



EXTRAORDINARY
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LAW AND LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 4/LL/80.

Dated Gangtok, the 5th April, 1980.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 5th day of April, 1980, is hereby published for general information.

SIKKIM ACT NO. 4 OF 1980

THE SIKKIM WEIGHTS AND MEASURES ACT, 1980.

AN

ACT

to provide for the enforcement of the standards of weights and measures established by or under the Central Act and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Sikkim in the Thirty-first year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

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| 1. | <ul style="list-style-type: none"> (1) This Act may be called the Sikkim Weights and Measures Act, 1980. (2) It extends to the whole of the State of Sikkim. (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different— <ul style="list-style-type: none"> (a) provisions of this Act, (b) areas, (c) classes of undertakings, (d) classes of goods, (e) classes of weights and measures, or (f) classes of users of weights and measures, | <p>Short title, extent and commencement.</p> |
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and any reference in any such provision to the commencement of this Act shall be construed as reference to the coming into force of that provision in such areas, or in respect of such classes of undertakings, goods, weights and measures or users of weights and measures in relation to which this Act has been brought into force.

Act not to apply to inter-State trade or commerce.

2. Nothing in this Act shall apply to any inter-State trade or commerce in any weight or measure or in any other goods which are sold, delivered or distributed by weight, measure or number.

Definitions.

3. In this Act, unless the context otherwise requires,—
- (a) “additional controller” includes a Joint Controller, Deputy Controller and an Assistant Controller appointed under section 5;
 - (b) “authorised seal or stamp” means a seal or stamp made under, and in accordance with, the provisions of this Act;
 - (c) “Central Act” means the Standards of Weights and Measures Act, 1976;
 - (d) “controller” means the Controller of Legal Metrology appointed by the State Government under section 5;
 - (e) “counterfeit”, in relation to a seal or stamp, means a seal or stamp which is so made as to resemble an authorised seal or stamp, as the case may be, intending by that resemblance to practice deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1. — It is not essential that the resemblance of the counterfeit seal or stamp to the authorised seal or stamp should be exact.

Explanation 2.— When a person causes a counterfeit seal or stamp to resemble an authorised seal or stamp and the resemblance is such that if a person relies on such seal or stamp, he might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the seal or stamp to resemble the authorised seal or stamp intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised;

(f) “heap” means any unit of a commodity for sale where such sale is intended to be made without any weightment or measurement or, where the sale is made by number, without counting the number;

(g) “inspector” means a person who is appointed as such under section 5, by whatever name called;

(h) “mint” means a mint of the Central Government;

(i) “notification” means a notification published in the Official Gazette;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “protection” means the utilisation of any weight or measure, or any reading obtained with the help of any weight or measure, for the purpose of determining whether or not any step is required to be taken to safeguard the well-being of any human being or animal, commodity, vegetation or thing, whether individually or collectively;

(l) “standard weight or measure” means a weight, measure or number which conforms to the standards established in relation thereto by or under Central Act;

(m) words and expressions used in this Act and not defined but defined in the Central Act shall have the meanings respectively assigned to them in that Act.

Provisions of this Act to override the provisions of any other law except the Central Act.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act and the Central Act or in any instrument having effect by virtue of any enactment other than this Act or the Central Act.

CHAPTER II

APPOINTMENT OF CONTROLLERS, INSPECTORS AND OTHER OFFICERS.

Appointment of Controllers. Inspectors. other officers and staff.

5. (1) 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.

(2) Every Additional Controller, appointed under sub-section (1), shall exercise such powers, and discharge such functions, of the Controller, as the State Government may, by notification, authorise in this behalf.

(3) The Controller may, by general or special order, define the local limits within which each Additional Controller or each Inspector shall exercise the powers and discharge the duties conferred or imposed on him by or under this Act.

(4) Subject to the provisions of this Act, every Additional Controller and every Inspector shall perform his functions and discharge the duties of his office under the general superintendence, directions and control of the Controller and shall exercise those powers and discharge those duties in the same manner and with the same effect as if they had been conferred or imposed on him direct by or under this Act and not by way of authorisation.

- (5) The Controller and every Additional Controller may also -
- (a) perform all or any of the functions of; and
 - (b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder, on an Inspector

(6) Where the Controller is of opinion that it is necessary so to do, he may, by an order in writing, authorise an Inspector, or other Officer not below the rank of an Inspector, to adjust any weight or measure in any area within the local limits of his jurisdiction.

Power to authorise Inspector to adjust weights or measures.

(7) The Controller and every Additional Controller, and every Inspector and every other person authorised to perform any duty by or under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Controller and officers appointed under this Act to be public servants.

8. No suit, prosecution or other legal proceedings shall lie against the Controller or any additional Controller, or any Inspector or any other person authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Protection of action taken in good faith.

CHAPTER III

GENERAL PROVISIONS IN RELATION TO STANDARD WEIGHTS AND MEASURES.

