

CHAPTER V

INSPECTIONS

Inspections are carried out by the Controller and respective Inspectors/enforcement staff of the Department as per power conferred by Section 15 of the Legal Metrology Act, 2009. They may visit each and every market place, business centre, industrial centre, Government Godown, petrol pump, L.P.G agencies' premises, whole sale dealers as well as retail shops to see whether their weight or measure being used in any transaction are correct and verified or not. They may check every consignment of L.P.G Cylinder from bottling plant to end consumers at any stage, to avoid issue of underweight cylinder, pilferage and leakage Cylinder, to the consumer. The discharge of motor spirit, high speed diesel and other fuel dispensing pumps require verification once in every year. These machines as such are required to be inspected regularly to see the correctness of its discharge. Besides these, all the incoming of motor spirits and high speed diesel and other oils, liquid products carried by tank lorries are also checked.

Deputy Controller, Assistant Controller and Inspectors working in Headquarter should not go for field inspection unless specifically authorized. In case of authorization, specific instructions with regard to which seizure receipt book and test equipments are to be used, should be given in the authorization letter. Deputy Controller/Divisional Assistant Controller can use the seizure receipt book and test equipments for field work which are maintained by the Divisional Assistant Controller of the concerned area Inspector.

Various Violations Which Are Detected During Inspection

1. Use of weights, measures, weighing and measuring instruments other than those prescribed under the Rules.
2. Use of quotations, etc., otherwise than in terms of Standard Units of weight, measure or numeration.
3. Manufacture, repair or sale of weight or measure, weighing and measuring instrument without valid license.

4. Manufacture, sale of weight or measure, weighing and measuring instrument other than standard ones prescribed under the Act in force.
5. Sale of unstamped/unverified weight or measure, weighing and measuring instrument.
6. Use of weight or measure, weighing and measuring and instrument, not re-verified and stamped on or after the due date.
7. Non-display of the verification certificates and licenses issued by the Department of Legal Metrology.
8. Pre-packed commodity whether it is manufactured intra-State, inter-State and imported, shall not be sold, distributed, delivered, displayed or stored and kept for sale unless the package complies with the provisions of the Act and Rules.
9. Counterfeiting, tampering, removal of verification seals and increasing, diminishing or altering any weight or measure with a view to deceive any person in any transaction.
10. Sale or delivery of commodities by non-standard weight or measure or weighing or measuring instrument.
11. Keeping of non-standard weight or measure or weighing or measuring instrument for use in transaction or for protection .
12. Selling of any article less than the quantity contracted for or paid for or rendering any service less than the service contracted for, or paid for or buying, any article in excess of the commodity contracted for or obtaining any service in excess of the service contracted for or paid for.
13. Alteration and tampering with any license issued by the Department of Legal Metrology under the Act/Rules.
14. Selling or delivering rejected weight or measure, weighing and measuring instrument.
15. No retail dealer, manufacturer, packer or other person shall obliterate, smudge or alter the retail sale price (MRP) indicated on the package or on the label affixed there to.

16. No package shall be sold, delivered or displayed for sale unless it contains the declared quantity on the label affixed thereto and also the declaration as provided in rule 6 of the Legal Metrology (Packaged Commodities) Rules, 2011 which reads as under:

Declaration to Be Made On Every Package

Every package shall bear thereon or on label securely affixed thereto, a definite, plain and conspicuous declaration made in accordance with the provisions of this chapter as, to-

1. (a) The name and address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and packer and for any imported package the name and address of the importer shall be mentioned.

Explanation I- If any name and address of a company is mentioned on the label without any qualifying words 'manufactured by' or 'packed by', it shall be presumed that such name and address shall be that of the manufacturer and the liability shall be determined accordingly;

Explanation II- if the brand name and address of the brand owner appear on the label as a marketer, then the brand owner shall be held responsible for any violation of these rules and action as may be, initiated against the deemed manufacturer and in the event of more than one name and address appearing in the label, prosecution shall be launched against the manufacturer indicated on the label in the first place and not against all of them.

Explanation III- In respect of packages containing food articles, the provisions of this sub-clause shall not apply, and instead, the requirement of the {Foods Safety and Standards Act, 2006 (34 of 2006)} rules made there under shall apply.

- (b) The common or generic name of the commodity contained in the package and in case of packages with more than one product, the name and number or quantity of each product shall be mentioned on the package.

- (c) The net quantity, in term of standard unit of weight or measure, of the commodity contained in the package or where the commodity is packed by number ,the number of commodity contained in the package shall be mentioned.

(d) The month and year in which the commodity is manufactured or pre-packed or imported shall be mentioned.

(da) If a package contains a commodity which may become unfit for human consumption after a period of time, the best before or use by the date, month and year shall also be mentioned on the label:

(e) The retail sale price of the package.

(f) Where the sizes of the commodity contained in the package are relevant, the dimensions of the different pieces are different to the dimensions of such different piece shall be mentioned.

