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India: Legal Metrology (Packaged Commodities) Rules, 2011

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Introduction

The Legal Metrology (Packaged Commodities) Rules, 2011 ("**Packaging Rules**") regulate pre-packaged commodities in India and *inter - alia* mandate certain labelling requirements prior to sale of such commodities.

Update

On June 29, 2017, the Government through the Ministry of Consumer Affairs, Food and Public Distribution approved certain amendments to the Packaging Rules ("**Amendment**"). It is pertinent to note that the changes promulgated by the Amendment would be effective from January 01, 2018. The key provisions of the Amendments have been highlighted herein below:






Amendment

1. **Declarations** - All product packages, to which the Packaging Rules apply, are required to bear certain declarations on their principal display panel.

- a. Country - It is now mandatory to declare on the product package, the name of the country of origin or manufacture or assembly in case of imported products.
- b. Best Before - 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' is required to be mentioned on the product package.
- c. Retail sale price - The retail sale price to be mentioned on the package must necessarily be the maximum retail price inclusive of all taxes. The price in Indian rupees and paise should be rounded off to the nearest rupee or 50 paise.
- d. No dual MRP - The Amendment prohibits provision of dual maximum retail price (MRP) on the products. Accordingly, no manufacturer, packer or importer is permitted to declare different MRP's on identical pre-packaged commodities unless otherwise permitted.
- e. Additional Declarations - In addition to the mandatory declarations, the manufacturers, packers, or importers are now permitted to declare (i) Barcode or GTIN or QR Code; (ii) 'E-code' for net quantity assurance of the commodity; (iii) Logos of Government schemes, such as Swachh Bharat Mission, where such use is authorized by the Government.

2. Size of declarations on the label

The Amendment has altered the height of numerals or letters used in declarations on the label of the packaged commodities. An indicative table highlighting the changes is provided below:

Where 'A' is the area of principal display panel in cm ²	<u>POST AMENDMENT</u> Minimum height of numerals and letters in millimeters	<u>PRE AMENDMENT</u> Minimum height of numerals and letters in millimeters
$A < 50$	1.0 	1.0
$50 < A < 100$	1.5 	1.0
$100 < A < 500$	2.5 	2.0
$500 < A < 2500$	4.0 	4.0
$2500 < A$	6.0 	6.0

3. Declaration on e-commerce platforms

- a. An e-commerce entity is now required to ensure that the mandatory declarations prescribed in the Packaging Rules, other than the month and year of manufacture or packing, is displayed on the digital and electronic network used for e-commerce transactions.
- b. In case of marketplace model for e-commerce (such as Amazon or Flipkart), the responsibility of the correctness of declarations lie with the manufacturer, seller, dealer or importer provided the function of the e-commerce entity is limited to providing access to a

communication system over which information made available by the manufacturer/ seller/ dealer/ importer is transmitted or temporarily stored.

- c. The online marketplaces will however need to observe due diligence while discharging its duty as an intermediary under the (Indian) Information Technology Act, 2000.

4. Declaration of name and address of the manufacturer, etc.

- a. Capacity of 10 cubic cm or less - As per the Packaging Rules, every package offered for sale is required to declare the details of the manufacturer, packer and / or the importer: However, for packages of capacity 10 cubic cm or less, it is now sufficient compliance, if a mark or inscription which would enable the consumer to identify the manufacturer or packer or the importer, as the case may be, is made on such package.
- b. Complete Address - The term 'complete address' has now been clarified to mean
- the name of the street, number assigned to the premises of the manufacturer, packer, or importer.
 - the name of the city and State where the business is carried on by the manufacturer, packer, or importer; and
 - the Postal Index Number [PIN] Code to ensure that a consumer can identify and locate the manufacturer, packer, or importer, as the case may be.

5. Fine for contravention

- a. Residual Clause - The Amendment now provides that if no punishment has been prescribed for a particular contravention, the same may be punishable with fine of INR 5000.
- b. Compounding sums - In case an offence committed under the Legal Metrology Act, 2009 is compounded, the compounding amount would be levied as per the following table:

SR. NO.	OFFENCE	COMPOUNDING AMOUNT	
		If the application for compounding is by retailers or wholesale dealers	If the application for compounding is by manufacturers or importers
1.	Contravention of Section 29 of the Legal Metrology Act, 2009 i.e., Quoting or publishing of non-standard units.	INR 2,000	INR 10,000
2.	Contravention of Section 36(1) of the Legal Metrology Act, 2009 i.e., Sale of non-standard packages (Declarations)	INR 5,000	INR 25,000
3.	Contravention of Section 36(2) of the Legal Metrology Act, 2009 i.e.,	INR 10,000	INR 50,000

	Sale of non-standard packages (Error in net quantity)		
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As stated above, the Amendments would be effective from January 01, 2018. The Government has provided sufficient time to manufacturers, distributors and / or importers to exhaust their current inventory.

In view of the aforesaid, it is crucial that manufacturers, distributors and / or importers dealing with products meant for retail sale in India review their labels and make necessary alterations prior to January 1, 2018, to ensure that they are in compliance with the applicable laws. In our experience, even minor contraventions of the Packaging Rules could lead to the issuance of a show cause notice to the manufacturer, distributors and / or importers by the enforcement authorities, which in turn can lead to the initiation of prosecution against the defaulting company as well as its directors.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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