



# OIML R87

## Advice and Enforcement

- **Advice**; communications at any stage between LMO and manufacturer / packer
- **Enforcement**; after a non-compliance has been discovered

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## Advice

A Legal Metrology Officer may be asked to give advice on compliance with R79, R87 or local / national weights & measures requirements:

- At the point of first contact,
- During an inspection, or
- After an inspection



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## Advice

- If offering advice to a manufacturer or packer it should be done in an **advisory** capacity only
- It is ultimately up to the manufacturer or packer to ensure their goods **comply**



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## Advice

- In the first instance advice should be based on the **regulatory requirements** of your own economy
- Beyond local regulatory requirements, advice should be based on **international best practice**



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## Advice

A packers responsibilities are:

1. To take **reasonable** precautions
  - To have in place procedures to **minimise** the risk of labelling and/or short quantity offences



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## Advice

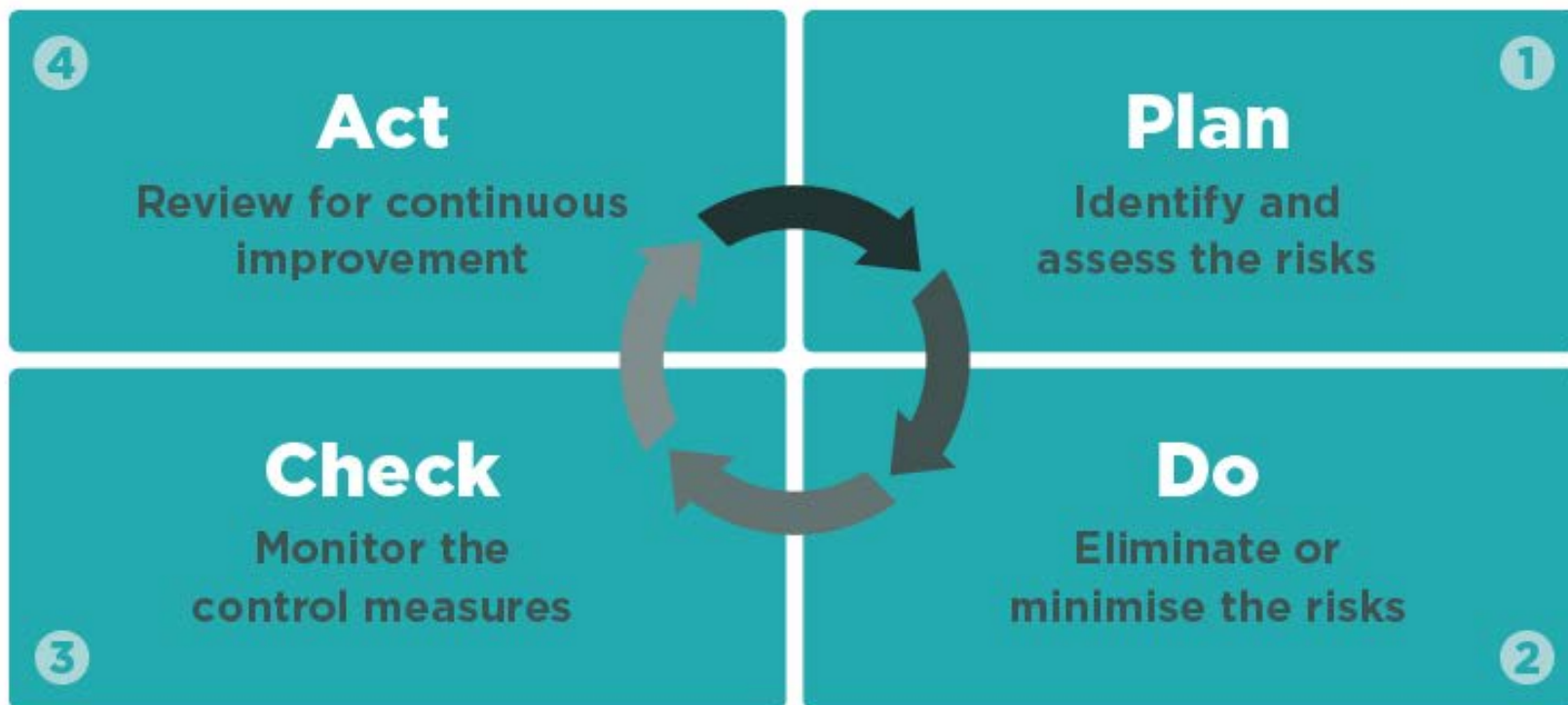
A packers responsibilities are:

2. Exercise **due diligence**

- To ensure the system works
- Continuous improvement
- PDCA; Plan – Do – Check – Act

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## Advice



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## Advice

“Reasonable care and due diligence do not mean superhuman efforts. They mean a high standard of awareness and decisive, prompt, and continuing action. To demand more, would, in my view, move a strict liability offence dangerously close to one of absolute liability.”

