



**The West Bengal Standards of Weights and Measures (Enforcement) Act,
1958**

Act 23 of 1958

Keyword(s):

Assistant Controller, Controller, Inspector, Measuring Instrument, Mint, Standard Weight or Standard Measure, Reference Standards, Stamping, Transaction, Verification, Weighing Instrument

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West Bengal Act XXIII of 1958¹

THE WEST BENGAL STANDARDS OF WEIGHTS AND MEASURES (ENFORCEMENT) ACT, 1958.

AMENDED

West Ben. Act XXII of 1961.
West Ben. Act X of 1965.
West Ben. Act V of 1984.

[21st January, 1959.]

An Act to provide for the enforcement in West Bengal of standards of weights and measures.

WHEREAS it is expedient to provide for the enforcement in West Bengal of standards of weights and measures established under the Standards of Weights and Measures Act, 1956 and for matters connected therewith;

It is hereby enacted in the Ninth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the West Bengal Standards of Weights and Measures (Enforcement) Act, 1958.

(2) It extends to the whole of West Bengal.

(3) Subject to the provisions of sub-section (4), this section shall come into² force at once and the remaining provisions of this Act shall come into force on such date or dates 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 undertakings or for different classes of goods.

(4) The West Bengal Standards of Weights and Measures (Enforcement) Ordinance, 1958 is hereby repealed:

Provided that notwithstanding such repeal anything done or any action taken or any legal effect produced by or under any provision of the said Ordinance shall be deemed to have been done, taken or produced by or under the corresponding provision of this Act as if such corresponding provision were in force on the day on which such thing was done or such action was taken or such legal effect was produced.

Short title,
extent,
commence-
ment, repeal
and savings.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, of the 6th December, 1958, Part IVA, page 5670; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 16th and 17th December, 1958; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of that Council held on the 22nd December, 1958.

²The provisions of the Act came into force as follows namely:—

(1) on the 1.8.59 in Calcutta and the Howrah Municipality in respect of units of mass and units of measure and throughout West Bengal in respect of units of mass and measure. *Vide* notification No. 833-W.M., dated 10.7.59, published in the *Calcutta Gazette* of 1959, Part I, page 2566;

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act

(Chapter I.—Preliminary.—Section 1.)

(5) If, immediately before the commencement of any provision of this Act in respect of any area or class of goods or undertakings, there is in force in respect of that area or that class of goods or undertakings, any other law which corresponds to such provision, such other corresponding law, shall, on such commencement, stand repealed.

