



**Guidelines on
Legal Metrology Act, 2009
&
Legal Metrology
(Packaged Commodities) Rules,
2011
(Ammended upto November 2012)**

Indian Small Scale Paint Association

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Dear Member,

At the outset it is informed to the members that the erstwhile Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Packaged Commodities) Rules, 1977 have been repealed and in their place Legal Metrology Act, 2009 (the Act) and Legal Metrology (Packaged Commodities) Rules, 2011 (the Rules) have been brought into existence by Government of India.

There have been certain amendments to the said Act and the Rules as well.

I trust this booklet will provide you sufficient information and guidelines to comply with the amendments.

Individual queries can be forwarded to ISSPA office, who will provide necessary advice and guidance for the same

ISSPA is thankful to Mr Sunil Jaifalkar, Law Officer, Asian Paints for his help and guidance in updating this Book.

Views if any, expressed in this booklet are personal to the writer of this booklet.

PRASHANT VITHALDAS
President

Mumbai, January 2013

LEGAL METROLOGY ACT, 2009 AND LEGAL METROLOGY (PACKAGED COMMODITIES) RULES, 2011

GUIDELINES TO SMALL SCALE PAINT INDUSTRIES TO COMPLY WITH THE PROVISIONS OF THE LEGAL METROLOGY ACT, 2009 AND LEGAL METROLOGY (PACKAGED COMMODITIES) RULES 2011. THESE GUIDELINES ARE ON THE BASIS OF THEIR PRIORITY.

REGISTRATION UNDER PACKAGED COMMODITY RULES 2011

It is necessary for every manufacturer / packer / importer to get registered. Those who have registered under packaged commodity rules 1977, need not register again. All others should apply for registration. Submission of application to registration meets legal requirement. If the department does not issue registration in time one need not worry. Penalty for non registration is Rs 4000/- per partner / director and firm / company. Format of registration form - **Appendix A**.

Nomination of the authorised person by the Company

According to Section 49(2) of the Act, every company has to nominate one director to be the compliance officer for compliance under the Act and the Rules. If no such director is nominated, entire board of the directors, company secretary, manager and all other officials who were in the office at the time of offence committed, shall be held responsible and punished accordingly.

An application of nomination has to be filed with the local Controller of Legal Metrology in duplicate annexing thereto consent of the person so nominated and the board resolution in that regard. It is suggested that such an application be filed with the Director of Legal Metrology, at Krishi Bhavan, New Delhi also and get the name of the nominated person registered there. The authorities, whether Controller of the Director of Legal Metrology shall issue a certificate stating that the nomination is taken on record. If the nomination is being withdrawn due to the nominated person retires, dies, or transferred as the case may be, an intimation to the local Controller's office must be given and also to all the places where the nomination is filed. In such a case some other person must be appointed in the place of the person who exists.

In case of partnership firm one of the partners be nominated with the consent of other partners.

The notice of nomination is given in **Appendix B** to these guidelines.

CHAPTER II

Provisions applicable to packages intended for retail sale

Rule: 3: Applicability of the Chapter.

The provisions of this Chapter shall not apply to:-

- (a) Packages of commodities containing quantity of more than 25 kg or 25 litre excluding cement and fertilizer sold in bags upto 50 kg and
- (b) Packaged commodities meant for industrial consumers and institutional consumers.

Explanation: For the purpose of this rule:-

- a) Institutional Consumer:- Means those consumers who buy packaged commodities directly from the manufacturers/packers for service industry like transportation (including airways, railways) hotel or any other similar service industry.
- b) Industrial Consumers:- Means those consumers who buy packaged commodities directly from the manufacturers/packers for using the product in their industry for production, etc.

Rule 6(1):

- (a) The name and address (Factory) of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and the packer and for any imported package the name and address of the importer.

Explanations:

If any name and address of a company is declared on the label without any qualifying words "manufactured by" or "packed by", it shall be presumed that such name and address shall be that of the manufacturer and the liability shall be determined accordingly:

- (b) The common or generic name of the commodity contained in the package and in case of packages with more than one product, the name and number or quantity of each product shall be specified on the package;

- (c) The net quantity of the commodity contained in the package;
- (d) The month and year in which the commodity is manufactured, pre packed or imported; **With effect from 1.7.2012 a rubber stamp cannot be used to declared date of packing or date of manufacture.**
- (e) The retail sale price of the package to be declared as "MRP Rs..... incl. of all taxes",.
- (f) The name, address, telephone number, E-mail address if available, of the person who can be or the office which can be, contacted, in case of consumer complaints.

