

WM-10(4)/2016
Government of India
Ministry of Consumer Affairs, Food and Public Distribution
Department of Consumer Affairs
Legal Metrology Division

Krishi Bhawan, New Delhi-110001
Dated: 19.12.2016

NOTICE SEEKING PUBLIC COMMENTS ON DRAFT RULE

Sub: Amendments in the Legal Metrology (Packaged Commodities) Rules, 2011-Draft rules-reg

The undersigned is directed to refer to the above mentioned subject and to enclose herewith a copy of Draft Legal Metrology (Packaged Commodities) (Second Amendment) Rules, 2016 with request to offer your comment within 30 days (by 17.01.2017) on the said Draft Rules.

2. The comments may be submitted to Director (Legal Metrology), Department of Consumer Affairs, Krishi Bhawan, New Delhi-01 (Email: dirwm-ca@nic.in).

Encl: As above

Ashutosh Agarwal

(Ashutosh Agarwal)
Assistant Director, Legal Metrology
for Director of Legal Metrology
Tel: 01123386194
Email: adwm2-ca@nic.in

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRA ORDINARY, PART-II, SECTION 3, SUB-SECTION (I)]
GOVERNMENT OF INDIA
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF CONSUMER AFFAIRS)

Notification

Dated the2016

G.S.R. _____(E).- In exercise of the powers conferred by sub-section (1) read with clause (j) of sub-section (2) of section 52 of the Legal Metrology Act, 2009 (1 of 2010), the Central Government hereby makes the following rules further to amend the Legal Metrology (Packaged Commodities) Rules, 2011, namely:-

1. (1) Short title and commencement.- These rules may be called as the Legal Metrology (Packaged Commodities) (Second Amendment) Rules, 2016

(2) They shall come into force with effect from 1st July 2017.

2. In the Legal Metrology (Packaged Commodities) Rules, 2011 (hereinafter referred to as the said rules),-

(i) for rule 2(bc), the following shall be substituted.-

"(bc) "institutional consumer" means the institution which buys packaged commodities directly from the manufacturer or from an importer or from wholesale dealer for use by that institution and not for commercial or trade purposes. The package intended for sale to institutional consumers shall have a declaration 'not for retail sale'."

(ii) for rule 2(m), the following shall be substituted.-

"(m) 'retail sale price' means the maximum price at which the commodity in packaged form may be sold to the consumer, inclusive of all taxes.

(iii) for rule 2(q), the following shall be substituted.-

(q) "wholesale dealer" in relation to any commodity in packaged form means a dealer who distributes or sells such commodity through one or more intermediaries, subject to the provisions of rules 2(bb) and 2(bc);

3. In the said rules, for rule 3, the following shall be substituted, namely.-

"3. Applicability of the Chapter.- The provisions of this chapter shall not apply to,-

- (a) packages of commodities containing quantity of more than 25 kg or 25 litre; or
- (b) cement, fertilizer, and agricultural farm produce sold in bags above 50 kg; **or**
- (c) packaged commodities meant for industrial consumers or institutional consumers."

4. In the said rules, in Rule 6,-

(i) after clause (a) of sub rule (1), the following shall be inserted, namely.-

"(aa) Name of the country of origin/ manufacture/ assembly in case of imported products shall be mentioned on the package."

(ii) after clause (a) of sub rule (1), the following Explanation III shall be substituted, namely.-

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

(iii) after clause (d) of sub rule (1), the following shall be inserted, namely.-

"Provided that if a package contains a commodity which may become unfit for human consumption after a period of time, the 'best before or use by', 'date, month and year' shall be additionally mentioned on the label."

Explanation: 1. "Date of Minimum Durability" ("**best before**"): means the date which signifies the end of the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims have been made. However, beyond the date the commodity may still be perfectly satisfactory.

2. "**Use by Date**" (Recommended Last Consumption Date, Expiration Date): means the date which signifies the end of the estimated period under any stated storage conditions, after which the product probably will not have the quality attributes normally expected by the consumers. After this date, the commodity should not be regarded as marketable.