9. (1) Notwithstanding any custom, usage or method of whatever nature, no weight or measure other than the standard weight or measure shall be used or kept in any premises within the State of Sikkim in such circumstances as to indicate that such weight or measure is intended, or is likely, to be used for any weight or measurement.

Prohibition of use of weights and measures other than standard weights and measures.

(2) Any custom, usage, practice or method of whatever nature which permits a person to demand, receive, or cause to be demanded or received within the State of Sikkim, any quantity of article, thing or service in excess of, or less than, the quantity specified by weight or measure in the contract or other agreement in relation to the said article, thing or service shall be void.

(3) On and from the commencement of this Act, no weight, measure or number, other than the standard weight, measure or number, shall be used in, or form the basis of, any contract or other agreement in relation to any trade or commerce within the State of Sikkim.

(4) Any contract or other agreement, which contravenes the provisions of sub-section (3), shall be void.

10. (1) The State Government may, by rules made in this behalf, direct that in respect of the class of goods or undertakings or users specified therein -

Use of weights only or measures only in certain cases.

(a) no transaction, dealing or contract shall be made or had; or

(b) no industrial production shall be undertaken; or

(c) no use of protection shall be made, within the State of Sikkim, except by such weight, measure or number as may be specified in the said rules.

(2) Any rule made under sub-section (1) shall take effect in such area, from such future date and subject to such conditions, if any, as may be specified therein.

Prohibition of quotations, etc. otherwise than in terms of standard units of weight, measure or numeration.

11. Except where he is permitted under the Central Act so to do, no person shall, in relation to any goods or things which are sold, transferred, distributed or delivered, or any services rendered, within the State of Sikkim, -

- (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) prepare or publish any advertisement, poster or other document; or
- (d) indicate the contents of any package either on itself or on any label, carton or other thing; or
- (e) indicate the contents on any container; or
- (f) express, in relation to any transaction, industrial production or protection, any quantity or dimension, otherwise than in accordance with the standard units of weight, measure or numeration.

CHAPTER IV

CUSTODY AND VERIFICATION OF STANDARD EQUIPMENTS.

Custody and verification of reference standards.

12. Every reference standard, supplied by the Central Government to the State Government, shall be kept at such place and in such custody as may be prescribed, and no such reference standard shall be deemed to be a reference Standard and shall be used as such unless it has been verified and authenticated in accordance with the rules made under the Central Act.

Preparation of secondary and working standards.

13. The State Government may cause to be prepared at a Mint as many sets of secondary standard or working standard, verified and authenticated by the Mint in such manner as may be specified under the Central Act, as it may think necessary:

Provided that where the Mint intimates the State Government in writing that it is unable to prepare secondary standard or working standard weight or measure, that Government may cause such secondary standard or working standard weight or measure to be prepared by such person as it may think fit and such secondary standard or working standard weight or measure shall be verified and authenticated by such authority as may be specified by rules made under this Act and every such verification and authentication shall be made in the manner specified under the Central Act.

Verification, Stamping and Custody of Secondary or working standards.

14. (1) Every secondary standard or working standard shall conform to the standards established by or under the Central Act and shall be verified with the reference standard or secondary standard, as the case may be, in such manner and at such periodical intervals as may be specified by or under that Act and shall, if found on such verification to conform to the standards established by or under that Act, be stamped.

(2) Where any secondary standard or working standard is stamped under sub-section (1), a certificate shall be separately issued showing the date on which such weight or measure was stamped.

(3) Every verification and stamping referred to in sub-section (1) shall be made by such person or authority as may be prescribed.

(4) A secondary standard or working standard which is not verified and stamped in accordance with the provisions of sub-section (1) shall not be deemed to be a secondary standard or working standard, as the case may be, and shall not be used for the verification of any working standard or, as the case may be, of any weight or measure, not being a national prototype or a reference standard or secondary standard.

(5) Every secondary standard shall be kept at such place and in such custody as may be prescribed.

Secondary or working standard which may not be stamped.

15. Where the State Government is of opinion that by reason of the size or nature of any secondary standard or working standard, it is not desirable or practicable to put a stamp thereon, it may direct that instead of putting a stamp on such secondary standard or working standard, a certificate may be issued to the effect that such secondary standard or working standard conforms to the standards established by or under the Central Act and every secondary standard or working standard so certified shall be deemed to have been duly stamped under this Act on the date on which such certificate was issued.

CHAPTER V

MANUFACTURE, REPAIR OR SALE OF WEIGHTS OR MEASURES

16. (1) No person shall make, manufacture, repair or sell any weight or measure unless he holds a valid licence issued in this behalf by the Controller authorising such person to do so :

Prohibition on the manufacture, repair or sale of weights or measures without licence.

Provided that a person who bonafide repairs in his premises any weight or measure owned by him shall not be required to take out a licence referred to in this subsection if he, in the opinion of the Controller,—

(a) has the technical competence and the necessary equipment to repair such weight or measure; or

(b) having the necessary equipment for the repair of such weight or measure in his possession, has persons in his employment who have the technical competence to repair such weight or measure.

