may be added to cover the individuals or firms or HUF who do not claim the end product but sell the end product. For this, individuals or firms or HUF who sell/possess for sale any product assembled in a packaged form, shall be treated as manufacturer for the reasons that presently some Manufacturers who do not Manufacture any part of packaged commodity but assemble all the parts Manufactured by other people and give a shape of packing by enclosing for the above Manufacturer to claim himself/herself/itself as the Manufacturer and in fact taking advantage of this they are releasing the product without claiming as Manufacturer.

2.3 When asked as to how the new Definition as proposed by Andhra Pradesh Government will help the consumers, the representatives of the State Government stated during evidence:

“At present, some of the people collect the various parts of the machines, weighing or measuring instruments and they are selling the product. They are not claiming. The definition calls only the person who claims, whether he manufactures or assembles or sells. If he claims, he will become a manufacturer but if he does not, he never falls under the present definition. Another thing is about the packaged commodities. I would like to give an example. As far as, edible oil is concerned, Palmolein is imported from Malaysia. Here in India, they are packing it. They are not claiming that they are manufacturer, not even importer. Simply, they are telling that they are packing it. They are not manufacturer. For that reason, we request the hon. Committee, in discussion with the Law Department and also with the Industry, a comprehensive definition may be incorporated so that we can have a better enforcement.

2.4 The Department of Consumer Affairs reacted on the above proposal that provisions have been made in the Rules to cover the responsibility.

2.5 It was pointed out that presently some manufactures do not manufacture any part of the packaged commodity but assemble all the parts manufactured by other people and give a shape of packing to the end product. It has been suggested that an “explanation” may be added to cover the individuals or firms on HUF who do not claim the end product but sell the end product should be treated as manufacturer. In this context, the Committee asked the view of the Government. The Ministry in their reply stated that the existing definition is comprehensive enough and take care of individuals or firms on HUF. The responsibility for ensuring compliance shall rest with those who sell the product unless the name and address of the manufacturer is clearly declared.

2.6 On the suggestion that in the definition of manufacturers {Section 2 (O) } “Company” should also be included, since “firm’ and “person” have already been covered, the Ministry stated that the definition of `manufacturer’ provided under Section 2(o) is very wide and encompasses all situations including where the trade mark is put or cause to be put on end product not manufactured. So the individuals or firms or HUF or the company owes responsibility for any deficiency thereof.

2.7 The Committee note that the Government have proposed modification in the definition of “manufacturer” to cover such cases of Weight & Measures which one does not make or manufacture but is sold and claims the end product to be his. It however does not cover manufacturers who do not manufacture any part of packaged commodity but assemble all parts manufactured by other people and give a shape of packing and sell the end product in the market without claiming themselves to be manufacturer. In that way they are not held responsible for any short filling, measurement or other defects. The Committee, therefore, recommend that for better enforcement of law, an “explanation” may be added in the Section 2(o) to cover the individuals or firms or HUF who do not claim the end product but sell the end product.

Section 19 - Power of Central Government to prescribe physical characteristics, etc., of weights and measures

2.8 It has been provided in Section 19(1) of the Parent Act that the Central Government shall, in relation to any weight or measure, prescribe the physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, methods or procedures of tests in accordance with the recommendations made by the International Organisation of Legal Metrology:

2.9 To ensure uniformity in the implementation of the Act, The Ministry has proposed that in Section 19 of the principal Act, in sub-section (1) after the word “tolerances” at both the places where it occurs, the words “period of re-verification shall be inserted.

2.10 The State Government of Karnataka while objecting to the amendment in the Section stated that the powers of re-verification of the weights and measures has been prescribed under the Karnataka Standards of Weights and Measures (Enforcement) Rules, 1988 which are framed by the State Government. There is no necessity of prescribing the period of re-verification under the Standards of Weights and Measures Act, 1976. The Central Government proposed this amendment to take away the powers of the State Government to frame the rules. It is against the spirit of the Constitution. The Constitution has given the power to the state Government to frame the rules in such a way that they are suitable to the conditions of the State and also keeping in view the uniformity of the rules throughout the country.

2.11 The Government of Jammu and Kashmir stated that such amendment is not in the interest of the State Governments but aimed to withdraw the powers of State Governments due to the fact that after careful consideration taking into account all types of environmental

conditions of wear and tear, technical experts have prescribed period of re-verification of weights and measures as once in twelve months in the present law.

2.12 During evidence, the Committee asked as to how the proposed amendment empowers the Central Government to withdraw the powers of the State Government, the representatives of the Jammu and Kashmir Government stated:

“That power was lying with the State Governments under Section 72 which authorized the State Governments to make rules as far as period of re-verification is concerned, in consultation with the Central Government. We are only saying that when the States are already making rules regarding period of re-verification in consultation with the Central Government, what is the necessity of bringing it to the Central Act where no agency is involved in determining the period of re-verification?”

2.13 The Eastern Regional Legal Metrology Licencees Association objected the insertion of words “Period of re-verification”, because the climatic condition and economic condition of different States are different; where more rainfall occurs the weights and weighing instruments are damaged early. So, this period of re-verification should be prescribed by the State Government instead of Central Government, as the State Government understands its local condition. When asked as to what should be the “Period of re-verification”, the witnesses state during evidence that for the sake of consumer’s interest it should be done within 12 months.

2.14 In this regard, Shri K. Venkatswarulu, Ex. Enforcement Officer has submitted during evidence:-

"My submission in this regard is that already use of weights and measures is different in all the States. Even in the States, it is different in district to district because the trade practices are different. In a State like Andhra Pradesh, there are tribal areas, plain areas, and urban centres like Hyderabad, Visakhapatnam, etc. where trade practices are different. Even the State Government is finding difficulty in applying the enforcement provisions of the law to various areas in the same manner with effect from the same date. “The law must also take into consideration the welfare of the farmers who are being cheated in the market yards. There are many products like cotton, wheat, rice, etc. The weighing

practices are different even within the State. So, unless it is consolidated within the State, it cannot be implemented by the Central Government because there must be a harmony. There must be feed back from the ground level. So, that is not possible, if the power is vested with the Central Government. Therefore, whatever use of weights and measures would be in a particular trade or particular area the power must be vested with the State Governments but not with the Central Government.”

2.15 The Government of West Bengal is of the opinion that insertion of the word “Period of re-verification” in sub-section (1) of Section 19 is uncalled for because of the existing provisions in Section 24(2) of Standards of Weights & Measures (Enforcement) Act, 1985 read with Section 72.

2.16 The Ministry of Food, Consume Affairs and Public Distribution (Department of Consumer Affairs) in their comments furnished to the Committee stated that re-verification of a weight or measure is done to ensure that the same retain its accuracy during its use. This re-verification period depends on various factors like the quality of production, system, custom and usage, etc. Mainly depending on the manufacturing process, the re-verification period may vary for different weighing or measuring instruments. This period could be 5 years as in the case of Water Meters. Even in the existing rules, the re-verification period is not one year. For weighing machines it is one year, for weights, capacity measures, length measures it is 2 years, for vertical storage tank it is 5 years. A technical Committee constituted by the Department recommends on the re-verification period for different instruments and rules are modified accordingly. In other countries, the re-verification period is not uniform as claimed. They vary. For uniformity Model Enforcement Rules are circulated to states in this regard but many States have not adopted them in the past due to various reasons and this has resulted in non-uniformity in implementation. The experience in the past also indicated that States were making amendments in the Rules without consultation with

Central Govt. So it is necessary to prescribe the re-verification period of different weight or measure through Central Rules for uniformity.

2.17 The Committee drew the attention of the Government that a number of organizations and State Governments have objected to the proposed amendment to Section 19 on the plea that the amended clause amount to withdrawal/encroachment upon the powers of the State Government and asked the reaction of the Ministry in this regard. The Ministry in their reply furnished to the Committee stated that since the Enforcement Act, 1985 had been enacted by the Parliament, it is but appropriate that the enforcement rules framed there under are also framed by the Central Government, so as to have uniformity of implementation throughout the country. At present the Enforcement Rules are passed by the State legislatures, which is not conducive for achieving uniformity.

2.18 The Committee pointed out that most of States/Organizations have suggested that the period of re-verification of Weight or Measure should be decided by the State keeping in view the different environmental conditions and geographical nature of the States. The period of re-verification cannot be uniform across States. It may differ from State to State and asked the views of the Government. The Ministry stated that the re-verification period is a technical requirement depending on the capability of the manufacturers, technique and system adopted. So that uniformity is required to be ensured in respect of re-verification period all throughout the country.

2.19 The Committee note that to ensure uniformity in the implementation of the law, the Government have proposed that 'period of re-verification' of the weights and measures would be prescribed by the Central Government. A number of State Governments have objected to this amendment stating that it was against the Federal structure of our Constitution and that it was likely to affect the revenue of the State Governments. The Committee feel that the Central Government should avoid to prescribe the period of reverification as at present the powers to make Rules lies with the State Governments under Section 72(2)(m) of Standard of Weights & Measures (Enforcement) Act, 1985. Further the Government, while making amendments have not kept in mind that climatic conditions and economic conditions of the different States differ where trade Practices are also different. The Committee are not convinced with the argument put-forth by the Government that the Model Enforcement Rules were circulated to States but many States have not adopted them due to various reasons and this has resulted in non-uniformity in implementation. The Committee, therefore, recommend that the Central Government should not encroach upon the Rule making powers of

the State Governments/UTs and ensure that the period of re-verification of Weights is prescribed by respective State Governments keeping in view the technical requirements as well as other factors like climatic conditions and usage etc. The Committee desire that all State Governments should make their own rules within a period of two years failing which the Central Government, may lay down the model rules for the States to follow.

Section 23 - Prohibition with regard to inscriptions, etc.

2.20 Section 23 of the SWM Act, 1976 provides that no weight, measure or other goods shall bear thereon any inscription or indication of weight, measure or number except in accordance with the standard unit of such weight, measure or numeration established by or under this Act:

Provided that in relation to any weight, measure or other goods which are manufactured for scientific investigation or research or for export, inscription or indication thereon of any weight, measure or number may also be made in accordance with any other system of weight, measure or numeration if such inscription or indication is demanded by the person by whom such scientific investigation or research is to be made or by the person to whom the export is to be made.

2.21 The Government have proposed to “omit” this Section from the Principal Act.

2.22 The All India Legal Metrology Officers' Association, Kolkata and the Government of Jammu and Kashmir through their comments furnished to the Committee stated that India being a member of OIML should not use non-metric units in the name of ignorance of people. Such amendments if accepted will take the country to 48 years back and shall reduce the image of the country in the world. This amendment is only aimed to satisfy the interest of certain manufacturers and has been suggested for ulterior motive and hence should not be accepted. Needless to mention that without proper amendment ad-interim, a notification has already been issued to inscribe non-metric unit, which is ultra virus.

2.23 The All India Legal Metrology Officers' Association, Kolkata in their post-evidence reply stated that as India is one of the members of OIML and CGPM (Industrial Forums), so allowing use of non-metric unit in addition to metric units even for a limited period, will be against the treaty/agreement with those bodies. Moreover, it is a convenient system and has been adopted by majority of people of this country. It is not in the interest of consumer at large, rather it is in the interest of certain manufacturer.

2.24 In this regard, the Government of Maharashtra have stated that use of non-metric units on weight or measure will be against the objective of OIML. Though, it is accepted that use of certain non-standard unit is necessary during the period of transition, provision for permitting such period should have been fixed in the said Section.

2.25 The Indian Institute of Legal Metrology, Ranchi is not convinced with the amendment. In their view present provision of legal metrology, prohibits the use of non-metric units. Aim and Objective of weight and measure organization are to introduce metric system in the country in order to work uniform at par with international practice. Metric system has been adopted in the country since 1958. Now in the proposed amendment (after 48 years) suggesting to allow inscription of non-metric units to manufacturers may not be in the interest of the country. India, being a member of OIML, BIPM and other international organisations, should not use non-metric units in the name of ignorance of some people. Again, our country cannot go 48 years back and reduce the image of the nation in the world.

2.26 State Government of Orissa, Rajasthan, Punjab and U.T. of Chandigarh have also expressed similar views in the matter.

2.27 In response to the aforesaid comments/views, the Ministry of Food, Consumer Affairs and Public Distribution (Department of Consumer Affairs) reacted that people are still non conversant with metric units especially while dealing with length or body temperature

measurements. For example, height of a person is still measured in feet and inches, area of a room is measured in square feet, body temperature is measured in degree Fahrenheit instead of degree Centigrade. So people use tape measures with feet, clinical thermometer with degree Fahrenheit etc. As per the existing provisions of the Act, inscription of such non-metric units, even in addition to metric units, on any measuring instruments is an offence and cases are booked by enforcement agency. So the sale of such instruments is done illegally without verification. Hence the need to amend the Act for permitting the indication of non metric units selectively in the area of length and temperature for certain period of time in addition to the official metric units. Delhi High Court has in a Writ petition directed permitting the inscription of degree Fahrenheit scale on clinical thermometer in addition to Centigrade scale.

