



The Nagaland Weights and Measures (Enforcement) Act, 1968

Act 5 of 1968

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NAGALAND ACT 5 OF 1968

[THE NAGALAND WEIGHTS AND MEASURES (ENFORCEMENT)
ACT, 1968]

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

CHAPTER I

PRELIMINARY

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

(2) It extends to whole of State of Nagaland.

(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 for different provisions of this Act or for different areas or for different classes of undertaking or different classes of goods.

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

- (a) "Commercial weight or measure" means a weight or measure purporting to be a standard weight or measure used in any transaction for trade or commerce ;
- (b) "Controller" means the Controller of Weights and Measures appointed under section 16 ;
- (c) "Inspector" means an Inspector of Weights and Measures appointed under section 16 ;
- (d) "Measuring instrument" means any measuring instrument other than a weighing instrument and includes any instrument used for determining the length, area, volume, capacity, quality, temperature or density of any articles.

- (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 ;
- (g) "Standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956) and includes any other weight or measure permitted to be used by the Central Government in pursuance of sub-section (1) of section 14 of the said Act ;
- (h) "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 ;
- (i) "Sealed package or container" means a closed packet, bottle, basket, tin, barrel, case, receptacle, bag, sack, wrapper or other thing in which any article is placed or packed in which is intended to be sold with its contents, without any weightment or measurement of such contents at the time of sale ;
- (j) "stamping" means marking in such manner as to be, so far practicable, indelible and includes castings, engraving, etching and branding ;
- (k) "use in transaction for trade or commerce" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of length, area volume, capacity or weight in or in connection with:—
- (i) any contract, whether by way of sale, purchase, exchange or otherwise ; or
 - (ii) any assessment or royalty, toll, duty or other dues ; or
 - (iii) the assessment of any work done or services rendered, otherwise than in relation to research or scientific studies or in individual house-hold purposes.

STANDARD WEIGHTS AND MEASURES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) 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 of commercial weights and measures.—9. Every Weight or Measure manufactured for use as commercial weight or measure shall bear the description of the weight or measure which it purports to be marked legibly on it in such manner as may be prescribed.

Prohibition of sale of unstamped commercial weights and measures.—10. No commercial weights 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 stamp of verification.

Prohibition of use of unstamped commercial weights or measures.—11. No weights or measures or weighing or measuring instruments shall be used in 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 provision of section 10 or section 11, the State Government may, by notification in the Official Gazette, exempt such weight or measure from being so stamped.

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

Marking of weights or measures on sealed containers.—14. No person shall sell, offer for sale, expose 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

- (i) any sealed package or container—
 - (a) of net weight of less than one hundred and twenty grams, if the sealed package or container contains biscuits, confectionery or sweets ; and
 - (b) of net weight of less than sixty grams, if the sealed package or container contains any other foodstuff ; and
- (ii) any articles contained in a sealed package or container, if such articles are ordinarily sold in transactions for trade or commerce by counting their number :

Provided further that the 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 from the operation of this section.

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

15. 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.

Appointment of Controller and Inspectors.—16 (1) The State Government may appoint a Controller of Weights and Measures for the State and as many Deputy and 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.

(2) The State Government may, by general or special order define the local limits within which such 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 and the Assistant Controllers of Weights and Measures may, in addition to the power and duties conferred or imposed on them by or under this Act exercise any power or discharge any duties so conferred or imposed as Inspectors.

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

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

Power to Inspectors etc.—18 (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 measuring instrument with a Working Standard or weighing or measuring instrument prescribed for the purpose.

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

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures, 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 requirements.

(4) An Inspector may seize and detain any weight or measure 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 and delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents of records relating thereto.

(5) Where an Inspector has reasons 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 upon the sealed package or container and verify its contents; if, on such verification, the net weight or measure of the article is found to be correct, the Inspector shall tender the fair price thereof and may require a written acknowledgement therefor.

If, on the other hand, the net weight or measure of the article is found on such verification to be incorrect, the inspector may seize the package or container and the article contained therein, after tendering the fair price thereof where the seizure is made from any person other than the manufacturer and may file a complaint against the manufacturer for contravention of the provisions of section 14.