(2) Every licence issued under this section -

(a) shall be in such form as may be prescribed;

(b) shall be issued on payment of such fees as may be prescribed;

(c) shall be valid for such period as may be specified therein;

(d) may be renewed from time to time; and

(e) may contain such conditions and restrictions as may be prescribed.

(3) Every licence issued under any Sikkim Law relating to weights and measures shall, if in force immediately before the commencement of this Act, continue to be in force until the expiry of the period of its validity or until the cancellation thereof, whichever is earlier, and may be renewed under this Act if an application for its renewal is made in the prescribed form at least one month before the expiry of the period of its validity.

(4) A person who intends to commence, after the commencement of this Act, business as a maker, manufacturer, repairer or seller of any weight or measure, shall make an application in such form as may be prescribed for the issue of a licence and every licence so issued may be renewed if an application for its renewal is made in the prescribed form at least one month before the expiry of the period of its validity.

(5) The Controller may, if he is satisfied that the maker, manufacturer, repairer or seller, as the case may be, of any weight or measure was prevented by sufficient cause from making application for the renewal of his licence before the expiry of the period of the validity thereof, permit him to make the application within a further period of one month from the date of expiry of the said period on payment by him of such further fee, not exceeding the fee which is payable for the issue of the licence.

(6) On receipt of an application for the issue of a licence under this section, the Controller may, if he is satisfied, after making such inquiry as he may think fit, that the applicant fulfils the prescribed conditions, issue such licence:

Provided that no application for the issue of a licence shall be rejected unless the applicant has been given a reasonable opportunity of making representation against the proposed action.

(7) No application for the renewal of a licence issued under this section shall be rejected unless -

(a) the holder thereof has been given a reasonable opportunity of showing cause against the proposed action; and

(b) the Controller is satisfied that -

(i) the application has not been made within the time specified in this section; or

(ii) the applicant has made any statement in, or in relation to, the application for the issue or renewal of the licence which is incorrect or false in any material particular; or

(iii) the applicant has contravened any provision of Central Act or any rule made thereunder or of this Act or any rule made thereunder.

CHAPTER VI

VERIFICATION AND STAMPING OF WEIGHTS OR MEASURES.

21. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended to be, used by him in any transaction or for industrial production or for protection, shall before putting such weight or measure into use, have such weight or measure verified at such place, and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time).

Verification and stamping of weights or measures.

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

(3) Every Inspector shall, for the purpose of verification of any weight or measure, attend the specified place (within the local limits of his jurisdiction) at the specified time and verify every weight or measure which is brought to him at such place and within such time and shall, if he is satisfied that such weight or measure conforms to the standards established by or under the Central Act, put his stamp thereon:

Provided that where any weight or measure is such that it cannot, or should not, be moved from its location, the Inspector shall take such steps for the verification of such weight or measure as may be prescribed.

(4) Where any verification has been made under sub-section (3), the Inspector shall grant to the person referred to in sub-section (1) a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(5) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Central Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act.

22. Every certificate or verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended to be, used in any transaction or for industrial production or for protection.

Display of certificate of verification.

23. (1) A weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall be deemed to conform to the standards established by or under the Central Act at every place within the State of Sikkim unless it is found on inspection or verification, that such weight or measure does not conform to the standards established by or under that Act.

Validity of weights or measures duly stamped.

(2) No weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall require to be re-stamped merely by reason of the fact that it is being used at any place within the territory of the State of Sikkim other than the place at which it was originally verified and stamped:

Provided that where a verified weight or measure, installed at one place, is dismantled and re-installed at a different place, such weight or measure shall not be put into use unless it has been re-verified and stamped notwithstanding that periodical re-verification of such weight or measure has not become due.

CHAPTER VII

INSPECTION, SEARCH, SEIZURE AND FORFEITURE.

24. (1) An Inspector may, within the local limits of his jurisdiction, inspect and test, at all reasonable times, any weight or measure which -

Power to inspect.

- (i) is being, or is intended to be, used; or
- (ii) is in the possession, custody or control of any person; or
- (iii) is in or 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 protection, and may also verify whether such weight or measure is in conformity with the standards established by or under the Central Act.

Power of Inspector to require production of weight or measure or records for inspection.

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

25. (1) An Inspector may, if he has any reasonable cause to believe that an offence punishable under this Act has been or is likely to be committed in respect of any weight or measure or that any weight or measure does not conform to the standard established by or under the Central Act, require, at all reasonable times, the person having the custody or control of such weight or measure which -

- (i) is used by such person or is caused by such person to be used by any other person; or
- (ii) is in the possession, custody or control of such person for use; or
- (iii) is kept in or on any premises for use in any transaction or for industrial production or for protection.

(2) The Inspector may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person first mentioned in that sub-section shall comply with such requisition.

