

The Legal Metrology (Approval of Models) Rules, 2011.

NOTIFICATION

New Delhi the , 2010.

GSR.....In exercise of the powers conferred by sub-section(1) read with clause (m) of sub-section (2) of section 52 of the Legal Metrology Act, 2009 (1 of 2010) , the Central Government hereby makes the following rules, namely:-

CHAPTER I PRELIMINARY

1. Short title and commencement.- (1)These rules may be called The Legal Metrology (Approval of Models) Rules, 2011.

(2) They shall come into force on the 1st day of March, 2011.

2. Definitions.-(1) In these rules, unless the context otherwise requires;-

(a) "Act" means- the Legal Metrology Act, 2009 (1 of 2010);

(b) "Model" means the final physical representation of a weight or measure in which all the components imparting to it the necessary metrological and technical characteristics and qualities as provided in the Act and the rules made there under are suitably assembled so that subject to prescribed tolerances, every weight or measure produced in accordance with such model may be similar as regards dimensions, constructions, material performance and other metrological and technical characteristics;

(d) "Principal Officer" means the officer who is in charge of the laboratory;

(2) words and expressions used herein and not defined but defined in the Act, shall have the same meanings respectively assigned to them in the Act.

CHAPTER II Recognition of Laboratories

3. General provisions relating to laboratories.-(1) The list of recognized laboratories shall be notified from time to time.

(2) A laboratory recognized under these rules shall carry out any test for the approval of any model.

(3) In allocating any model of weight or measure to any laboratory, the Director shall take into account the existence or otherwise of the facilities available in that laboratory for the approval of such model.

4. Recognition of Laboratories.- (1) Every laboratory desirous of obtaining recognition under these rules for carrying out tests for the approval of the model of any weight or measure shall make an application to the Director in the form as may be notified from time to time.

(2) Every application referred to in sub-rule (1) shall be made by the Principal Officer of the laboratory.

(3) When an application is made under sub-rule (1) for the recognition of a laboratory, the Director shall, before issuing the certificate of recognition send one or more of his officers to the laboratory and obtain a report whether the laboratory,-

(a) has the necessary measuring equipment, testing facilities and buildings maintained in a proper conditions;

(b) has the necessary qualified staff, component to undertake the tests for recommending the approval of model of the concerned weight or measure;

(c) is situated in an appropriate environment;

(d) has an adequate recording system;

(e) is likely to give expeditious efficient and adequate service; and

(f) is ready and willing to get its equipment verified periodically by such other appropriate laboratory, as may be specified by the Director.

(g) has the certificate issued by the National Accreditation Board of Laboratories (NABL) in the parameter or field in which model test is proposed to be undertaken.

(4) The Director shall, after considering the information supplied to him by his officer, or officers referred in sub-rule (3) and if necessary, after a visit to the laboratory, shall issue to the applicant laboratory a certificate of recognition specifying therein the terms and conditions subject to which the recognition is granted, and the code number which has been assigned to the laboratory.

(5) Where no application for the recognition of a laboratory has been made, or where such application having been made has not been disposed of, the Director may if he is satisfied that it is urgently necessary so to do, issue, with the consent of the principal officer in-charge of the laboratory a provisional certificate of recognition to a laboratory which, in the opinion of the Director fulfils all the requirements of sub-rule(3) and the provisional certificate so issued shall be valid for one year.

(6) The certificate of recognition granted to laboratory may be suspended by the Director in the event of the omission or failure on the part of the laboratory to observe the terms and conditions specified under sub-rule (4):

Provided that no such suspension shall be made except after giving to the laboratory a reasonable opportunity of showing cause against the proposed action.

(7) Where any certificate of recognition to a laboratory is suspended under sub-rule (6), the order of suspension shall not be vacated unless the omission or failure of compliance of terms and conditions for which such suspension was made has been made good.

(8) The Director or his authorised officer may visit the laboratory as and when required and the Principal Officer will permit inspections and render all assistance for the purpose including the production of records with regard to model testing.

(9) The Principal Officer shall submit annually to the Director a report in respect of the models tested by them, the fee collected, time taken for each testing and such other relevant particulars.

(10) The Principal Officer, while testing the models adopt such procedures as may be prescribed by the Director from time to time.

(11) The certificate of recognition granted to a laboratory may be cancelled by the Director if the circumstances of the laboratory are such that it cannot be reasonably expected to function properly as a recognized laboratory or if there are sufficient reasons to suspect that the laboratory has been guilty of corrupt practices.