The above declarations are mandatory on every retail package intended for retail sale. All the declarations shall be made either on the container or on a label securely affixed thereto. The word "label" has been defined as "label" means any written; marked, stamped, printed or graphic matter affixed to or appearing upon any commodity or package containing any commodity. Stickers are strictly prohibited. The word "sticker" has not been defined. It would be safe to take it as anything pasted on the label. Provided that for reducing the Maximum Retail Price (MRP), a sticker with the revised lower MRP (inclusive of all taxes) may be affixed and the same shall not cover the MRP.

Declaration made by the manufacturer or the packer as the case may be, on the label of the package.

Explanations:

- a) The common name is "Paint", which should appear on the package.
- b) The net quantity should be mentioned in "Symbols" for International system of Units and none other. The symbols are as under:-

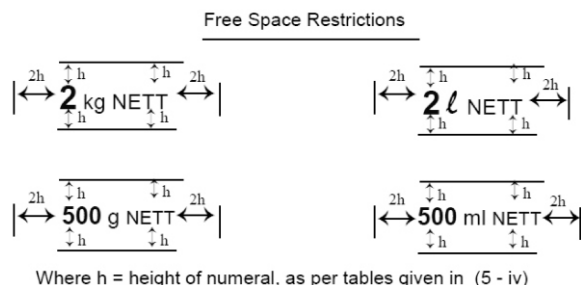
Kilogram	- kg
Gram	- g
Litre	- l
Mililiter	- ml etc.

The area surrounding the declaration of net quantity declarations shall be free of printed information:-

- (a) Above and below by a space equal to at least the height of the numeral in the declaration and
- (b) To the left and right by a space at least twice the height of the numeral in the declaration;

The above proposition is given in the following example :

The height of the numerals in the declarations, i.e. “retail sale price”, “net quantity” and “month and year of manufacturing/packing/importing” shall be as under:-



Pack size	Heights of numeral – normal	Heights of numeral when blown, perforated and embossed.
Upto 200g/ml	1 mm	2mm
Above 200g/ml	2 mm	4mm
Upto 500g/ml		
Above 500g/ml	4mm	6mm

The permissible error in quantity for individual tins is 1.5 % but

This permissible error upto about 1.5 percent is not applicable to the average net quantity, when checked. The filling machines should be checked atleast

twice in a week and the results should be recorded. The procedure for checking the average net quantity is as under:-

Take 32 empty containers alongwith their lids, weigh them individually and enter into a statement. Add up the weight of 10 empty containers with their lids and work out the average weight of one container by dividing the total of 10 empty containers with lids by 10. Introduce the 32 empty containers in the production line at random, take out after filling and keep their lids and enter into the statement. Take the total weight of all the 32 filled containers with their lids and divide by 32 to get the average gross weight of one containers. Deduct the average weight of the empty container to get the average NET weight of the package. This average net quantity is less than the net quantity declared on the package. (There is no permissible error for average net quantity). If the average net quantity is less that the declared quantity, the filling machine should be adjusted till you get the exact quantity declared on the package). When an inspector of legal metrology or any other officer checks your filling machine and if you are not satisfied with the result, you may request him for second check by paying a fee of Rs. 5000/-

- c) The month and year of manufacturing/packing/importing can be declared as “Mfd.” “Pkd” or “Imported”, it could be expressed in numerals, i.e. 04/2007. The packing materials of the previous month or of the next succeeding month can be used. For using the packing materials of more than one month old, permission will have to be obtained from the Director of Legal Metrology, Government of India, by justifying the reasons, such as strike by employees, etc.
- d) The retail sale price of a package should be declared as “Max. Retail Price” or “MRP Rs.... Incl. of all taxes.” There should be no deviation. The retail sale price once declared should not be altered by affxing a sticker or an additional label.

In the event of any increase in the Government levies, the retail price could be revised to the extent of increase in the levies and the retail dealers could be asked to sell at the revised price by giving them the necessary price list. It is not necessary to alter the price on the package. However, in the event of any increase in the Central Levy, the revision in the retail sale price should be notified in minimum two newspapers and the Director of Legal Metrology,

Government of India and the Controllers of Legal Metrology of all the States and Union Territories should be intimated of the increase in retail sale price. In case of increase in State Levy, it is not necessary to notify in the press but the Director of Legal Metrology, Government of India and the Controllers of Legal Metrology of the States and Union Territories should be intimated.