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- (2) on the 1.1.60 in respect of associations recognised by the Central Government under Act LXIV of 1952 in so far as they undertake the regulation and control of forward contracts in raw and manufactured jute. *Vide* notification No. 1171-W.M., dated 23.12.59, published in the *Calcutta Gazette, Extraordinary* of 1959, Part I, page 4564;
 - (3) on the 1.4.60 in West Bengal other than Calcutta and Howrah Municipality in respect of sugar, vanaspati, biscuits, soaps, cloth, paints, coir and drugs relating to units of mass. *Vide* notification No. 273-W.M., dated 24.3.60, published in the *Calcutta Gazette, Extraordinary* of 1960, Part I, page 1032;
 - (4) on the 1.4.60 in the whole of West Bengal in respect of cloth, paints, coir and drugs relating to units of measures. *Vide* notification No. 274-W.M., dated 24.3.60, published in the *Calcutta Gazette, Extraordinary* of 1960, Part I, page 1032;
 - (5) on the 1.4.60 in West Bengal, other than Calcutta and the Howrah Municipality, in respect of crude petroleum and petroleum products relating to units of mass. *Vide* notification No. 300-W.M., dated 31.3.60, published in the *Calcutta Gazette* of 1960, Part I, page 1122;
 - (6) on the 1.4.60 in the whole of West Bengal in respect of crude petroleum and petroleum products relating to units of measures. *Vide* notification No. 301-W.M., dated 31.3.60, published in the *Calcutta Gazette* of 1960, Part I, page 1122;
 - (7) on the 1.5.60 in the whole of West Bengal except Calcutta and the Municipality of Howrah relating to units of mass in respect of the classes of undertakings and classes of goods specified. *Vide* notification No. 530-W.M., dated 30.4.60, published in *Calcutta Gazette* of 1960, Part I, page 1629;
 - (8) on the 1.5.60 in the whole of West Bengal relating to units of measure in respect of the classes of undertakings and the classes of goods specified. *Vide* notification No. 531-W.M., dated 30.4.60, published in the *Calcutta Gazette* of 1960, Part I, page 1629;
 - (9) on the 1.5.60 in the whole of West Bengal, except Calcutta and the Municipality of Howrah, relating to units of mass in respect of transactions involving sale and purchase of goods. *Vide* notification No. 532-W.M., dated 30.4.60, published in the *Calcutta Gazette* of 1960, Part I, pages 1629-1630;
 - (10) on the 1.2.61 in the whole of West Bengal in respect of the classes of undertakings specified. *Vide* notification No. 97-W.M., dated 31.1.61, published in the *Calcutta Gazette, Extraordinary* of 1961, Part I, pages 535-536;
 - (11) on the 1.4.61 in West Bengal in respect of sale of liquid paints in West Bengal Factories. *Vide* notification No. 318-W.M., dated 23.2.61, published in the *Calcutta Gazette* of 1961, Part I, page 706;
 - (12) on the 1.5.61 in Calcutta and the Municipality of Howrah in respect of units of capacity. *Vide* notification No. 699-W.M., dated 29.4.61, published in the *Calcutta Gazette, Extraordinary* of 1961, Part I, page 1137;
 - (13) on the 1.11.61 in the whole of West Bengal in respect of the classes of undertakings specified in relation to alcohol. *Vide* notification No. 2053-W.M., dated 26.10.61, published in the *Calcutta Gazette* of 1961, Part I, page 3840;
 - (14) on the 1.12.61 in the whole of West Bengal in relation to units of mass for all those classes of undertakings and all those classes of goods in respect of which the provisions of the Act have not already come into force. *Vide* notification No. 2210-W.M., dated 23.11.61, published in the *Calcutta Gazette* of 1961, Part I, page 3979;
 - (15) on the 1.12.61 in the whole of West Bengal in relation to units of length for all those classes of undertakings and all those classes of goods in respect of which the provisions of the Act have not already come into force. *Vide* notification No. 2209-W.M., dated 23.11.61, published in the *Calcutta Gazette* of 1961, Part I, page 3979;

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(Chapter I.—Preliminary.—Section 2.)

2. In this Act unless the context otherwise requires,—
- (a) "Assistant Controller" or "Deputy Controller" means an Assistant Controller or Deputy Controller of Weights and Measures appointed under section 13;
 - (b) "Controller" means the Controller of Weights and Measures appointed under section 13;
 - (c) "Inspector" means an Inspector of Weights and Measures appointed under section 13;
 - (d) "measuring instrument" means any measuring instrument other than a weighing instrument and includes any instrument for measuring length, area, volume or capacity;
 - (e) "mint" means a mint of the Central Government;
 - (f) "prescribed" means prescribed by rules made under this Act;
 - (g) "standard weight" or "standard 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, 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 standards of mass and measure 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) "stamping" means marking in such manner as to be, so far as practicable, indelible and includes casting, engraving, etching and branding;
 - (ia) "transaction" means any transaction in trade or commerce and includes any assessment or declaration or determination of quantity with reference to measurement of weight, volume, capacity, length or area;

Definitions.

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- (16) on the 1.12.61 in the whole of West Bengal in relation to units of measure in respect of the classes of undertakings mentioned and to the extent specified. *Vide* notification No. 2272-W.M., dated 29.11.61, published in the *Calcutta Gazette* of 1961, Part I, page 3979;
 - (17) on the 1.4.62 in the whole of West Bengal in relation to units of measure relating to capacity for all those classes of undertakings and all those classes of goods in respect of which the provisions of the Act have not already come into force. *Vide* notification No. 443-W.M., dated 31.3.62, published in the *Calcutta Gazette, Extraordinary*, dated the 31st March, 1962, Part I, page 1435;
 - (18) on the 1.7.68 the whole of West Bengal in relation to units of measures in respect of soap, articles of toilet, cosmetics, detergent and perfume. *Vide* notification No. 1314-W.M., dated the 15.5.68, published in *Calcutta Gazette, Extraordinary*, dated the 13.6.68, Part I, page 1257.