Provided, that no certificate of recognition shall be cancelled except after giving to the concerned laboratory a reasonable opportunity of showing cause against the proposed action.

CHAPTER III APPROVAL OF MODELS

5. Application for the approval of models.- (1) An application for the approval of model shall be made to the Director and shall contain.-

(a) the full name and address of the applicant or where the model is imported from other countries, the name and address of the manufacturer as well as the dealer in India.

(b) a brief description of the weight or measure the class to which it belongs and the probable uses for which the weight or measure is intended to be produced;

(c) data regarding metrological and technical characteristics and qualities of the weight or measures;

(d) test procedure followed by the manufacturer;

(e) trade name or brand name and type of the weight or measure.

(2) Every application shall be accompanied by not less than two copies of,-

(a) a sketch and section-wise drawings of general arrangements and installation of such weight or measures including therein the details of construction of the weight or measure in such manner as to enable the visualization of the weight or measures in its finished form, and;

(b) a document describing the following namely:-

(i) the principles of construction and the method of operation of the weight or measure;

(ii) the safety devices provided to prevent any fraudulent or inaccurate operation of the weight or measure;

(iii) the manner in which and the extend to which the weight or measure may be adjusted or corrected;

(iv) the place where the verification stamp or seal, or both, may be affixed;

(v) plans of general arrangements and installations drawings of the weight or measure and, where necessary detailed installation instructions;

(vi) two photographs of the model clearly indicating the mandatory declarations to be included as a part of the certificate of approval of the model;

(vii) actual circuit diagram (for digital type);

(viii) place/places on the instrument where the verification stamp or seal or both have to be applied to prevent fraudulent practices;

(ix) copies of the user's manual, printed pamphlets and other literatures;

(x) any other information which the applicant may consider to be useful for assessing the performance, and facilitating the approval of the model;

(3) If the weight or measures is provided with supplementary or additional devices, full information with regard to such supplementary or additional devices, such as drawing, descriptions in relation to the said weight or measures, shall also be given along with the application.

6. Submission of the models of weight or measure.-(1) Every person, who submits any model of weight or measure or weighing and measuring instrument for approval (hereinafter in this rule referred to as, the applicant), shall deposit to the credit of the recognized laboratory, a fee as prescribed in the rule 19 of these rules.

(2) All the documents referred to in rule 5 shall be sent by the Director to the recognized laboratory which carries out the tests for the approval of the model, to enable the laboratory to ascertain whether such documents conform to the details of the results of the tests carried out by it for the approval of that model."

(3) Where the nature of weight or measure is such that due to its voluminous nature it cannot be submitted to the laboratory for testing, the recognized laboratory may under take the testing of such model at such place as it may deem fit:

Provided that, where the test is undertaken at any premises other than those of a recognized laboratory, the applicant shall pay for the duration of such test, the traveling and daily allowances of the persons deputed for such tests and such allowances shall be payable at such rates as may be admissible to such persons in accordance with the rules in force in the recognized laboratory."

(4) The applicant shall provide such facilities as may be required by the team of persons deputed by the recognized laboratory for the purpose of carrying out the necessary tests for the approval of the model.

(5) The installation, tests and removal of the model shall be done at the cost and risk of the applicant.

(6) The Central Government and the recognized laboratory shall not be responsible for any loss or damage that the model may sustain the course of examination and testing.

(7) Where any model submitted to a recognized laboratory for approval is not removed by the applicant after the expiry of six months from the date on which a certificate of approval was granted or refused in relation to such model, such model shall become forfeit to the Central Government, and that Government shall dispose of the model in such manner as it may think fit.

(8) The Director may, if he is satisfied that the test for the approval of any model is likely to take more than three months and on receipt of satisfactory preliminary test reports from the laboratory, issue subject to such conditions as may be specified in the certificate, a provisional certificate to enable the manufacturer, to manufacture at his own risk the weight or measure in relation to which the model has been submitted for approval:

Provided that manufacture, distribution or sale of such instrument shall be discontinued immediately when the provisional model approval certificate has been withdrawn by the Director. Provided further that in case the tested model does not meet the requirements of the model approval test, all instruments covered by the provisional certificate and sold in the market shall be withdrawn with immediate effect at the manufacturer's cost.