The Director of Legal Metrology, Government of India, in his letter No. WN-9-(7)/93 dated 14.9.1993, addressed to the President, Marking Systems Association of India, New Delhi, has clarified that there is no bar on the manufacturer to blank out the earlier declaration and re-print the revised declaration before packaging. (See Appendix "D"). The revised price should not be printed over and above the blanked out price.

It must be noted that if we choose to affix a label on the package for making declarations, all the six declarations must be made on the same label though some declarations are already pre printed on the package. Nothing should be pasted on the label where the declarations are made and nobody should be allowed to tamper with the declarations. It must be ensured that the declarations once made are not changed under any circumstances. Part declarations on package and part on the label is prohibited by the law.

Wholesale Package

Following are wholesale packages: -

A package containing –

- i) A number of packages, which is intended for sale or delivery to an intermediary and is not intended for sale to a single consumer;
- ii) A commodity sold to an intermediary in bulk to enable such intermediary to sell or deliver such commodity to the consumer in smaller quantities;
- iii) Ten or more than ten retail packages

A package containing a commodity upto 25 kg/25 litre is considered as a retail package.

The following declarations are mandatory on the whole- sale package:

- a) Name and address of the manufacturer/packer/importer.
- b) The common or generic name of the commodity contained in the package;
- c) The number of retail packages or bulk quantity contained in the package, e.g. 5kg/5 litre x 10 or 201 kg/201 litre.

A package containing less than 10 retail packages is treated as retail package and it is mandatory to give all the six declarations as in the case of a retail package. However, the MRP would be for the total number of retail packages.

An export package shall not be sold in India unless all the mandatory declarations are made thereon.

Secondary outer packing for protection / safety during conveyance / transportation of such package could not be seized for absence of the details like name/address of manufacturer, MRP, Month, year, etc.

Imported Packages

The importer of the packages is deemed to be the manufacturer and he is responsible to make all the mandatory declarations on the packages before such packages are stored in the depot or warehouses.

Registration of shorter address

In case of space constraint on account of small packages, you can register you shorter address by making an application to the Controller of Legal Metrology, Government of Maharashtra, by justifying your request.

The expressions of the words like "Jumbo", "Extra", "Dozen", "1/4", "1/2" shall not be indicated on any package. While expressing the quantity it should not be 250g/250ml or 500g/500ml.

Pack Sizes

Paint, Varnish, etc.. should be packed in the following standard pack sizes only:-

- | | | |
|----|---|---|
| a) | Paint (other than paste Paint or solid paint, Varnish, varnish stains, Enamel | 50ml, 100ml, 200ml, 500ml, 1 litre, 2 litre, 3 litre, 4 litre, 5 litre and thereafter in multiples of 5 litre. |
| b) | Paste paint and solid Paint. | 500g, 1kg, 1.5 kg, 2kg, 3kg, 5kg, 7kg, and thereafter in multiples of 5 kg. |
| c) | Base paint | 450ml, 500ml, 900ml, 925ml, 950ml, 975ml, 1 litre, 3.6 litre, 3.7 litre, 3.8 litre, 3.9 litre and 4 litre and no restriction above & 4 litre. |

Commodities in (a), (b), (c) could be packed in non-standard sizes by making and declaration. Non-standard pack size under the Legal Metrology (Packaged, Commodities) Rules, 2011.

With effect from 1.11.2012 proviso to Rule 5 shall be omitted and no non standard pack sizes will be allowed under the Rules.

However, if any manufacturer wants to manufacture or import non standard pack size, he will have to make an application to Director of Legal Metrology in this regard and by giving suitable justification. Based on the application and the justification, a permission to manufacture or import non standard pack size may be granted by the Director of Legal Metrology for a period of one year initially and after due verification of the facts of the case, the said pack size shall be included in the IIInd schedule to the Rules. Such a permission may be granted to the manufacturers or importers if the products so manufactured or imported are for promotional purposes.

Penalties (Compounding Fee)

Under Section 36 (1)

The maximum penalty for contravention of any of the provisions of the act and the Packaging Commodity Rules, is Rs. 25,000/- for the nominated person and the firm/ company as the case may be for the first offence.

Rs.50,000/- for the nominated person and firm / company as the case may be for the second offence.

And minimum Rs. 50,000/- to Rs. 1,00,000/- for the nominated person and firm / company as the case may be and prosecution for the third offence.

If no person has been nominated under section 49 (2) the penalty is on every partner / Director & firm or company as above.