2.28 When asked about the efforts made by the Government to educate the public and manufactures about the use and popularization of metric system, since the adoption of metric system in 1956, the Committee was informed that detailed programme for educating the public on metric unit and conversion from non-metric units were taken up by the Central and State Government departments during the late 50s and in 60s. Because of such effort, complete metrication has been adopted in monetization, mass measurements, volume measurements, in manufacturing sectors, in engineering industries, in technical education, etc. However conversion is still not complete in land measurement due to the fact that the land records of many years are being maintained in non-metric local units. So all related activities are being done in non metric units like building construction, building material like bricks etc. Another area where the conversion is not complete is body temperature measurement where still degree Fahrenheit is used commonly though all temperature measurements in industries are done in metric units and scientific and weather measurement is also done in metric units

2.29 The Committee find that Government propose to delete Section 23 of the Standards of Weights & Measures Act, 1976. By virtue of deletion of this Section the use of non-metric units along with metric units will be permissible. A large number of State Governments have opposed the 'omission' of Section 23 on the plea that it will be against the agreement of the country with Organisation of International Legal Metrology and General Conference on Weights & Measures and would take our country 50 years back. It has been further stated that it may lead to cheating of consumers also. The Committee do not share the contention of the Government that the people are still conversant with some non-metric units only and the same could be permitted in addition to standard units for some more time. The Committee are of the opinion that the Standard scales were introduced way back in 1956. It was expected of the Government to undertake an extensive campaigning to educate and disseminate the information about the use of metric/standard units throughout the country which they failed to do so. Permitting the use of non-metric units along with metric units may not only lead to confusion but also cheat consumers in one way or the other. The Committee are also of the view that the use of non-metric units will be against the spirit and recommendation of Organisation of International Legal Metrology and General Conference on Weights & Measures. The Committee, therefore, recommend that Government should not delete this Section as proposed in the amendment Bill.

Section 36 - Approval of models

2.30 The Government have proposed that in section 36 of the principal Act:-

(a) in sub-section (1) clauses (a) and (e) shall be omitted

(b) in sub-section (7) after the words "in respect of that model" the words "subject to such terms and conditions, including the period of its validity, as may be prescribed" shall be inserted.

(c) Sub-section (8) shall be omitted.

2.31 The Committee noted that deletion of sub-section (8) would mean that the approved models need not be published in Official Gazette. A number of State Governments have adversely commented upon on this amendment.

2.32 The State Government of Jammu and Kashmir and the All India Legal Metrology Officers' Association, Kolkata are of the opinion that such amendments will create harassment among the manufacturers unnecessarily. The weights and measures which are in use since last 20 to 30 years as per the specifications of the metric systems throughout the country; there is no need for model approval. If a new item comes, it should require model approval and such model approval of the new item should be widely publicized for the knowledge of the general public. As such there should not be any reluctance in publishing such model approval certificates in the official gazette which is highly essential for the interest of the public.

When asked as to how amendments in Section 36 will create harassments amongst the manufacturers, the representatives of the Jammu and Kashmir Government replied that by deletion of sub-section, a manufacturer has to approach the Central Government for model approval again.

2.33 The All India Legal Metrology Officers' Association, Kolkata, that the models of weights and measures is --- use since last 50 years do not require approval of their models as they are time tested and their efficiency have been ascertained several times. Models of new weights and measures can be checked and approved to reflect the advancement and technological innovations and the certificate of approval should contain all the relevant information as required under the Acts and Rules. Every Indian citizen has the right as to know details of a new models of weights and measures country in the market. For a particular W&M one time model approval is in the interest of consumers as well as manufacture and it should be published in the official gazette as well.”

2.34 The Government of Bihar have partially agreed to the amendments proposed by the Government. In their view the re-approval of existing models will cause uncertainty always in a useless exercise. Besides the Gazette publication is proper for general awareness confirmation and transparency.

2.35 During evidence the representatives of the Eastern Regional Legal Metrology Licensees Association further clarified that the power of approval of models should be decentralized. Every State has its own laboratory and controller. So, the controller acts as the Assistant Director of the Legal Metrology. This controller has its own laboratory, lab inspector, assistant controller and deputy controller and so on and so forth. They are totally equipped and the equipment is supplied by the Central Government itself. So, when the Controller of State is looking after even so many licence and other activities in a State, then why not he has power to give the model approval.

2.36 The Ministry in their reply stated that model Approval certificate are normally useful only for the three stake holders; namely, user, manufacturer and the enforcement agency. Copies of the Model approval certificates can be sent to these stake holders immediately on its approval by the Government. At present, after approval, it takes 4-6 months before it gets printed in the gazette and that too at a great cost which no body is bearing. To expedite its receipt, it is proposed to be put on the Website of the Department on the same day of the approval of the certificate.

2.37 As per the provisions of the proposed Bill, the details of models are not required to be made officially known. In this context, the Committee asked the difficulties in publishing the certificates of approval of models in Official Gazette for the information of general public and manner in which the Government propose to inform the masses about the details of Models approved by them, the Ministry stated that there is no proposal to decline the details of models officially. The proposal is to do-away with the notification of the certificate in Gazette. Instead it is proposed to be notified on the internet and copies made available to stake holders who are mainly the enforcement authorities, manufacturers. This procedure will be cost effective, and reduce the time for notification by almost 2 months.

2.38 The Committee note that as per Section 36(8) of the Standards of Weights and Measures Act, 1976, every certificate of approval of a model shall be published in the Official Gazette and shall also be published in such other manner as the Central Government may think fit. Now the Government have proposed to omit the said subsection from the parent Act and have proposed that the certificate of approval of models would be placed on the website of the Department. The Government have also stated that the Gazette Notification is normally available only to limited people due to its low circulation. The Committee are not convinced with the plea of the Government. The Committee feel that Gazette Notification is an authentic official document unlike information posted on website. The Committee do not approve the proposal of the Government and recommend that the present practice of publishing such information on Gazette may continue. However, if the Government so desire, they may make available the approved certificate, on the website, as well.

NEW PROVISION

In part IV of the principal Act after chapter V as omitted by section 15 the following Chapter shall be inserted namely:-

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES BY SPECIAL VERIFICATION AGENTS

2.39 A new Chapter has been inserted to provide for creation of Special Verification Agents (SVA). The SVA will take up periodical verification of sophisticated weighing or measuring instruments like flow metres, energy metres etc. which are at present not verified by State enforcement authorities due to lack of infrastructure, expertise etc. Special Speical Verification Agents will augment the facilities already existing with States by making use of testing facilities in the non-Governmental Sector in the country. The concept of Special Verification Agents is not acceptable to any one who have furnished their comments to the Committee. The Ministry have also proposed consequential changes in the Act vide clause 46-B to 46-G

2.40 The Government of Maharashtra have furnished their views/comments as follows:-

“Section 46 A(d) Specified weighing and measuring instrument has been defined under this clause. This definition is very vague and there is every possibility that type of weighing or measuring instrument can be changed at the sweet will of the Central Advisory Board, which in turn will defeat the basic purpose enumerated in the preamble for Act. The objectives and reasons given for the Amendment prescribes that Special Verification Agents are to be appointed for the purpose of Verification of “Sophisticated weighing machines or weighing instruments”. The Term “Sophisticated Weighing Machine” or Sophisticated Measuring Instruments” did find any place in the act or in the Rules. As per Section 19 of the act, weight and measure prescribed under the Standards of Weights and Measures

(General) Rules, 1987 can only fall within the ambit of this Act. As such, Special Verification Agency has to undertake verification and stamping of weighing or measuring instruments prescribed under these Rules. It is, therefore, felt necessary that type of weighing or measuring instrument proposed to be verified and stamped by Special Verification Agency should be clearly mentioned and there shall be clear-cut demarcation of type of weighing or measuring instruments to be verified by Special Verification Agency and that of other weights or measures.

Moreover, proposed amendment is without Constitutional basis. Verification and stamping is basically subject under State Act. By the proposed amendment, Centre has entered directly into field of verification i.e. enforcement. It is proposed to entrust verification and stamping of specified weighing or measuring instruments to Special Verification Agents. These agents will verify and stamp/seal such instruments like State enforcement agency. Provisions in respect of Special Verification Agents are laid down under this Act and rules made thereunder. This means enforcement by Central Government and enforcement by Central Government mean dual enforcement control.'

2.41 The Karnataka Government in their Comments furnished to the Committee stated that the proposal of omission of chapter V of Part IV and the introduction of a new chapter (Chapter VI) shows that the Central Government is trying to takeaway the work of verification of some important weights, measures weighing & measuring instruments from the department of the State and entrusting the same to special verification agents. This is not acceptable for the reasons stated below:-

(a) If the verification of the weights and measures used in any transaction are entrusted to the special verification agents, then the department cannot enforce the provisions of the Act on the user of the weights and measures. This will lead to cheating of the consumers. As there will not be any enforcement from the department a lot of weights and measures will remain unverified and unstamped. The private agent will do the verification of the weights and measures which are brought to them voluntarily by the users. They cannot compel the users to get the weights and measures verified by them. There is every possibility that the private agents may not maintain the required accuracies in the weights and measures which may lead to short or excess weighment.

(b) If the verification is entrusted to the special agents then the state government will lose substantial amount of revenue in the form of verification and stamping fees and the legal Metrology department will lose its importance. The idea of having special verification agent will neither be in the interest of the consumer nor in the interest of the Government.

(c) The amendments are aimed at centralising the powers with the Director of Legal Metrology, Government of India and finally handing over the public welfare organisation to the business groups.

(d) Since there is proposal to introduce the word “prescribed” under the standards Act after the words weights and measures in Section 24(3) of the 1985 Act which means the Director at his will can prescribe any type of weight or measure which should be verified by the special verification agents thereby undermining the effect of the Legal Metrology department.

2.42 Eastern Regional Legal Metrology Licensees Association has *inter-alia* stated that the appointment of SVA will cause a good amount of loss of revenue to the state exchequer. The SVA will not be able to reach to the extreme of remote corner of the state where the existing small repairers are working throughout the rural India. Besides there will not have any check and balance for the misuse of the function of SVA, but work done by the state authority is subject to check and counter check by Senior Officers and outside wings like vigilance, CBI etc.

2.43 The Government of Jammu and Kashmir has submitted their views as follows.

“When there is existing infrastructure in all the states for enforcement of weights and measures law, there is no necessity for introducing a special verification agency for the purpose. Moreover the type of weights and measures to be verified by the special agencies has not been clearly mentioned in

the amendment. Rather the authority has tried to centralize the power on him alone to prescribe the weights and measures to be verified by the special agency. Such an idea of centralizing the power is dangerous in a democratic country like India. These special agencies will collect more charges from the traders for verification which will ultimately affect the consumer.

Rather it is suggested that the available infrastructures in the State should be strengthened in order to add new items under verifications and stamping. Such amendments are also against the recommendations of OIML and perhaps nowhere in the world these type of concept and existence.”

2.44 The Indian Institute of Legal Metrology, Ranchi in their comments stated that when their existing intra-structure in all the state for enforcement of weights and measures law (legal metrology), there is no necessary for introducing a special verification agency for the above purpose. The purpose of consumer protection in public interest may be fulfilled with the help of state enforcement rather then centralizing the power.

2.45 In response to the aforesaid comments the Department of Consumers Affairs submitted as under:-

“The Weights and Measures Act require verification of all weighing or measuring instruments. The infrastructure created in the State is meant only for verification of basic instruments like weight or measure like weights, capacity measures, length measure. Even in their verification, they lack credibility. With the strengthening of our country’s economy, trade and industry has started using new sophisticated measuring instruments. It is necessary to regulate them in the interest of consumers. There is neither infra-structure available for this purpose with states nor any possibility of creating such facility with them in the near future due to inadequacy of funds, etc.

The Special Verification Agent system proposed would take care of this without the involvement of any Govt finance and at the same time provide third party verification of instruments like energy meter, water meter, telephone meters, Petroleum flow meters, glucometer, etc simultaneously. The proposed legislation has enough safe guards to ensure proper supervision and control of the SVA so created.

The operation of such system is prevalent in many other countries providing protection to consumers. OIML has also recommended the creation of such system.

2.46 The Committee have noted that affixing seal, stamping and verification of Weights and Measures instruments is a sacred sovereign functions of a State like minting of coins and printing of currency notes. Such functions should not be parted with by any one and especially a private agency. In this regard the Committee wanted views of Government.

2.47 The Committee was informed that the verification carried out under the Weights and Measures Acts is a third party certification. So it can be done by any authorized agents.

2.48 When pointed out verification and stamping is basically subject under state Act. By the proposed amendment, the Central Government has entered directly the filed of verification i.e. Enforcement. Thus there will be enforcement both by Central and State Governments. The Ministry responded that the Enforcement of Weights and Measures is now under the Concurrent List. However there is no proposal under consideration for the Central Government to take enforcement.

2.49 To a query as to whom SVA will be accountable and who will exercise control and monitor SVA, the Ministry stated that the details of regulation of SVA shall be prescribed under Rules.

2.50 It has been noted that Special Agents will work for profit and will not visit for flung areas to verify the Weights and Measures Instruments brought to them by users voluntarily. This will lead to

cheating of consumers as a good number of Weights and Measures instruments would remain unverified and unstamped. The Committee asked about the reaction of the Government and corrective steps taken in the matter, the Ministry stated that responsibility of getting the instrument verified rests with the user. So they will get the weighing or measuring instrument verified from the authorized agency.

2.51 Asked as to how Government will ensure that the private agents maintain the required accuracies verifying in the Weights and Measures instruments, the Ministry stated that the working of SVA will be monitored under the provisions of the Rules.

2.52 There is a hierarchy of standards namely National, Reference, Secondary and Working Standards. With the coming up of SVA, this chain will be broken at working Standards level. Further no mechanism exists in the Bill to check the Standards of SVA. In this context the Committee desired the reaction of the Government. The Committee was informed that under the National Accreditation Board of Laboratories (NABL) scheme, many laboratories are accredited for carrying out third party calibration and these accredited laboratories are to maintain standards traceable to National Standards. So this facility is proposed to be utilized for SVA.

2.53 It has been proposed that SVA will undertake verification and stamping of Weights and Measures instruments of only the "Sophisticated Instruments. Asked whether such sophisticated instruments defined any where in the Act, the Ministry replied that the "sophisticated instruments" has not been defined as yet. These are instruments where higher degrees of technical knowledge is required for their proper verification. As per the proposal the powers to prescribe instruments to be taken up for verification by SVAs shall rest with the Central Government.

