

ACTS SUPPLEMENT

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Act 11

*Uganda National Bureau of Standards
(Amendment) Act*

2013

THE UGANDA NATIONAL BUREAU OF STANDARDS
(AMENDMENT) ACT, 2013

ARRANGEMENT OF SECTIONS

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THE UGANDA NATIONAL BUREAU OF STANDARDS (AMENDMENT) ACT, 2013

An Act to amend the Uganda National Bureau of Standards Act to reduce the number of members of the Council; to provide for the term of service for members; to provide for deterrent penalties for offences under the Act; to empower the Bureau to administer the Weights and Measures Act; to provide immunity to officers of the Bureau for acts done in good faith; to empower the director to suspend or seize premises for non compliance with national standards or to destroy perishable goods not in compliance with national standards and detrimental to health and safety of consumers; to empower the Minister to ban commodities, products and process detrimental to the health and safety of consumers and regulations and for related matters.

DATE OF ASSENT: 2nd October, 2013.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall come into force on a date fixed by the Minister by statutory instrument.

2. Amendment of section 1 of Cap. 327.

The Uganda National Bureau of Standards Act, in this Act referred to as “the principal Act”, is amended, in section 1, as follows—

- (a) by inserting immediately after the definition of “code of practice” the following—

“(da) “Committee” means the East African Standards Committee established under section 4 of the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006;”;

- (b) by inserting immediately after the definition of “council” the following—

“(ha) “Council of Ministers” means the Council of Ministers of the East African Community established by Article 9 of the Treaty establishing the Community;

(hb) “currency point” has the value assigned to it in the Schedule to this Act;”;

- (c) by inserting immediately after the definition of “distinctive mark” the following—

“(ja) “East African Standard” means a standard approved by the East African Standards Committee and declared as such by the Council;.”

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended—

- (a) in subsection (1) (j) by substituting for “devices” the word “national measurement standards”;

- (b) by substituting for subsection (1) (o) the following—

“(o) seek membership of relevant international and regional organisations with objectives similar to those of the bureau;”;

- (c) by inserting immediately after subsection (1) (p) the following—

“(q) develop and publish national standards in accordance with internationally recognised procedure;

(r) give effect to the decisions and recommendations of the Council of Ministers and the Committee with regard to metrology;

(s) give effect to the decisions and recommendations of the Council and the Committee with regard to an East African Standard;

(t) give effect to the decisions and recommendations of the Council and the Committee with regard to legal metrology;

(u) to administer the Weights and Measurers Act;

(v) to coordinate, declare and keep custody of all national standards; and

(w) to do such things necessary or incidental or conducive to the objects of the bureau as may be prescribed by an Act of Parliament.”

- (d) by inserting immediately after subsection(1) the following—

“(1A) For the purposes of carrying out the functions of the bureau under subsection (1)(u), the Council of the bureau may give directives to any officer or person operating under the Weights and Measures Act, and that officer or person is obliged to give effect to any such directive.”

4. Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended—

(a) in subsection (2) (b) by deleting paragraph (b);

(b) in subsection (2) (c) by substituting for “six ex-officio members” the words “two ex officio members”;

(c) in subsection (2)(d) by substituting for “seven persons” the words “six persons”.

(d) by replacing subsection (3) with the following—

“(3) The director shall be the secretary to the council”.

(e) by inserting immediately after subsection (3) the following—

“(4) A member of the council shall hold office in accordance with the terms and conditions specified in the instrument of appointment.

“(5) A member of the council shall hold office for a term of three years and be eligible for reappointment for one more term only.”

5. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended—

(a) by deleting subsection (1);

(b) by substituting subsection (2) with the following “a member of the council may resign from office in writing to the Minister”;

(c) by substituting subsection (3) with the following “A member of the council shall vacate office, where a member—

(a) has without the permission of the chairperson and without reasonable excuse—

(i) absented himself or herself from three consecutive meetings of the council; or

(ii) been out of Uganda for a consecutive period of twelve months;

(b) is convicted of a criminal offence in respect of which a penalty of imprisonment of six months or more is imposed without an option of a fine;

(c) is incapacitated by mental or physical illness proven by the medical board that renders the person incapable of performing the functions of a member of the council;

(d) is otherwise unable or unfit to perform the functions of his or her office;

(d) by inserting immediately after subsection (3) the following—

“(4) The Minister shall determine that a member vacates office under subsection (3).

(5) Where any member of the council dies, resigns, or is removed from office under this section, the Minister shall within three months and in accordance with this section appoint another person to replace the member.

(6) A person appointed under subsection (5) shall hold office for the remainder of the term of the member he or she has replaced”.

