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Paras Gundecha

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Dharmesh Jain

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Nayan Shah
Deepak Goradia
Boman R. Irani

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Nainesh Shah

HON. TREASURER
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I.A.S. (Retd.)

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Ashok Mohanani
Sandeep Runwal
Bandish Ajmera

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Mukesh Patel

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Pujit Aggarwal
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MCHI-CREDAI UNITS

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Suraj Parmar

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Johar Zojwalla

President, Mira Virar City
Ashit Shah

President, Raigad
Vikas Bhamre

President, Navi Mumbai
Arvind Goel

Ref. No. MCHI/PRES/14-15/141

February 27, 2015

To,
Shri Sanjay Pandey (I.P.S.)
Controller & Inspector General of Police,
Legal Metrology Department,
Government of Maharashtra,
Mumbai 400 032

Sub : Draft Rules for Legal Metrology - MCHI-CREDAI's Suggestions.

Ref : 31st January 2015, Maharashtra Legal Metrology, Rules 2015


Respected Sir,

MCHI-CREDAI is an association of Developers in and around MMR Region. The basic motto of our Association is to provide Affordable Homes at affordable prices to all Buyers, to mediate with the Government/Department, for any delay or hassle in the process of providing this basic necessity to the buyer.

The present cause of concern is the applicability of Legal Metrology Act on the Real Estate Industry. The Act prima facie applies only to Sale of Goods, relating to perishable and non-perishable commodities and no where it co-relates to any transaction relating to immovable properties, nor the area mentioned in the immovable property be applied under the Sale of Goods, Weights and Measures Act, 1976.

However, MCHI-CREDAI without prejudice to the contentions made above, would like to submit the suggestions and modifications hereunder in track change mode along with comments in the draft Rules for your necessary consideration.

Yours Sincerely,
For MCHI-CREDAI


Vimal Shah
President




MCHI-CREDAI (ISO 9001:2008)

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Legal Metrology Organisation

Date: 31st January 2015

Maharashtra Legal Metrology (Measurements and Control for Immovable Properties) Rules 2015

To protect citizen from unfair trade practice and provide a right delivery of area to consumers in terms of measurement and sale of usable/leased area and to implement legal metrology law of the country, government feel it necessary to make rules to inspect and control methods of measurements and all matters incidental thereto

In exercise of powers conferred by section 52 (1) of Legal Metrology Act 2009, Government of Maharashtra makes following rules namely,

1-These rules may be called Maharashtra Legal Metrology (measurements for immovable properties and land) Rules 2015

These rules shall extend to whole state of Maharashtra

They shall come into force from.....

2-In these rules, if the context otherwise requires-

(a) "Act" means legal metrology act 2009

(b) "Legal metrology" shall have the meaning as defined in the act.

(c)(i) "Methods of measurements" means the methods of measurements in relation to mandatory technical and legal requirements which have object of ensuring public guarantee from the point of view of security and accuracy of measurement of space or area and which the controller may direct or specify.

~~(c)(ii) "methods of weighment for protection" when the ingredients need to be weighed in specific quantities and mixed to form building materials with the help of weighing equipments such instruments shall be verified and stamped as provided in Maharashtra Legal Metrology (Enforcement) Rules, 2011.~~

(d) "Authorized officer" means controller, additional controller and Legal metrology officer appointed as such under section 14 of the act.

Comment [VS1]: At site, at every corner of the building under construction, there is some mixture which is going on. This cannot be implemented as suggested.

Address: Office of the Controller of Legal Metrology,
Government Barak No.7,
Nariman Point, Mumbai - 400021.
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Email: dyclm-mh@gov.in, dclmms@yahoo.in



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(e) "Value of property" means the valuation of property under registration act 1908 based on ~~carpet area and other areas agreed legally liable~~ to be sold/leased.

(f) Carpet Area means area that shall be measured by its length and breadth from unplastered wall to unplastered wall. All structural projections like columns that form niches and offsets in measurable area shall be included in the measurable area. The area of toilets and bathroom and other places wherever applicable which have tiled cladding shall have its length and breadth measured from tile surface to tile irrespective of dado height. ~~The carpet area may vary by 7% due to varying thickness of plaster and tile cladding and dado. Such variation shall be permitted.~~

3. No units and symbols of measurements other than prescribed in legal metrology (national standards) rules 2011 shall be used by any person concerned with property development or ancillary or supporting sector or any other person.