2.54 The Committee note that a new Chapter has been proposed to be inserted in the Standards of Weights and Measures Act, 1976 to provide for creation of Special Verification Agency (SVA) for the verification of specified Weights and Measures Instruments by Central Government. The Committee note that almost all the State Governments have objected to the introduction of concept of SVA on the grounds that: (i) Verification is the sovereign function of the State and should not be outsourced; (ii) The SVA will not visit the far-flung areas to verify the Weights and Measures Instrument and may work for profit only in urban areas; (iii) Only those instruments will be verified and stamped which will be brought before SVA for verification. (iv) The existing infrastructure available in the States will go waste. The Committee have reasons to believe that the Special Verification Agency may not be able to maintain the required accuracy in maintaining the verification of Weights and Measures. There is also likelihood of loss of revenue to State Government in the aftermath of introduction of SVA. Further, the details of specified instrument to be verified have not been defined in the Act. The appointment of service agents on sub-contract basis to undertake verification can not also be ruled out.

In addition there is no agency to oversee the work of special verification agencies. The Committee, therefore, feel that the concept of Special Verification Agency for verification of Weights and Measures Instruments need not be introduced at all and whole Chapter VI should be dropped. The Committee desire that instead Union Government should upgrade and strengthen the existing facilities of stamping and verification available with the State Governments.

2.55 If the State Government has not been able to provide the necessary infrastructure for implementation of Standards of Weights & Measures Act, 1976, the Committee fail to understand how the Department expects the private agency to arrange the required infrastructure immediately on passage of the Bill. The Committee feel that the trust of the Department on private agency is totally misplaced and not based on any facts. Secondly, while the staff of the State Governments will be rendered useless, the Central Government will be creating another cadre of Inspectors to verify the work of SVAs under clause 46-G of the Weights & Measures (Amendment) Bill, 2005.

CHAPTER III

The Standards of Weights and Measures (Enforcement) Amendment Bill, 2005

Section – 5 Appointment of Controllers, Inspectors and other officers and staff

3.1 According to Section 5 of the Standards of Weights and Measures (Enforcement) Act, 1985 the State Government may, by notification, appoint a Controller of Legal Metrology for the State and as many Additional, Joint, Deputy or Assistant Controllers, Inspectors, and other officers and staff as may be necessary for exercising the powers, and efficiently discharging the duties, conferred or imposed on them by or under this Act or the Standards Act.

3.2 The Government have proposed the following amendments Section 5:-

“(a) after sub-section (1), the following sub-section shall be inserted, namely:-

(1A) The Central Government may, by notification, prescribe the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controllers and the Inspectors under sub-section (1)”

(b) in sub-section (4), the following proviso shall be inserted, namely:-

Provided that the Controller shall exercise his powers and discharge the duties of his office subject to such general or special directions, as the Director may, from time to time, give and such directions shall be binding on the Controller”.

3.3 In their comments furnished to the Committee, the Government of Karnataka stated as under:-

“So far as the post of Controller of Legal Metrology is concerned, it is filled up either by an IAS Officer or a KAS (Senior Scale Officer) with sufficient experience and seniority. They have the required administrative, legal

experience in dealing with the subject matter of the Act. So far as other than the Controller, other staff, including KAS are concerned, they are State Government Servants. They are covered by Article 309 of the Constitution read with entry 41 of the list-2 (State list) of seventh schedule to the constitution. It would be difficult for any State Government to make compromise with regard to the power of State Legislature, as State Legislature has exclusive power to make law on the subject. Even the Parliament may not like to usurp the power of the State Legislature in making the proposed amendments to Section 5 and 72 in this regard. The question would be debatable, whether by an enactment the constitutional scheme could be altered in view of the decisions of the Supreme Court in A/R 1967 se 944 (1979) 3 sec 165, A/R 1957 Se 628(633), A/R 1960 Se 1, A/R 1977 Se 1825, so far as subordinate legislation is concerned. Actually Rule 20 of the present Rules of the Standards of Weights and Measures (Enforcement) Rules 1988 are under challenge and they are being disputed an account of Supreme Court decision in A/R 1976 Se 1031 and A/R 1989 Se 1982. Keeping the above legal position in view, the following suggestion is made:-

(a) The State Government has already prescribed qualification for the Inspector under Rule 20 of the Karnataka Standards of Weights & Measures (Enforcement) Rues 1988. The qualification for the post of Additional Controller, Deputy Controller and Assistant Controller including Inspector will be incorporated in the C & R Rules of the Department. Hence there is no necessity of incorporating this sub-section under the section 5 of the Standards of Weights and Measures (Enforcement) Act 1985.

(b) This amendment has been prescribed with the intention to usurp the powers of the State Government to make the rules by the central government. The subject of weights & measures is incorporated in the concurrent list of the constitution whereby both the Central and the State Government are empowered to make the rules. The Central Government has already enacted the Karnataka Standards of Weights & Measures (Enforcement) Act 1985 and the S.G. has framed the Karnataka Karnataka Standards of Weights & Measures (Enforcement) Rules 1988 by simply adopting the draft rules circulated by the central Government. This was done to have uniformity in the enforcement of the Act and Rules throughout the country.

(c) Further there is a provisions under the Section 72(1) of the enforcement Act 1985 that the State Government has to consult the Central Government before making any rules to carryout the provisions of the said Act. This provision is also made to have uniformity in the enforcement of the weights & measures Act and the Rules throughout the Country.

(d) With the above condition of consulting the Central Government, the powers of framing the rules may be continued with the State Government instead of taking those powers by the Central Government. This is against to the principles of the de-centralisation of the powers as envisaged by the Central Government.

(e) In some circumstances the State Government have to make little changes in the enforcement rules to make them suitable to the local conditions of the state like provisions relating to the period of verification of a particular type of weighing or measuring instruments which are extensively used in any region of the state. For this purpose the rules making powers should remain with the state governments rather than the central government. Hence the proposed amendment is not acceptable.

3.4 This provision is not required to be incorporated in the Act for the following reasons:

The Controller of Legal Metrology is appointed under Section 5(1) of the Standards of Weights & Measures (Enforcement) Act 1985 to enforce the provisions of the said Act. The Controllers appointed in the states are usually of the rank of IAS, IPS or State Administrative services. They have the required knowledge and experience to carryout the duties confirmed on them by the Act. There is no requirement of any directions from the director The Director may issue clarifications whenever they are sought by the state controllers.”

3.5 The Government of Orissa, however, desired that Section 5(4) may not be inserted. Since the Controller are appointed by the State Government and they are under the administrative control of the State Government, the specific duties of the Controller under the Director is not feasible.

Besides, the Controllers of the State Government are at par with or above the Directors in the Ministry.

3.6 In this regard, the Government of West Bengal forwarded their comments as under:-

“1) The new sub section 1(a) may be inserted in section 5 provided following words are incorporated “in consultation with the state govt.” This is necessary in view of the fact that enforcement officials are appointed by the respective state govt.

2) The new proviso to sub-section 4 of section 5 Would put the State Controller subjected to general or special direction of the Director of Legal Metrology, Govt of India. State Controllers being the State level officers are under the State Service Rules and Regulations. Putting him under the direction of the Director of Legal Metrology, Govt. of India would mean placing him under the two heads, will create administrative and legal problems which is bound to have effect on the administration of Weights and Measures law in the State. It is therefore proposed that such amendment should be scrapped. Fact remains that Central guidelines coming from the Director of Legal Metrology, Govt. of India is being respected always. Proposed amendment would unsettle the settle thing i.e. time honoured co-operation and co-ordination between Central and State in respect of administration of Weights and Measures.”

3.7 According to Shri K. Venketeshwarulu the proviso (b) in sub section 5 proposed to be included is impracticable, unenforceable, as the Controller is appointee of State Government and he takes directions only from State Government but not from the Director Weights and Measures as proposed in the law. When the order of the day is to decentralise the powers, the amendment proposed concentrates power and authority in a person far away from the people, overriding the democratically elected

Government of the State. Instead the directions if any may be issued to the State Government, which in turn direct the Enforcing Officials including Controller of Legal Metrology to enforce the law in letter and spirit.

3.8 The Government of Kerala have the objection if Section (1A) is inserted in Section 5 due to the reasons that the Controller is appointed by the State Government and bound to follow the directions of that Government. According to the amendment, the Controller has to follow the directions of Director. Such dual control will create crisis in the administration and enforcement.

3.9 The Government of Jammu and Kashmir and All India Legal Metrology Officers' Association, Kolkata are of the view that almost in all the States, the weights and measures organisation is headed by the officers in the cadre of Commissioner/Secretary/Additional Secretary/Joint Secretaries, who are above the rank of Director Legal Metrology. Such modification may cause insubordination in exercising the powers. There is already provision that all the rules required to be made by the State Government should be done in consultation with the Central Government. So, the question of non-uniformity in the rules does not arise if the Central Government renders similar consultancy to all the States. It is ridiculous to make a law that the State authorities shall exercise powers under the superintendence of the central authority. Rather both the authorities should exercise powers as per the provisions of the law.

3.10 Asked as to how the modification will cause insubordination in exercising the powers, the AILMOA, Kolkata informed the Committee that definitely the Controller will have no alternative and discretion but shall have to act as per the wishes of the Director of Legal Metrology of the Central Government. Most of the Controllers are very senior officials (Finance commissioner – in J & K, I.G. Rank police officer in Andhra Pradesh, etc.) than the Director working under him will be an act of insubordination.

3.11 The Arunachal Pradesh Government stated that after the word “Inspectors”, the words “and other officers and staff” may be inserted. In fact, in some State, the concerned officials verifying the working standards sets in respective Secondary Standard Laboratory are designated as Technical Assistant, Scientific Asstt. and as so. **A new provision specifying equal structural pattern** in respect of organization set-up including specification of duty uniform, status of officers etc. and other enforcement activities may be included.

3.12 In view of the Government of Maharashtra provision regarding “making compliance of directions of Director binding on Controller of Legal Metrology and such directions shall be binding on Controller”, this provision is in excess of the powers. It ultimately, becomes mandatory on Controller to comply with the directions of the Director of Legal Metrology; further mentioning of such a binding is duplication. Hence, such duplication shall be omitted.

3.13 Asked as to how there will be excess of powers on the post of Director if the orders passed by him are binding and mandatory on Controller of Legal Metrology, the Government of Maharashtra in this post evidence replies that all powers in respect of both the Acts are vested with

Director of Legal Metrology. This is centralization of powers. In fact Central Government can be a nodal authority and can issue overall guidance. Personnel in Legal Metrology Organization functions under direct supervision and control of the controller. It is, therefore, essential that policy matters relating to Standardization of weights and measures and regularization of Packaged Commodities Rules shall be dealt with by Director of Legal Metrology and the remaining functions needs to be dealt with by the controller of Legal Metrology of the State.

3.14 The Union Territory Administration of Chandigarh have furnished the following comments to the Committee:-

“While the qualifications of Inspectors are already prescribed under the Standards of Weights & Measures (Enforcement) Rules that of any other officers have not been prescribed.

Now with this amendment qualifications of Joint Controller, Deputy Controller, Assistant Controller and Inspectors are proposed to be prescribed by the Central Government by notification but the qualification of the Controller who is supposed to Control whole of the State has not been proposed to be prescribed.

It may be noted that with the Advancement in International trade practices and development of Technology in the field of Legal Metrology, the job of all the enforcement official/officers demands highly technical qualified persons so as to understand the working of the sophisticated weighing and measuring instruments/systems. Under these circumstances for proper protection of Consumer interest. The person appointed as Controller should be able to understand the Technology of the weighing/measuring systems being used so that he could guide his Juniors properly, who are supposed to work under his superintendance and direction and control as per Sec. 5(4) of the Principal Act.

Keeping in view the above requirements, the qualification of the Controller should also be

prescribed by the Central Government alongwith the qualifications of other enforcement officers/official.”

3.15 The Government of Goa stated that State Government has prescribed the qualification of Controller, Assistant Controller, published vide Official Gazette dated 16th May, 1991, Sl. No. 7, and for Inspector, vide Official Gazette dated 26th August, 1983, Serial No. 21. The qualification of Inspector is also incorporated under Rule 20 of Standards of Weights and Measures (Enforcement) Rules, 1987. The qualification of the Controller and Assistant Controller can be incorporated in the State Rule. However, this amendment is agreeable provided it protects the existing Additional, Joint, Deputy and Assistant Controller, regarding the service matter and promotion etc.

At present the Controller is furnishing all information as per the directions of the Director, whenever it is required by him. The Controller is appointed under Section 5(1) of the Standards of Weights and Measures (Enforcement) Act, 1985 I to enforce the provisions of the said Act. This appointed Controller have experience and knowledge in the overall working of the Department of Legal Metrology. Therefore, it is not agreeable to incorporate this provision.

3.16 The amendment in Section 5 is acceptable to the Government of Gujarat provided compulsory basic training course of IILM, Ranchi must be passed successfully.

3.17 The Government of Rajasthan suggested that Section 5 (4) should remain as it is and the proposed provision is inappropriate. The work of the Controller, legal Metrology is done as per the direction of the State Government. The Controller acts according to the economic condition, manpower, maintenance of laboratories and the purchase of new equipments, etc and budget situation of the State

Government. At present it has been provided in the proviso of 5 (4) that the Controller shall work as per guideline of the Director which would be binding on them. It is also likely to increase the problems of the controller.

3.18 While responding to the above suggestions of the individual and State Governments, the Ministry of Consumer Affairs stated that it will lead to non-uniformity in the qualification of persons working in enforcement activities as it exists today. Moreover skill levels of the employees required to be raised.