6. Amendment of section 9 of the principal Act.

Section 9 of the principal Act is amended in subsection (3) by substituting for “seven members” the words “five members”.

7. Replacement of section 11 of the principal Act.

(1) For section 11 of the principal Act there is substituted the following—

“11. Director.

(1) The Minister shall appoint a director to be the chief executive officer of the bureau on the recommendation of the Board.

(2) The director shall be a person of high moral character and proven integrity, with the relevant qualifications and experience relating to the functions of the bureau.

(3) The director shall hold office for four years and is eligible for re-appointment for one more term only.

(4) The director shall cease to hold office if—

(a) he or she resigns;

(b) he or she has been adjudged or declared bankrupt under any law in force in Uganda and has not been discharged;

(c) he or she is convicted of a criminal offence, in Uganda or elsewhere, in respect of which the maximum penalty exceeds six months imprisonment without the option of a fine.

(5) The director may be removed from office by the Minister on the recommendation of the Council for—

(a) inability to perform the functions of his or her office arising from infirmity of body or mind;

- (b) misbehaviour or misconduct; or
- (c) incompetence.

(6) Subject to this section the director shall hold office on such terms and conditions as the Minister may determine and specify in his or her instrument of appointment”.

(2) The amendment made by this section shall take effect after the expiry of the term of the director holding office at the commencement of this Act.

8. Insertion of new section 14A.

The principal Act is amended by inserting immediately after section 14 the following—

“14A Immunity of officials.

A suit, prosecution or other legal proceeding shall not be brought against the director, a member of the council, a member of staff or an inspector and any other official in their capacity for anything done in good faith under this Act.”

9. Insertion of section 15A of principal Act.

The principal Act is amended by inserting immediately after section 15 the following—

“15A Adoption of East African standards.

(1) Within six months after the declaration of an East African Standard, the bureau shall adopt without deviation the East African Standard as the national standard of Uganda and withdraw the relevant national standard.

(2) The bureau shall publish the text of the adopted East African Standard as a national standard in accordance with ISO and IEC Directives.

(3) In this section—

“IEC” means the International Electro-technical Commission;

“ISO” means the International Organisation for Standardisation.”

10. Amendment of section 18 of the principal Act.

Section 18 of the principal Act is amended by substituting for subsection (2) the following—

“(2) The council shall not recommend any standard for being declared a compulsory standard, unless it is satisfied that—

- (a) it is not practicable to achieve the purposes of the standard specification except by means of making it compulsory;
- (b) the problem to be solved is precisely stated;
- (c) the intervention is based on clear evidence that government action is justified; and
- (d) appropriate notification under the WTO TBT Agreement has been forwarded to the WTO Secretariat.

(3) In this section—

““WTO TBT Agreement” means the Agreement on Technical Barriers to Trade of the World Trade Organisation.”

11. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended by substituting for subsection (1) the following—

“(1) The council shall, at least two months before making recommendations for the purposes of section 18, publish in the *Gazette* and in a newspaper of wide circulation a preliminary notice containing full particulars of the relevant standard specification and shall call upon all persons interested or likely to be affected by the recommendations to lodge objections in writing within such time as the council may prescribe.”

12. Amendment of section 21 of the principal Act.

Section 21 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(4) Where no compulsory standard specification has been declared by the Minister, a person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity which is not fit for purpose.

(5) In this section “fit for purpose” means that—

- (a) the goods must be fit for the purpose that the consumer made known to the supplier at the time of purchase or requirement that is technologically and generally acceptable to the population or society for that kind of product;
- (b) consumers are able to rely on the advice from sales staff;
- (c) goods supplied are as described or match the sample given to the consumer.”

13. Insertion of new section 21A.

The principal Act is amended by inserting immediately after section 21 the following—

“Copyright and publication of East African Standards.

21A Subject to the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, but not withstanding any other law—

- (a) the copyright in any East African Standard or other normative documents shall vest in the bureau; and
- (b) the bureau shall not be deprived of a copyright in paragraph (a) where a standard or a provision of the standard is incorporated in a law.”

14. Insertion of new section 24A, 24B and 24C.

The principal Act is amended by inserting immediately after section 24 the following—

“24A. Power of director to suspend production or seize premises pending determination by court.

The director may on the recommendation of an inspector, suspend production of a commodity or seize premises where national standards have been compromised, to ensure compliance pending determination by the court that the commodities or process pose a health risk and safety concerns for the consumers.

24B Destruction of offending and perishable goods.

(1) The director may on the recommendation of an inspector, and after giving notice to the offender, destroy any goods which are perishable where national standards have been compromised to the detriment of the health and safety of consumers.

(2) Where any goods have been seized under this Act, the goods may be destroyed or otherwise disposed of by court order at the cost of the importer of the goods or the person found trading in the goods and from whom goods were seized.