*Justice Fitzpatrick (1992)*  
R. v. Courtaulds Fibres Canada



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## Advice

Examples of good advice for manufacturers & packers;

- Pack so that all packages contain **no less** than the nominal quantity
  - For example, an end of line checkweigher is set to reject all underweight packages

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## Advice

- Have a **sampling plan**, e.g. manually check prepackages on an suitable basis that provides a sufficient level of confidence
  - A packer may want to seek independent statistical advice on a appropriate sampling plan

## Advice

Manual checks on prepackages may include:

- Gravimetric testing
  - non destructive and / or destructive
- Volumetric testing
  - non destructive and / or destructive
- Visual checks
  - fill height

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## Advice



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## Advice

- Regularly check weighing equipment:
  - Check the zero & tare functions to ensure they are still accurate
  - Check the equipment is level
  - Encourage the manufacturer to purchase and use calibrated test masses to test for accuracy at nominal quantity

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## Advice

- Regularly check weighing equipment:
  - Use dummy packages to test rejection limits of automatic equipment
  - Assess the affect of environmental conditions on equipment



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## Advice

- Keep records of quantity checks
  - Have regular quantity checks carried out by dedicated personnel and document the results
- Staff training
  - Make staff aware of their responsibilities and the potential implications



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## Advice

- Storage Conditions
  - Ensure storage conditions at the warehouse and retail sites are suitable
  - Manufacturer should advise **retailer** on storage requirements
- Customer Feedback
  - Proactive; send out **feedback forms** to customers
  - Reactive; follow up on all **consumer complaints**





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## **Enforcement – Non complying prepackages**

Non-compliance may be in relation to;

- National legislation
- Labelling of goods (R 79), and / or
- Failed reference test (R 87)
  - Short weight, measure or number (R87)



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### Enforcement – Non complying prepackages

**Precedence should be given to your  
economies legislation regarding offences for  
non-complying prepackage goods**

## Enforcement – Non complying labelling

- Where packages have been labelled incorrectly;
  - Identify and isolate the affected batch
  - Repackage or relabel the affected prepackages

## Enforcement – Non complying labelling

Relabelling prepackages:





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## Enforcement – Failed reference test

The LMO should:

- Use your powers
- Seize / detain prepackages
- Take copies of documents
- Interview packer



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### **Enforcement – Failed reference test**

The manufacturer / packer should:

- Identify the affected goods
- Take action to quarantine the goods
- Investigate to determine the cause of the errors
- Rectify the problem
- Ensure prepackaged goods meet the requirements of AQS

## Enforcement – Failed reference test

- Identify the root cause(s) and determine the solution(s):
  - Incorrect process / procedure
  - Unsuitable equipment
  - Operator behaviour



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## Enforcement – Failed reference test

- Unsuitable Equipment
  - Accurate?
  - Being used correctly?
  - Division size appropriate?
  - Environmental disturbances?



## Enforcement – Failed reference test

Unsuitable Equipment:





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## Enforcement

Suitable equipment:

Gross Weight (g) of Pre-package	Scale interval (d) in g
< 25	0.01
≥ 25 to < 1000	0.1
≥ 1000 to < 5000	1.0
≥ 5000	2.0



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## Enforcement – Failed reference test

- Operator Behaviour:
  - Insufficient training or understanding
    - Equipment
    - Procedure(s)
    - Legislative requirements



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## Enforcement

What to do about short quantity prepackages:

- Operator Behaviour:
  - Inadequate or insufficient **knowledge**
  - Oversight
  - Lack of regulatory presence



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## Enforcement

What to do about short quantity prepackages:

- Sorting quarantined packages
  - **Identifying** and **isolating** an affected batch
  - Removing **excessively deficient** packages
  - **Re-checking** a sample

## Enforcement

What to do about short quantity prepackages:

- **Re-labelling** the prepackages with the correct nominal quantity
  - This may be most appropriate for **importers**
  - Prepackages already distributed into the marketplace
  - When repacking is not an option



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## Enforcement

What to do about short quantity prepackages:

- Repacking or topping up
  - Deficient prepackages can be **repackaged** or **topped up**
  - A sample of the altered batch should be checked to ensure it meets all the **requirements**



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## Enforcement

If the investigation into the short quantity packages goods has identified that short quantity prepackages are already in the marketplace then the manufacturer or packer is required to contact their customers and advise them to check their stock





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## Advice and enforcement

It is often useful to develop your own factsheets, websites and resources for manufacturers and packers to provide them with consistent guidance on how to comply with the relevant legislation



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**MAY THE  
ENFORCEMENT  
BE WITH YOU**

Prepackaged Goods  
Nanning, China  
10-13 April 2018



# *OIML/APLMF Training Course on Prepackaged Goods*

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**Prepackaged Goods  
Nanning, China  
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