3.19 The subject of Weights and Measures is highly technical in nature. Normally long experience and expertise is required to ensure proper implementation of the provisions of the laws. Under section 28(7) of the existing Standards of Weights and Measures Act 1976 all enforcement authorities are functioning under the superintendence and guidance of Director Legal Metrology. The lack of similar provision under the Enforcement Act has lead to impediments in the growth of industries and trade in the country due to non-uniformity in implementation. Even the provisions of the Acts and Rules are interpreted in different lines leading to strangulation of the industries. So for economic development in a transparent manner it is absolutely necessary to ensure functioning under the guidelines of a single technical authority.

3.20 In the absence of such binding, the enforcement authorities do not comply with the guidelines issued and trade and industry is put to great difficulties and they have to run State to State to solve their problems.

3.21 It has been stated that the Central Government may prescribe qualification for Additional Controller, Joint Controllers, Assistant Controllers and Inspector and not appoint them. Asked as to what prevented the Central Government to prescribe qualification for the post of Controller, which is most needed as Controller need to possess technical qualification and only than can guide and supervise the work and supervise the work of his subordinates, the Ministry stated that the post of controller is of administrative in nature and are filled in most of the State from Revenue Service. It may be desirable to have scientific qualification for the post of Controller also.

3.22 It has brought to the notice of the Committee that there may be insubordination and the amount to excising excising excessive power etc. and is also be against the Principal of decentralization if the present amendment in Section 5 is allowed to be passed. In this context the Committee enquired as to why the Central Government issue directions to State Government functionary which is against federal principle of Constitution, the Ministry stated the weights and measures laws and their implementation is highly technical and hence it is necessary to issue guidelines from the Central Government for uniform and proper implementation.

3.23 The Committee note that a new section (IA) is proposed to be inserted in Section 5 of Weights & Measures (Enforcement) Act, 1985 according to which the Central Government has been authorised to prescribe qualifications for the posts of Additional, Joint, Deputy and Assistant Controllers and the Inspectors.

A proviso is also proposed to be added to subsection 4 whereby the orders of the Director shall be binding on the Controller of the State Legal Metrology Department.

The aforesaid amendments are not acceptable to the State Government due to various reasons. The Committee note that at present recruitment to the posts mentioned in Clause (IA) is made by respective State Governments and as such the qualifications for these posts are also laid down by them. A number of State Governments have informed the Committee that appointment of these officers is covered by Article 309 of the Constitution read with Entry 41 of List 2 of Seventh Schedule of the Constitution. As such, it would amount to compromising the powers of State Legislature which no State Government would like to do.

Similarly, the Controller who is appointed by the State Government is bound to follow the direction of that Government. The Committee feel that such amendments may cause insubordination in exercising the powers by various officers in the field of Legal Metrology. The Committee are aware of the fact that most of the Controllers are very senior officials from IAS & IPS and have the better knowledge and

experience of the working of the State Department of Legal Metrology. As such, asking them to follow the direction of a Director of the Union Government which may not have any knowledge about the ground realities in various States would be totally unjustified. The Committee, therefore, recommend that the proposed amendment to Section 5 of the Act should be dropped and status-quo should be maintained.

Section 24- Verification and stamping of weights or measures.-

3.24 This Section provides that every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed except the weight or measure which is used exclusively for domestic purposes.

3.25 The Government have propose that in section 24 of the principal Act,-

(a) in sub-section (1), the following proviso shall be inserted, namely:-

“ provided that the verification of the weight or measure as prescribed under the Standards Act, shall be made by the special verification agents under the Act.

(b) in sub-section (2) for the words “ as may be prescribed, the following shall be substituted, namely:-

“ as prescribed under the Standards Act:

Provided that re-verification, of such weight or measure verified by the special verification agents under the standards Act, may be made by the agents at such periodical intervals as prescribed under that Act.”

(c) in sub-section (3) for the proviso, the following provisos shall be substituted, namely:-

“provided that in respect of the weight or measure, as may be prescribed, the Inspector shall take steps for the verification of such weight or measure at the place of its location provided further that the verification of such weight or measure, as prescribed under the Standards Act, shall be made by the special verification agents under the Act:.

(d) sub-section (4), (5) and (6) shall be omitted.

3.26 In this regard the Government of Karnataka has furnished their comments/views as under:-

“The Inspectors and the other officers of the department of Legal Metrology are authorised under the Act to undertake the verification of the weights & measures used in any transaction, industrial production or protection.

Penal provision has been incorporated under the Act for the use of un-verified weight or measure. This provision is made to ensure correct weighment and measurement in the transactions and to prevent any mal-practices or cheating. This provision has to be enforced by the departmental officers. If the verification of the weights and measures used in any transaction are entrusted to the special verification agents, then the department cannot enforce the provisions of the Act on users of the weights and measures. This will lead to cheating of the consumers. As there will not be any enforcement from the department a lot of weights and measures will remain unverified and unstamped. The private agent will do the verification of the weights and measures which are brought to them voluntarily by the users. They cannot compel the users to get the weights and measures verified by them. There are possibilities that the private agents may not maintain the required accuracies in the weights and measures which may lead to short or excess weighment.

3.27 If the verification is entrusted to a special agent then the state government will loose substantial amount of revenue in the form of verification and stamping fees and the legal Metrology department will loose the importance. The idea of having special verification agent will neither be in the interest of the consumer nor in the interest of the Government. The amendments are aimed at centralising the powers with the Director of Legal Metrology, Government of India and finally handing over the public welfare

organisation to the business groups. Hence this proposal is not acceptable.”

3.28 The All India Legal Metrology Officers Association, Kolkata has submitted their view as under:

Section 24(2) & 24(3) :- “Since implementation of the provisions of special agencies is highly derogative as explained in the Section 46(a) to 46(i), there is no need for amendment to this section. Total objection against the introduction of Special Verification Agency. Modernisation and specialization of the State present setup can easily replace the very concept of Special Verification Agency.

Section 24(1) and 25(2): It contradicts: Exploiting and denigrating the status of State Government Machinery by Special Verification Agency is favoured in the proposed amendment. Perhaps this is the first of its kind in Law making process of the Country that a non-statutory body like Special Verification Agency is given a statutory status.”

3.29 The Government Madhya Pradesh stated that in Section 24(1) some exemptions should be made in special circumstances where the item is used for internal processes in industrial production.

3.30 As per the Memorandum of Grahak Panchyat, Latur, “Section 24(1) Proviso added in the amendment bill 2005 be deleted as the special verification agents would be a type of private contractor of weight and measure. He would work in area where he will get maximum benefit and profit. He would not work where profit is less or minimum and such work would have to be taken by department of Legal Metrology officials.

3.31 The Government of Kerala have objection if the new system of verification is done by SVA due to the following reasons:-

“The introduction of special verification agents for verification and stamping of weights and measures will result in idling of the multi crores invested infrastructure and system of the States. The existing system of verification and stamping by Government Departments will be more reliable than the proposed special verification agency which will be a private agency. It is also against the principle of decentralisation. If at all a special verification agency is introduced, the following suggestions may be considered:-

All weights and measures now being verified and stamped by the State Government shall be excluded from the purview of Special Verification Agency.”

3.32 The Consumer Coordination Council stated that Special Verification Agencies (SVA's) are required to work in special areas to be notified by the Government and they are required to have necessary infrastructure. The functioning of SVA's may induce an element of competition with the State Enforcement Agencies and may result in up-gradation of their infrastructure, training, transparency efficiency in output etc. For uniform regulation & implementation, it is desirable that Special Verification Agents are appointed by the Central Government. Detailed procedures for regulating the Special Verification Agency have to be worked out in the Rules.

3.33 The Government of West Bengal wants that the amendment of Section 24 of the Act should be scrapped because of the fact that we have objection against the introduction of special verification Agents under a licencing system. Such objections have been noted in our comments upon the proposed amendment of Standards of Weights and Measures Act, 1976.

3.34 The Government of Jharkhand in their Memorandum furnished to the Committee has stated that the proposed Amendment Bill is not worth to be considered in the interest of the State and the public because the present amendment proposes to entrust some of the works related to the verification, stamping and inspection of weighing machines by Enforcement Officers of the State while some of the said works are to be entrusted to special agencies. There is a proposal to collect verification and stamping fees by enforcement officers of state and special agencies. It has also been provided that special agencies will deposit 7% (seven per cent) of the total revenue thus collected in the State's Exchequer. At present, enforcement officers of the State Government are collecting Rs. 3,00,00,000.00 (Rs. three crores) as verification and stamping fees and approximately one and half core is being spent as establishment expenses of enforcement officers. If special agencies are assigned to verify and stamping weight and measures and to collect fees for the same then State Government will receive only 21 lakh of rupees while establishment cost will be Rupees one and half crore. Though Enforcement Officers appointed and trained and are subject to code of conduct meant for Government officials, special agencies are not subject to any condition and no qualifications have been fixed for them, consequently the accuracy and validity fo the work disposed of by them is always under doubt. Hence, proposed amendment is not in the public interest.

3.35 The Government of Rajasthan is of view the proviso to section 24 (a) should be deleted due to the reasons that Special Verification Agency should not be given power of verification, rather they should be assigned the work of maintenance and repairing only. The verified equipments should bear the seal of State Government only. Even under the existing arrangements, the repairers do the job of repairing as per the laid down norms and standards and send the same to the authorized officer of the State Government for verification. Hence, there is no justification in handing over the verification work to any private agency.

3.36 The Government of Punjab stated that amending the power of the inspection of the Inspector, as well as, the Assistant Controller, Deputy Controller, even the Controller of the State is bound to give a free hand to the 'Special Verification Agent', which is likely to lead to malpractice. In this case, transparency and accountability in verification of weights and measures by the 'Special Verification Agent', will be questionable, thus compromising the consumers interest. In addition, the Inspector, Assistant Controller, Deputy Controller or even Controller of the State will be handicapped even to look into the specific local complaints against instrument verified by the 'Special Verification Agent', even though one may not conduct re-verification of weight and measure.

3.37 The Department of Consumer Affairs in their reply stated as under:-

“As the policy proposed is to entrust the verification of those specified weighing or measuring instrument to SVA where the infra-structure is not available with the existing enforcement machinery, it is not desirable to permit the enforcement agencies to

again check those instruments in the name of inspection. On the one hand they do not have any infra structure for the checking of such instruments and at the same time, it will put the industries to the same situation from where they are being salvaged.

The Weights and Measures Act require verification of all weighing or measuring instruments. The infra-structure created in the State is meant only for verification of basic instruments like weight or measure like weights, capacity measures, length measure. Even in their verification, they lack credibility. With the strengthening of our country's economy, trade and industry has started using new sophisticated measuring instruments. It is necessary to regulate them in the interest of consumers. There is neither infra-structure available for this purpose with states nor any possibility of creating such facility with them in the near future due to inadequacy of funds, etc”.

The Special Verification Agent system proposed would take care of this without the involvement of any Govt finance and at the same time provide third party verification of instruments like energy meter, water meter, telephone meters, Petroleum flow meters, glucometer, etc. The proposed legislation has enough safe guards to ensure proper supervision and control of the SVA so created. The operation of such system is prevalent in many other countries providing protection to consumers. The weights and measures to be verified by the SVA shall be prescribed under Rules made under the provisions of the Standards Act.”

3.38 On being suggested that States /UTs should be assisted in creation of infrastructure, instead of usurping their powers to enforce the rules of Weights and Measures Laws, the Ministry stated that the States were advised to create infra-structure for verification of weights and measures. But no such facility is seen in the field. The main reason appears to be low priority given for weights and measures subject.

3.39 The Committee note that in Section 24 a proviso is to be inserted making it mandatory to verify or reverify the Weights & Measure by Special Verification Agent in periodical intervals as prescribed under the Act. The Committee further note that proviso to Sub-Section 3 of Section 24, a new proviso is to be substituted stating that the Central Government shall specify the weight or measures which shall be verified by the Inspector or by Special Verification agents. Hence, leading to ambiguity in the powers of Inspector and Special Verification agents. The State Government have objected to this Clause on the ground that if the verification of the Weights & Measures are entrusted to Special Verification agents, than the Department cannot enforce the provisions of the Act on users of weight an measures. It has also been suggested by the State Government that Special Verification agents should not be given power to verify rather they should be given the work of maintenance and repair only. The Committee are not convinced with the plea of the Government that they have proposed the amendment to ensure proper supervision and control of the SVA. The Committee feel that there is no need to adopt the concept of Special Verification Agency as has already been explained in the earlier Chapter. Accordingly, the Committee desire that amendments proposed in Sections 24 and 25 of the principal act should be dropped.

3.40 The Department of Consumer Affairs have stated that there is neither infrastructure available in the States nor there is any possibility of creating such facilities with them in the near future due to inadequacy of funds. The Committee do not concur with the views of the Government and desire that the Government should strengthen the infrastructure available with the States and the proposed amendments should be dropped.

27. Power to inspect.-

3.41 Section 27 (1) provides that an Inspector may, within the local limits of his jurisdiction, inspect land test, at all reasonable times, any weight or measure which-

- (i) is in the possession, custody or control of any person, or
- (ii) is in or on any premises,

in such circumstances as to indicate that such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection, and may also verify whether such weight or measure is in conformity with the standards established by or under the Standards Act.

(2) For the purpose of ascertaining the correctness of any weight or measure used in any transaction, an Inspector may also test the weight or measure of the article sold or delivered to any person in the course of such transaction.