2. Every package shall bear the name ,address, telephone number , e mail address of the person who can be or the office which can be contacted , in case of consumer complaints etc.

17. No retail dealer or any other person shall make sale of commodity in package from at a price exceeding the retail sale price there of.

Procedures

Inspection of establishments by the Controller or Legal Metrology officer

Step I

While going for inspection, the Controller or the Legal Metrology officer should ascertain the check list and carry the following things with him:

- Identity card or Authorization letter
- Seizure Receipt Book
- Weighing Balance as per requirement
- Verified Test weight or measure as per requirement
- Copy of the Act and Rules
- Data sheets (Net content), Notice Form as per format provided in **ANNEXURE V**
- Formats of required documents such as undertaking for goods returnable in case of speedy and natural decay
- Designation stamps, sealing wire, seal and other required stationery material etc.

Step II

After entering into premises, the Controller or Legal Metrology officer should disclose his identity by showing Identity card to the person in-charge of the premises. However, where the identity disclosure hampers the merit of the inspection, identity should be disclosed at proper time. If any obstruction or resistance is created by the trader or observed from the person in charge of the premises or any other person, the Controller or the Legal Metrology officer should seek police assistance by requesting the area police station of the local jurisdiction, and report the same to higher authority for information. Legal action should be taken as per provisions of Legal Metrology Act, 2009.

Step III

During inspection, the Legal Metrology officer should carry out calculations, compute errors and draw inferences as per Act and Rules. If there is any violation, the Controller, the Legal Metrology officer should explain the same to the person in charge and prepare seizure receipt. Whenever the process of inspection and seizure is carried out in presence of Assistant Controller/ Deputy Controller/Controller, they should invariably sign the related document.

Necessary and required description of seized goods (as per the Act and Rules), should be given in the seizure receipt. Reasons for seizing such goods shall be invariably mentioned in the seizure receipt. The reasons for seizure should be clearly mentioned in common language instead of mentioning legal terms/violation of Section and Rules. For traceability or identify of accused a copy of one of the documentary evidences such as license issued by Government/local authority/ documents like electricity bill, telephone bill, license, packer registration, or any other documents, register or other record relating thereto etc. may be taken in possession.

Step IV

The third copy of the seizure receipt should be given to the person present or in charge of the premises and acknowledgement should be taken.If the person present/incharge of the premises

refuses to sign and receive the seizure receipt, the receipt may be pasted at the entrance of the premises in the presence of the witnesses or copy of it may be served to the person by registered post A/D. An endorsement should be made at the place meant for signature to the effect that such person had refused to sign and receive the same.

Step V

The Controller and the Legal Metrology officer should seize all the articles mentioned in the seizure receipt. Following procedure should be adopted while seizing the goods/articles:

- i. If any seized goods are subject to speedy or natural decay, the Controller or the Inspectors should weigh/measure the goods on a verified weight or measure available with him or near the place of seizure and take necessary entries in the format given in **ANNEXURE VI** and signature of trader or his agent and witnesses be obtained.
- ii. If the trader or the person present at the premises refuses to sign the form, the Controller or the Legal Metrology officer shall obtain the signature of witnesses and made an endorsement to the effect that he/she has refused to sign.
- iii. If any seized goods are in the packaged form and are subject to speedy or natural decay, and does not conform to provisions of the Act/Rules, the Controller or the Legal Metrology officer may dispose of goods as mentioned in (i) above and keep with him the empty wrappers for necessary evidence. The list of naturally decaying substances is given in **ANNEXURE VII**.
- iv. When the goods seized are not subject to speedy or natural decay, the Controller or the Legal Metrology officer may retain the goods for the purpose of prosecution under the Legal Metrology Act/Rules, after giving a copy of seizure receipt to the trader or person in-charge.
- v. With a view to overcoming the situation regarding transportation and safe custody of the seized and detained goods, generally packages subject to maximum quantity of five packages shall be detained by the concerned Legal Metrology officer at the time of seizure and remaining packages in sealed

condition be returned to the trader or person present, for keeping as evidence, at the premises and an undertaking in the format given in **ANNEXURE VIII** should be taken from the trader or person in-charge, for keeping their safe custody and for producing the same as and when required during the case proceedings.

vi. The Inspector should ensure that seized and detained property is carefully sealed and preserved for producing in the court of law as and when required.

Step VI

In respect of intimation of the seizure and seized property to the Judicial Magistrate First Class, the relevant provisions of Code of Criminal Procedure 1973 may be followed.