(3) Where goods seized under this Act are perishable, they may be destroyed without a court order at the cost of the importer of the goods or the person found trading in the goods or commodities.

(4) In this section “perishable” means liable to spoil or decay having regard to the standards prescribed in relation to the goods under this Act.

24C Power of the Minister to ban commodities, products and processes.

The Minister may on the recommendation of the Council ban the sale and distribution of any commodity or product or process where the commodity or product or process is found to be detrimental to the health and safety of consumers.”

15. Amendment of section 25 of the principal Act.

Section 25 of the principal Act is amended—

- (a) in subsection (1), by inserting after paragraph (d) the following—

“(e) a decision of the director to suspend production of a commodity or close premises under section 24A;

(f) a decision of the director to destroy any goods under section 24B.”

- (b) by substituting for subsection (3) the following—

“(3) The Minister shall within thirty days, make a decision affirming, varying or setting aside the action appealed against.”

16. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended in subsection (2), by substituting for “21(1) or (2)” the words “21 (1), (2) or (4)”.

17. Amendment of section 27 of the principal Act.

Section 27 of the principal Act is amended as follows—

- (a) by substituting for subsections (1) and (2) the following—

“(1) A person who commits an offence under section 26 (1) is liable—

- (a) in the case of a first offence to a fine not less than five hundred currency points and not exceeding two thousand five hundred currency points or imprisonment not less than two years and not exceeding five years or both;

- (b) in the case of a second or subsequent offence to a fine of not less than two thousand five hundred currency points and not more than ten thousand currency points or imprisonment not less than three years and not exceeding six years or both.

(2) A person who commits an offence under section 26(2) is liable—

- (a) in the case of a first offence to a fine not less than one thousand currency points and not exceeding five thousand currency points or imprisonment not less than three years and not exceeding six years or both;

- (b) in the case of a second or subsequent offence to a fine not less than two thousand currency points and not exceeding ten thousand currency points or imprisonment not less than six years and not exceeding ten years or both.

- (b) by inserting immediately after subsection (4) the following—

“(5) In addition to any penalty imposed upon conviction of the offender under this section, the court may order the offender to pay compensation to the victim of the offence of such amount as the court may decide.

(6) In assessing the compensation under this section, the court may take into account any financial, physical or psychological damage caused to the victim of the offence as a result of the offence.”

18. Insertion of new section 42A.

The principal Act is amended by inserting immediately after section 42 the following—

“42A Power of Minister to amend Schedule.

The Minister may, with the approval of Cabinet, by statutory instrument amend the Schedule to this Act.”

19. Amendment of section 43 of the principal Act.

Section 43 of the principal Act is amended in subsection (2), by inserting immediately after paragraph (c) the following—

“(d) penalties in respect of the contravention of any regulation a fine not exceeding five hundred currency points or imprisonment not exceeding five years or both in the case of a first offence and in the case of a second or subsequent offence, a fine not exceeding five hundred currency points or imprisonment not exceeding three years or both;

(e) a requirement for the court to order the destruction of any thing used in the commission of an offence or the forfeiture of any such thing to the State.”

20. Insertion of Schedule to principal Act.

The principal Act is amended by inserting at the end of the Act the following Schedule—

“SCHEDULE*Section 1, 42A***Currency Point**

A currency point is equivalent to twenty thousand shillings.”

Cross reference

1. East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006.
2. Weights and Measures Act, Cap.103.

CHAPTER 327

THE UGANDA NATIONAL BUREAU OF STANDARDS ACT.

Arrangement of Sections.

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CHAPTER 327

THE UGANDA NATIONAL BUREAU OF STANDARDS ACT.

Commencement: 14 October, 1983.

An Act to provide for the establishment of a national bureau of standards, the standardisation of commodities and for matters incidental and ancillary thereto.

Interpretation.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “bureau” means the Uganda National Bureau of Standards established under section 2;
- (b) “certification mark” means a standards mark and a distinctive mark;
- (c) “chairperson” means the chairperson of the council;
- (d) “code of practice” means the code of practice declared as such under section 15;
- (e) “commodity” means any article, product or thing which is or will ultimately be the subject of trade or use;
- (f) “company standard” means a standard specification prepared for use by a company or factory in the production process;
- (g) “compulsory standard specification” means the standard specification declared as such under section 18;
- (h) “council” means the National Standards Council established under section 4;
- (i) “director” means the director of the bureau appointed under section 11;
- (j) “distinctive mark” means a mark declared as such under section 18;
- (k) “internal code of practice” means a code of practice prepared for local use by a local administration, a Government department, a statutory corporation or any other person or association below the national level;
- (l) “internal standard” means a standard specification prepared for local use by a local administration, a Government department, a statutory corporation or any other person or association below the