The Government have proposed that in section 27 of the Principal Act, in sub-section (1) the following proviso shall be inserted namely:-

“Provided that in the case of weight or measure verified and stamped by the special verification agents under the Standards Act, the Inspector may inspect only genuineness of such stamping”

3.42 The Government of Karnataka in their Memorandum stated as under:-

“In the proposed amendment the Inspector of Legal Metrology is restrained from inspecting the weights and measures verified by the special verification agents. For the purpose of determining the accuracy of the weight or measures the Inspectors should be given powers to test the weights & measures where as in the proposed amendment the

Inspector is given power to inspect only the genuineness of the stamping. This proposed amendment will go against to the interest of the consumers. Even if there are errors in the weights and measures, the Inspector cannot take action against verification agent or the users of such weight or measure.

If Such an amendment is made the department will become a helpless spectator to the malpractice's, resorted to by the trading community. Hence this amendment is not acceptable”.

3.43 The Government of Andhra Pradesh vide their Memorandum stated that this clause does not allow the Inspector of the Legal Metrology Department to check the accuracy of the weight, measure, in the presence of a Consumer. This acts as the biggest impediment to the consumer protection. Therefore, there must be a provision to check the accuracy of the weight or measure in the presence of a Consumer.

To substantiate the above point the deliveries in a Petrol Pump can be taken as an example. When the consumer has any doubt about the deliveries he can demand checking of petrol pumps with the Calibrated Can available with the dealer. But, in practice the consumer is unable to assert his right as the dealer does not allow the consumer to avail this facility. Only the Inspector of Legal Metrology comes to the rescue of the consumer in such cases by checking the deliveries in the presence of consumers. Consumers will be left high and dry if this power is taken away.

3.44 The Government of Punjab stated that amending the power of the inspection of the Inspector, as well as the Assistant Controller, Deputy Controller, even the Controller

of the State is bound give a free hand to the 'Special Verification Agent', which is likely to lead to malpractice. In this case, transparency and accountability in verification of weights and measures by the 'Special Verification Agent' will be questionable, thus compromising the consumer's interest. In addition, the Inspector, Assistant Controller, Deputy Controller or even Controller of the State will be handicapped even to look into the specific local complaints against instruments verified by the 'Special Verification Agent', even though one may not conduct re-verification of weight and measure. The random checking of the work done by the 'Special Verification Agent' is essential and it is, therefore, strongly recommended to drop the said amendment in Section 27 in the interest of the consumer protection.

3.45 When enquired as to why the verification done by SVA will not be checked by the inspectors and other officers of the Weights and Measures Department, the AILMOA stated that in the name of duplicacy the State Machinery has been restricted to check the correctness of the weights and measures verified by SVA. The verification and inspection are different jobs and for transparency, statutory inspection after verification is a must.

3.46 The Government of West Bengal is of the view that amendment of Section 27 is not desirable and should be scrapped.

3.47 The Amendment in Section 27 is not acceptable to the Government of Kerala due to the following reasons:-

“ In amendment clause 12 by the insertion of the proviso to subsection 1 of section 27, the purpose of sub-section 2 of section 27 is defeated. Hence the word `only' coming after the word 'inspect' in the provision may be omitted. Otherwise, it weakens the State Enforcement which will adversely affect the protection of Consumers”.

3.48 The Government of Gujarat is not in favour of the amendment in Section 27. In their view only by checking, genuiness of the stamping done by SVA, the Meteorological accuracy of sophisticated instruments cannot be checked. Hence inspection is necessary which is also essential for consumer protection.

3.49 The Ministry in their reply state as under :

“As the policy proposed is to entrust the verification of those specified weighing or measuring instrument to SVA where the infra-structure is not available with the existing enforcement machinery, it is not desirable to permit the enforcement agencies to again check those instruments in the name of inspection. On the one hand they do not have any infra structure for the checking of such instruments and at the same time, it will put the industries to the same situation from where they are being salvaged.

There is no change proposed to the existing enforcement department of the States. Only verification of certain prescribed measuring instruments are proposed to be regulated through the Special Verification Agents (SVA). The supervisions of the SVA are proposed to be done through certain technical agencies who could be any where in the country and competent to undertake testing of the such instruments. The inspection of such measuring instruments by the existing state enforcement

Agencies has been limited to checking the genuineness of the seal applied to detect any fraudulent practices as they do not have any infrastructure for checking other meteorological qualities of the measuring instrument”.

3.50 When pointed out that the verification done by Special Verification Agency (SVA) will not be checked by the Inspector and other senior officer due to the fact that the Inspector can only inspect the genuineness of stamping and enquired the authority who will keep watch on the verification work done by the SVA, the Ministry in its reply stated that it has been proposed so.

3.51 When asked about the action the Government can take against the unscrupulous activities of SVA, the Ministry stated that to Monitor the activities of SVA, suitable provisions have been made in the Standards of Weights and Measures (Amendment) Bill 2005 at clause 46G.

3.52 The Committee note that a proviso has been added in Section 27 of the Principal Act wherein the Inspector of the Weights & Measures of the State Government have been authorised to check the genuineness of the stamping of Weights & Measures verified and stamped by Special Verification Agent. The proposed amendment is not acceptable to any of the State Governments or other interested groups. In their view the amendment will lead to nexus between the traders and SVA and the ultimate sufferer will be the consumer as it will prevent checking of any Weights & Measures stamped by SVA. SVA will get free hand which is likely to result in malpractices. In the opinion of the Committee the responsibility to protect the interest of the consumers is that of the State Government and the amendment will weaken the State Enforcement machinery which will adversely affect the protection of consumers. The Committee are not convinced with the arguments of the Ministry that they have made this provision as the State Enforcement machinery do not have the adequate infrastructure or other facilities to check the instruments. The Committee, therefore, recommend that proviso added in Section 27(1) may be deleted.

Section 72 Power to make rules:-

3.53 This Section of the parent Act provides that the State Government may, by notification and after consultation with the Central Government, make rules to carry out the provisions of this Act.

3.54 The Government have proposed that In section 72 of the principal Act,-

(a) in sub-section (1) for the words “The State Government may, by notification and after consultation with the Central Government the words, “The Central Government may, by notification” shall be substituted.

(b) In sub-section (2),-

(i) for clause (a), the following clauses shall be substituted namely:-

(a) the qualification for being appointed as the Additional, Joint Deputy and Assistant Controller and the Inspector under section 5;

(aa) the clause of goods, services, undertakings or users, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number or in respect of which no transaction, dealing or contract shall be made except by such weighing or measuring instrument as required under sub-section (1) or sub-section (1A) of section 10;

(ii) sub-clause (i) of clause (b) clauses (d), (e) and (f) shall be omitted.

(iii) in clause (j) after the words “ the controller, the words “or any officer authorised by him” shall be inserted.

(iv) clause (m) shall be omitted;

(v) for clause (n) and (o) the following clauses shall be substituted, namely:-

“(n) the weight or measure for the verification of which steps to be taken by the Inspector under sub-section (3) of section 24.

(o) the form in which and the details with which a certificate of verification of any weight or measure as required under sub-section (2) (3) and (4) of section 25 shall be granted.”

(vi) clause (r) shall be omitted.

(vii) after clause (t) the following clause shall be inserted, namely:-

“(tt) the form and the manner in which notice by a company may be given to the director or the concerned Controller or the authorised officer under sub-section (2) of section 62.

(ttt) the amount of money to be paid for credit to the State Government under sub-section (1) of section 65

(c) in sub-section (3) for the words the State Government may the words the Central Government may shall be substituted.

(d) For sub-section (5) the following sub-section shall be substituted namely:

(5) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modification 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 the rule or annulment shall be

3.55 Similar powers are proposed to be conferred on Central Government under Sections 10,15,19 etc. of the Enforcement Act, 1985.

3.56 The Government of Karnataka in their views/Comments furnished to the Committee has stated as under:-

“This amendment is being proposed to take away the powers of the State Government by the Central Government. This amendment is not acceptable for the reasons stated in para 2.

3.57 The Eastern Regional Legal Metrology Licensees Association, Kolkata stated that it is against the principle of decentralization. Power to make rules, thus should remain in the hands of the State Government. We object it ethically. Though directly it does not affect them.

3.58 The Government of Goa has furnished the following comments/suggestions to the Committee:-

“72(1) & 72 (1)(a) The State Government should be empowered to make the Rules after consultation with the Central Government, hence this proposed amend is not agreeable”.

3.59 Amendment of Section 72 is also opposed by the Government of West Bengal on the ground that it takes away the rule making power of the State Government conferred upon it under the Act, it is reiterated that State, since it implements the law on weights and measures. It is better placed to asses the situation directly calling for any change necessary to achieve the purposes of the Act. Hence rule making power under the Act should be with the State Government.

3.60 The Department of Consumer Affairs reacted that the enforcement activities in the States are guided by the enforcement Rules. With every State enacting an enforcement rules, variations has resulted which has led to impediments to the growth of industries and trade. Non uniformity in enforcement laws creates havoc, confusion, lack of transparency and leading to high handedness.

3.61 When asked as to why the Central Government wants to exercise the power of State Governments in the name of uniformity, the Ministry stated that even under the present law, the model enforcement rules are prepared by the Central Government and circulated to states for adoption. However many State Governments are not able to adopt the Rules timely or has changed the Rules during adoption in some States. This has resulted in lack of transparency and non-uniformity putting the trade and industry to problems.

3.62 The Government have proposed that in Section 72 of the Principal Act in sub-section (1) for the words ‘State Governments may’ be substituted by the words ‘the Central Government may’. This amendment is not acceptable to the State Governments and other interested groups because through this amendment the Central Government intends to take away the rule making powers of the State Governments. In their view, it is against the principle of decentralisation. The Committee cannot accept the arguments put forth by the Ministry that the enforcement activities in the States are guided by the enforcement rules and non-uniformity in enforcement law creates havoc, confusion, lack of transparency and leading to high-handedness. The Committee is of the opinion that the power to make rules should remain in the hands of State Government and, therefore, recommend that the rule making powers should remain with the State Governments and the proposed amendment suggested in the section may be deleted.

**NEW DELHI
December, 2005.
Agrahayana, 1927 (Saka)**

**DEVENDRA PRASAD YADAV,
Chairman,
Standing Committee on Food,
Consumer Affairs and Public
Distribution.**

Annexure –I
(Vide Para No. 1.11 of Chapter –I)

(Statement showing the Parallel offences in Standards of Weights and Measures Acts of 1976 &1985)

Sr. No	Section	Definition/Description of offence	Penalty Sec.	Punishment	Compoundable/ Non Compoundable	Summary Regular	Remarks
1.	Section 21	Use of Weights and measures or numerals other than the Standard Weights, Measure and Numeral is an offence.	50	First offence, Imprisonment upto 6 months, the fine upto Rs. 5000/- or both. Second and subsequent Imprisonment upto 2 years and unspecified fine.	Compoundable	Summary	Use of non Standard W/M and Numeral for all purposes is .transaction, production to this section, is an offence. When the first offence is punishable by imprisonemnt, compounding by officers of Legal Metrology is anomaly.
	E 38(1)	Use of non Standard Weight or Measure to sell commodity.	38(1)	Not less then Rs.500/- upto Rs.5000/-	Compoundable	Summary	Use of non Standard W/M and Numeral only for transactions, according to this section is an offence.
	E 38(2)	Use of non Standard Weight or Measure to render service	38(2)	S.S. Not less than 3 months upto 1 years or with fine	Compoundable	Summary	

2	Section 22	Manufacture of Weights and Measures which do not conform to the Standards of Weights and Measures under the Act.	52	Upto one Year & fine upto Rs 25,000/- or both S.S. upto 3 years and unspecified fine	Non-Compoundable	Summary	1) Only manufacture is offence 2) Clause when such offence is not punishable under any law relating to W & M –Section 3
	E 36	Manufacture sale and hire of weights and measures which do not conform to the Standard of Weights and Measures are offence	36	Not less than 3 months upto 1 year SS: Not less than 6 months upto 1 year and unspecified fine	Non-Compoundable	Summary	
	E 21(a)	No person will manufacture W/M unless they conform to Standards established. Manufacturing W/M which ostensibly conform to Standard established but not acutally conforming to the Standards	44(a)	Upto 1 year or fine upto Rs.2000/-or both SS: upto 3 years and unspecified fine	Compoundable	Regular	
3.	Section 23	Inscriptions not in conformity with the Standards established by this Act on weights and measures (Like measuring tape showing metre and yard) is an offence.	53	Upto 1 year or fine upto Rs.2000/- or both S.S. upto 3 years and unspecified fine	Non Compoundable	Summary	Clause when such offence is not punishable under any law relating to W & Measures hits Section 3 2) When the first offence is punishable by imprisonment, compounding by officers of Legal Metrology is anomaly
	E 21(b)	Manufacturing W/M with indication thereon, any W/M with any this units other than, specified by the Standards Act, is an offence	44(b)	Upto 1 year or fine upto Rs. 2,000/- or both S.S. upto 3 years and unspecified fine	Compoundable	Regular	

4.	Section 24(3)	No Reference Standard shall be deemed to be a Reference Standard unless verified and authenticated as laid down in Rules	67	Fine upto Rs.2000/-	Compoundable	Regular	Standards of Weights & Measure (General) Rules 1987 Rule 8 (3) lays down periodical Verification of Secondary Standard Balance one year. On the contrary, Standard of Weights and Measures (Enforcement) Rules 2000 Amended under Rule 6(3) lays down 24 months for (Periodical verification) of Secondary Standard Balance.
	Section 26(4)	No Secondary Standard or Working Standard shall be used for verification unless they are duly verified and stamped	63	Fine upto Rs.2000/-	Compoundable	Regular	
	E 14(4)	A Secondary or Working Standard not verified and stamped shall not be deemed to be a Secondary or Working Standard and shall not be used for verification of weights and measures	59	Fine upto Rs.2000/-	Compoundable	Regular	
5.	Section 29	Obstruction of Director Legal Metrology or persons authorized by him to enter search and seize from any 'Premises' any W/M or Packaged Commodity is an Offence	54	Upto 2 year S.S. upto 5 years	Non Compoundable	Regular	Definition of 'Premises' in Standard Act in Section 2(o) Explanation includes a vehicle, vessel or other mobile service
	E 30	Obstruction of Controller or person authorized by him to enter and search for W/M documents or things is an offence	50	Upto 2 year SS upto 5 years and also fine upto Rs.1000/-	Non Compoundable	Regular	
	E 31	Obstruction of an Inspector Legal Metrology to seize W/M documents and goods sold and delivered is an offence		Upto 2 year SS upto 5 years and also fine upto Rs.10000/-	Non Compoundable	Regular	

