

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

West Bengal Act XXIII of 1958 THE WEST BENGAL STANDARDS OF WEIGHTS AND MEASURES (ENFORCEMENT) ACT, 1958. [Passed by the West Bengal Legislature. [Assent of the Governor was given; published in the Calcutta Gazette, Extraordinary, of the 21st January, 1959.] [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 1. Preliminary. (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 into 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. West Ben. (4) The West Bengal Standards of Weights and Measures Ord. of (Enforcement) Ordinance, 1958 is hereby repealed : 1958. 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. (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 Short: title, extent', commencement, repeal and savings. 2 The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. Ben. Act 2.) I —Preliminary (Chapter that class of goods or undertakings, any other law which corresponds to such provision, such other corresponding law, shall, on such commencement, stand repealed

2. In this Act unless the context otherwise requires, Definitions. or "Deputy Controller" ' Assistant Controller" (a) Deputy means an Assistant Controller or Controller of Weights and Measures appointed under section 13 ; "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 ; 'measuring instrument' ' means any measuring (d) instrument other than a weighing instrument and includes any instrument for measuring length, area, volume or capacity ; means a mint of the Central Government ; 'mint' (e) "prescribed" means prescribed by rules made (f) this Act ; "standard measure" means "standard weight" or (g) 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 : "reference standards" means the sets of standards (h) 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 ; "stamping" means marking in such manner as to be, (i) so far as practicable, indelible and includes casting, engraving, etching and branding ; "verification" with its grammatical variations used (i) 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 ; "weighing instrument" means any instrument for (k) weighing and includes scales with the weights, belonging thereto, scale-beams, balances, spring-steel yards and other weighing balances, appliances, The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. of 1953.] 3 (Chapter 11 .—Standard Weights and Standard Measures. — Sections 3, 4.) CHAPTER II. Standard Weights and Standard Measures. 3. (1) For the purpose of verifying the correctness of Working weights and measures and weighing instruments and measuring models, 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 and special working models in relation to bullion and precious stones may also be prepared. / 2) The working models

shall be made of such material 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 verification model referred to in sub-section (1) of section 4: Provided that a special working model in relation to bullion and precious stones shall be verified with reference to the corresponding reference standard. (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. 4. (1) The State Government may, with the permission of the Central Government, cause to be prepared at a mint such models as many sets of standard weights and standard measures as it may deem necessary to be called the verification models. (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. 4 The West Bengal Standard of Weights and Measures (Enforcement) Act, 1958. [West Ben. Act Reference Standard]. Prohibition of use of weights and measures other than standard weights and measures. Power to prescribe the use of TGA in steel only, in certain cases. Marking of denomination on weights and measures. Prohibition of sale, delivery or use of an unstamped weight and measure or instrument. (Chapter 11.—Standard Weights and Standard Measures.—Sections 111.—Verification and Stamping of Weights and Measures.—Sections 8, 9.) (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

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 other than the standard weights or standard measure, 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. (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. (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 111. Verification and Stamping of Weights and Measures

8. Every weight or measure manufactured for use in any transaction shall have the correct denomination thereof marked legibly on it in such manner as may be prescribed. 9. (1) Subject to the provisions of section 10, no weight or measure shall be sold or delivered or used in any transaction 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 sold or delivered or used in any transaction 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. The West Bengal Standard of Weights and Measures (Enforcement) Act, 1958. xxn: of 1958.] 5 (Chapter III.—Verification and Stamping of Weights and Measures.—Sections 10—13.) 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

11. 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

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 : Provided that the provisions of this section shall not apply to any article which is not ordinarily sold by weight or measure.

(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. (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. Power of State Government to exempt. Prohibition of marking of weights without, Marking of weight or measure on sealed container. Appointment of Controllers and Inspectors. 6 The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. [West Ben. Act • Verification by Inspectors. (Chapter III.—Verification and Stamping of Weights and Measures. —Sections 14, 15.) 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. (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. (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. 15. (1) An Inspector may, within the area under his Power to inspect jurisdiction, inspect, at such times as may be prescribed, the weights or measures or weighing instruments or measuring instruments which are used in transactions in trade or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing 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 person engaged in any trade or commerce 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 any premises used for trade or commerce 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 to contain, the Inspector of the article which it purports to contain, in the presence of witnesses, break open the sealed container and verify its contents. (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 a-

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

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.