(3) On inspection, whether under section 24 or under this section, the Inspector may obliterate the stamp on any weight or measure -

- (a) which does not, or cannot be made to, conform to the standards established by or under the Central Act:

Provided that where the Inspector is of opinion that the defect or error in such weight or measure is not such as to require immediate obliteration of the stamp, he shall serve a notice on the user of such weight or measure informing him of the defect or error found in the weight or measure and calling upon him to remove the defect or error within such time, not exceeding eight days, as he may specify and shall -

(i) if the user fails to remove the defect or error within that period, obliterate the stamp; or

(ii) if the defect or error is so removed as to make the weight or measure conform to the standards established by or under the Central Act, verify such weight or measure and put his stamp thereon;

(b) which does not admit of proper adjustment owing to its being broken, indented or otherwise defective;

(c) which, since the last verification and stamping, has been repaired or re-adjusted but does not, after such repair or re-adjustment, conform to the standards established by or under the Central Act;

(d) which, being due for verification, has not been submitted for such verification.

Power of Inspector to enter premises.

26. (1) An Inspector may, if he has any reason to believe, whether from any information should be given to him by any person and taken down by him in writing or from personal knowledge or otherwise, that an offence punishable under this Act has been or is likely to be committed in relation to any weight, measure or other goods which are sold, delivered or distributed by weight, measure or number, enter, at all reasonable times, into any premises -

(i) where such weight or measure is used, or kept or believed to be kept for use in any transaction or for industrial production or for protection;

(ii) where such goods are manufactured, packed, distributed or sold or kept or offered for sale in packaged form.

and inspect or verify any weight measure or the net contents, by weight, measure or number, of any package, and may also examine any document or other record relating thereto.

(2) An Inspector may at all reasonable times enter into any premises for such purposes other than those specified in sub-section (1), as may be prescribed.

Power to search.

27. (1) Where the Controller has reason to believe that any weight or measure, liable to be seized under this Act, or any document or thing in relation to any weight or measure, will be, in his opinion useful for or relevant to, any proceeding under this Act, is secreted in any place, he may search or authorise any officer, not below the rank of an Inspector, to search for such weight or measure, document or thing, and the general provisions relating to search under the Code of Criminal Procedure in force in Sikkim shall apply to every such search.

(2) Every authorisation made by the Controller under sub-section (1) shall be deemed to be a search warrant referred to in the general provisions relating to searches under the Code of Criminal Procedure in force in Sikkim.

28. (1) An Inspector may seize and detain any weight or measure in relation to which an offence under this Act appears to have been committed or which is likely to be used in the commission of such offence, and may also seize and detain any goods sold or delivered, or caused to be sold or delivered, by such weight or measure: **Power of Inspector to seize any weight or measure.**

Provided that where any goods seized under this sub-section are subject to speedy or natural decay, the Inspector may dispose of such goods in such manner as may be prescribed.

(2) Where any weight or measure or any article is seized and detained under sub-section (1), the Inspector may also seize and detain any document or other record relating to such weight, measure or article.

29. If, on verification of any commodity in packaged form, the net weight, measure or number of commodity contained in the package or container is found to agree with the net contents thereof, as stated on the label thereon, the Inspector shall, where the person from whom such commodity was obtained for verification is— **Inspector to re-seal or re-pack where net contents are found to have been correctly stated.**

(a) the manufacturer or packer of such commodity, get the commodity re-sealed or re-packed, as the case may be; or

(b) a person who buys or sells such commodity, in whole sale or retail, acquire such package or container on payment in cash to such wholesaler or retailer the market price of the commodity contained in such package or container.

30. Every false or unverified weight or measure seized under the provisions of this Act shall be liable to be forfeited to Government. **Forfeiture.**

CHAPTER VIII

PROVISIONS WITH REGARD TO COMMODITIES IN PACKAGED FORM SOLD OR DISTRIBUTED WITHIN THE STATE.

31. (1) The provisions of the Central Act with regard to commodities in packaged form shall, as far as may be, apply to every commodity in packaged form which is distributed, packed, sold, kept, offered or exposed for sale in the State of Sikkim as if those provisions were applicable to trade or commerce within the State subject to the modification that any reference therein to the Central Government and the Central Act shall be construed as references, respectively to the State Government and this Act. **Provisions of the Central Act relating to packaged commodities to apply to packaged commodities sold or distributed within the State.**

(2) An Inspector may, from time to time, inspect the weight or measure, or count the number, of the commodity contained in any package which is—

- (i) kept at any place where the commodity is packed; or
- (ii) kept, offered or exposed for sale; or
- (iii) sold, delivered, held in possession or is in the process of delivery;

within the State of Sikkim with a view to determining whether the package contains the quantity or number of the commodity as specified on it or on the label thereon.

(3) Where the Inspector finds, after weighing, measuring or counting, that any package does not contain the quantity or number of the commodity, as specified on it or on the label thereon, or does not conform to the provisions of the Central Act or any rule or order made thereunder, he may seize such package and may also, by order, prohibit the sale of each package which is similar to the seized package and may so mark or seal each such package as to indicate clearly that the sale or delivery of such package has been prohibited, and no such package shall be sold or kept, offered or exposed for sale or delivery or otherwise disposed of unless—

(i) the contents of such package have been brought into conformity with the provisions of the Central Act or any rule or order made thereunder, by the manufacturer, packer or distributor thereof; or

(ii) the disposal thereof has been authorised by the Controller.