- national level;
- (m) “mark” includes any device, brand, heading, label, ticket, name, signature, work, letter or any combination of them;
 - (n) “Minister” mean the Minister responsible for commerce;
 - (o) “national standard” means a standard produced or adopted by the Uganda National Bureau of Standards for use in Uganda;
 - (p) “permit” means a permit issued under this Act;
 - (q) “specification” means a description of any commodity, process or practice by reference to its nature, quality, strength, purity, colour, design, composition, quantity, origin, age or other characteristics, or by reference to any mark or label on the commodity, and includes a model form of byelaws, a glossary of terms, definitions, symbols, test methods and a recommended practice;
 - (r) “standard specification” means a specification declared as such under section 15.

Establishment and functions of the bureau.

2. Establishment of the bureau.

- (1) There is established a bureau to be known as the Uganda National Bureau of Standards.
- (2) The bureau shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name.
- (3) The bureau may, for the purposes of this Act, purchase, hold, manage and dispose of movable or immovable property and may enter into such contracts or transactions as may be necessary or expedient.
- (4) The application of the seal of the bureau shall be authenticated by the signatures of the chairperson, the director and a member of the council.
- (5) In the absence of the chairperson, two other members to be designated in that behalf by the council, and in the absence of the director, the person for the time being performing the functions of the director, shall authenticate the seal by their signatures.
- (6) Every document purporting to be an instrument issued by the bureau and sealed with the seal of the bureau authenticated in the manner

provided by this section shall be received as, and be deemed to be, such an instrument, unless the contrary is shown.

3. Functions of the bureau.

- (1) The functions of the bureau shall be to—
 - (a) formulate national standard specifications for commodities and codes of practice as may from time to time be required;
 - (b) promote standardisation in commerce, industry, health, safety and social welfare;
 - (c) determine, review, modify or amend standard specifications and codes of practice as may from time to time be required;
 - (d) endorse or adopt any international or other country's specification with or without any modification as suitable for use in Uganda;
 - (e) require certain products to comply with certain standards in manufacture, composition, treatment or performance and to prohibit substandard goods where necessary;
 - (f) enforce standards in the protection of the public against harmful ingredients, dangerous components, shoddy material and poor performance;
 - (g) promote trade among African countries and the world at large through the harmonisation of standard specifications demanded in various countries;
 - (h) provide for the testing of locally manufactured or imported commodities with a view to determining whether the commodities conform to the standard specification declared under this Act;
 - (i) make arrangements or provide facilities for the examination, testing or analysis of commodities and any material or substance from which or with which and the manner in which they may be manufactured, produced, processed or treated;
 - (j) make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, for determining their degree of accuracy by comparing them with the devices approved by the Minister on the recommendation of the council and for the issue of certificates thereto;
 - (k) assist the Government, a local administration, a statutory corporation, a company or any other person in the preparation or framing of any internal or company standard specification or in

the preparation or framing of any internal or company code of practice;

- (l) provide for cooperation with the Government, representatives of any industry, commercial organisation, local administration, statutory corporation or any other person with a view to securing the adoption and practical application of standards;
- (m) encourage or undertake educational work in connection with standardisation;
- (n) procure the recognition of the bureau by any other country;
- (o) seek membership of any international organisation connected with standardisation;
- (p) develop and maintain a collection of materials relating to standardisation and related matters.

(2) In the performance of its functions under this Act, the bureau shall, so far as practicable, consult and cooperate with any body, organisation or association in Uganda or outside Uganda, having functions similar to those prescribed by this Act or relating to industrial or commercial standards generally with a view to furthering the functions of the bureau.

The council.

4. National Standards Council.

(1) The governing body of the bureau shall be a council to be known as the National Standards Council.

- (2) The council shall consist of—
 - (a) a chairperson appointed by the Minister;
 - (b) the director;
 - (c) six ex officio members, appointed by the Minister from among public officers;
 - (d) seven persons to be appointed by the Minister on the recommendation of the director; and when appointing persons under this paragraph the Minister shall have regard to the desirability of appointing persons with experience in commerce, industry or with technical experience or qualification.
- (3) The director shall act as the secretary to the council.
- (4) The council may invite any person, whose assistance or advice it

may require, to attend its meetings; any such person shall not have a right to vote.

(5) The council may appoint committees comprising wholly of its own members or partly its own members and partly others, to assist it in the performance of its functions under this Act.

5. Resignation and removal of appointed members.

(1) A member of the council shall hold or vacate office in accordance with the instrument of appointment.

(2) A member of the council may resign his or her office by giving one month's notice in writing under his or her hand addressed to the chairperson.

