

GOVERNMENT NOTICE No. 406 published on 25/12/2009

**THE STANDARDS ACT
(No.2 OF 2009)**

REGULATIONS

Made under section 36

THE STANDARDS (CERTIFICATION) REGULATIONS, 2009

Citation and
commencement

1.-(1) These Regulations may be cited as the Standards (Certification) regulations, 2009.

(2) These Regulations shall come into operation on such date as the Minister may, by the notice in the *Gazette*, appoint.

Interpretation

2. In these Regulations, unless the context requires otherwise:-

“Act” means the Standards Act (No.2 of 2009);

“Applicant” means an individual or body of persons applying for a licence;

“Bureau” means the Tanzania Bureau of Standards as defined under section 2 of the Act;

“Director General” means the Director General appointed under section 7 of the Act;

“Inspector” means an Inspector appointed under section 23 of the Act;

“Licence” means licence granted in accordance with these Regulations entitling the holder to apply a standard mark or marks to any commodity, or process, manufactured or used by him in the manufacture or treatment of any commodity;

“Minister” means Minister responsible for industry and trade;

“Standards mark” means a mark approved and registered by the Bureau as a mark denoting conformity to a given standard;

Prohibition on
use of standards
marks

3 - (1) No person shall apply any standards mark to any commodity or process unless he is the holder of a licence granted in accordance with the standards framed by the Bureau.

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(2) Any person who contravenes, or fails to comply with the provisions of this Regulation is guilty of an offence and shall be liable on conviction to be punished in accordance with section 27 of the Act.

4.-(1) Every application for a licence shall be made to the Director General, and he may in his discretion grant or refuse any application.

Application for licence

(2) Every application for a licence shall be made in duplicate using **FORM A** specified in the **First Schedule** to these Regulations, and shall be accompanied with the prescribed fees.

(3) There shall be attached to every application a statement explaining in detail the scheme of inspection and testing which the applicant maintains or has in use or purposes to maintain or put into use for the purpose or regulating or securing the appropriate quality of the articles of the process in respect of which the licence is sought.

(4) Every application shall:-

- (a) where the applicant is an individual, be signed by him, and contain, in legible form, the full name of that individual; and
- (b) where the applicant is a body of persons, whether or not corporate, be signed by the person authorized to sign a declaration on behalf of that body of persons, clearly indicating his full name and the position on behalf of the body of persons.

(5) Upon receipt by the Director General, every application shall be assigned a number signifying its order of receipt, and the Bureau shall acknowledge the receipt of that application.

Inquiry proceeding grant of licence

5.-(1) Notwithstanding the provisions of sub regulation (3) of these Regulations, the Director General may, after receipt of any application, by notice in writing call upon the applicant to furnish him with any further documentary or other information in support or clarification of any statement made by him in the application.

(2) Where the Director General calls upon the applicant to furnish further information in pursuance of the provisions of sub regulation (1) of these Regulations, non-compliance with the notice by the applicant, within such time as have been specified by the Director General in the notice shall be deemed to be withdrawal of the application by the applicant, and the Director General shall not be obliged to consider the application on the merit of the available

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information.

- (3) Where the Director General considers that any application or properly made to him and is fit for consideration, he may:-
- (a) require the applicant to furnish proof that the commodity or process in respect of which the application for a licence is made conforms to the standard or standards concerned and may for that purpose, direct the applicant to submit at the cost of the applicant, adequate samples to a testing authority specified by the Director General;
 - (b) require the applicant to furnish proof of the existence and operation by him of a scheme of testing and inspection wherewith to ensure that marked commodities or processes shall conform to the standard in question;
 - (c) appoint an inspector to inspect the premises of the applicant for purpose of verifying the truthfulness of any evidence submitted in pursuance of paragraph (a) or (b) of this sub regulation; and
 - (d) on the basis of any findings from an inspection carried out in pursuance of paragraph (c) of this sub regulation, require the applicant to carry out such alterations in the scheme of inspection and testing or in the process of manufacture used by the applicant as the Director General may specify, and the applicant shall comply with any such requirement.