¹This clause was inserted by s. 2 of the West Bengal Standards of Weights and Measures

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act

(Chapter II.—Standard Weights and Standard Measures.—
Sections 3, 4.)

- (j) "verification" with its grammatical variations used with reference to a weight or measure or weighing instrument or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing instrument or measuring instrument;
- (k) "weighing instrument" means any instrument for weighing and includes scales with the weights, belonging thereto, scale-beams, balances, spring balances, steel yards and other weighing appliances.

CHAPTER II.

Standard Weights and Standard Measures.

Working models.

3. (1) For the purpose of verifying the correctness of weights and measures and weighing instruments and measuring instruments used in any transaction, the State Government may cause to be prepared as many standard weights and standard measures to be called working models as it may deem necessary.

1 * * * *

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

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

(4) A working model shall be verified with reference to the corresponding verification model referred to in sub-section (1) of section 4.

2 * * * *

(5) A working model which is not duly verified and stamped shall not be used for the purposes of this Act.

(6) A working model which has become defective or worn out by use or which has not been re-verified and stamped in such manner and at such intervals as may be prescribed shall not be used for the purposes of this Act.

Verification models.

4. (1) The State Government may, with the permission of the Central Government, cause to be prepared at a mint as many sets of standard weights and standard measures as it may deem necessary to be called the verification models.

*The words "and special working models in relation to bullion and precious stones may also be prepared" were omitted with retrospective effect by s. 2(1) of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1961 (West Ben. Act XXII of 1961).

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(Chapter II.—Standard Weights and Standard Measures.—
Sections 5-7.—Chapter III.—Verification and Stamping of
Weights and Measures.—Section 8.)

(2) The verification models shall be made of such material and according to such designs and specifications, and shall be stamped in such manner and by such person or authority, as may be prescribed.

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

(4) A verification model shall be verified and shall be re-verified at least once in every five years with reference to the corresponding reference standard and shall be stamped with the date of verification or re-verification, as the case may be, by such person or authority as may be prescribed.

(5) A verification model which is not verified or re-verified in accordance with the provisions of sub-section (4) shall not be used for the purposes of this Act.

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

Reference standards.

6. Notwithstanding anything contained in any other law or any custom, usage or practice in any area or in respect of any class of goods or undertakings where or in respect of which this Act has come into force, no unit of mass or measure, other than the standard weights or standard measures, shall be used in any transaction or in any dealing or contract for any work to be done or goods to be sold or delivered.

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

7. (1) Notwithstanding anything contained in this Act, the State Government may, by notification in the *Official Gazette*, direct that in respect of any class of articles specified in the notification all transactions shall be by weight only or by measure only.

Power to prescribe the use of weights only, or measures only, in certain cases.

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

CHAPTER III.

Verification and Stamping of Weights and Measures.

8. Every weight or measure¹ [which is manufactured with the intention that it may be, or with the knowledge that it is likely to be, used in any transaction] shall have the correct denomination thereof marked legibly on it in such manner as may be prescribed.

Making of denominations on weights and measures.

¹The words within the square brackets were substituted for the words "manufactured for use in any transaction" by s. 3 of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act

*(Chapter III.—Verification and Stamping of Weights and
Measures.—Sections 9-11.)*

Prohibition of sale, delivery or use of unstamped weights and measures or weighing instruments or measuring instruments.

9. (1) Subject to the provisions of section 10, no weight or measure [shall be used in any transaction or shall be sold or delivered with the intention that it may be, or with the knowledge that it is likely to be, so used] unless it has the denomination thereof marked on it and unless it has been verified or re-verified in accordance with the rules made under this Act and stamped with a stamp of verification in such manner as may be prescribed.