(iv) After the words 'the retail sale price of the package;', the following words shall be inserted.-

'which shall clearly indicate, a) that it is the maximum retail price inclusive of all taxes; and b) price in Rupees and Paise rounded off to the nearest rupee or 50 paise;'

Some Illustrations for declaration of retail sale price:

- (a) Maximum or Max. retail price Rs/ ₹xx.xx (inclusive of all taxes), or
- (b) Maximum or Max. retail price Rs/ ₹ xx.xx inclusive of all taxes, or
- (c) MRP Rs/ ₹xx.xx incl. of all taxes, or
- (d) MRP Rs/ ₹xx.xx (incl. of all taxes)"

(v) after sub rule (4), the following shall be inserted, namely,-

"(4A) Nothing shall preclude a manufacturer/ packer/ importer to declare the following on the package, in addition to the mandatory declarations.-

(a) Barcode /GTIN/QR Code;

(b) 'e-code' for net quantity assurance of the commodity and other required declarations, after obtaining the same from the Director. For obtaining the 'e-code' the applicant shall submit an application with a fee of twenty five thousand rupees. All the expenses including travel, lodging and boarding of officers for testing/ inspection shall be borne by the applicant;

(c) Logos of Government schemes, such as Swatch Bharat Mission, where such use is authorized by the Government.

(vi) after sub rule (9), the following sub-rule shall be inserted, namely,-

"(10) The provisions of these rules shall be applicable for all types of retail sale of packaged commodities made online or through e-commerce. All the mandatory declarations required under these Rules shall be displayed on the online platform."

5. In the said Rules, in Rule 7,

(i) for sub rule (2), the following shall be substituted, namely,-

"(2) The height of any numeral and letter in the declaration required under these rules shall be as per Table I."

(ii) for sub rule (3) , the following shall be substituted , namely,-

"(3) The width of the letter or numeral shall not be less than one third of its height ,except in the case of numeral "1" and letters (i) (I) and (l)".

(iii) Table I shall be substituted by the following.-

"Table I

Area of Principal display panel in square centimeters (A)	Minimum height of numbers and letters in millimeters	Minimum height of numbers and letters when blown, formed or molded on surface of container in millimeters
$A \leq 50$	1.0	2.0
$50 < A \leq 100$	1.5	3.0
$100 < A \leq 500$	3.0	4.5
$500 < A \leq 2500$	6.0	7.5
$2500 < A$	9.0	12.0

"

(iv) Table II shall be deleted.

6. in sub rule (3) of Rule 9, the following proviso shall be inserted namely ,-

"Provided that no such declarations on the inner package is required, if the outer package contains all declarations required under these Rules."

7. In the said rules, in rule 10,-

(i) in the proviso to sub- rule (1), for the letters, numerals and words "5 cubic cm or less", the letters, numerals and words "10 cubic cm or less" shall be substituted.

(ii) In sub rule (1), the Explanation shall be inserted, namely,-

"Explanation.- In this sub-rule, 'complete address' means, the postal address at which the factory is situated or company/ firm is registered, and, in any other case, the name of the street, number (if any) assigned to the premises of the manufacturer or packer and either the name of the city and State where the business is carried on by the manufacturer or packer or the Postal Index Number [PIN] Code so that a consumer can identify and locate the manufacturer or packer or importer, as the case may be."

8. In rule 19, in sub rule (4).-

(i) in clause (a), for the words "the statistical average", the words "the corrected average" shall be substituted.

(ii) for clause (b) and entries there under, the following shall be substituted, namely.-

“(b) the number of packages that show an error in deficiency exceeding the maximum permissible error is greater than that shown in column 4 of Table under Fifth Schedule; or

(c) any such package shows an error in deficiency exceeding twice the maximum permissible error,

the Director, Controller or the Legal Metrology Officer shall require the manufacturer or packer to make a cent per cent check of the packages contained in the lot and authorize sale, distribution or delivery of only such packages with error in deficiency in the net quantity less than the maximum permissible error. The remaining packages shall be allowed to be sold distributed or delivered by the manufacturer/packer after it has been repacked or relabeled, as the case may be, so as to comply with the provisions of the Act and these Rules.”

9. In the said rules in Rule 19.-

(i) Sub rule (5) shall be deleted.

(ii) for sub rule (6) the following shall be substituted.-

“(6) A lot of packages shall be approved for sale if as a result of the test carried out under this Rule, it is found that.-

(a) the corrected average net quantity of the sample packages is equal to or more than the declared net quantity.

