

BOMBAY ACT No. LXIX OF 1958

*[THE BOMBAY WEIGHTS AND MEASURES (ENFORCEMENT) ACT, 1958.]

[27th September 1958]

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 5 of 1962.

Amended by Mah. 14 of 1965.

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

WHEREAS it is expedient to provide for the enforcement of standard weights and measures in the State of Bombay and for matters connected therewith, It is hereby enacted in the Ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Bombay Weights and Measures (Enforcement) Act, 1958. Short title, extent and commencement.

(2) It extends to the whole of the [State of Maharashtra].

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

2. In this Act unless the context otherwise requires.—

Definitions.

(a) "commercial weight or measure" means a weight or measure purporting to be a standard weight or measure used in any transaction for trade or commerce;

(b) "Controller" means the Controller of Weights and Measures appointed under section 15.

(c) "Inspector" means an Inspector of Weights and Measures appointed under section 15;

(d) "measuring instrument" means any measuring instrument other than a weighing instrument and includes any instrument for measuring length, area, volume or capacity;

(e) "Mint" means the mint of the Central Government either in Bombay or in Calcutta;

(f) "prescribed" means prescribed by rules made under this Act ;

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(g) "reference standards" means the sets of standard weights and measures supplied to the State Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956;

³[(gg) "sealed package or container" means a closed packet, bottle, casket, tin, barrel, case, receptacle, bag, sack, wrapper or any other thing in which any article is placed or packed, and which is intended to be sold with its contents, without any weighing or measurement of such contents at the time of sale;]

1 For Statement of objects and Reasons see *Bombay Government Gazette*, 1958, Part V, Pags 569 and 570.

2 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent subjects) Order, 1960.

3 This clause was inserted by Mah. 14 of 1965, s. 2(a).

* The provisions of the standards of Weights and Measures (Enforcement) Act, 1985 (Act No. 54 of 1985) have been brought into force, with effect from the 1st July 1987, in the whole of the State of Maharashtra, vide G. N., Food and Civil Supplies Department, No. WMA-1086/899/2516/XXX, dated the 29th June 1987 and on such enforcement, the corresponding provisions of this Act stand repealed as provided in section 75 of the said Central Act.

(h) "standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standard of Weights and Measures Act, 1956, ^{LXX-XIX of 1956.}

(i) "stamping" means marking in such manner as to be, so far as practicable indelible, and includes casting, engraving, etching and branding;

[(ii) "use in transaction for trade or commerce" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of length, area, volume, capacity or weight in or in connection with—

(a) any contract, whether by way of sale, purchase, exchange or otherwise, or,

(b) any assessment of royalty, toll, duty or other dues; or

(c) the assessment of any work done or services rendered, otherwise than in relation to research or scientific studies or in individual households for household purposes;]

(j) "verification" with its grammatical variations, used with reference to a weight or measure, or weighing or measuring instrument, include the process of comparing, checking or testing such weight or measure or weighing or measuring instrument, and also includes re-verification;

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

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Working
standard

3. (1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transaction for trade or commerce, the State Government may cause to be prepared as many sets of authenticated standard weights and measures as it may deem necessary to be called the working standards ^{2*} * * *

* * * * *

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

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

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

* * * * *

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

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

1 This clause was inserted by Mah. 14 of 1965, s. 2 (b).

2 The portion beginning with the words "and special" and ending with the words "be prepared" was deleted, *ibid.*, s. 3 (a).

3 The proviso was deleted, *ibid.*, s. 3 (b).

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ This sub-section was substituted by Mah. 14 of 1965, s. 4.

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

CHAPTER III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES.

Marking of denominations on commercial weights and measures.

9. Every weight or measure manufactured for use as a commercial weight or measure shall bear the denomination of the weight or measure which it purports to be market legibly on it, in such manner as may be prescribed.

Prohibition of sale of unstamped commercial weights and measures.

10. No commercial weight or measure or weighing or measuring instrument shall be sold or delivered, unless it has been verified or re-verified in accordance with the rules made under this Act, and stamped in the prescribed manner by an Inspector with a stamp of verification.

Prohibition of use of unstamped commercial weights or measures.

11. No weight or measure or weighing or measuring instrument shall be used in any transactions in trade or commerce, unless it has been verified or re-verified in accordance with the rules made under this Act, and stamped in the prescribed manner by an Inspector, with a stamp of verification.

Power of State Government to exempt.

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

Prohibition of manufacture, etc. of weights and measures without licence.