(2) No weighing instrument or measuring instrument [shall be used in any transaction or shall be sold or delivered with the intention that it may be, or with the knowledge that it is likely to be, so used] unless it has been verified or re-verified in accordance with the rules made under this Act and stamped with a stamp of verification in such manner as may be prescribed.

Power of State Government to exempt.

10. Where the size of a weight or measure renders it impracticable to have any denomination thereof marked on it under the provisions of section 8 or to be stamped under the provisions of section 9, the State Government may, by notification in the *Official Gazette*, exempt such weight or measure from being so marked or stamped.

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

²11. (1) No person shall, without obtaining a licence under the provisions of this Act, carry on any trade or business involving the manufacture, repair or sale of any weight or measure or any weighing instrument or measuring instrument intending or knowing it to be likely that such weight, measure, weighing instrument or measuring instrument may be used in any transaction.

(2) Such authority as may be prescribed may, be order, grant or renew or refuse to grant or renew a licence under this section or revoke or suspend any such licence.

(3) An appeal from an order under sub-section (2) refusing to grant or renew a licence or revoking or suspending any licence shall, if preferred within sixty days from the date of the order, lie to the State Government.

(4) Any order passed under sub-section (2) by the authority competent to pass such order may, at any time, be revised by the State Government:

Provided that no order from which an appeal has been preferred under sub-section (3) shall be so revised.

(5) An order passed by the State Government on appeal under sub-section (3) or on revision under sub-section (4) shall be final.

¹The words within the square brackets were substituted for the words "shall be sold or delivered or used in any transaction" by s. 4 of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

²Section 11 was substituted for the original section by s. 5, *ibid.*

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*(Chapter III.—Verification and Stamping of Weights and
Measures.—Sections 12-14.)*

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

Marking of weights or measures on sealed containers.

¹Provided that—

- (a) the State Government may, by notification in the *Official Gazette*, exempt from the operation of this section any class of such packages or containers if, in the opinion of the State Government, the size of the packages or containers renders it impracticable to comply with the provisions of this section in respect thereof,
- (b) the provisions of this section shall not apply to any article which is not ordinarily sold by weight or measure.

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

Appointment of Controller, Deputy Controllers, Assistant Controllers and Inspectors.

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

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

(4) The State Government or the Controller, if so authorised by the State Government, may appoint such other persons as may be necessary for carrying out the purposes of this Act.

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

Verification and stamping by Inspectors.

(2) An Inspector shall verify every weight or measure or weighing instrument or measuring instrument which is brought to him for the purpose of verification in accordance with such rules as may be prescribed.

¹The proviso was substituted by s. 6 of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act V of 1965).

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act

*(Chapter III.—Verification and Stamping of Weights and
Measures.—Section 15.)*

(3) If, on such verification, the Inspector finds the weight or measure or weighing instrument or measuring instrument correct, he shall stamp the same with a stamp of verification in the prescribed manner; but, if on the other hand, he finds the weight or measure or weighing instrument or measuring instrument incorrect and defective, he shall refuse to stamp the same with a stamp of verification and obliterate the denomination mark on such weight or measure.

Power to
inspect, etc.

15. (1) An Inspector may, within the area under his jurisdiction, inspect, at such times as may be prescribed, the weights or measures or weighing instruments or measuring instruments which are used in transactions¹ * * * * or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing instrument or measuring instrument in accordance with the provisions of section 14.

(2) An Inspector may, at such times as may be prescribed, require any person² [engaged in any transaction] or any employee or agent of such person to produce before him for inspection all weights, measures, weighing instruments and measuring instruments which are used by him or are in his possession or are kept on any³ [premises used for any transaction] and all documents and records relating thereto and such person, employee or agent shall comply with such requirement.

(3) An Inspector may seize any weight or measure or weighing instrument 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 any article sold or delivered or caused to be sold or delivered which has been weighed or measured by such weight or measure or weighing instrument or measuring instrument together with any documents or records relating to the transaction.

(4) Where an Inspector has reasons to believe that a sealed package or container purporting to contain any net weight or measure of any article ordinarily sold by weight or measure does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may, in the presence of witnesses, break open the sealed container and verify its contents.