(4) No person shall keep in any place, where any transaction is made, any commodity in packaged form which is not for sale, and if any commodity in packaged form is kept in such place in contravention of the provisions of this sub-section, such commodity shall be presumed to have been kept in such place for sale.

CHAPTER IX

PROVISIONS WITH REGARD TO THE SALE OF COMMODITIES IN ANY OTHER FORM

Sale of commodities by number.

32. (1) Where the sale of any commodity is made by number and the number of the commodity delivered to the purchaser in pursuance of such sale is lesser than the number paid for, the seller shall be deemed to have used a false measure.

(2) Where, in relation to any commodity sold by number, there is a custom or usage of delivering a fixed number or such commodities in addition to the number of commodities paid for, such custom or usage shall, on and from the commencement of this Act, cease, and if the seller delivers to the purchaser the additional number of commodities in accordance with such custom or usage, he shall be deemed to have used a false measure and the purchaser shall be deemed to have abetted the use of such false measure.

Sale of Commodities by heaps.

33. (1) Where any commodity is sold by heaps the approximate weight, measure or the number of commodity contained in each heap shall be conspicuously announced by the seller or his agent, if any, either by word of mouth or by a written notice placed on each heap:

Provided that no such announcement shall be necessary in the case of a heap the market price of the contents of which does not exceed one rupee.

(2) Where, on weighing, measurement or counting of any commodity sold by heap, it is found that the weight, measure or number, determined by such weighing, measurement or counting is less than the approximate weight, measure or number announced by the seller or his agent and the deficiency is more than five per cent of such announced weight, measure or number, the seller shall be deemed to have used a false weight or measure.

CHAPTER X

OFFENCES AND PENALTIES

Penalty for manufacturing, etc., of non-standard weights or measures.

34. Whoever—

(a) makes or manufactures, or causes to be made or manufactured (except where he is permitted under the Central Act so to do), any weight or measure in accordance with any standards other than the standards established by or under the Central Act; or

(b) (i) sells or otherwise transfers, or causes to be sold or otherwise transferred; or

(ii) lets, or causes to be let, on hire, any weight or measure which has been manufactured in accordance with any standards other than the standards established by or under the Central Act, shall be punished with imprisonment for a term which may extend to one year, and, for the second or subsequent offence, with imprisonment, for a term which may extend to five years and also with fine.

Penalty for counterfeiting of seals, etc.

35. (1) Whoever -

(i) counterfeits any seal specified by or under this Act or the Central Act; or

(ii) sells or otherwise disposes of any counterfeit seal; or

(iii) possesses any counterfeit seal; or

(iv) counterfeits any stamp whether made under this Act or the Central Act or any rule made under either of those Acts; or

(v) removes any stamp made, whether under this Act or the Central Act or any rule made under either of those Acts, or tampers with any stamp so made; or

(vi) removes any stamp made, whether under this Act or the Central Act or any rule made under either of those Acts, and affixes the stamp so removed on, or inserts the same into, any other weight or measures; or

(vii) wilfully increases or diminishes or alters in any way any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby, shall be punished with imprisonment for a term which may extend two years and, for the second or subsequent offence with imprisonment for a term which may extend to five years and also with fine.

(2) Whoever obtains, by unlawful means, possession of any seal specified by or under this Act or the Central Act and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the Central Act shall be punished with imprisonment for a term may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the Central Act uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which may extend to two years, and for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(4) Whoever sells, offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which may extend to two years, and for the second or subsequent offence, imprisonment for a term which may extend to five years and also with fine.

36. (1) Except where he is permitted under the Central Act so to do, whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any weight measure or number other than the standard weight, measure or number, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for sale or delivery of commodities etc. by non-standard weight or measure.

(2) Whoever renders, or causes to be rendered, any service in terms of any weight, measure or number other than the standard weight, measure or number, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

37. (1) Whoever keeps any weight or measure other than the standard weight or measure in any premises in such circumstances as to indicate that such weight or measure is being, or is likely to be, used for any -

Penalty for keeping non-standard weights or measures for use and for other contraventions.