13. No person shall, in the course, of trade, manufacture, repair or sell any commercial weight or measure or any weighing or measuring instrument, unless he has obtained in the prescribed manner a licence in this behalf which may be granted by the State Government or any officer authorised by it in this behalf, subject to such conditions as may be prescribed.

Marking of weight or measure in sealed containers.

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

[Provided that, the provisions of this section shall not apply to—

(a) any sealed package or container,—

(i) of net weight of less than one hundred and twenty grammes, if the sealed package or container contains biscuits, confectionary or sweets; and

(ii) of net weight of less than sixty grammes, if the sealed package or container contains any other foodstuff ;

(b) any other article sold, offered for sale, exposed for sale or in possession for sale which is not ordinarily sold in transactions for trade or commerce by weight or measure :

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

¹ This proviso was substituted by Mah. 24 of 1965, s. 5.

[14A. No person shall, in any transaction for trade or commerce, quote the price, or express the quantity, of any article otherwise than in terms of the standard weight or measure.]

Prohibition of quoting price of expressing quantity, of any article, otherwise than in terms of standard weight or measure.

15. (1) The State Government may appoint a Controller of Weights and Measures for the State, and as many Deputy Controllers, Assistant Controllers and Inspectors of Weights and Measures as may be necessary, for exercising the powers and discharging the duties conferred or imposed on them by or under this Act. Their qualifications shall be such as may be prescribed.

Appointment of Controller Deputy Controllers, Assistant Controllers and Inspectors.

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

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

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

Verification and stamping by Inspectors.

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

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[3] Notwithstanding anything contained in sub-section (3) of section 15, the Inspector exercising the powers and performing the functions under sub-section (2) of this section within the limits of a *Zilla Parishad* or part thereof shall exercise such duties and perform such functions under the general superintendence and control of such officer of the *Zilla Parishad* as the State Government may appoint in this behalf.]

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

Power to inspect, etc.

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

¹ This section was inserted by Mah. 14 of 1965, s. 6.

Sub-section (3) was inserted by Mah. 5 of 1962, s. 286, Tenth Sch.

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

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

(5) Where an Inspector has reason to believe that a sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents and if, on such verification, the net weight or measure of the article is found to be correct, the Inspector shall re-seal the package or container where it is possible so to do without injury to the contents thereof, and attach a certificate thereto stating the correct weight or measure of the article; but if, on the other hand the net weight or measure of the article is found to be incorrect, the Inspector may seize and detain the package and container and the article contained therein.

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

Power of
inspector to
adjust
weights or
measures.

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

Manufacturers, etc.,
to maintain
records and
documents.

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

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

Appeals.

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

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

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

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

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

21. The State Government may charge such fees—

Levy of fees.

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

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

22. A weight or measure or weighing or measuring instrument, duly stamped by an Inspector under this Act shall be a legal weight or measure or weighing or measuring instrument in all places in which the relevant provisions of this Act have come into force, unless it is found to be false or defective, and shall not be liable to be re-stamped by reason merely of the fact that it is used in any place other than that in which it was originally stamped.

Validity of weights and measures duly stamped.

CHAPTER IV

PENALTIES

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

Penalty for sale or delivery by weight or measure or for keeping unit of mass or measures other than standard weight or measure.

24. Whoever sells or delivers any commercial weight or measure, or any weighing or measuring instrument, which has not been verified, or re-verified, or stamped in accordance with the provisions of this Act and the rules made thereunder, shall be punished with fine which may extend to two thousand rupees.

Penalty for sale of unstamped commercial weights and measures.

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

Penalty for use or possession of unstamped commercial weights and measures.

¹ This portion was substituted for the words "other than one of the standard weights or measures" by Mah, 14 of 1965, s. 7 (a).

² These words were substituted for the words "delivery by weight or measure" *ibid.*, s. 7 (b).

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

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

Penalty for use of weight or measure in contravention of section 8.

26. Whoever contravenes any of the provisions of a notification issued under section 8, shall be punished with fine which may extend to two thousand rupees.

Penalty for manufacture, repair or sale of weights, etc. without licence.

27. If any person manufactures, repairs or sells any commercial weight or measures or weighing or measuring instrument, without obtaining a licence as required by section 13, he shall be punished with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for failure to mark weight or measure on sealed containers.

28. Whoever contravenes the provisions of section 14, shall be punished with fine which may extend to two thousand rupees.

Penalty for quoting prices or expressing quantities otherwise than in terms of standard weight or measure in contravention of section 14A.

[28A. Whoever contravenes the provisions of section 14A shall be punished with fine which may extend to two thousand rupees.]

Penalty for fraudulent use of weights, measures, etc.