¹The words "in trade or commerce" were omitted by s. 7(1) of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

²The words within the square brackets were substituted for the words "engaged in any trade or commerce" by 7(2)(a), *ibid.*

³The words within the square brackets were substituted for the words "premises used for trade or commerce" by 7(2)(b), *ibid.*

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*(Chapter III.—Verification and Stamping of Weights and
Measures.—Section 16.)*

(5) 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 acknowledgment therefor.

(6) 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 12.

¹(7) Before making any seizure under sub-section (3) or under sub-section (6), the Inspector about to make the seizure shall call upon two or more responsible persons of the locality in which the seizure is made, to attend and witness the seizure and may issue an order in writing to them or to any of them so to do.

¹(8) The seizure shall be made by the Inspector in the presence of such witnesses and a seizure list, containing the name and address of the person from whom the seizure is made, the date of the seizure, a short description of the weight, measure, weighing instrument, measuring instrument, article, package or container seized, his own signature, the signature of the person from whom seized, if available, and the signatures of the witnesses, shall be prepared in quadruplicate by the Inspector who shall thereafter seal the weight, measure, weighing instrument, measuring instrument, article, package or container seized with his seal in the presence of the witnesses and shall affix thereto a copy of the seizure list.

¹(9) When any seizure is made under sub-section (3) or under sub-section (6), the Inspector shall bring or cause to be brought to his office the seized weight, measure, weighing instrument, measuring instrument, article, package or container or, if that be not convenient, keep the same in the custody of the person from whom the seizure is made or of any other person considered fit by the Inspector upon such person furnishing a written undertaking for the production thereof at the office of the Inspector.

¹(10) Any person who, without reasonable cause, refuses or neglects to comply with an order issued by the Inspector under sub-section (7) to attend or witness a seizure shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

16. Every manufacturer or repairer of, or dealer in, weights or measures or weighing instruments or measuring instruments, and every person using them in any transaction shall maintain such records and accounts as may be prescribed.

Manufacturers, etc., to maintain records and documents.

¹Sub-sections (7), (8), (9) and (10) were inserted by s.7(3) of the West Bengal Standard of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

(Chapter III.—Verification and Stamping of Weights and Measures.—
Sections 17, 18.—Chapter IV.—Penalties.—Section 19.)

Appeals.

17. (1) If the Controller, a Deputy Controller, an Assistant Controller or an Inspector—

- (a) refuses to stamp any weight or measure or weighing instrument or measuring instrument and obliterates the denomination mark thereon under sub-section (3) of section 14, or
- (b) seizes any weight or measure or weighing instrument or measuring instrument or article under sub-section (3) of section 15,

any person aggrieved by such refusal or seizure may, within sixty days from the date of such refusal or seizure, prefer an appeal,—

- (i) in the case of a refusal or seizure by the controller or by a Deputy Controller, to the State Government; and
- (ii) in any other case, to the Controller.

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

Levy of fees.

18. The State Government may charge such fees—

- (a) for the grant of licences under section 11, for manufacture, repair or sale of weights and measures and weighing instruments and measuring instruments, and
- (b) for the verification, marking, and stamping of weights and measures and weighing instruments and measuring instruments

as may be prescribed:

Provided that the amount of fees chargeable under this section shall in no case exceed ¹[five thousand rupees].

CHAPTER IV.

Penalties.

19. Whoever contravenes any of the provisions of section 9 shall, if such contravention is in respect of—

- (1) the sale or delivery of a weight or measure or a weighing instrument or a measuring instrument, be punishable with fine which may extend to two thousand rupees; and

Penalty for
contraven-
tion of the
provisions of
section 9.

¹The words within the square brackets were substituted for the words "two hundred and fifty rupees." by s. 2 of the West Bengal Standards of Weights and Measures

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(Chapter IV.—Penalties.—Sections 20-22.)

- (2) the use of any weight or measure or weighing instrument or measuring instrument in any transaction, be punishable, for a first offence, with fine which may extend to one thousand rupees, and for second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

20. (1) Whoever has in his possession for use in any transaction, any weight or measure or any weighing instrument or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable for a first offence, with fine which may extend to one thousand rupees, and for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Penalty for possession of unstamped weights and measures for use in transactions.