(a) weightment or measurement; or
(b) transaction or for industrial production or for protection, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

(2) Whoever, -
(i) in selling any article or thing by weight, measure or number, delivers, or causes to be delivered, to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or
(ii) in rendering any service by weight, measure, or number renders that service less than the service contracted for or paid for; or
(iii) in buying any article or thing by weight, measure or number, receives, or causes to be received, from the vender any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or
(iv) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for, shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever enters, after the commencement of this Act, into any contract or other agreement (not being a contract or other agreement for export) in which any weight, measure or number is expressed in terms of any standard other than the standard weight, measure or number established by or under the Central Act, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for con-
travention of
Section 10.**

38. Whoever, in relation to any specified class of goods, undertakings or users of weights or measures, uses in any transaction or for industrial production or for protection, any weight, measure or number, other than the weight, measure or number specified by rules made under Section 10, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for
contravention
of section 11.**

39. Except where is permitted under the Central Act so to do, whoever in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered,-

- (a) quotes any price or charge, or makes any announcement with regard to the price or charge; or
- (b) issues or exhibits any price list, invoice, cash memo, or other document; or
- (c) prepares or publishes any advertisement, poster or other document; or
- (d) indicates the weight, measure or number of the net contents of any package on any label, carton or other thing; or
- (e) expresses in relation to any transaction, industrial production or protection, any quantity or dimension, otherwise than in accordance with the standard units of weight, measure or numeration, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for
contravention
of section 16.**

40. Whoever, being required to obtain a licence under this Act, makes, manufactures, repairs or sells any weight or measure, without being in possession of a valid licence, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

**Penalty for con-
travention of
section 17.**

41. A licensee who after the suspension or cancellation of the licence issued, renewed or continued under Act, omits or fails to stop function as a licensee under this Act, shall be punished with imprisonment for a term which may extend to one year.

**Penalty for con-
travention of
section 18.**

42. Except where he is permitted under the Central Act so to do, whoever makes or manufactures any weight or measure which,—

- (a) though ostensibly purports to conform to the standards established by or under that Act does not actually conform to the said standards; or
- (b) bears thereon any indication of weight or measure which is not in conformity with the standards of weight or measure established by or under that Act, whether such indication is or is not in addition to the said standards, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

**Penalty for con-
travention of
section 19.**

43. Whoever sells, uses or keeps for use any weight or measure which, being required to be verified and stamped under this Act, has not been so verified and stamped, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for
contravention
of section 20.**

44. Whoever, being required by section 20 to maintain any record or register, omits or fails to do so, or being required by an Inspector to produce any records or registers for his inspection, omits or fails to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for
contravention
of section 21.**

45. Whoever, being required by section 21 to present any weight or measure for verification or reverification omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to five hundred rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

46. Whoever, being required by an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, to produce before him for inspection any weight or measure, or any document or other record relating thereto, omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

**Penalty for
contravention
of section 25.**

47. Whoever obstructs the entry of an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, into any premises for the inspection or verification of any weight or measure or any document or other record relating thereto or the net contents of any packaged commodity or for any other prescribed purpose shall be punished with imprisonment for a term which may extend to two years and, for the second or subsequent offence, with imprisonment for a term which may extend to five years.

**Penalty for
contravention
of section 26.**

48. Whoever prevents the Controller or any officer authorised by the Controller in this behalf, from searching any premises or from making any seizure of any weight, measure, packaged goods, document, record or label, shall be punished with imprisonment for a term which may extend to two years and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

**Penalty for
contravention
of sections 27
and 28.**

49. (1) Whoever manufactures, distributes, packs, sells or keeps for sale or offers or exposes for sale, or has in his possession for sale, any commodity in packaged form, shall, unless each such package conforms to the provisions of section 31, be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

**Penalty for
contravention
of section 31.**

(2) Whoever manufactures, packs, distributes or sells, or causes to be manufactured, packed, distributed or sold, any commodity in packaged form knowing or having reason to believe that the commodity contained in such package is lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the label thereon, or it does not conform to the provisions of the Central Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

50. Whoever is deemed under section 32 to have used, or abetted the use of, any false measure, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

**Penalty for
contravention
of section 32.**

51. Whoever sells any commodity by heaps without complying with the provisions of section 33, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**Penalty for
contravention
of section 33.**

52. Whoever alters or otherwise tampers with any licence issued or renewed under this Act or any rule made thereunder otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to one year, or with both.

**Penalty for
tampering with
licence.**

53. Whoever sells, delivers or disposes of, or causes to be sold, delivered or disposed of, any weight or measure which has been rejected on verification under this Act or the Central Act, or any rule made under either of the said Acts, shall be punished with imprisonment for a term which may extend to one year, and with fine which may extend to two thousand rupees, or with both:

**Penalty for sel-
ling or deli-
vering rejec-
ted weights and
measures.**

Provided that nothing in this section shall apply to the sale, as scrap, of any rejected weight or measure which has been defaced in the prescribed manner.

54. Whoever personates in any way the Controller or the Inspector or any other officer authorised by the Controller shall be punished with imprisonment for a term which may extend to three years.

**Penalty for
personation of
officials.**

Penalty for giving false information or maintaining false records or registers.

55. (1) Whoever gives information to an Inspector which he may require or ask in the course of his duty and which such person either knows or has reason to believe to be false or does not believe to be true shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

(2) Whoever, being required by or under this Act so to do maintains any record or register, which is false in any material particular, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Wilful verification or disclosure in contravention of law.