6.	Section 29(1)(2)	Obstruction of Director Legal Metrology to enter Premises and search is an offence	54	Upto 2 years S.S. upto 5 years	Non Compoundable	Regular	
	E 29	Obstruction of Inspector to enter premises and search	49	Upto 2 years S.S. upto 5 years	Non Compoundable	Regular	
7.	Section 32	In respect of certain class of goods use of only weights or only measures or only numbers, as laid down by General Rules	55	Fine upto Rs. 5000/- S.S. upto 1 year and unspecified fine.	Compoundable	Regular	1) General Rules have not so for down classes of goods to use exclusively W/M or Number 2) Enforcement Rules 9 & 11 with Schedule IV lay down classes of goods to use exclusively W/M of Numbers & Exceptions thereto 3) Rule 12 r/w Fifth Schedule PCR gives details of such goods and exceptions. But these schedules have discrepancies.
	E 13	Use of exclusively weight or exclusively or measures or exclusively of number in respect of certain class of goods as laid down in Enforcement Rules.	40	Fine upto Rs. 2000/- S.S. upto 1 year with fine or with both.	Compoundable	Summary	

8.	Section 33(d) 33(e)	In the course of inter State trade on goods sold services rendered indicating quantity, price list, advertisement, net contents on cartons, weights and measures other than the Standard of Weights and Measures established is an offence.	56	Fine upto Rs. 5000/- S.S. upto 1 year and unspecified fine P.7(24)	Compoundable	Summary	1) Packaged commodities both for inter State and within the State should disclose net contents not merely according to Standard of W/M or Numbers established, but by quantities specifically laid down 2) Offence in respect of packaged commodities provides for heavier punishment compared to other commodities in inter State trade 1) There is omission of 'numeration' in Section 41(e)
	Section 39 (ii) (iii)	In the course of inter State trade on commodities in packaged form indicating net contents in W/M or Numbers other than those prescribed, is an offence.	63	Fine upto Rs.5000/- SS upto 5 y4ars or with fine Rs.50000/- or with both	Compoundable	Summary	
	E 11	In trade within the State goods sold and services rendered indicating quantity, price list, advertisement, net contents in cartons W/M other than the Standards established, is an offence	41	Fine upto Rs.2000/- S.S. upto 1 year or with fine or with both.	Compoundable	Summary	
9.	Section 34	Selling/rendering service by less quantity then contracted, buying and receiving service by excess quantity then contracted/paid for, is an offence	57	Fine upto Rs.25000/- S.S. upto 5 years and also fine unspecified	Compoundable	Regular	
	E 39(2)	Selling/rendering service by less quantity then contracted, buying and receiving service excess quantity then contracted/paid for, as an offence	39(2)	Fine upto Rs. 50,000/- SS upto 5 year or with fine or with both	Compoundable	Summary	
10	Section 35 (1) (a) (b)	Non-maintenance of Registers and record prescribed for manufactures, Dealers and Repairers in an offence.	58	Fine up to Rs. 5000/- S.S. upto 6 months or with fine or with both	Compoundable	Summary	
	E 23 (i)	Non-maintenance of Registers and records prescribed and non-production of them before Inspector Legal Metrology when	56(2)	Fine upto Rs. 10,000/- SS upto 1 year and also unspecified fine.	Non-Compoundable	Regular	

	E 46	asked to produce the registers and recodes is an offence. Whoever required to maintain registers and records, fail to maintain them or having maintained them refuse or omits to produce them whom required by the Inspector, to do so.	46	Fine upto Rs. 2000/- SS upto 1 year or with fine or with both.	Compoundable	Regular	
11	Section 36 (3)	Whoever manufactures W/ M without approval of Model, commits and offence.	59	Upto Rs. 20,000/- S.S upto 5 years and also unspecified fine. (P. 8 27)	Compoundable	Regular	<p>1. By compounding an offence punishable by imprisonment u/s 60(i) Standard Act and 73 (2) of Enforcement Act by officers of Legal Metrology is anomaly.</p> <p>2. Section (73(2) wrongly mentions omitted. Section 39, 40 and 41 of Standards Act which deals with Packaged Commodities. Whereas the appropriate sections are 36,37 and 38 of Standards Act which deal with Approval of Models.</p>
	Section 38 (4)	Whoever manufactures W/M even after the revocation of Approval of Model, Commits and office.	(60 (1)	Upto 2 years and fine S.S upto 3 years and unspecified fine upto 20,000/- (P. 8 (28)	Compoundable	Summary	
	E 73 (2)	Whoever manufacture Weights and Measures without Approval of Model or manufactures weights and Measures even after revocation of Approval of Model, commits an offence.	73 (2)	Upto 2 years and fine S,S upto 5 years and unspecified fine.	Compoundable	Summary	

12	Section 36 (10) & S 36 (11) E 73(2)	Whoever manufactures W/ M using material other than that for which the Approval of Model was given, commits an offence. Whoever manufactures W/ M using material other than that for which the Approval of Model was given, commits an offence.	60 (2) 73 (2)	Upto 5 years and also fine upto 20,000/- Upto 5 years and also unspecified fine.	Compoundable Compoundable	Summary Summary	Compounding an offence punishable by imprisonment by officers of Legal Metrology is anomaly.
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13	Section 38	Manufactures of W/M not bearing the number by which the Approval of Model was given, commits an offence.	61	Upto Rs. 5000/- S upto 5 years or with fine or with both.	Non-Compoundable	Summary	
	E 73(2)	Manufactures W/ M without every W/ M produced bearing the number by which Approval of Model was issued an offence.	73(2)	Fine upto Rs. 5,000/- S.S. upto 5 years and also unspecified fine	Non-Compoundable	Summary	
14	Section 39	In the course of Inter-State trade in commodities in packaged form, violating the provisions of this section and PCR are punishable.	63	Fine upto Rs.5,000/- S. upto Rs. 10,000/ Third with 5 years or fine upto Rs. 5,000 or with both	Compoundable	Summary	<ol style="list-style-type: none"> 1. Commodity in packaged form is defined in Standards Act Section. 2. Pr-packed Commodity in Section 32(2) explanation of Enforcement Act, is defined in PCR Rule (2(I). 3. Section 51 (2) provide for punishment of short delivery of the net contents in Packaged Commodities in trade within the State. 4. For short delivery of net quantity in inter-state traee, wecton 34 -/2 section 57(I) has to be used.
	E 33	In the course of trade within the State in Prepackaged Commodities violating the provisions of 39 of Standards Act and packaged Commodities Rules are punishable.	51(i)	Fine upto Rs. 5000/- S.10,000 and Third with 5 years or fine upto Rs. 5,000/- or with both.	Compoundable	Summary	
15	41(3) 43	W/ M the First Category cannot be sold or used in any State unless it is stamped in the transferor State by Interstate Special Stamp.	62	Fine upto Rs. 10,000/- SS upto 7 years and unspecified fine.	Non-Compoundable	Regular	
	41 (4) 44 (1) (2)	W/ M of the Second Category cannot be sold or used in any State, unless it is verified and stamped after its reinstallation in transferee State.	62	Fine upto rs. 10,000/- S.S. upto 7 years and also unspecified fine.	Non-Compoundable	Regular	

	E 22	First category Weights and Measures (New goods) for sale and use within the State and Second category Weights and Measures received from other State should be verified and stamped by the local officers of Legal Metrology.	45	Six months imprisonment and fine upto Rs. 2000/- S.S. upt 1 year or with fine or with both P. 6(22)	Compoundable	Summary	When the first offence itself is punishable by imprisonment, compounding it by Legal Metrology Officers is anomaly.
	E 24	A manufacturer of First Category (New goods) a dealer or user, of Second Category (New Goods) has to get these News Goods verified and stamped and a user of any these Weights and Measures has to get them revived periodically. Failure to do so, is an offence.	47	Fine upto Rs. 10,000/- S.S. One year or unspecified fine or with both	Compoundable	Regular	
16	46 (Omitted)	Manufactures and Dealers who send W?M whether of First Category or Second Category, have to submit periodical Returns to the Director L.M and to the Controllers of both State Concerned.	70 (2)	Fine upto Rs. 2,000/- S.S. upto 1 year and unspecified fine or both	Non-Compoundable	Regular	Section 56 of Enforcement Act does not say anything about failure to submit Returns and so the Manufactures, Dealers and Repairers just don't submit any Returns.
	56 (2)	Submitting false Returns is an offence.	56 (2)	Fine upto Rs. 10,000/- SS upto 1 year and also unspecified fine.	Non-Compoundable	Regular	
17	Section 69	Impersonation of Director or authorized person is an offence	69	Upto 3 years.	Non-Compoundable	Regular	
	E 55	Impersonation of Controller, Additional Controller or Inspector Legal Metrology.	55	Up to 3 years	Non Compoundable	Regular	
18	Section 70(l)	Giving false information to the Director Legal Metrology or to the	70(l)	Upto y6 months or fine up to 15,000/- or both	Non Compoundable	Regular	

	E 56 (I)	Officer authorised by him, knowing it to be false. Giving information to Controller knowing it to be false.	56(I)	Upto 6 months for fine to Rs. 10,000/- or both P 7 (32)	Non Compoundable	Regular	
19	Section 71 (I)	Vexatious search and seizure of Weights and Measures.	71(I)	Upto 1 year or fine up to Rs. 10,000/- or both.	Non Compoundable	Regular	
	E 58	Vexatious search and Seizure of Weights and Measures.	58	Upto 1 year or fine up to Rs. 10,000/- both	Non Compoundable	Regular	
20	71 (2) (Omitted)	Willful verification of First Category Weights and Measures by transferee State Inspector Legal Metrology and obliteration of inter State stamp except in accordance with Proviso 1 to Section 42	72 (2)	Upto 1 year or fine up to Rs. 2,000/- both for every such offence. P 9 (37)	Non Compoundable	Regular	
	57 (1) E	Willful verification of Weights and Measures the against provisions Enforcement Act and Enforcement Rules.	57(I)	Upto 1 year or fine up to Rs. 10,000/- or both		Regular	
21	Section 80	No Weights and Measures and N other than the Standards Weights and Measures or Number be mentioned in Enforcement Notification, Order, contracted and other instrument.	67	Fine up to Rs. 2,000/-	Compoundable	Regular	
	9(2)	No Weights and Measures and N other than the Standards Weights/	39(2)	Fine upto Rs. 10,000/- SS up to 1 year and with	Compoundable	Regular	

		Measures or Number be mentioned in agreement for commerce, production and protection.		unspecified fine or both			
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ANNEXURE -II

MINUTES OF THE TENTH SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON TUESDAY, THE 10TH MAY, 2005.

The Committee sat from 1500 hrs. to 1630 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Alakesh Dass
4. Shri Atma Singh Gill
5. Shri Hari Kewal Prasad

RAJYA SABHA

6. Shri Santosh Bagrodia
7. Shri T.S. Bajwa

SECRETARIAT

1. Shri R.S. Kambo - Deputy Secretary
2. Shri B.S. Dahiya - Under Secretary
3. Shri Jagdish Prasad - Assistant Director

REPRESENTATIVES OF MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (DEPARTMENT OF CONSUMER AFFAIRS)

1. Shri L. Mansingh, Secretary
2. Smt. Satwant Reddy, Additional Secretary

At the outset, Hon'ble Chairman welcomed the representatives of Department of Consumer Affairs to the sitting of the Committee held to have briefing by them on the two bills viz. (i) The Standards of Weights and Measures (Enforcement) Amendment Bill, 2005; and (ii) The Standards of Weights and Measures (Amendment) Bill, 2005 as introduced in Rajya Sabha on 10th March, 2005. The Chairman then informed the representatives that the Hon'ble Speaker has referred the above said bills to the Standing Committee on Food, Consumer Affairs and Public Distribution for examination and Report. He also stated that in the first instance, the Committee have decided to invite the views/suggestions of public in general and experts/professionals, organisations/associations through Electronic and Print Media for which the Bills have been posted at the website of Lok Sabha on Internet.

The Committee then sought clarifications from the Secretary, Department of Consumer Affairs on both the bills . The representatives replied to the queries raised by the Members.