(3) If the chairperson is satisfied that a member of the council—

(a) has, without the permission of the chairperson—

(i) absented himself or herself from three consecutive meetings of the council; or

(ii) been out of Uganda for a consecutive period of twelve months;

(b) is unable to perform the functions of his or her office by reason of infirmity of body or mind; or

(c) is otherwise unable or unfit to perform the functions of his or her office,

he or she may recommend to the Minister to remove that member.

6. Temporary appointment of a member.

If, in the opinion of the chairperson, the absence of any member is of a temporary nature, he or she may advise the Minister to appoint a temporary replacement.

7. Remuneration of members.

(1) There shall be paid to the members of the council, other than the ex officio members, such remuneration as the Minister may from time to time determine.

(2) There shall be paid, from the funds of the bureau, such travelling,

sitting and other relevant expenses to the members of the council and committees as the Minister may determine.

8. Functions of the council.

- (1) The council shall—
 - (a) declare standard specifications, certification marks and codes of practice and do all things incidental thereto or connected therewith in accordance with this Act;
 - (b) be responsible for the general administration of the bureau;
 - (c) be responsible for formulating and carrying out the policies of the bureau;
 - (d) advise the Minister on any matter under the provisions of this Act; and
 - (e) do all things necessary for carrying into effect the provisions and purposes of this Act.
- (2) The council may—
 - (a) carry out or cause to be carried out any study, examination or test in respect of any particular commodity or class of commodity; and
 - (b) carry out or cause to be carried out any comparative study, examination or test in respect of commodities of different makes or brands or of different specifications whether produced in Uganda or elsewhere.

9. Meetings.

- (1) The council shall meet at least twice a year.
- (2) The chairperson may, at any time, call a meeting of the council and shall call a meeting of the council within fourteen days of the receipt by him or her of a written request signed by not less than seven members of the council.
- (3) Seven members shall form the quorum.
- (4) The chairperson shall preside at all meetings of the council; in the absence of the chairperson, such member as may be elected by the members present and voting shall preside.

(5) When votes are equally divided, the chairperson shall have a casting vote.

(6) Questions proposed or arising at a meeting of the council shall be decided by a majority of votes of the members present and voting.

(7) The chairperson may invite any person to attend and to speak on any matter at any meeting of the council; the person so invited shall have no right to vote.

(8) Subject to this Act, the council may, with the approval of the Minister, regulate its own procedure.

10. Proceedings not to be invalidated by vacancy.

(1) The council may act notwithstanding any vacancy in its membership.

(2) Any defect in the appointment of a member, or any vacancy in the membership of the council, shall not invalidate any proceedings of the council.

Staff.

11. Director.

(1) The Minister shall appoint a director to be the chief executive officer of the bureau.

(2) The director shall hold office for such period and subject to such terms and conditions as the Minister may determine.

12. Other staff.

(1) The council may appoint such other officers or employees of the bureau as it may consider necessary for the efficient performance of the functions of the bureau under this Act.

(2) The officers or employees of the bureau shall serve on such terms and conditions as the council may determine.

13. Inspectors.

(1) The director may, with the approval of the council, by notice in the Gazette, appoint such number of standards inspectors as he or she may deem necessary for the purposes of this Act, on such terms and conditions as may be specified in the instruments of appointment.

(2) Every inspector shall be furnished with a certificate of authority signed by the director stating that he or she is authorised to act as a standards inspector for the purposes of this Act, and shall produce the certificate when required to do so in the exercise of his or her powers and performance of his or her duties under this Act.

14. Powers of inspector.

- (1) A standards inspector may—
 - (a) at all reasonable times upon identifying himself or herself to the person in charge, enter any premises where goods are kept, manufactured, produced, processed or treated;
 - (b) inspect and take reasonable samples of any commodity or any material, component, or substance thereof used or likely to be or capable of being used in the manufacture, production, processing or treatment of any commodity;
 - (c) inspect and test any process, treatment, or other operation which is or appears likely to be carried out on the premises in connection with the manufacture, production, processing or treatment of any commodity in relation to the quality of which any investigation is necessary;
 - (d) require any person to produce any book, record or other document in his or her possession, custody or control;
 - (e) examine and if necessary carry away any commodity, ingredient, material, component or substance, book, record or other document which appears to him or her relevant to any investigation;
 - (f) require information relevant to his or her inquiry from any person who is reasonably believed to possess such information as may assist in any investigation made under this Act;
 - (g) require any person in charge of any commodity, material, ingredient, component or substance to carry out such demonstration, test or analysis as he or she is able to do, or to give such assistance as the inspector may require in any

- investigation required under this Act;
- (h) require any person to report to his or her office or to any other place within such time as he or she may specify for the purpose of obtaining the information the inspector may require from that person.