29. Whoever fraudulently uses any weight or measure or weighing or measuring instrument, which he knows to be false, shall be punished with imprisonment for a period which may extend to one year, or with fine, or with both.

30. Whoever is in possession of any weight or measure or weighing or measuring instrument, which he knows to be false, intending that the same may be fraudulently used, shall be punished with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for being in possession of false weight or measure, etc.

31. Whoever makes, sells or disposes of, or causes to be made, sold or disposed of any weight or measure or weighing or measuring instrument, which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for making or selling false weights or measures, etc.

32. Whoever—

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

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

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

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

33. (1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any standard weight or measure or weighing or measuring instrument, or Possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument, or wilfully increases or diminishes a weight or measure so stamped, shall be punished with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for forging, etc. of weights, measures, etc.

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

34. Whoever—

(a) refuses or neglects to produce for inspection under section 17, any weight or measure or weighing or measuring instrument, or any document or record relating thereto, in his possession or on his premises; or

(b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record; or

Penalty neglect or refusal to produce weight or measure, etc. for inspection.

(c) obstructs the entry of an Inspector under section 17; or

(d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act.

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

Penalty for
breach of
duty by
Inspector.

35. If an Inspector knowingly stamps a weight or measure or weighing or measuring instrument, in contravention of the provisions of this Act or of the rules made hereunder, or is guilty of a breach of any duty imposed on him by this Act or the rules made thereunder, he shall be punished with imprisonment for a period which may extend to one year, or with fine, or with both.

Forfeiture.

36. Any weight or measure, or weighing or measuring instrument which is not authorised by this Act, shall be forfeited to the State Government.

CHAPTER V

MISCELLANEOUS

Controller,
etc. to be
public
servants.

37. The Controller, Deputy Controllers, Assistant Controllers and Inspectors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. of 1860

Protection of
action taken
in good
faith.

38. No suit, prosecution or other legal proceeding shall lie against the Controller, or any Deputy or Assistant Controller of Weights and Measures or any Inspector or any other person, in respect of anything which is in good faith done or intended to be done, in pursuance of this Act or the rules made thereunder.

Composition
of offences.

¹[38A. (1) Any offence punishable under sections 23, 24, 25, 27, 28, 32 or 34 other than a second or subsequent offence under section 23 or section 25 may, either before or after the institution of the prosecution, be compounded by the State Government or by any authority authorised in this behalf by the State Government on payment of such sum as the State Government or such authority, as the case may be, thinks fit.

(2) On payment by the offender of such sum, the offender, if in custody, shall be set at liberty, and if any proceedings in any criminal court have been instituted against the offender in respect of the offence, the composition shall be deemed to amount to an acquittal, and no further criminal proceedings shall be taken against him in respect of such offence.]

Cognizance
of offences,
etc.

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

(2) No court, inferior to that of a Presidency Magistrate or a Magistrate of the first class, shall try any offence punishable under this Act.

¹Section 38A was inserted by Mah. 14 of 1965, s. 10.

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

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

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

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

Explanation.—For the purposes of this section—

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

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

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

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1956. 43. Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956, in this behalf, the State Government may prescribe the limit of error which may be tolerated— Limits of error to be tolerated in weights and measures.

(a) in working standards referred to in section 3;

(b) in secondary standards referred to in section 4;

(c) in commercial weights and measures or in selling articles by weight or measure generally, or as regards any trade or class of trades; and

(d) in weighing and measuring instruments.

Bombay Act XV of 1932 or corresponding laws to cease to apply.

44. Subject to the provisions of section 45, on all or any of the provisions of this Act being brought into force in any area, or in respect of any class of undertakings or any class of goods, by a notification under sub-section (3) of section 1,—

(a) the Bombay Weights and Measures Act, 1932,

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(b) the Bombay Weights and Measures Act, 1932, as in force in the Saurashtra area, or the Kutch area, of the State,

(c) the Hyderabad Weights and Measures Act, 1356F,

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(d) the Central Provinces and Berar Weights and Measures of Capacity Act, 1928,

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or, as the case may be, the provision of any such law which corresponds to the provision of this Act which is brought into force, shall, in relation to such area, class of undertaking or class of goods, cease to apply; and upon such cesser sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply thereto as they apply to the repeal of an enactment, or to the repeal and re-enactment of an enactment, by a Bombay Act.

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Special provision during period for which other weights and measures permitted to be used under section 14 of Act LXXX-IX of 1956.