7. Tests for the approval of model.- (1) The tests needed for the assessment of the fitness or otherwise of a model submitted for approval shall be carried out under the normal conditions of use, whether actual or stimulated, or the weight or measure and shall be made with a view to –

(a) ascertaining whether such model conforms to the standards established, in relation to such model, by or under the Act and the rules or to the recommendations of the International Organization of Legal Metrology (OIML);

(b) finding out the ability of such model to maintain accuracy and other metrological characteristics and qualities after it has been put to use for such minimum number of times or over such minimum period as the Director, may, by general order, specify in relation to the class of weight or measure to which the model pertains;

(c) determining the performance of such model under varied conditions of use;

(d) determining the metrological and technical characteristics of the model after taking into account the possible incidence of influence factors and their effect on metrological and technical characteristics;

(e) determining whether they carry the mandatory declarations required under the Act and the rules;

(f) determining whether the place or places of sealing on the instrument suggested by the manufacturer is sufficient to prevent their fraudulent use;

(g) determining generally, the behaviour of the model, that is to say, its robustness, reliability and susceptibility to fraudulent use;.

(2) Every model shall be tested in accordance with such test procedure as may be laid down by the Director in relation to the class of weight or measure to which such model pertains;

Provided that until the test procedure is laid down by the Director in relation to any class of weight or measure, the test of any model pertaining to such class of weight or measure shall be carried out in accordance with such procedure as would, in the opinion of the recognized laboratory, enable it to recommend the grant of certificate of approval in relation to such model.

8. Procedure for the issue of certificate of approval. - (1) After the completion of the tests, the recognized laboratory shall send a report of its findings to the Director with its recommendations whether the model satisfies the requirements of the Act and the rules made there under.

(2) The recognized laboratory may in an appropriate case, recommend that the approval may be accorded provisionally to enable it to conduct detailed tests and where in pursuance of such recommendation, provisional approval is granted, test may be carried out on such number of instruments under such conditions of installation and use, as may be specified by the Director, and such tests may also be continued, where the recognized laboratory thinks fit so to do, in the place of use of the weight or measure, and the tests at such place of use shall be detailed ones and of such duration and carried out on such number of weights or measures as may be specified by the Director.

(3) The Director may require the recognized laboratory to send to him the detailed test procedure adopted by that laboratory in approving the concerned model.

(4) On examination of report made by the recognized laboratory, the Director shall, where he is of opinion that no further test is required to be carried out, submit the report to the Central Government and where he is of the opinion that further tests are required, remit the report back to the recognized laboratory for carrying out such further tests; and there upon the recognized laboratory shall, after carrying out further tests, submit a report to the Director.

(5) Where consideration of the report of the recognized laboratory, the Director is of the opinion that a certificate of approval in relation to that model should be issued, it shall recommend to the Central Government the issue of the certificate and shall also forward to that Government a copy of the report submitted to it by the recognized laboratory.

(6) The Central Government may, if the issue of a certificate or provisional certificate of approval has been recommended by the Director, issue such certificate and authorize the Director to authenticate the certificate for and on behalf of the Central Government.

(7) No provisional certificate issued under sub-rule (6) shall remain valid for a period exceeding one year from the date of its issue.

Provided that the Central Government may, if is satisfied, on the recommendation of the recognized laboratory, it is necessary in the public interest so to do, extend the period of validity of the provisional certificate for such period as it may think fit;

Provided further that the Central Government may also, on an application made to it by the concerned manufacturer, extend the period of validity of the provisional certificate for such further period as it may think fit if it is satisfied that the recognized laboratory, having failed to complete the tests before the expiry of the period of validity of the provisional certificate, has unreasonably omitted to recommend the extension of such period.

(8) A code number shall be assigned to each approved model and the code number so assigned shall be indicated in the certificate, or provisional certificate of approval, as the case may be.

(9) Where the model of any weight or measure to which these rules are applies has been approved, the models of different denominations of such weight or measure shall not require any approval of such denominations which are manufactured in accordance with the same principles according to which, and the same material with which the approved model has been manufactured.

9. Procedure where issue of certificate of approval is not recommended. - Where the recognized laboratory does not recommend the issue of a certificate of approval in relation to any model, it shall specify its reasons therefore to the Director who shall communicate such reasons

to the applicant with such directions as he may think fit and thereupon the applicant may make a representation to the Director to the effect that the issue of the certificate of approval should have been recommended by the recognized laboratory and on considering such representation, the Director may either reject it or recommend to the Central Government the issue of certificate of approval.

10. Re-submission of disapproved model for approval. – (1) Where any model is not approved, the disapproved model may be re-submitted for approval after carrying out therein such modifications as may be necessary.

(2) Where any disapproved model is resubmitted for approval, it shall be deemed, for the purpose of levy of fees and tests under these rules, to be a fresh application for the approval of that model.