(2) Any inspector entering any premises under subsection (1) may take with him or her such equipment and may be accompanied by such persons as are required in the performance of his or her duty.

(3) Any sample, material or document taken under this section may be selected at random.

Establishment of standards.

15. Declaration of standard specification and code of practice.

(1) The council may declare a specification for any commodity or for the manufacture, production, processing, treatment or performance of any commodity to be a standard specification for the purposes of this Act, and may amend or revoke any such declaration.

(2) The council may declare a set of recommended practices for any process, installation, construction, testing, operation or use of any article or device to be a code of practice for the purposes of this Act.

16. Declaration of standards mark and its effects.

(1) Subject to subsection (2), the council may, with the approval of the Minister, by notice in the Gazette, declare a mark which may have been adopted by the council to distinguish goods that conform to a standard specification from goods that do not so conform, to be a standards mark in respect of those goods, and may in like manner abolish or amend the mark.

(2) No mark which is identical with any trademark registered in respect of any commodity in accordance with the Trademarks Act, or which so nearly resembles such mark as to be likely to be mistaken for it, shall be declared to be a standards mark.

(3) After the publication of a notice declaring a standards mark, no person shall apply that mark to any commodity or use the mark in any way

except under the permit issued by the council or a person acting under the authority of the council and, unless the commodity complies with, or has been manufactured in accordance with, the relevant standard specification.

17. Application for permit for standards mark.

(1) An application for a permit under section 16(3) may be made to the council or a person acting under the authority of the council in such manner as the council may prescribe.

(2) The council or the person acting under the authority of the council may grant the permit subject to such conditions as it or he or she may think fit to impose.

(3) A permit granted under this section shall be valid for twelve months and may be renewed by the council or a person acting under the authority of the council.

18. Declaration of compulsory standard specification.

(1) Subject to this section, the Minister may, on the recommendation of the council, by notice in the Gazette—

- (a) declare a standard specification for any commodity or for the manufacture, production, composition, blending, processing or treatment of any commodity to be a compulsory standard specification; and
- (b) declare a mark which may have been adopted by the council, as a distinctive mark for any such commodity.

(2) The council shall not recommend any standard for being declared a compulsory standard, unless it is satisfied that it is not practicable to achieve the purposes of the standard specification otherwise than by means of making it compulsory.

19. Objections to compulsory standard specification and their hearing.

(1) The council shall, at least two months before making recommendations for the purposes of section 18, publish in the Gazette and in a newspaper a preliminary notice containing full particulars of the relevant standard specification and call upon all persons interested or likely to be affected by the recommendations to lodge objections in writing within such

time as the council may prescribe.

(2) Every person who has lodged an objection under subsection (1) shall be entitled to appear before the council or such person as the council may designate and be heard in person or through a representative at such time and place as the council may determine.

(3) No standard specification shall be declared to be a compulsory standard specification until all persons who have lodged objections have had an opportunity of being heard, provided the objector appears as provided under subsection (2) in such a time as may be prescribed by the Minister.

20. Permit for distinctive mark to complying commodities.

(1) After a distinctive mark has been declared in accordance with section 18(1)(b), no person shall apply that mark to any commodity except under a permit issued by the council or a person acting under the authority of the council and unless the commodity complies with or has been manufactured in accordance with the relevant standard specification.

(2) An application for a permit under subsection (1) may be made to the council or a person acting under the authority of the council in such manner as the council may prescribe.

(3) The council or the person acting under the authority of the council may grant the permit subject to such conditions as the council or that person may think fit to impose.

(4) A permit granted under this section shall be valid for twelve months and may be renewed by the council or a person acting under the authority of the council.

21. Product to conform and bear distinctive mark.

(1) No person shall import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared unless the commodity conforms to the compulsory standard specification.

(2) No person shall import, distribute, sell or have in his or her possession or control for sale or distribution any commodity for which a

compulsory standard specification has been declared unless the commodity bears the distinctive mark.

(3) Where difficulties arise in having a commodity so marked with the distinctive mark prior to importation as required under subsection (2), the director may authorise in writing any intending importer of the commodity to have the commodity so marked immediately on arrival in Uganda.

22. Samples.

(1) Every person to whom a permit has been granted under this Act shall, if and whenever required by the council so to do, submit for examination or testing a sample of the commodity in respect of which the permit has been granted, or submit any information relating to the manufacture of, and testing done by him or her on, that commodity.

(2) All samples required to be submitted under this section may be selected at random by any person acting under the authority of the council.