45. Notwithstanding that all the provisions of this Act or any of them, have come into force in any area, or in respect of any class of goods or undertaking, where the Central Government has by notification issued under section 14 of the Standard of Weights and Measures Act, 1956, permitted for a certain time the continuance of the use, the same area or in respect of the same class of goods or undertaking, of such weights and measures (in addition to the standards of mass and measures) as are specified in the notification (hereinafter in this section referred to as "the additional weights and measures"), then—

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(a) the provisions of this Act which relate to standard weights and measures shall not apply, in that area or in relation to that class of goods or undertaking, to the additional weights and measures permitted to be so used, and

(b) the laws specified in section 44, (including any rules and orders made thereunder) shall continue to have effect in those areas or in relation to those class of goods or undertaking, for the purpose of the continued use of the additional weights and measures, and for any purpose incidental thereto or connected with the proper enforcement thereof,

until the expiry of the period for which the Central Government has permitted the use of the additional weights and measures; and on the expiry of the period aforesaid, the laws specified in section 44, or the relevant provisions thereof, shall cease to apply in the manner and to the extent, as in that section provided.

Power to make rules.

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

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

(i) the materials of which and the designs and specifications according to which, the working standards shall be made, the agency by which they shall be prepared, the person by whom, or the authority by which, and the manner in which, they shall be stamped and authenticated under sub-section (2) of section 3;

(ii) the places at which, and the custody and manner in which, the working standards shall be kept under sub-section (3) of section 3;

(iii) the persons by whom, the places and intervals at which and the manner in which, the working standards shall be marked under sub-section (4) of section 3;

(iv) the manner in which working standards which have become defective shall be verified under sub-section (6) of section 3;

(v) the material of which, and the designs and specifications according to which the secondary standards shall be made under sub-section (2) of section 4;

(vi) the places at which, and the custody and manner in which, the secondary standards shall be kept under sub-section (3) of section 4;

(vii) the manner in which secondary standards shall be marked with the date of verification under sub-section (4) of section 4;

(viii) the number and kind of weighing and measuring instruments, and the manner in which they shall be verified and stamped under sub-section (2) of section 6;

(ix) the materials of which, and the designs and specifications according to which, commercial weights and measures and weighing and measuring instruments shall be made, and the sale of such weights measures and instruments;

(x) the manner in which the denomination of commercial weights and measures shall be marked under section 9;

(xi) the manner in which commercial weights or measures or weighing or measuring instruments shall be verified, reverified and stamped under section 10;

(xii) the form and manner in which, and the conditions subject to which, licences may be granted to persons for manufacture, repair or sale of commercial weights and measures and weighing and measuring instruments, under section 13;

(xiii) the qualifications of the Controller, Deputy Controllers, Assistant Controllers and Inspectors under sub-section (1) of section 15; ¹and of the officer of the *Zilla Parishad* to be appointed under sub-section (3) of section 16 ;]

(xiv) the manner in which weights or measures or weighing or measuring instruments shall be stamped by Inspectors under sub-section (2) of section 16;

¹ This portion was added by Mah. 5 of 1962, s. 286, Tenth Sch.

(xv) the records and accounts to be maintained under sub-section (1) of section 19, by manufacturers, repairs and dealers of weights, measures, weighing instruments and measuring instruments, and by persons using them, and the manner in which such records and accounts shall be produced for inspection ;

(xvi) the form and manner in which appeals may be preferred under section 20;

(xvii) the fees to be charged for the grant of licences and for verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments under section 21;

(xviii) the limit of error in sales of articles by weight or measure under section 32 ;

(xix) the seizure, detention and disposal of weights and measures and weighing and measuring instruments which are not authorised by this Act ;

(xx) the limit or error to be tolerated in secondary and working standards, in commercial weights and measures, in weighing and measuring instruments and in sales of articles, generally, or as regards any trade or class of trades under section, 43 ;

(xxi) any other matter which is to be, or may be, prescribed.

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

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

(5) All rules made under this section shall be laid, before each House of the Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid, or the session immediately following.

Act not to apply to weights and measures, etc. used in unit or establishment of Armed Forces of The union.

[46A. Nothing in this Act shall apply to weights or measures or weighing or measuring instruments used by or in any unit or establishment of the Armed Forces of the Union.]

Repeal of Bom. Ordinance II of 1958. and savings.

47. (1) The Bombay Weights and Measures (Enforcement) Ordinance, 1958 is hereby repealed. Bom. Ord. II of 1958.

(2) Anything done or action taken (including any appointments, rules and orders made, notifications or licences issued and appeals preferred) under the Ordinance so repealed shall be deemed to have been done or taken under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

¹ Section 46 A was inserted by Mah. 14 of 1965. s. 11.