The Chairman then thanked the witnesses for tendering their valuable views before the Committee.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE TWELFTH SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
TUESDAY, THE 14TH JUNE, 2005.**

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room No. 62, Parliament House, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Suresh Angadi
4. Shri Ranen Barman
5. Shri Alakesh Dass
6. Shri Tukaram Gadakh
7. Shri Atma Singh Gill
8. Shri Abdul Mannan Hossain
9. Shri Avinash Rai Khanna
10. Shri Parsuram Majhi
11. Shri Hari Kewal Prasad
12. Smt. Daggubati Purandareswari
13. Shri Ajit Kumar Singh
14. Shri Chandrabhan Singh
15. Shri Ramakant Yadav

RAJYA SABHA

16. Shri T.S. Bajwa
17. Shri Narayan Singh Kesri
18. Shri Lalitbhai Mehta
19. Smt. Bimba Raikar
20. Shri Nabam Rebia
21. Shri Vikram Verma
22. Shri Vijay Singh Yadav

SECRETARIAT

1. Dr. (Smt.) Paramjit Kaur Sandhu - Joint Secretary
2. Shri R.S. Kambo - Deputy Secretary
3. Shri B.S. Dahiya - Under Secretary
4. Shri Jagdish Prasad - Assistant Director

(A) Representatives of All India Legal Metrology Officers' Association, Kolkata

1. Shri S.N. Choudhary - President
2. Shri K.C. Moharana - General Secretary
3. Shri Rabindra Nath - Joint Secretary
3. Shri R.P. Choudhary - Coordinator
4. Shri B. Samaddar - Treasurer

(B) Representatives of Grahak Panchayat, Latur District, Latur

1. Adv. Avinash Dabad Gaonkar
2. Shri Vishnu R. Bhutada
3. Shri Ravidev Gupta
4. Shri Rajendra Singha

2. At the outset, Hon'ble Chairman welcomed the representatives of All India Legal Metrology Officers' Association, Kolkata and Grahak Panchayat, Latur District, Latur to the sitting of the Committee and invited their attention to the provisions contained in Direction 58 of the Directions by the Speaker. The representatives of both the organisations then briefed the Committee by expressing their views on the (i) the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005; and (ii) the Standards of Weights and Measures (Amendment) Bill, 2005 and replied to the queries raised by the Members of the Committee.

3. The Chairman then thanked the witnesses for appearing before the Committee and tendering their valuable views.

4. A verbatim record of proceedings has been kept for record.

The Committee, then, adjourned.

**MINUTES OF THE THIRTEENTH SITTING OF THE STANDING COMMITTEE
ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
MONDAY, THE 27TH JUNE, 2005.**

The Committee sat from 1100 hrs. to 1330 hrs. and from 1530 hrs. to 1730 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Suresh Angadi
4. Shri Ranen Barman
5. Shri Alakesh Dass
6. Shri Tukaram Gadakh
7. Shri Atma Singh Gill
8. Shri Avinash Rai Khanna
9. Shri Baliram Kashyap
10. Shri Parsuram Majhi
11. Shri Hari Kewal Prasad
12. Shri Chandrabhan Singh

RAJYA SABHA

13. Shri Santosh Bagordia
14. Shri Narayan Singh Kesri
15. Shri Lalitbhai Mehta
16. Shri Nabam Rebia
17. Shri Thanga Tamil Selvan
18. Shri Vikram Verma
19. Shri Vijay Singh Yadav

SECRETARIAT

1. Shri R.S. Kambo - Deputy Secretary
2. Shri B.S. Dahiya - Under Secretary
3. Shri Jagdish Prasad - Assistant Director

(i) Representatives of Eastern Regional Legal Meteorology Licensees Association, Kolkata.

1. Shri B. Das - Convener
2. Shri G. Halder
3. Shri Shuprio Ghose

(ii) Representatives of Consumer Coordination Council, Delhi.

1. Dr. Sriram Khanna, - Member, Governing Council
2. Shri S. Krishnan, - Director and Executive Secretary

(iii) Representatives of Scales, Weights and Measures Merchants Association, Mumbai.

1. Shri Suresh Ji Shah - Hony. Secretary
2. Shri Jayesh H. Shelet

(iv) Representatives of Indian Institute of Legal Metrology, Ranchi

1. Shri N.C. Biswas - Director
2. Shri Rajeshwar Kumar

(v) Representatives of State Government of Andhra Pradesh

1. Shri G.V. Ranganathan Swamy, - Deputy Controller

(vi) Representatives of State Government of Jammu and Kashmir

1. Shri Manoj Prabhakar - Assistant Controller

2. At the outset, Hon'ble Chairman welcomed the representatives of (i) Eastern Regional Legal Meteorology Licensees Association, Kolkata, (ii) Consumer Coordination Council, Delhi and (iii) Scales, Weights and Measures Merchants Association, Mumbai to the sitting of the Committee and drew their attention to the provisions contained in Direction 58 of the Directions by the Speaker. The Committee then proceeded to take evidence on the amendment Bills viz. (i) the Standards of Weights and Measures (Enforcement) Amendment

Bill, 2005; and (ii) the Standards of Weights and Measures (Amendment) Bill, 2005. The representatives then briefed the Committee and expressed their views on the various clauses of the Bills and other matters relating thereto. The representatives replied to the queries raised by the Members of the Committee.

3. The following points were discussed by the Committee at length:-

- (i) Period of re-verification of Weights and Measures;
- (ii) Use of non-metric Standards of Weights and Measures for limited period;
- (iii) Issue of licence, penalties and exorbitant fee for sale and repair of Weights and Measures Instruments etc. throughout the country;
- (iv) Introduction of new system of verification and re-verification of Weights and Measures equipments by Special Verification Agents.
- (v) Nomination of Nodal Officer for the offences committed by a company.
- (vi) Penalty for misuse of Weights and Measures Laws.
- (vii) Qualifications for appointment to the post of Additional Controller, Joint Controller, Deputy Controller and Assistant Controller etc.
- (viii) Vesting of Rule Making Powers with States.
- (ix) Streamlining the procedure for approval of Models and publication of details of approved Model in the Official Gazette.
- (x) Compounding of offences.

4. The Chairman then thanked the witnesses for appearing before the Committee and tendering evidence before them.

The Committee then adjourned for lunch to meet again at 1530 hrs.

5. The Committee resumed their discussion on the Bills and took evidence of the officials of the (i) Indian Institute of Legal Metrology, Ranchi and State Governments of (i) Andhra Pradesh and (ii) Jammu and Kashmir. The Committee sought certain clarifications on the various clauses of the Bills and other matter relating thereto. The State Governments officials responded to the queries raised by the Members.
6. The following points emerged during discussion:-
- (i) Need for a comprehensive definition of packaged goods.
 - (ii) Collection of fees by Special Verification Agent for verification and stamping of Weights and Measures; clarity about sophisticated Weighing and Measuring Instruments.
 - (iii) Penalty for short measurement.
 - (iv) Need to check the accuracy of Weights and Measures instruments in the presence of consumer.
 - (v) Approval of Models and period of re-verification of Weights and Measures.
 - (vi) Need to strengthen the Weights and Measures infrastructure already available with State Governments.
 - (vii) Use of non-metric units for limited period.
 - (viii) Legal entity to RRSLs and establishment of Reference Standards laboratories in the State.
 - (ix) Enhancement in penalties for non-approval of pre-packaged commodities.
 - (x) Compounding of offences and penalties for various offences committed under the 1976 and 1985 Acts.
 - (xi) Publication of model approval in the Official Gazette to make it transparent.
 - (xii) Appointment of nodal officer for the offences committed by the company.

7. The Committee also asked the witnesses to furnish the written replies on few points to the Secretariat at the earliest.
8. The Chairman then thanked the officials for appearing before the Committee and tendering their valuable views.

A verbatim record of the proceedings has been kept on record.

The Committee then adjourned.

**MINUTES OF THE FOURTEENTH SITTING OF THE STANDING COMMITTEE
ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
MONDAY, THE 11TH JULY, 2005.**

The Committee sat from 1100 hrs. to 1300 hrs. and from 1415 hrs. to 1715 hrs. in Committee Room `E', Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Suresh Angadi
4. Shri Ranen Barman
5. Shri Alakesh Dass
11. Shri Tukaram Gadakh
12. Shri Atma Singh Gill
13. Shri Jai Prakesh
14. Shri Baliram Kashyap
15. Shri Avinash Rai Khanna
11. Shri Parsuram Majhi
12. Shri Hari Kewal Prasad
13. Shri Ajit Kumar Singh
14. Shri Chandrabhan Singh

RAJYA SABHA

15. Shri Santosh Bagordia
16. Shri T.S. Bajwa
17. Shri Lalitbhai Mehta
18. Smt. Bimba Raikar
19. Shri Nabam Rebia
20. Shri Vikram Verma
21. Shri Vijay Singh Yadav

SECRETARIAT

1. Dr (Smt.) P.K. Sandhu - Additional Secretary
2. Shri R.S. Kambo - Deputy Secretary
3. Shri B.S. Dahiya - Under Secretary
4. Shri Jagdish Prasad - Assistant Director

(i) Ex- Government officials

4. Shri T. Singaravel - (Ex.-Controller) Legal Metrology, Maharashtra
2. Shri K. Venkateswarlu - Ex-Enforcement Officer

(ii) Representatives of Legal Metrology (W&M) Districts Inspector and Inspectors Association, Hyderabad (Andhra Pradesh)

1. Shri Ch. Laxma Goud - President
2. Shri P.S.R.N.T Swamy - District Inspector of Legal Metrology, Department

(iii) Representatives of State Government of Bihar

1. Shri K.D. Sinha - Agriculture Production Commissioner.
2. Shri R.P. Singh - Director Agriculture-cum-Controller, Legal Metrology
3. Shri J.P. Narayan - Deputy Controller, Legal Metrology
4. Shri Rabinder Nath - Assistant Controller, Legal Metrology

(iv) Representatives of State Government of Punjab

1. Dr. B.C. Gupta, IAS - Principal Secretary to Government of Punjab, Department of Food, Civil Supplies and Consumer Affairs
2. Shri J.S. Sandhu, IAS - Director FCS&CA
3. Dr. Ranjit Power - Controller Legal Metrology

(v) Representatives of State Government of Karnataka

1. Shri Koushik Mukherjee, IAS - Principal Secretary to Government of Karnataka, Food, Civil Supplies and Consumer Affairs Department.
2. Shri Mohmad Jahangir - Head Quarter Assistant and Deputy Controller, Department of Legal Metrology.

(vi) Representatives of State Government of Maharashtra

1. Shri A. Ramakrishanan - Principal Secretary to Government of Maharashtra, Food and Civil Supplies and Consumer Affairs Department.
2. Dr. Maadhava Saanapa - Controller Legal Metrology,
3. Shri Narendradatta Janardan - Assistant Controller Legal Metrology
4. Shri Balasaheb Kisan Zavare - Assistant Controller Legal Metrology.

(vii) Representatives of State Government of Orissa

1. Shri R.K. Sharma, IAS - Commissioner-cum-Secretary to Government of Orissa.
2. Shri B.K. Nayak - Controller, Legal Metrology

2. At the outset, Hon'ble Chairman welcomed Shri T. Singaravel -(Ex.-Controller) Legal Metrology and Shri K. Venkateswarlu -Ex-Enforcement Officer and the representatives of Legal Metrology (W&M) Districts Inspector and Inspectors Association, Hyderabad to the sitting of the Committee and invited their attention to the provisions contained in Direction 58 of the Directions by the Speaker. The Committee then proceeded to take their evidence on the (i) the Standards of Weights and Measures (Enforcement) Amendment Bill, 2005; and (ii) the Standards of Weights and Measures (Amendment) Bill, 2005. The representatives then briefed the Committee and expressed their views on the

various clauses of the Bills and other matters relating thereto. The representatives replied to the queries raised by the Members of the Committee.

3. The following points were discussed by the Committee at length:-

- (a) Difficulties being faced by the traders, commercial organizations and consumer due to variance in the Standards.
- (b) Integration of Standards of Weights and Measures Act 1976 and Standards of Weights and Measures (Enforcement) Act 1985 into one act.
- (c) Difficulties faced by the State Governments in enforcing the provisions of the Weights and Measures laws.
- (d) Specifying the periodicity of re-verification of Weights and Measurers Instruments.
- (e) Streamlining the procedure for appointment of Controller of Legal Metrology.
- (f) Fee structure in rural and urban areas.
- (g) Appeal against the decision and orders of the Controllers.
- (h) Penalty for counter feiting of seals, sale or delivery of commodities of Non-Standards Weights and Measures.
- (i) Sharing of fees collected by the Special Verification Agents.
- (j) Use of Non-Standard units for some more time.
- (k) Transparency in the water, electrical and petrol pump meters etc.
- (l) Definition of pre-packed commodities.

4. The Chairman then thanked the witnesses for appearing before the Committee and tendering evidence before them.

The Committee then adjourned for Lunch to meet against at 1415 hrs.

5. The Committee resumed their discussion on the Bills and took evidence of the officials of the State Governments of (i) Bihar (ii) Punjab (iii) Karnataka (iv) Maharashtra and (v) Orissa. The Committee sought certain clarifications on the various clauses of the Bills and other matter relating thereto. The State Government officials responded to the queries raised by the Members. The Committee asked them to furnish their written replies on certain points to the Secretariat.

6. The following points emerged during the discussion: -

- (a) Rule making powers be vest with the Central Government but the implementation remain with the State Governments.
- (b) Absence of clarity on the functions, scope and areas under jurisdiction w.r.t verification of Weights and Measures by Special Verification Agencies.
- (c) Approval of Models – misuse or fraudulent use of Weights and Measures.
- (d) Penalty for manufacture of Non-Standards Weights and Measures instruments exclusively for export.
- (e) Sharing of fees collected by Special Verification Agents between Central Government and State Governments.
- (f) Qualification for appointment of Controller, Inspectors and other Officers.
- (g) Periodicity of re-verification of Weights and Measures instruments.
- (h) Stamping and verification of Weights and Measures meant for Inter- State transaction.
- (i) Objection with regard to delegation of powers to Director of Legal Metrology.
- (j) Provision with regard to sale and distribution of Commodities in packaged form within the State.

7. The Committee also asked the witness to furnish the written replies on few points to the Secretariat at the earliest.
8. The Chairman then thanked the officials for appearing before the Committee and tendering their valuable views.

A verbatim record of the proceedings has been kept on record.

The Committee then adjourned.