23. When a mark is deemed to be applied.

Any person who—

- (a) applies a standards or distinctive mark to any receptacle, container or covering of any commodity or to any label attached to or associated with any commodity; or
- (b) places or encloses any commodity in a receptacle or covering to which a standards or distinctive mark has been applied or on a label to which such a mark has been applied,

shall be deemed, for the purposes of this Act, to have applied that mark to that commodity.

24. Council may cancel, withdraw or suspend permit or vary conditions.

(1) The council may, at any time, withdraw, suspend, revoke or cancel any permit granted under this Act if the holder of the permit fails to observe the conditions of the permit or if, in the opinion of the council, it is otherwise necessary to do so.

(2) The council may, at any time, vary the conditions of a permit granted under this Act.

25. Appeals.

(1) A person aggrieved by—
(a) the refusal to issue a permit;
(b) the attachment of any conditions to a permit;
(c) the withdrawal, suspension, revocation or cancellation of a permit; or
(d) the variation of any conditions on a permit,
may within fourteen days of his or her being informed of that action appeal in writing to the Minister through the director.

(2) The director shall within fourteen days forward the appeal to the Minister with such comments as he or she may think fit.

(3) The Minister's decision affirming, varying or setting aside the action appealed against shall be final and shall not be questioned in any court of law.

Offences and penalties.

26. Offences.

- (1) Any person who—
(a) makes any statement or representation, whether in writing or not, or applies any mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the standards mark of that commodity or is otherwise entitled to apply that standards mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that standards mark;
(b) makes any statement or representation, whether in writing or not, or applies any mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the distinctive mark of that commodity or is otherwise entitled to apply that distinctive mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that distinctive mark;
(c) makes any statement or representation, whether in writing or not, or applies any mark which conveys or is likely to convey the impression that a commodity complies with a standard specification or a compulsory standard specification when in fact

- it does not do so;
- (d) without the authority of the council, makes a statement or representation, whether in writing or not, comparing any commodity with a commodity for which a standard specification has been declared;
 - (e) having been granted a permit for a standards mark or a distinctive mark applies that mark after the permit has expired or has been withdrawn, suspended, revoked or cancelled;
 - (f) applies a standards or distinctive mark otherwise than in accordance with the conditions of his or her permit;
 - (g) refuses to produce before an inspector any document, commodity, material, ingredient, component or substance the production of which has been required under section 14(1);
 - (h) obstructs, assaults or insults an inspector or person assisting the inspector in the performance of his or her duty;
 - (i) fails to comply with any reasonable requirement made of him or her by an inspector to enable the inspector to perform his or her duties under this Act;
 - (j) fails to give an inspector any information or assistance under this Act;
 - (k) fails to report to the inspector when required under section 14(1)(h);
 - (l) wilfully removes, destroys or renders illegible or undecipherable or incapable of identification any document, mark or writing with a view to preventing it from being used as evidence in any investigations under this Act; or
 - (m) gives an inspector any information which he or she knows to be false when complying with any requirement made by an inspector under section 14,
- commits an offence.

(2) Any person who contravenes section 16(3), 20(1) or 21(1) or (2) commits an offence.

27. Penalties for offences.

(1) A person who commits an offence under section 26(1) is liable on conviction in the case of a first offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment, and in the case of a second or subsequent offence to a fine not exceeding twenty thousand shillings or to imprisonment

for a term not exceeding eighteen months or to both such fine and imprisonment.

(2) A person who commits an offence under section 26(2) is liable on conviction, in the case of a first offence to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment, and in the case of a second or subsequent offence, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding twenty-four months or to both such fine and imprisonment.

(3) A person is not liable to the penalty provided for a second or subsequent offence, unless the offence is committed within five years of the previous conviction recorded under this section.

(4) The court convicting a person for an offence under this Act may in addition to the penalty provided for in subsections (1) and (2)—

- (a) order the confiscation of all or any part of the commodity the subject matter of the offence or the implement, as the case may be, and the commodity or implement shall be disposed of in such manner as the court may direct; and
- (b) make such other order as may be necessary to meet the ends of justice.

28. Offence by corporate bodies.

Where an offence under this Act is committed by a body corporate and it is proved that it was committed with the authority, consent, knowledge or connivance, or due to the negligence of a director, manager, secretary or any other officer of the body, that director, manager, secretary or officer commits the like offence and is liable to the like penalty.

29. Offence by servants, agents, etc.

(1) Where an offence under this Act is committed by a servant or an employee acting within the scope of his or her employment, and it is proved that it was committed with the authority, consent, knowledge or connivance of the master or employer, the master or, as the case may be, the employer commits the like offence and is liable to the like penalty.

(2) Where an offence under this Act is committed by an agent or

partner acting within the scope of his or her agency or the business of the firm, and it is proved that it was committed with the authority, consent, knowledge or connivance of the principal or other partners of the firm, the principal or, as the case may be, the other partners commit the like offence and are liable to the like penalty.