(2) When any such weight or measure or weighing instrument or measuring instrument is found in the possession of any person, such person shall be presumed, until the contrary is proved, to have had it in his possession for use in transactions.

(3) Where an offence punishable under this section is committed by ¹[an employee or agent of any person engaged in, or carrying on, any transaction] on behalf of ²[such person], unless he proves that the offence was committed by his employee or agent without his knowledge and without his consent, and his employee or agent by whom the offence was committed, shall both be deemed to be guilty of the offence.

21. Whoever manufactures, repairs, or sells any weight or measure or weighing instrument or measuring instrument, without obtaining a licence as required by section 11, shall be punishable with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for manufacture of weights, etc., without licence.

22. Whoever contravenes any direction contained in a notification issued under section 7 shall be punishable with fine which may extend to two thousand rupees.

Penalty for use of weight or measure in contravention of direction under section 7.

¹The words within the square brackets were substituted for the words "any employee or agent of a trader" by s. 8(1) of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

²The words within the square brackets were substituted for the words "such trader" by s. 8(2). *ibid*

(Chapter IV.—Penalties.—Sections 23-29.)

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

23. Whoever contravenes the provisions of section 12 shall be punishable with fine which may extend to two thousand rupees.

Penalty for fraudulent use of weights, measures, etc.

24. Whoever fraudulently uses any weight or measure or weighing instrument or measuring instrument knowing it to be false shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

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

25. Whoever is in possession of any weight or measure or weighing instrument 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, etc.

26. Whoever makes, sells or disposes of or causes to be made, sold or disposed of any false weight or measure or weighing instrument or measuring instrument knowing it 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 giving short weight or measure.

27. Whoever in selling any article by weight or measure, delivers or causes to be delivered to the purchaser less than what is purported to be sold shall, if the deficiency exceeds the prescribed limit of error, be punishable with fine which may extend to three hundred rupees.

Penalty for obtaining excess weight or measure.

28. Whoever in purchasing any article by weight or measure, obtains from the seller more than what is purported to be purchased shall, if the excess exceeds the prescribed limit of error, be punishable with fine which may extend to three hundred rupees.

Penalty for counterfeiting weights, measures, etc.

29. (1) Whoever counterfeits any stamp used under this Act for the stamping of any weight or measure or weighing instrument or measuring instrument or possesses any such counterfeit stamp, or removes a stamp from any weight or measure or weighing instrument or measuring instrument and transfers the same into another weight or measure or weighing instrument or measuring instrument, or wilfully increases or diminishes a weight or measure duly stamped under the provisions of this Act, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

XXIII of 1958.]

*(Chapter IV.—Penalties.—Sections 30, 31.— Chapter V.—
Miscellaneous.—Sections 32, 33.)*

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

30. Whoever—

- (a) refuses or neglects to produce for inspection under section 15, any weight or measure or weighing instrument or measuring instrument or any document or record, relating thereto in his possession or on his premises, or
- (b) refuses to permit an Inspector to inspect and verify any such weight, measure, or instrument, or
- (c) obstructs the entry of an Inspector under section 15, or
- (d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act, ¹[or]
- ²(e) fails or refuses to produce any seized article in compliance with an undertaking furnished under sub-section (9) of section 15,

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

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

31. If an Inspector knowingly stamps a weight or measure or weighing instrument 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.

Penalty for breach of duty by Inspector.

CHAPTER V.

Miscellaneous.

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

Protection of action taken in good faith.

33. (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.

Cognizance of offences, etc.

¹The word within the square brackets was inserted by s. 9(1) of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act

(Chapter V.—Miscellaneous.—Sections 34-37.)

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

Stamped weights, etc., to be presumed to be correct.

34. A weight or measure or weighing instrument 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.

Controller, etc., appointed under the Act to be public servants.

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

XLV of
1860.

Inspector to have powers of a police officer.