17. (1) If the Controller, a Deputy Controller, an Assistant Controller or an Inspector— (a) refuses to stamp any weight or measure or weighing measuring instrument and instrument or 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 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. Manufacturer, etc. to maintain records and documents. Appeals. 8 The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. [West Ben. Act No. 19 of 1958.] Section 18.—Chapter 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 measuring and weighing instruments, and (b) for 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 two hundred and fifty rupees. 19. 9 shall, (1) (2) 20. CHAPTER IV. Penalties. 21. Whoever contravenes any of the provisions of section 11 if such contravention is in respect of the sale or delivery of a weight or measure or weighing instrument or a measuring instrument, be punishable with fine which may extend to two thousand rupees; and the use of any weight or measure or weighing instrument or measuring instrument in any transaction, be punishable, 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. (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. (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. The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. [West Ben. Act No. 19 of 1958.] (Chapter 18.—Sections 21—26.) 9 (3) Where an offence punishable under this section is committed by any employee or agent of a trader on behalf of such trader, such trader, 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 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

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

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

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

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

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. for use of weights, etc., Title. Out Penalty for weight Or measure in contraven- tion Of di— under section 7. Penalty for failure to mark weight or measure on sealed instrument, Penalty for fraudulent use of weights, measure, etc. Penalty for being in possession of weight or measure, etc. Penalty for making or using weight or measure, etc. The West Bengal Standards of Weights and Measures (Enforcement) Act, 1958. [West Ben. Act (Chapter 27—30.) Penalty for 27. Whoever in selling any article by weight or measure, giving short weight or measure. Penalty for obtaining weight or measure. Penalty for counter- delivers 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

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. 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 weights, counterfeit stamp, or removes a stamp from any weight or measure, measure or weighing instrument or measuring instrument and etc. 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 provisions of this Act, 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 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. Penalty for neglect or refusal to produce measure, inspection. 30. (a) (b) (c) (d) Whoever— 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 refuses to permit an Inspector to inspect and verify any such weight, measure, or instrument, or obstructs the entry of an Inspector under section 15, or otherwise obstructs or hinders an Inspector in the performance of his duties under this Act, shall be punishable with fine which may extend to five hundred rupees. XLV of 1860. Bengal Standards of and Measures (Enforcement) Act, 1958. (Chapter IV.—Penalties.—Section 31.—Chapter V. Miscellaneous.—Sections 32_36.) If an Inspector knowingly stamps a weight or measure or weighing instrument or measuring instrument in breach of duty by 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

32. No suit, prosecution or other legal proceeding shall lie against the Controller or any Deputy Controller or any of them taken in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder. 33. (1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing of offences. made by the Controller or any officer authorised in this behalf by the Controller by general or special order. (2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act. 34. A weight or measure or weighing instrument or Stamped measuring

instrument duly stamped under the provisions of weights, this Act and the rulee made thereunder shall be presumed etc., to be to be correct until its inaccuracy is proved. presumed to be correct

35. The Controller, every Deputy Controller, every Controller. Assistant Controller and every Inspector appointed under eto., this Act shall be deemed to be a public servant within appointed under the the meaning of section 21 of the Indian Penal Code. Aet to be public servants. 36. (1) If the person committing an offence punishable O&nces by under this Act is a company, the company aud every director, companies. secretary or agent the company, unless such manager, director, manager 2 secretary or agent proves that the offence was committed without his knowledge or consent, shall be deemed to be guilty the offence and shall be liable to be proceeded against and punished. 12 The West Bengal Standards of Weights Measures (Enforcement) Act, 1958: tWest Ben. Act (Chapter 37—39.) Delegation of powers. Limits of error be tolerated and measures. Power to make ruleg. (2) Notwithstanding anything contained in sub- section (1), where an offence punishable under this Act, has been committed by a companx 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 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. EcpZanation.—For the purposes 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 firma

31. The State Government may, by notification i_n the (-)ficial 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

38. Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956, in this behalf, 88-of 1966• 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. 39. (1) The State Government may, by notification in the (-)ficiaz Gazette, make rules to carry out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all any of the following matters, namely : — (a) the material of wbieh 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; -FT*7e.8t Bengal Standards of -Wightg and Measures (Enforcement) Act, 1958. of 1658.1 (Chapter 39.) 13 (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 specifica- tions according to which verification models may be made, the person by 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 insti-uments 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 ; (0) 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 instru_ments and measuring instruments, the procedure for granting licenses and the authorities by which licenses may be granted ; (h) the qualifications, functions and duties generally of Inspectors and other persons appointed under sub- section (4) of eection 13 of this Act; (i) the period within which working modele and weights and measures and weighing instruments and measuring i_nstruments are to be re-verified ; (j) inspection of weights and measures and weighing Instruments and measuring instruments used in transactions in trade or commerce ; (k) the seizure and disposal of weights and measures which are not authorised by th1S Act ; (l) the books, accounts and recorde 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 ; The West Bengal Standards of Weights and Measures (Ænforciinent) Act, 1958. [West Ben. AM xxlll af 1958.r

(Chapter V 39.) (m) the form and manner in which appeals may be preferred under section 17 and the procedure for hearing appeals ; (n) the fees which may be charged for the grant of licenses under section 12 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 ; or may be (o) any other matter which has to be, prescribed. (3) 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.