Inspection of Weight or Measure

The Controller or the Legal Metrology officer shall take following steps while inspecting weight or measure and packaged commodity:

- i) Inspect any record, register or other document relating there to.
- ii) The Controller or the Legal Metrology officer shall obliterate the stamp on any weight or measure, if it is found during inspection that:
 - any weight or measure which being due for re-verification has not been submitted for such re-verification;
 - any weight or measure which does not conform to the Standards established by or under the Act;
 - any weight or measure which, since the last verification, stamping and sealing has been repaired or readjusted;
 - any weight or measure which does not admit proper adjustment by reason of its being broken, indented or otherwise defective;

Provided that where the Legal Metrology officer is of opinion that the defect or error in such weight or measure is not such as to require immediate obliteration of the stamp, he shall serve a notice in the form set out in

ANNEXURE-V to the user of such a weight or measure informing him of the defect or error found in the weight or measure and calling upon him to remove the defect or error within seven days as he may specify and shall:

- if user fails to remove the defect or error within that period, obliterate the stamp, or
- if the defect or error so removed make the weight or measure conform to the standards established by or under the Act, verify, stamp and seal such weight or measure.
- if it is noticed by the Legal Metrology officer that the weight or measure is not verified on or before the expiry of validity date during the same quarter (as marked on the weight or measure), he shall obliterate the stamp and issue a notice for a period not exceeding 7 days in a Performa as given in **ANNEXURE-IX**. Upon failing to comply with notice, action under Section 33 of Legal Metrology Act, 2009 shall be initiated against the user of such weight or measure.
- Thereafter the Legal Metrology officer shall take necessary action including prosecution under the relevant provisions of the Act and Rules.
- During the inspection, if it is found that the user failed to produce weight or measure for verification on or before expiry of validity of stamp, the Controller or the Legal Metrology officer should take steps such as seizing of weight or measure, booking offence under relevant provisions of the Act and Rules framed thereunder.
- During the inspection if short delivery or excess demand, by weight, measure or number or services obtained/rendered is noticed, the Legal Metrology officer should take action as per Act/Rules.
- Notwithstanding anything stated above, if during the inspection it is noticed that there is violation of any other provisions of the Act and Rules, appropriate action/proceeding shall be initiated against the user/trader.

General Inspection

No specially designated seizure receipt book shall be maintained or kept in the office of Controller, Deputy Controller and Assistant Controller. Whenever a situation occurs, such as that immediate inspection by Deputy Controller or Assistant Controller becomes necessary, they should call local Inspector along with them. However, if the concerned local Inspector is not available or he is to be avoided for specific reason, the Inspector of neighboring centre of the same division, shall be called along with his seizure book, equipments necessary for inspection and necessary action thereafter. The concerned Deputy Controller or Assistant Controller shall witness the inspection and seizure done in their presence and should invariably sign on the concerned documents. They should note such incident in their tour diary, which is submitted to higher officer.

Inspection by Squad

The special squad for specific purposes shall be constituted by the Controller. The members of such squad will be as specified by the Controller by specific order. The squad shall function as per the procedure specified in the order and for the period specified in the said order. The squad shall be deemed to be dissolved after the specified period.

In case of inspections by squads, the action taken should be intimated to the area Inspector, concerned Assistant Controller and Deputy Controller. The local Inspector, on receipt of such intimation along with all case papers in original shall take further legal action and inform the same to the Court having jurisdiction.

Inspection in Joint Raid

In joint raids, participating Inspectors may use seizure receipt books allotted to them. The cases booked vide seizure receipts used by Inspectors other than local Inspectors, should be handed over to the local Inspector along with original copy of the seizure receipt, and other related records as soon as the joint raid is over. These cases should be recorded in the case register of local Inspector and other participating Inspectors should not record these cases in their case registers or report in monthly work report. But these cases can be considered at the time of annual assessment of their work.

Under certain circumstances on the request of local Inspector, Assistant Controller having jurisdiction, may permit Inspector of other centre in writing to accompany him.

Controller/Deputy Controller/ Assistant Controller may arrange joint raid for specific task and effective enforcement for the better protection of consumer interest. Normally Legal Metrology officer shall not visit/inspect/investigate in the area other than his local limits, unless or otherwise authorized in this behalf.

Inspection of Packaged Commodities

While inspecting the premises of Manufacturer, Packer or Importer, the Controller or the Legal Metrology officer shall,

- Ask to produce registration certificate of Manufacturer, Packer or Importer.
- Check the declarations, on the packages ready for dispatch.
- Check the net content of the packages as per Rule 19 of Legal Metrology (Packaged Commodities) Rules, 2011.

While inspecting the premises of wholesale dealer or retail dealer, the Controller or the Legal Metrology officer shall:

- Check the declarations on the packaged commodities
- Check whether there is any alteration, obliteration, or smudging on MRP declared on the packages
- In case of overcharging, at first, receipt of said packaged commodity should be procured for evidence and thereafter prosecution may be filed against the retail or wholesale dealer as the case may be
- In case no receipt is given on demand or incorrect receipt is given, inspection report shall be prepared in presence of two witnesses and action should be initiated as per Act and Rule
- Check the net content of the packages at retail or whole sale dealer on complaint or if there is any reason to suspect that any package has been packed with less quantity or tampered with, as per Rule 21 of the Legal Commodity (Packaged Commodities) Rules, 2011.