30. Aiding and abetting an offence.

Every person who aids or abets the commission of an offence under this Act commits the like offence and is liable to the like penalty.

31. Defence to offence.

(1) Subject to subsection (5), it shall be a defence for a person charged with an offence relating to standard specifications to prove—

- (a) that he or she obtained the commodity, material, component or substance from a reputable manufacturer, supplier or dealer with a written assurance that it conformed to the relevant standard specification;
- (b) that at the time of the commission of the offence, he or she had no reason to believe or suspect that the written assurance was inaccurate; and
- (c) that he or she took all reasonable steps to ensure that, while in his or her possession, the commodity, material, component or substance remained intact, and in the same state as when he or she obtained it.

(2) In order to avail of the defence provided for in subsection (1), the person shall, not later than seven days after the commission of the offence, send to the inspector a copy of the written assurance, along with the name and postal address, if any, of the person who gave the written assurance.

(3) Any person who sets up in his or her defence a written assurance which he or she knows or has reason to believe to be forged or false commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both such imprisonment and fine.

(4) For the purposes of this section, any statement which is contained in any document associated with any commodity by way of delivery note, invoice or label shall be deemed to be a written assurance.

(5) The defence provided for in this section shall not be available in respect of a written assurance given from outside Uganda.

Financial provisions.

32. Funds.

The funds of the bureau shall consist of—

- (a) grants made by Government;
- (b) loans raised by the bureau in accordance with this Act;
- (c) money received by the bureau under this Act; and
- (d) donations that may be made to the bureau.

33. Power to borrow.

(1) The bureau may, with the prior approval of the Minister responsible for finance, borrow such sums of money as may be required for the performance of its functions and the discharge of its obligations under this Act.

(2) An approval under subsection (1) may be general or limited to a particular sum of money or may be absolute or conditional.

34. Estimates.

Before the beginning of each financial year, the council shall forward to the Minister for his or her approval estimates of the income and expenditure of the bureau for the next financial year.

35. Accounts.

(1) The bureau shall keep books of account of all its income and expenditure and proper records in relation to them.

(2) Subject to such directions as to form as the Minister responsible for finance may give, the bureau shall prepare, in respect of each financial year, a statement of account which shall include—

- (a) a balance sheet, a statement of income and a statement of surplus or deficit; and
- (b) such other information in respect of the financial affairs of the

bureau as the Minister responsible for finance may require.

36. Audit.

(1) The accounts of the bureau shall in respect of each financial year be subject to audit by the Auditor General or an auditor appointed by him or her.

(2) The council shall ensure that within three months from the end of each financial year, a statement of account of the bureau is prepared and submitted to the Auditor General for auditing.

(3) The Auditor General shall audit and deliver to the council a copy of the audited accounts together with his or her report on them not later than three months from the date of his or her receipt of the statement of account from the council.

(4) The council shall, within one month from the receipt of the audited accounts and the Auditor General's report on them, deliver copies of the audited accounts and the report to the Minister who shall present them to Parliament.

37. Investment of surplus funds.

Such funds of the bureau as are not immediately required for use shall be invested in such manner as the council may, with the prior approval of the Minister responsible for finance, determine.

Miscellaneous.

38. Companies Act not to apply.

The Companies Act shall not apply to the bureau.

39. Service of documents.

Any document may be served on the bureau by leaving it at the office of, or by sending it by registered post to, the director.

40. Annual report.

The council shall, within three months of the end of each calendar year, send to the Minister a report on the activities of the bureau for that year.

41. Secrecy of information.

Any person who is or has been engaged in the employment of the bureau, who discloses, except for the purposes of exercising the function under this Act, or when required to do so by a court, or by any written law, any secret information acquired by him or her in the course of his or her employment, commits an offence and is liable on conviction to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

42. Byelaws.

(1) The council may, with the prior approval of the Minister, make byelaws not inconsistent with this Act generally for the conduct of the business of the bureau, including the control of the management and staff of the bureau.

(2) Notwithstanding the Interpretation Act, it shall not be necessary to publish in the Gazette the byelaws made by the council under this section, but those byelaws may be published in such manner as the council, with the approval of the Minister, may decide.

43. Regulations.

(1) The Minister may, in consultation with the council, make regulations generally for better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations providing for—

- (a) the forms that may be required under this Act;
- (b) the matters in respect of which fees shall be paid under this Act; and
- (c) the rate of fees payable in respect of matters provided for under paragraph (b) of this subsection.

History: Act 1/1983; S.I. 82/1983.

Cross References

Companies Act, Cap. 110.
Interpretation Act, Cap. 3.
Trademarks Act, Cap. 217.