From the above it is quite evident that the compounding fees has gone up from Rs. 5,000/- to Rs. 25,000/- for the nominated person and the company but compounding of offence has been allowed three times.

In a court, the quantum of punishment would depend on the nature of the offence and proving it in Court. To avoid legal expenses one can plead guilty in court.

The Inspector has powers to seize all the packages which do not bear the mandatory declarations in conformity with the provisions of the law. The seized packages could be released after the offence is compounded or decided by the Court.

It is suggested that if we are very sure that we have not committed any offence under the Act and the Rules, we should not compound the offence immediately. An appeal needs to be filed before the local Controller of Legal Metrology before we approach court in the matter. It is also suggested not to succumb to the demands of the Inspectors for saving time. This kind of leverage make the department more demanding and the harassment continues.

To avoid the nuisance and harassment from the department it is necessary that we keep our compliance level very high. It is observed that if we have compliance in place, it is very easy to fight with the department. The compliance has to be got checked by some outside agency expert in the field, from time to time. All the verification certificates must be maintained scrupulously and must be displayed near the machine for which the same is taken.

The Legal Metrology Act, 2009

Whenever the retails sale price of a commodity in packaged form is stated in any advertisement, there shall be included in the advertisement, a conspicuous declaration as to the net quantity of the commodity contained in the package.

All weights, measures, weighing and measuring instruments used in the manufacturing units, office and laboratory shall be got verified and stamped by the Inspector of Legal Metrology, once in a year. The storage tanks should also be got verified and stamped by the said inspector once in a period of 5 years. The Weigh bridge, if any, should also be got verified and stamped every year. Test weights, duly verified and stamped, equal to 10% of the capacity of the weigh bridge, should be maintained at the weigh bridge for testing at the time of surprise visit. The copies of the verification and Stamping Certificates issued by the inspector, should be displayed at the sites where the weights, etc., are used.

Prohibition of quotation etc. otherwise than in terms of Standard Weight or Measure (Metric System)

No person shall, in relation to any goods or things which are sold, transferred, distributed or delivered:

- a) Quote, or make announcement of, whether by word of mouth or otherwise, any price or charge or
- b) Issue or exhibit any price list, invoice, cash memo or other document or
- c) Mention any weight or measure in any advertisement, poster, or other document, or
- d) Indicate the weight of measure of the net contents of any package on the package itself or on any label, carton or other thing or,
- e) Express, in relation to any transaction, industrial production or protection, any quantity or dimension, otherwise than in accordance with the standard weight or measure.

Some Clarifications

You cannot declare “When Packed” on packages containing paint.

Normally, a label is made of paper on which all the mandatory declarations are to be printed. No minimum size is prescribed. The label should be able to accommodate all the six declarations by maintaining the height of the numerals, free space, etc.

It is necessary to present the newly purchased weight, etc., to the inspector for re-verification and stamping before the expiry date.

SAMPLE LABEL

For font heights and free space around the declaration of net quantity you may please refer to page 5 of this Booklet. “Shade” or any other information may be made on a sticker and affixed on the package without blocking any of the statutory declarations. All the six statutory declarations shall be on the single label.

ACRYLIC EMULSION PAINT
Net Qty.:
MRP Rs. _____ incl. of all taxes
Mfd./Imported by _____ (Factory address)
Month & Year of Manufacturing / Packing / Importing _____
For any complaint please contact _____ (designation)
Consumer Care Cell. Tel. No. _____ (E-mail ID if available)

Appendix A

MAHARASHTRA LEGAL METROLOGY MANUAL 2011.

14.2.20 annex xx

(SEE CLAUSE 7.8 OF CHAPTER VII)

Format of application for Registration as manufacturers, packers and importers of Packaged Commodities

(Under Rule 27 of The Legal Metrology (Packaged Commodities) Rules, 2011)

- 1) Name of the applicant _____
 - 2) Name(s) of the Proprietor/Partner/Director _____
 - 3) Complete address of the premises _____
 - 4) Number of the commodities _____
 - 5) Name of the commodities _____
- (to be manufactured/packed/imported) _____

Signature of the applicant/
Authorized person

(Applicant should attach copies of relative documentary proof in support of the above contents)

Declaration

I/We _____

have read The Legal Metrology Act 2009 and the Legal Metrology (Packaged Commodities) Rules,2011 and agree to abide by the same.

I/We also state that the contents given in the application are true and correct to the best of my/our knowledge.