**MINUTES OF THE FIRST SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
MONDAY, THE 12TH SEPTEMBER, 2005.**

The Committee sat from 1500 hrs. to 1700 hrs. in Committee Room 'E',
Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

2. Shri A.P. Abdullakutty
3. Shri Alakesh Dass
4. Shri Gadakh Tukaram Gangadhar
5. Shri Abdul Mannan Hossain
6. Shri Parsuram Majhi
7. Shri Zora Singh Mann
8. Shri Harikewal Prasad
9. Smt. Daggubati Purandeswari
10. Shri Ajit Kumar Singh
11. Shri Chandrabhan Singh
12. Shri Ramakant Yadav

RAJYA SABHA

13. Shri Santosh Bagrodia
14. Shri T.S. Bajwa
15. Shri Palden Tsering Gyamtso
16. Smt. Bimba Raikar
17. Shri Nabam Rebia
18. Shri Vijay Singh Yadav

SECRETARIAT

1. Shri R.S. Kambo - Deputy Secretary
2. Shri B.S. Dahiya - Under Secretary
3. Shri Jagdish Prasad - Assistant Director

REPRESENTATIVES OF RELIANCE INDUSTRIES LIMITED (Petroleum Business)

- | | | | |
|----|----------------------------|---|-------------------------------|
| 1. | Shri P. Raghavendran | - | President (Refinery Business) |
| 2. | Smt. Vikram Patel | - | Retail Marketing |
| 3. | Shri Vivek Srivastava | - | Head (Retail Engineering) |
| 4. | Shri Surinder Kumar Sharma | - | Device Manager (Fuel System) |

REPRESENTATIVES OF CONFEDERATION OF INDIAN INDUSTRY (C.I.I.)

- | | | | |
|----|---------------------|---|---|
| 1. | Shri Dev Bajpai | - | Head Legal & Company
Secretary, Marico Ltd., Mumbai |
| 2. | Shri Surinder Kumar | - | General Manager Legal &
Company Secy, Glaxo Smith
Kline Bleachem Ltd. |
| 3. | Ms. Indrani Kar | - | Senior Director- CII |
| 4. | Shri D.S. Chadha | - | Technical Advisor-CII |

2. At the outset Hon'ble Chairman welcomed the Members to the first sitting of the Committee. He apprised the Members about the work done by the Committee during last year. Thereafter, the Committee took up Memorandum No. I regarding selection of Subjects for detailed examination during 2005-06. After some deliberations, the Committee decided to continue with examination of the following subjects for detailed examination during 2005-06:-

Ministry of Consumer Affairs, Food and Public Distribution

(A) Department of Food and Public Distribution.

- (i) **Targeted Public Distribution System– A Review.**
- (ii) Food Subsidy and its utilization.
- (iii) Storage and Warehousing

(B) Department of Consumer Affairs

- (i) BIS– Standardization, Quality Control, Certification and their Regulation.
- (ii) Essential Commodities – Availability and Monitoring of Prices.

3. The Committee then took evidence of the representatives of the Reliance Industries Limited (Petroleum Business) on (i) The Standard of Weights & Measures Amendment Bill, 2005 and (ii) The Standards of Weights & Measures (Enforcement) Amendment Bill, 2005. The Committee drew the attention of the representatives towards Direction 58 of the Directions by the Speaker. The representatives then explained the latest automation technology (Audit Trail Mechanism) in the petroleum retailing industry with the help of Power Point presentation. The representatives also responded to the queries raised by the Members of the Committee. The following points were discussed by the Committee at length:-

- (i) How to ensure correct delivery of petroleum products to consumers at Retail Outlets;
 - (ii) Need to encourage use of new technology specifically 'self-regulation' which benefits consumers and brings more transparency;
 - (iii) Need to use 'Proving Cans' in measuring the petroleum products;
 - (iv) Repairer licence for manufacturers by Central Government to be valid throughout the country;
 - (v) Need to use modern technology to detect adulteration in petrol/diesel outlets; and
- 4-
- (vi) Need to introduce electronic locking system at Petrol Pumps to prevent adulteration and short measuring at petroleum outlets.

4. The Hon'ble Chairman than thanked the representatives of Reliance Industries Limited for appearing before the Committee and tendering evidence before them.

(The representatives of Reliance Industries Limited then withdrew).

5. The Committee than resumed their discussion with the representatives of Confederation of Indian Industry (C.I.I.) regarding (i) the Standard of Weights & Measures Amendment Bill, 2005 and (ii) the Standards of Weights & Measures (Enforcement) Amendment Bill, 2005. Hon'ble Chairman invited the attention of the representatives towards Direction 58 of the Direction by the Speaker and asked them to explain their viewpoints with regard to proposed Amendments in the above-mentioned Bills. The witnesses responded to the queries raised by the Members. The following points emerged out of the discussion:-

- (i) Need to disclose the name and address of manufacturer, Maximum Retail Price (M.R.P.) and ingredients on the label of packed commodities;
- (ii) The word 'Central Government' may be inserted along with the words 'State Government' wherever appearing in the Acts.
- (iii) Sharing of fees collected by the Special Verification Agent (SVA) towards the verification/reverification of Standard of Weights & Measures instruments;
- (iv) Compounding of offences; and
- (v) Need to integrate both the Acts into a single piece of legislation.

6. The Chairman then thanked the representatives for appearing before the Committee and explaining their views.

The verbatim record of the proceedings has been kept on record.

The Committee then adjourned.

**MINUTES OF THE SECOND SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
TUESDAY, THE 27TH SEPTEMBER, 2005.**

The Committee sat from 1500 hrs. to 1630 hrs. in Committee Room 'C',
Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

3. Shri A.P. Abdullakutty
4. Shri Gadakh Tukaram Gangadhar
5. Shri Atma Singh Gill
6. Shri Abdul Mannan Hossain
7. Shri Avinash Rai Khanna
7. Shri Parsuram Majhi
8. Shri Harikewal Prasad
9. Smt. Daggubati Purandeswari
10. Shri Ajit Kumar Singh
11. Shri Chandrabhan Singh

RAJYA SABHA

12. Shri Santosh Bagrodia
13. Shri T.S. Bajwa
14. Shri Palden Tsering Gyamtso
15. Shri Narayan Singh Kesari
16. Shri Nabam Rebia
17. Shri Vikram Verma

SECRETARIAT

1. Dr.(Smt.) P.K.Sandhu - Additional Secretary
2. Shri R.S. Kambo - Deputy Secretary
3. Shri B.S. Dahiya - Under Secretary
4. Shri Jagdish Prasad - Assistant Director

REPRESENTATIVES OF THE DEPARTMENT OF CONSUMER AFFAIRS

1. Shri L. Mansingh - Secretary
2. Smt. Alka Sirohi - Additional Secretary

REPRESENTATIVES OF THE MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)

1. Shri S.R. Dhaleta - Joint Secretary and
Legislative Counsel
2. Shri N.K. Ambastha - Deputy Legislative Counsel

2. At the outset Hon'ble Chairman welcomed the representatives of the Department of Consumer Affairs and Ministry of Law & Justice (Legislative Department) to the sitting of the Committee and drew their attention towards Direction 58 of the Directions by the Speaker. The Committee then took the evidence of the representatives w.r.t. (i) The Standards of Weights & Measures (Amendment) Bill, 2005; and (ii) The Standards of Weights & Measures (Enforcement) Amendment Bill, 2005. The following important points were discussed by the Committee at length:-

- (i) Overlapping of jurisdiction w.r.t. 'Packed Commodities' especially food and drugs which are covered under separate laws;
- (ii) Need for declaration of quantity, origin, complete address of manufacturer/packer on packaged commodities;
- (iii) Exemptions to the commodities meant for import/ export from the requirement of Standards of Weights and Measures.
- (iv) Sharing of fees collected by Special Verification Agent to be part of relevant Rules and not incorporated in the Act;

- (v) Prescribing qualification for Inspection Officers under Section 46 G;
 - (vi) Harmonising the penal provisions of the Standards of Weights & Measures (Enforcement) Act with the Indian Penal Code;
 - (vii) Need to eliminate discrepancies in the mode of trial for parallel offences and discrepancies in classification of offences as “compoundable” and “non-compoundable”;
 - (viii) Need to omit the “explanation” clause from Section 62 so as to bring clarity in the provisions;
 - (ix) Amalgamation of both these Acts into a single piece of legislation.
3. The Chairman then thanked the representatives for tendering evidence

before the Committee.

The verbatim record of the proceedings has been kept on record.

The Committee then adjourned.

**MINUTES OF THE FOURTH SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
THURSDAY, THE 19TH OCTOBER, 2005.**

The Committee sat from 1500 hrs. to 1630 hrs. in Committee Room '53'
Parliament House, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

8. Shri A.P. Abdullakutty
9. Shri Ranen Barman
10. Shri Alakesh Dass
11. Shri Gadakh Tukaram Gangadhar
12. Shri Baliram Kashyap
13. Shri Avinash Rai Khanna
14. Shri Ajit Kumar Singh
9. Shri Zora Singh Mann

RAJYA SABHA

10. Shri Santosh Bagrodia
11. Shri Palden Tsering Gyamtso
12. Shri Narayan Singh Kesari
13. Smt. Bimba Raikar
14. Shri Nabam Rebia
15. Shri Vikram Verma
16. Shri Vijay Singh Yadav

SECRETARIAT

1. Dr.(Smt.) P.K.Sandhu - Additional Secretary
2. Shri P.K. Bhandari - Joint Secretary
3. Shri R.S. Kambo - Deputy Secretary
4. Shri B.S. Dahiya - Under Secretary
5. Shri Jagdish Prasad - Assistant Director

REPRESENTATIVES OF THE GOVERNMENT OF RAJASTHAN

1. Shri Ashok Sampatram - Principal Secretary to
Government, Industrial
Department
2. Shri K.N. Gupta - Commissioner,
Industries

REPRESENTATIVES OF THE GOVERNMENT OF NCT, DELHI

1. Shri K.S. Mehra - Principal Secretary-cum-
Commissioner,
Food & Supplies Deptt.
2. Shri M. Ravikanth - Controller, Legal Metrology

2. At the outset Hon'ble Chairman welcomed the representatives of the Government of Rajasthan & Government of NCT, Delhi to the sitting of the Committee and drew their attention to the provisions contained in Direction 58 of the Directions by the Speaker. The Committee then proceeded to take evidence on the amendment Bills viz. (i) the Standards of Weights & Measures (Enforcement) Amendment Bill, 2005; and (ii) the Standards of Weights & Measures (Amendment) Bill, 2005. The representatives then briefed the Committee and expressed their views on the various clauses of the Bills and other matters relating thereto. The representatives replied to the queries raised by the Members of the Committee.

3. The following points were discussed by the Committee at length:-
- (i) Need to retain Section 23 in the Act, 1976 so as to promote the use standard and metric units instead of allowing the non-metric units for a limited period;
 - (ii) Need to strengthen the Regional Reference Standard Laboratories (RRSLs) and insertion of the words '**such other places**' in the Act being financial burden to the States;
 - (iii) The collection of fees for verification of secondary by RRSLs and the addition of the words '**payment of such fees and**' to Section 26(1);
 - (iv) The management and control of Regional Reference Standard Laboratories.
 - (v) The deletion of Section 36 (8) of 1976 Act.
 - (vi) The words 'sale price' under Section 19(iv) may be substituted by 'retail sale price';
 - (vii) Deletion of Sections 16, 17 & 18 of the Standards of Weights & Measures Act, 1985.
 - (viii) The power of issue of manufacturing licences.
 - (ix) The introduction of the Special Verification Agency.
 - (x) The power of superintendence and control over the functionaries.
 - (xi) Maintenance of Transparency in the functioning of Weights & Measures Department under the Scheme '**Shudh Ke Liye Yudh**';

- (xi) The prescription of the minimum fine in the Act for violation of various provisions of the Act.
- (xii) Need to increase the strength of Inspectors of Legal Metrology Department of Delhi; and
- (xiii) The applicability of the provisions of Indian Penal Code in cases of the offence committed under Weights & Measures Act.

4. The Chairman then thanked the witnesses for appearing before the Committee and tendering evidence before them.

The Committee then adjourned.

**MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION HELD ON
WEDNESDAY, THE 21TH DECEMBER, 2005.**

The Committee sat from 1600 hrs. to 1630 hrs. in Committee Room '139'
Parliament House Annexe, New Delhi.

Present

Shri Devendra Prasad Yadav - Chairman

**MEMBERS
LOK SABHA**

15. Shri A.P. Abdullakutty
16. Shri Suresh Angadi
17. Shri Alakesh Dass
18. Shri Atma Singh Gill
19. Shri Avinash Rai Khanna
20. Shri Parsuram Majhi
21. Shri Harikewal Prasad
22. Smt. Daggubati Purandaswari
23. Shri Chandrabhan Singh

RAJYA SABHA

11. Shri Santosh Bagrodia
17. Shri Vijay Singh Yadav

SECRETARIAT

1. Shri P.K. Bhandari - Joint Secretary
2. Shri R.S. Kambo - Deputy Secretary
3. Shri B.S. Dahiya - Under Secretary
4. Shri Jagdish Prasad - Assistant Director

2. At the outset Hon'ble Chairman welcomed the Members to the sitting of the Committee. Thereafter, the Committee took up the Draft Report on (i) the Standards of Weights & Measures (Amendment) Bill, 2005; and (ii) the Standards of Weights & Measures (Enforcement) Amendment Bill, 2005 for consideration. The Committee adopted the Report with minor amendment/modification.

3. The Committee then authorised the Chairman to make consequential changes arising out of the factual verification of the Report by the Department of Consumer Affairs and finalise the report and thereafter present/lay the same to the House in the current Session of the Parliament.

4.	XXX	XXX	XXX
5.	XXX	XXX	XXX

The Committee then adjourned.