(b) the number of packages that show an error in deficiency exceeding the maximum permissible error is not more than that shown in column 4 of the Table under Fifth Schedule,

(c) no package shows an error in deficiency exceeding twice the maximum permissible error,

(d) Every package bears thereon or on a label affixed thereto the declarations required to be made under these rules”.

10. In the said rules, for rule 20 and the entries thereunder, the following shall be substituted, namely,-

“(1) If it appears from the report referred to in Sub-rule (3) of rule 19 that.-

(a) the corrected average net quantity contained in the packages drawn as samples is lesser than the quantity declared on the package or the label affixed thereto, or

(b) any such packages showing an error in deficiency exceeding the maximum permissible error is greater than the number specified in column 4 of the Table in the Fifth schedule, or

(c) any package has error in deficiency exceeding twice the maximum permissible error, or

(d) any such package does not bear thereon or on label affixed thereto the declarations to be made under these Rules,

the Director, Controller, or the Legal Metrology Officer shall take action as given below, namely.-

(i) seize the packages drawn by him as samples and take adequate steps for the safe custody of the seized packages until they are produced in the appropriate court as evidence;

(ii) based on the evidence initiate action for violations as per the provisions of the Act and these rules.

(2) The disposal of the seized packages shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973(2 of 1974).

11. In the said rules, in rule 19.-

(i) for clause (c) and the entries thereunder, the following shall be substituted, namely,-

“(c) it contains scheduled formulations and non-scheduled formulations covered under the Drugs (Price Control) Order, 1995 made under section 3 of the Essential Commodities Act, 1955 (10 of 1955) **except all types of medical devices including those declared as drugs, like cardiac stents, Heart valves, orthopedic implants etc.**”

(ii) clause (d) shall be deleted.

12. In the said rules, in column (3) of the Second Schedule, against serial number 10, after figures and letters, “500g”, the figures and letters “550 g, 600 g, 650 g” and after figures and letters, “500ml”, the figures and letters “550 ml, 600 ml, 650 ml” shall be inserted.

13. In the said rules, in the Fifth Schedule.-

(i) for the Table under item 1 and the entries thereof, the following Table shall be substituted, namely.-

Inspection lot size (1)	Sample size (n) (2)	Correction factor (C) (3)	Number of packages showing an error more than the maximum permissible error but less than twice the maximum permissible error (4)
100 to 500	50	0.379	3
501 to 3200	80	0.295	5
More than 3200	125	0.234	7

14. In the said rules, in Part II of the Sixth Schedule, after item no 7, the following items shall be inserted, namely.-

“8. Determination of mean or average net quantity or net volume.-

After determining the individual values of net quantity/ net volume/ length/ number of the commodity contained in the package, as per the procedure outlined in item no 3 to 6 of this Part, the mean or average value shall be calculated by summing up the individual values (x_i) and dividing it by the number of sample packages (n) taken for testing.

$$\text{Average Net value } (\bar{x}) = \sum x_i / n$$

9. Determination of Standard deviation of values.-

The standard deviation (σ) of individual values [Q_i] is determined by the formula

$$\sigma = \sqrt{\frac{1}{n-1} \sum (x_i - \bar{x})^2}; \text{ where ,}$$

x_i = individual values of net quantity /net volume / length/ number ,

\bar{x} = average or mean value of net quantity/ net volume /length/number.”

10. Corrected average net quantity or net volume.-

The corrected average net quantity X_c is determined from the value of average net quantity [\bar{x}] by using the formula,

$$X_c = \bar{x} + (\sigma \times C), \text{ where C is the correction factor.}$$

15. In the said rules, in Form A of the Seventh Schedule, for the existing entries against “B-commodity classification”, the following entries be substituted, namely,
“Lot size Sample size: Maximum permissible error (g)”

16. In the said rules, in Form B of the Seventh Schedule, for the existing entries against "B-commodity classification", the following entries be substituted, namely,
"Lot size Sample size:
Maximum permissible error"

[File No. WM-10(4)/2016]

(P V Rama Sastry)
Joint Secretary to the Government of India

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.202(E), dated the 7th March, 2011 and last amended, vide, notification number G.S.R. 858 (E), dated the 7th September, 2016.