11. Contents of a certificate of approval. - (1) The certificate of approval shall also contain the following information namely: -

- (a) the number of the certificate;
- (b) a brief description of the model;
- (c) the mark assigned to the approved model;
- (d) the category of weight or measure;
- (e) a brief statement of the results of the tests;
- (f) the special conditions, if any, to be complied with for the manufacture, verification and use of weights or measures conforming to the model; and
- (g) the place or places where the verification seal or stamp or both may be affixed.

(2) The certificate of approval shall become effective on and from the date of its publication in the Official Gazette.

(3) Where any weight or measure is intended for a special use, the certificate of approval in relation to such weight or measure shall indicate the special use.

(4) The Director shall cause the necessary model certificate to be published in the official Gazette.

(5) the Director may also cause the information referred to in the foregoing sub-rules to be published in the journal, if any, published by the Central government.

12. Mark of approval. - (1) The mark assigned to the model shall contain the national identification letters, namely, IND, the last two digits of the year of the issue (for example, 77), the code number assigned to the laboratory and the code number assigned to the model.

(2) The mark assigned to the approved model shall be clearly and legibly affixed at such place of the model as may be specified in the certificate of approval and also on each weight or measure produced by the maker or manufacturer in accordance with the approved model:

Provided that if the approved model of the weight or measure conforming to such model is such that the mark assigned to the approved model cannot be affixed on it (for example, where it is fragile or too small), that mark may be associated with the conditions specified in the certificate of approval:

Provided further that, where the approval is of a limited character, the mark of approval shall be accompanied by a special mark indicating the limitations of the approval and different special marks may be made for different limitations.

13. Revocation of certificate of approval. - (1) A certificate of approval may be revoked if the Central Government is satisfied that; -

(a) the model which had been previously approved no longer complies with the units specified in the rules made under the Act, or

(b) the model has ceased to conform to the standards for the time being in force in relation to such model, or

(c) defects in regards to reliability, accuracy or performance have generally been noticed in the course of use of the products (weights or measures) manufactured in accordance with such model, or

(d) where the manufacturer does not following either wholly or partly, the conditions specified in the certificate of approval:

Provided that no such certificate shall be revoked unless the holder of such certificate has been given a reasonable opportunity of showing cause against the proposed action.

(e) where the manufacture or any other person has significantly altered the approved design of the model or the circuit diagram.

(2) Where the certificate of approval of any model has been revoked, the production of any weight or measure in accordance with such model shall be stopped on and from such date as may be specified in such order of revocation and every weight or measure made or manufactured at any time between the date of revocation and the specified date shall notwithstanding such revocation be subject to verification In accordance with the provisions of the Act and the rules in force on the date of such revocation:

Provided that where, on such verification, it is found that the use of any such weight or measure is likely to cause errors, beyond those permitted for such weight or measures, in any weight or measurement carried out with it, the Director may by order, prohibit the use of such weight or measure.

14. Suspension of certificate of approval. - (1) A certificate of approval of a model may be suspended by the Director in the event of the omission or failure on the part of the holder of such certificate;

(i) to make or manufacture weights or measures in accordance with the model to which the certificate relates, or

(ii) to conform to the rules or standards in relation to any weight or measure manufactured in accordance with the model, or

(iii) to comply with the conditions specified in the certificate of approval:

Provided that no such suspensions shall be made except after giving to the holder of the certificate a reasonable opportunity of showing cause against the proposed action.

(2) Where any certificate of approval has been suspended under sub-rule (1), the order of suspension shall not be vacated unless the omission of failure for which such suspension was made has been made good.

(3) Where the certificate of approval has been suspended under sub-rule (1), an inventory of the existing stock shall be made by the Controller of Legal Metrology of the Concerned State who will also ensure that no further sale will be made unless the suspension of the certificate of approval is revoked by the Director.

15. Revocation and suspension of certificates to be published. - Every order of revocation or suspension of certificate of approval shall be published, as far as may be, in the manner specified in rule 11.

16: Deposit of Models or its drawings. - (1) The Director may call for any weight or measure the model of which has been approved or any of its component, or its dummy, where he is of the opinion that it is necessary so to do in the public interest.

(2) The approved models, parts, drawings or dummies, submitted in accordance with the sub-rules (1) shall be preserved for the purposes of record and reference and shall not be opened to inspection by the public.