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

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

Power of inspector to adjust weights or measures.—19. 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.

Manufactures etc. to maintain records and documents.—20. (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 and if required so to do by an Inspector, shall produce such records and account before him.

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

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

(b) from every decision of the Controller under this Act not being a decision made in Appeal under clause (a), to the 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 any such appeal, the appellate authority shall after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper decide the appeal and the decision of the appellate authority shall be final.

22. The State Government may charge such fees :

(a) for the grant of licences under section 13, for 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.

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

CHAPTER VIII

PENALTIES

Penalty for sale or delivery by weight or measure other than standard weights or measures.—24. Whoever after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade or commerce any article by any denomination of weight or measure other than one of the standard weights or measures or whoever after the commencement of this Act, keeps any unit of mass or measure other than the standard weights and measures in any premises where such

transactions are usually conducted shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for sale of unstamped Commercial weights and measures.

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

Penalty for use of un-stamped commercial weights and measures.

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

Explanation—1. When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for 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 his employee or agent without his knowledge or consent, be also deemed to be guilty of the offence.

Penalty for Manufacture of weights etc., without licences.—27.

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

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

Penalty for failure to be marked weight or measures on sealed containers.—29. Whoever contravenes the provisions of section 14 shall be punishable 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 15.—30. Whoever contravenes the provisions of section 15 shall be punishable with fine which may extend to two thousand rupees.

Penalty for being in possession of false weight or measure etc.—31. Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a period, which may extend to one year, or with fine or with both.

Penalty for making or selling false weight or measure.—32. Whoever makes, sells or disposes of or causes to be made, sold or disposed of any standard weight or measure or weighing or measuring instrument which he knows to be false in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a period which may extend to one year, or with fine or with both.

Penalty for delivering or receiving any quantity of article less than, or in excess of the quantity fixed by the weight or measure in the contract.—33. Whoever—

- (i) in selling any article by weight or measure delivers or causes to be delivered to the purchaser any quantity of that article less than, or
- (ii) in buying any article by weight or measure demands or receives or causes to be demanded or received from the vendor any quantity of that article in excess of the quantity fixed by the weight or measure by which the contract or dealing in respect

of that article has been made, shall be punishable with fine which may extend to five hundred rupees.

Penalty for forging etc. of weights, measures, etc.—34 (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 standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

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

Penalty for neglect or refusal to produce weight or measure etc. for inspection.—35. Whoever—

- (a) refuses or neglects to produce for inspection under section 18, any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises, or
- (b) refuses to permit an Inspector to inspect and verify and such weight, measure, instrument, document or record, or
- (c) obstructs the entry of an Inspector under section 18, or
- (d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act,

shall be punishable with fine which may extend to two thousand rupees.

Penalty for breach of duty by inspector.—36. 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

thereunder, he shall be punishable with imprisonment for a period which may extend to one year, or with fine or with both.

CHAPTER V

MISCELLANEOUS

Protection of action taken in good faith.—37. No suit, prosecution or other legal proceeding shall lie against the Controller, Deputy Controller or Assistant Controller of Weights and Measures or any Inspector or any other person appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or rules made thereunder.

Controller etc. appointed under this Act to be public servants.—

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

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 first class shall try any offence punishable under this Act.

Composition of offences.—40 (1) Any offence punishable under section 24, section 25, section 26, section 28, section 29, section 33, or section 35 other than a second or a subsequent offence under section 24 or section 26 may either before or after the institution of the prosecution, be compounded by the State Government on payment of such sum as the State Government 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.

Stamped weights, etc., to be presumed to be correct.—41. 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 charged thereof or by any person acting under the general or special authority of the Controller.

Offences by companies.—42 (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 punishable accordingly :

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the Company 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.

Delegation of powers.—43. The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, as may be specified in the direction be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.

- (g) the fees which may be charged for the grant of licences under section 13 and for verification, re-verification, adjustment and stamping of weights and measures and weighing and measuring instruments and the collection and levy of the same.
- (r) the materials, form and specification and manufacture and sale of commercial weights and measures and weighing and measuring instruments ;
- (s) any other matter which has 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 five hundred rupees.

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

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

Saving.—46. 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.

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