Fees of Rs.500.00 for registration of manufacturer / packer/ importer of pre-packed commodities is enclosed.

Signature of the applicant/
Authorized person

Form And Fee may vary from state to state

Appendix B

MAHARASHTRA LEGAL METROLOGY MANUAL 2011.

14.1.13 Schedule XIII of Legal Metrology (General) Rules, 2011

Nomination

Format for nomination of the Director by the Company

(See Rule29 of the Legal Metrology (General) Rules, 2011)

Notice is hereby given that Shri / Smt/ Mrs. _____ Director of the _____ (name and address of the company) has been nominated by the Company by a Resolution passed at their meeting held on _____ at _____ to be in-charge of, and responsible for the conduct of business of the company or any establishment/branch/unit thereof and is authorized to exercise all such powers and take all steps as may be necessary or expedient to prevent the commission of any offence by the said company under The Legal Metrology Act 2009.

Shri / Smt/ Ms _____, Designation _____ Has accepted the said nomination and copy of said acceptance is enclosed herewith.

A certified copy of the said Resolution is also enclosed.

Place _____

Managing Director/Secretary of
(Name of the company)

Date _____

Note:- Score out the portion which is not applicable.

Appendix C

EXTRACT FROM MAHARASHTRA LEGAL METROLOGY MANUAL 2011.

Sr.No	Nature of offence	Violated Sec. with penal sec.	Fine Rs	Max. compounding Amount RS.	Penalty for second and subsequent offence	Comp./non-compoundable (Yes/No)
1.	Non compliance of declaration of prepackage commodity by mfg/packer/importer	18(1)/36(1)	Max. extend to Rs 25000/-	Rs. 15000/-	1) Up to Rs. 50000/- 2) not less than Rs. 50000/- but extend to Rs. 100000/- or with imprisonment up to one year or with both	y
2.	Non compliance of declaration of prepackaged commodity by wholesale dealer/distributor	18(1)/36 (1)	Max. extend to Rs. 25000/-	Rs. 10000/-	1) Up to Rs. 50000/- 2) not less than Rs. 50000/- but extend to Rs. 100000/- or with imprisonment up to one year or with both	y
3.	Non compliance of declaration of prepackaged commodity by retailer	18(1)/36 (1) to Rs. 25000/-	Max. extend	Rs. 5000/-	1) Up to Rs. 50000/- 2) not less than Rs. 50000/- but extend to Rs. 100000/- or with imprisonment up to one year or with both	y

Fines may vary from state to state

Useful sites -

1. Ministry of consumer affairs Food & Public Distribution www.fcamin.nic.in
2. www.legalmetrology.maharashtra.gov.in
3. www.metrologycentre.com

Appendix D

No. WM-9(7)/93
GOVERNMENT OF INDIA
MINISTRY OF CIVIL SUPPLIES
C.A. AND P.D., NEW DELHI – 110 001.

Dated: 14.9.93

To

The President,
Marking Systems Association of India,
Flat No. 1010, Pragati Tower,
26, Rajendra Place, New Delhi – 8.

Subject: - **Notification No. SSR 57B (E), Dated 26-8-1993**

Clarification regarding

Sir,

Kindly refer to your letter no. MS/A/93 dated 8/9/93 addresses to Mrs. Sathi Nair. Jt. Secretary seeking clarifications regarding amendment made to the Standards of Weights & Measures (Packaged Commodities) Rules, 1977 on 26th of August, 1993.

In this regard, I am directed to clarify the points raised in your above said representation:

Point No. 1:

Rule 4 of the packages Commodities Rules provide that “every package in which the commodity is pre-packed bears thereon or on a label securely affixed thereto, such declarations as are required to be made under the rules.” It means that putting a label on the carton of the package is allowed. This label should have a place for principal display panel as required under the rules and this panel should contain all the declarations.

Point No. 2:

Alterations mentioned in the rule pertain to pasting of additional label. There is no bar on the manufacturer to blank out the earlier declaration and reprint the revised declaration, before packaging.

Point No. 3:

Any registered newspaper of any language can be used to give the advertisement and the advertisement should be given by the manufacturer or packer.

Point No. 4:

Bar-coded labels are treated as additional declarations. Marking of additional declarations like the name of the retail dealer, sale price of the package being less than or equal to MRP declared by the manufacturer are not prohibited. However, they cannot be used for upward revision of price.

You may circulate this to members of your Association.

Yours faithfully

(P.A. Krishnamoorthy)

Director (Weights & Measures)