17. Provisions relating to weight or measure for which model approval is ordinarily not necessary. - (1) For the purpose of approval of any model of any weights or measure, required under section 22, the officer acquiring such weight or measure shall intimate to the Director the need for the testing of the model of such weight or measure, and, on receipt of such intimation, the Director shall, if he is satisfied that the model of such weight or measure needs testing, call upon the manufacture to produce such model for a test by the recognized laboratory specified by him:

Provided that where there is no model of the weight or measure so acquired it shall be the duty of the manufacturer to furnish, from the manufacturing line, one sample of the class of weight or measure and to produce such sample for test by the recognized laboratory specified by the Director.

(2) The recognized laboratory shall, as soon as may be practicable after carrying out the tests referred to in sub-rule (1), make a report to the Director as to the results of such test.

(3) If, on perusal, of the results of such test, the Director is satisfied that the model or sample, as the case may be, does not conform to the standards established by or under the Act, he shall call upon the manufacture to remove the deficiencies within such time as may be specified by him; and if the deficiencies are not removed within the time so specified, the license of the manufacture, in so far as it relates to the manufacture of the weight or measure, the model or sample of which was tested, shall be liable to be cancelled.

18. Provisions relating to testing of substitute materials. - (1) A substitute material shall be sent by the manufacturer, within seven days from the date on which the first commences to manufacture with the substitute material, to the Director who shall cause it to be forwarded to a recognized appropriate laboratory for approval.

(2) Where the substitute material is sent to a recognized laboratory for test, such laboratory shall conduct the necessary test and determine whether the use of the substitute material will serve the purpose for which the model was approved and in case the recognized laboratory is of the opinion that the substitute material is not suitable then it may be treated as a new model.

(3) The recognized laboratory shall forward its findings to the Central Government through the Director.

19. Fees for testing of model of weight or measure to be deposited.- Whoever submit application for approval of model of weight or measure or weighing and measuring instruments to the Director of Legal Metrology and Director of Legal Metrology direct for testing of said model as per rule 5, applicant shall deposit fees for testing cost of the laboratory in the following manner:

(i) rupees five thousand in the form of demand draft drawn in favour of laboratories for the testing of mechanical type model of weights or measures or **weighing and measuring instruments** intended to be manufactured for sale, purchase, distribution or delivery in the course of any trade or commerce.

(ii) rupees ten thousand in the form of demand draft drawn in favour of laboratories for the testing of digital or electronic type model of weights or measures or **weighing and measuring instruments** intended to be manufactured for sale, purchase, distribution or delivery in the course of any trade or commerce.

(iii) A Fees, half of the testing fees as prescribed in sub-rules (i) and (ii) of rule (19) for testing of the substitute material shall be deposited by the manufacturer.

20. Licence to manufacture weight or measure when to be issued.- (1) Before issuing a licence to manufacturing or importing any weight or measure the State Government shall satisfy itself that a certificate of approval of the model of such weight or measure has been granted by the Central Government under section 22 of the Act.

(2) when any certificate of any approval of model has been revoked by the Central Government the licence issued by the State Government for manufacturing or importing any weight or measure in accordance with such model shall stand suspended:

Provided that such suspension shall stand vacated if such model is subsequently approved by the Central Government.

21. Repeal and savings.- (1) The Standards of Weights and Measures (Approval of Models) Rules, 1987 (herein under referred to as the said rules) are hereby repealed.

Provided that such repeal shall not affect:

(a) the previous operations of the said rules or anything done or omitted to be done or suffered therein; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said rules; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said rules; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

And any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said rules had not been rescinded.

(2) Notwithstanding such repeal anything done or any action taken or purported to have been done or taken including approval of letter, exemption granted, fees collected, any adjudication, enquiry or investigation commenced, license and registration of manufacturers, dealers, importers of weights and measures, or show cause notice, decision, determination, approval, authorisation issued, given or done under the said rules shall if in force at the commencement of the said rules continue to be in force and have effect as if issued, given or done under the corresponding provisions of these rules.

(3) The provisions of these rules shall apply to any application made to the Central Government or as the case may be the State Government under the said rules for licence, registration of manufacturers, importers and dealers of weights and measures pending at the commencement of these rules and to any proceedings consequent thereon and to any registration granted in pursuance thereof.

(4) Any legal proceeding pending in any court under the said rules at the commencement of these rules may be continued in that court as if these rules had not been framed.

(5) Any appeal preferred to the Central Government or as the case may be the State Government under the said rules and pending shall be deemed to have been made under the corresponding provisions of these rules.

[F No WM 9(6)/2010]
RAKESH KACKER Addl. Secy.