56. (1) If any Inspector or any other officer exercising powers under this Act or any rule made thereunder wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) If any Inspector or other officer who enters into any premises in the course of his duty wilfully discloses except in the performance of such duty, to any person any information obtained by him from such premises with regard to any trade secret or any secret in relation to any manufacturing process, he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Vexatious search.

57. An Inspector or any other officer exercising powers under this Act or any rule or order made thereunder who knows that there are no reasonable grounds for so doing, and yet -

- (a) searches, or causes to be searched, any house, conveyance or place; or
- (b) searches any person; or
- (c) seizes any weight, measure or other movable property, shall, for every such offence, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

Penalty for contravention of provisions not separately provided for.

58. Whoever contravenes any provision of this Act for the contravention of which no punishment has been separately provided for in this Act, shall be punished with fine which may extend to two thousand rupees.

Presumption to be made in certain cases.

59. (1) If any person -
(a) makes or manufactures, or causes to be made or manufactured, any false weight or measure, or
(b) uses, or causes to be used, any false or unverified weight or measure in any transaction or for industrial production or for protection, or
(c) sells, distributes, delivers or otherwise transfers, or causes to be sold, distributed, delivered or otherwise transferred, any false or unverified weight or measure, it shall be presumed, until the contrary is proved, that he had done so with the knowledge that weight or measure was a false or unverified weight or measure, as the case may be.

(2) If any person has in his possession, custody or control any false or unverified weight or measure in such circumstances as to indicate that such weight or measure is likely to be used in any transaction or for industrial production or for protection, it shall be presumed, until the contrary is proved, that such false or unverified weight or measure was possessed, held or controlled by such person with the intention of using the same in any transaction or for industrial production or for protection.

When employer to be deemed to have abetted an offence.

60. (1) Any employer who knows or has reason to believe that any person employed by him has, in the course of such employment, contravened any provision of this Act or any rule made thereunder, shall be deemed to have abetted an offence against this Act:

Provided that no such abetment shall be deemed to have taken place if such employer has, before the expiry of seven days from the date -

- (a) on which he comes to know of the contravention; or
- (b) has reason to believe that contravention has been made; intimating in writing to the Controller the name of the person by whom such contravention was made and the date and other particulars of such contravention.

(2) Whoever is deemed under sub-section (1) to have abetted an offence against this Act shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Explanation.— Dismissal or termination of service of an employee after the expiry of the period specified in the proviso to sub-section (1) shall not absolve any employer of his liability, under this sub-section.

61. (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 person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any 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, he 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.

62. Notwithstanding anything contained in the law relating to criminal procedure in force in Sikkim, -

Cognizance of offences.

- (a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Controller or any other officer authorised in this behalf by the controller by general or special order;
- (b) no court inferior to that of a Judicial Magistrate of the First Class shall try any offence under this Act;
- (c) any offence punishable under section 34, 36, 37, 38, 39, 40, 43, 49, 50, 51 or sub-section (3) of section 69 may be tried summarily by a Magistrate and no sentence of imprisonment for a term exceeding one year shall be passed in the case of any conviction for an offence which is tried summarily under this section.

63. (1) Any offence punishable under section 37, 38, 39, 40, 42, 43, 44, 45, 46, 49, 51, 53, 58 or sub-section (3) of section 69 may whether before or after the institution of the prosecution, be compounded, by the Controller or such other Officer as may be authorised in this behalf by the Controller, on payment for credit to the State Government of such sum as the Controller or such other officer may specify:

Compounding of offences.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation. - For the purpose of this sub-section, any second or subsequent offence committed after the expiry of period of three years from the date on which the offence was previously compounded, shall be deemed to be first offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

(4) No offence under this Act shall be compounded except as provided by this section.

64. The provisions of the Indian Penal Code, in so far as such provisions relate to offences with regard to weights or measures, shall not apply to any offence which is punishable under this Act.

Provisions of Indian Penal Code not to apply to any offence under this Act.

CHAPTER XI

MISCELLANEOUS

Transfer or transmission of business.

65. (1) Where the business of a person licensed under this Act is transmitted by succession, intestate or testamentary, the heir or legatee, as the case may be, shall not carry on the business of such licensee either in his own name or in any other name, unless the heir or legatee has, before the expiry of sixty days after the date of such transmission, made to the Controller an application for the issue of a licence in accordance with the provisions of this Act:

Provided that nothing in this section shall be deemed to prohibit the heir or legatee from carrying on business as such licensee for the aforesaid period of sixty days, and, if he has applied for such licence, until he is granted the licence, or is, by notice in writing informed by the Controller that such licence cannot be granted to him.

(2) Where the business of any person licensed under this Act is transferred by sale, gift, lease or otherwise, the transferee or lessee, as the case may be, shall not carry on such business either in his own name or in any other name, unless he has obtained a licence to carry on such business.

Licences neither saleable nor transferable.

66. A licence issued or renewed under this Act shall not be saleable or otherwise transferable.

Appeals.