4. No weighing or Measuring instruments except those specified by legal metrology (general) rules 2011 shall be used for measurements. Such instruments shall be periodically verified as required under the act.

5. In sale/Conveyance deed /Lease Deed or any other documents relating to transfer of property, the carpet area of property transferred shall be invariably mentioned along with a detailed plan with dimensions. ~~and any other details required by any other law for the time being in force. The areas which are considered for calculation of valuation of property has to be certified by the Certified Valuer under registration act 1908 and shall be mentioned in detail in the document /conveyance deed/Lease Deed.~~

6. In every transaction of transfer of property, actual area of property sold delivered or transferred must correspond to the area sold, transferred or delivered to purchaser as mentioned in legal documents executed in that behalf. If purchaser demands physical measurements of area or dimensions of property concerned, the seller or his representative shall be bound to fulfill such demand. ~~The areas whose sale is prohibited by any law for the time being in force shall be excluded from sold areas though such areas are shown as sold in documents executed for that purpose.~~

7. ~~Provisions of section 5(m) of MOFA and MHRA or any provision of any other corresponding law for the time being in force shall be observed when advertisement is made. All Advertisements shall mention standard units of measurements. Non standard units of measurements can be mentioned only as equivalent, if it is trade~~

Comment [VS2]: What is required to be measured and verified is the area agreed to be sold in whatever manner it is agreed. The rules under this act cannot prescribe how customer and promoter has agreed on the basis of measurement. This is beyond the purview of the Act and hence cannot be part of the rule. Act has prescribed that the measurement shall be in denoted in metric system and the measurement should be accurate as sold.

Comment [VS3]: That will be taken care of by respective law and should not be part of this rules.

Comment [VS4]: Certificate by valuers should not be insisted. Drawings are approved by local self government and hence this is just not required by any law including this Act.

Comment [VS5]: This rules cannot be implementing other acts, for which there is legal mandate.

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~~practice to use non standard units as measurements shall not be used in any advertisement for sale/ purchase of property.~~

8. Controller or authorized officer not below the rank of inspector, with such assistance as he may think necessary, may exercise the powers under section 15 of the act and may investigate the offence for collection of evidence.

9. Authorized officer may exercise all powers exercisable by police officer under section 91 and section 161 of CRPC while investigating offence under this act and rules made there under.

~~10. Every person concerned with property development sector, in any form, should follow provisions of the act, applicable to him. e.g. the persons related to brick or sand or steel and other ancillaries~~

Comment [VS6]: This are covered by general Rules and cannot be part of rules for measuring immovable property

11. Every aggrieved person concerned with transaction of property and land if suspects or finds to be victim of any unfair trade practice in terms of area or dimension of property may make application in a format in table I to authorized officer to measure the parameters and take legal action against the defaulter if unfair trade practice is detected after measurement.

12. No such measurement shall be undertaken by such authorized officer if no measurement fee is paid by the applicant in advance as prescribed under table II.

13. Controller shall prepare or cause to be prepared a panel of experts for measurement of area and authorized officers can avail services of such experts as and when required. The experts shall be paid such honorarium as controller may grant by order.

14. If offence is detected the authorized officer shall ~~levy penalty or institute~~ prosecutions against accused for violation of act.

Comment [VS7]: How can all offence be treated as criminal offence?

15. Every officer of government and local bodies shall be bound to assist the authorized officer for exercising the powers and discharging the duties as long as such assistance relates to their official duties.

16. Controller shall be final adjudication authority in case of conflicts.

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17. After measurement the Legal Metrology Officer shall prepare a report of measurement in pro-forma approved by Controller.

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TABLE I

APPLICATION FORM FOR MEASUREMENT OF AREA

Name of applicant-

Address-

Location of property to be measured-

Floor at which property is situated

Nature of complaint

Area to be measured

Authorized documents/ approved plans/ maps copy

Name and address of builder developer against whom u have grievance

I will supply every required information/ document to authorized officer for the purpose of investigation. I also understand that I will be liable for the provisions of vexatious information under the Legal Metrology Act, in case it is found that this request is made with malicious intent.

TABLE II

FEES FOR MEASUREMENT OF AREA

Rs. 25 per square meter

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