35A. An Inspector shall have, for the purpose of ascertaining the true name and address of the person from whom any article has been seized under section 15, all the powers conferred upon a police officer by section 57 of the Code of Criminal Procedure, 1898.

Act V of
1898.

Offences to companies.

36. (1) If the person committing an offence punishable under this Act is a company, the company and every director, manager, secretary or agent of the company, unless such director, manager, secretary or agent proves that the offence was committed without his knowledge or consent, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable 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 other officer or person concerned in the management of the company, such other officer or person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished.

Explanation.—For the purpose of this section—

- (a) "company" means a 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.

Limits of error to be tolerated in weights and measures.

37. The State Government may, by notification in the *Official Gazette*, direct that any power exercisable by it under this Act or the rules made thereunder 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.

XXIII of 1958.]

(Chapter V.—Miscellaneous.—Sections 38, 39.)

89 of 1956.

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

- (a) in working models referred to in section 3;
- (b) in verification models referred to in section 4;
- (c) in weights and measures or in selling articles by weight or measure generally or as regards any trade or class of trades; and
- (d) in weighing instruments and measuring instruments.

Delegation
of powers.

39. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes 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 material of which and the designs and specifications according to which working models may be made, the agency by which such models may be prepared, the person by whom or the authority by which such models may be verified and stamped, the places at which and the custody and manner in which such models may be kept;
- (b) the manner and procedure for the verification or re-verification and stamping of working models;
- (c) the material of which and the designs and specifications according to which verification models may be made, the person by whom or the authority by which such models may be stamped, the places at which and the custody and manner in which such models may be kept;
- (d) the manner and procedure for the verification or re-verification and stamping of verification models;
- (e) the manner in which weighing instruments and measuring instruments may be verified and stamped with stamps of verification and necessary particulars regarding the same;
- (f) the manner in which denominations may be marked on weights and measures and the manner in which weights and measures may be verified and stamped with stamps of verification;
- (g) the form in which, and the conditions subject to which licenses may be granted to persons for manufacture, repair or sale of weights and measures and weighing instruments and measuring instruments, the procedure for granting licenses and the authorities by which licenses may be granted;

¹For the West Bengal Standard of Weights and Measures (Enforcement) Rules, 1959, made under s. 39 of the Act, see notification No. 949—W.M., dated 28.8.59, published in the *Calcutta Gazette, Extraordinary* of 1959, Part I, pages 1839–1917, as subsequently amended

*The West Bengal Standards of Weights and Measures
(Enforcement) Act, 1958.*

[West Ben. Act XXIII of 1958.]

(Chapter V.—Miscellaneous.—Section 40.)

- (h) the qualifications, functions and duties generally of Inspectors and other persons appointed under sub-section (4) of section 13 of this Act;
- (i) the period within which working models and weights and measures and weighing instruments and measuring instruments are to be re-verified;
- (j) inspection of weights and measures and weighing instruments and measuring instruments used in transactions¹ * * * * *;
- (k) the seizure and disposal of weights and measures which are not authorised by this Act;
- (l) the books, accounts and records relating to weights and measures and weighing instruments and measuring instruments to be maintained and the manner in which they may be maintained or produced;
- (m) the form and manner in which appeals may be preferred²[under sub-section (3) of section 11 or] under section 17 and the procedure for hearing appeals;
- (n) the fees which may be charged for the grant of licenses under section 11 and for verification, re-verification and stamping of weights and measures and weighing instruments and measuring instruments and the collection and levy of the same;
- (o) 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) All rules made under this section shall, as soon as may be, after they are made, be laid before the State Legislature.

Saving.

40. Nothing in this Act shall apply to weights or measures or weighing instruments or measuring instruments used by or in any unit or establishment of the naval, military or air forces or any other armed forces of the Union referred to in entry 2 of List I of the Seventh Schedule to the Constitution of India.

¹The words "in trade or commerce" were omitted by s.11(1) of the West Bengal Standards of Weights and Measures (Enforcement) (Amendment) Act, 1965 (West Ben. Act X of 1965).

²The words, figures and brackets within the square brackets were inserted by s.11(2), *ibid*.