67. (1) Subject to the provisions of sub-section (2), an appeal shall lie -
(a) from every decision under Chapter V, VI, VII, VIII or IX of this Act, of -

- (i) an Inspector;
- (ii) an additional Controller, to the Controller; and

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

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

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision appealed against, or may send back the case with such direction as it may think fit for fresh decision after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees, not exceeding twenty-five rupees, as may be prescribed.

(5) The State Government may on its own motion or otherwise call for and examine the record of any proceeding (including a proceeding in appeal) in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given reasonable opportunity of showing cause against the proposed action.

Levy of fees.

68. The State Government may, by rules made under section, 69, levy such fees, not exceeding -

- (a) one hundred rupees, for the issue or renewal of licence for making manufacturing, repairing or selling any weight or measure;
- (b) fifty rupees, for the alteration of any licence;
- (c) five thousand rupees, for the verification of any weight or measure,
- (d) ten rupees, for the adjustment of any weight or measure;
- (e) ten rupees, for the issue of a duplicate of a licence or certificate of verification;
- (f) one rupee, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature;
- (g) twenty five rupees, for any appeal preferred under this Act;

69. (1) The State Government may, by notification, make rules to give effect to the provision of this Act.

Power to make rules.

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

- (a) the class of goods, undertaking or users in relation to which no transaction, dealing or contract shall be made or had except by such weight, measure, or number;
- (b) the place at which, and the custody in which, the following standards shall be kept, namely:—
 - (i) reference standards;
 - (ii) secondary standards;
 - (iii) working standards;
- (c) the person by whom or authority by which and the place at which the following standards shall be verified, authenticated and stamped, namely:—
 - (i) secondary standards;
 - (ii) working standards;
- (d) the form in which and the manner in which an application shall be made for the issue or renewal of a licence to carry on business as a maker, manufacturer, repairer or dealer of any weight or measure;
- (e) the form which and the conditions, limitations and restrictions subject to which any licence may be issued and the period of validity of such licence;
- (f) the sum to be furnished by a repairer as security of a licensee;
- (g) the description of weight or measure which may be sold by a user,
- (h) disposal of weights or measures after cancellation of licence and the distribution of the proceeds thereof;
- (i) the records and the registers relating to weights or measures to be maintained by makers, manufacturers, repairers or dealers;
- (j) the period within which weights or measures shall be verified or re-verified;
- (k) the steps to be taken for verifying any weight or measure which cannot be moved from its location;
- (l) the form in which a certificate of verification of any weight or measure shall be granted;
- (m) subject to the provisions of section 26, the purposes for which an Inspector may enter any premises;
- (n) the manner of disposal of seized articles which are subject to speedy or natural decay;
- (o) manner of defecement of rejected weights or measures;
- (p) the form in which appeals may be preferred and the procedure for the hearing of appeals;
- (q) the amounts of fees which may be levied and collected for each of the matters specified in section 68;
- (r) any other matter which is required 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 punishable with fine, which may extend to one thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rule being made after previous publication in the official Gazette.

(5) Every rule made under this section shall as soon as may be after it is made, be laid before the State Legislature.

70. (1) Where any type of weight or measure manufactured by a licensed manufacturer is such that all the weights or measures of that type manufactured by him within the State of Sikkim is intended to be sold, distributed or delivered therein, the State Government may, by notification, direct that the model of every such type of weight or measure shall be submitted for approval in accordance with the provisions of sections 36, 37 and 38 of the Central Act, and thereupon the provisions of the said sections 36, 37 and 38 shall become applicable to such model, and references in those sections to the "Central Government" and the "Central Act" shall be construed as references respectively to the "State Government" and "this Act".

Power of State Government to make provisions of Central Act relating to approval of models applicable to models of weights or measures intended to be used exclusively within the State.

(2) Where the State Government makes a direction under sub-section (1) in relation to any type of weight or measure, any contravention of the provisions of sections 36, 37 or 38 of the Central Act in relation to that type of weight or measure shall be an offence punishable under this Act and the punishment provided therefor in the Central Act shall be deemed to be the punishment provided therefore in this Act as if the said provisions relating to punishments were enacted by this Act.

Act where not to apply to the Armed Forces of the Union.

71. The provisions of this Act, in so far as they relate to the verification and stamping of weights or measures used for industrial production or for protection, shall not apply to any factory exclusively engaged in the manufacture of any arm or ammunition or both for the use of the Armed Forces of the Union.

Repeal and Savings.

(1) On and from the commencement of this Act, the provisions contained in Notification No. 9250-1999/B dated the 8th March, 1966 and all other Sikkim Laws in force in Sikkim relating to matters for which provisions have been made in this Act shall cease to have any force and effect.

(2) Without prejudice to the provisions contained in the Sikkim Interpretation and General Clauses Act, 1977, with respect to repeals, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given, under any Sikkim law shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued or given under the corresponding provisions of this Act.

By Order of the Governor,

R. K. GUPTA,

Secretary to the Government of Sikkim,
Law & Legislative Department,
Government of Sikkim.

F. No. 16 (60) LL/78.