6.-(1) Where the Director General requires that an inspection be carried out of the premises of any applicant and where it is necessary to inspect the premises of any person holding a licence issued under these Regulations:-

Inspection by
Bureau

- (a) a reasonable notice of the proposed inspections shall be given to the applicant or as the case may be the person, holding the licence;
- (b) an inspector shall not take any samples of any article, material or substance, save in the presence of the owner or occupier of the premises being inspected or his representative;
- (c) an inspector may at his discretion, and shall if the owner or occupier of the premises being inspected requests him to do so, take duplicate samples and give one sample to the owner or

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occupier of the premises;

- (d) an inspector may at his discretion, and shall if so place each sample in a container and seal each sample in the presence of the owner or his representative, labeling the sample necessary details, shall then show the impressions of the seals in his report;
- (e) every inspector shall issue a receipt for each sample he takes to the owner or occupier of the premises inspected, and the duplicate copy of receipt, both the original and the duplicate having been duly signed by the person in whose presence the sample was taken; and
- (f) the owner or occupier of the premises inspected shall cause the facsimile of the standards mark to be used by him to be approved by the Director General.

(2) Nothing in this Regulation shall be interpreted as preventing an inspector from carrying out, at his discretion, an inspection without giving any prior notice to the owner or occupier of the premises to be inspected.

(3) In the performance of his functions under this Regulation, an inspector may take sample of articles marked with a standards mark, which he finds stocked in the premises, or which are offered for sale in the open market, by the applicant or the owner or occupier of premises under inspection.

(4) The Director General shall cause to be carried out, in respect of every licence held in accordance with these Regulations, at least two inspections in every twelve months.

Report 7. Every inspector shall make and submit to the Director General a detailed report relating to every inspection made by him pursuant to these Regulations.

Grant of licence 8 - (1) Where, after any inquiry, the Director General is satisfied that the applicant is a proper person to use a standards mark, he shall grant a licence to the applicant.

(2) Every licence granted under sub regulation (1) of these Regulations shall be in the form specified in the Second Schedule to these Regulations.

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(3) A licence granted under these Regulations shall be an authority for the holder to use the standards mark in respect of the commodities or category of commodities manufactured by him or in respect of the process applied by him in any manufacture or work.

(4) The licence granted under these Regulations shall be subject to such conditions or terms as the Director General may see fit to impose.

(5) Every licence shall be in force for a period of not more than twelve months and may be endorsed for renewal at least one month before the expiry of the original period.

(6) Subject to giving a notice of not less than one month to the holder, the Director General may at any time during the currency of a licence alter any of the conditions or terms subject to which the licence was granted.

9 - (1) As soon as practicable after the grant, restoration or renewal of a licence, the Director General shall cause to be entered in a register, kept and maintained for the purpose and in such form as may be determined by him, in respect of the person permitted to hold or continue to hold a licence the following particulars:-

Register of
licensed
manufacturers

- (a) his name and address, where he is an individual, and the business name, if any of his enterprise, where the holder of the licence is a body of persons, the name of that body and its address;
- (b) the date of grant, renewal or restoration of licence;
- (c) the serial number, if any, of the licence;
- (d) the commodity or commodities or the process or processes to which the licence granted, renewed or restored relates;
- (e) the number and titles of the standard or standards to which the licence relates;
- (f) particulars of any suspension, cancellation or renewal in respect of the licence; and
- (g) such other particulars as the Director General may, from time to time, direct.

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(2) All changes in the particulars registered under sub regulation (1) of these regulations shall be entered in the register by the Director General.

(3) The Director General may, with the general or specific approval of the Board, cause to be rectified any clerical errors in the register or other document containing extracts from the register.

Refusal of application

10.-(1) Where, after any necessary inquiry, the Director General is of the view that a licence should not be granted to any applicant, he may, within three months from the date of receipt of the application, call upon the applicant to show cause why his application should not be refused, giving him such opportunity to be heard as may be just and reasonable.

(2) At any hearing given to the applicant, in pursuance of the provision of sub regulation (1) of these Regulations, an applicant may appear in person, or by authorized representative.

(3) Before refusing the application the Director General may take into account any fact or explanation urged by or on behalf of the applicant at any hearing held in accordance with this Regulation.

Suspension or cancellation of licences

11.-(1) The Director General shall suspend any licence granted under these Regulations if he is satisfied that:-

- (a) the commodities marked with the standards mark under a licence do not in fact comply with the relevant standard;
- (b) the holder of the licence has used the standards mark in relation to the process which does not comply with the relevant standards;
- (c) the holder of the licence has, without reasonable excuse, failed or refused to provide reasonable facilities to any inspector to facilitate the discharge of his functions in relation to the licence concerned; and
- (d) the holder of the licence has, without the permission of the Bureau and without reasonable excuse, failed or refused to comply with any of the conditions or terms to which the licence was made subject, and upon such suspension, subject to such conditions as the Director General may deem fit to impose, the licence shall cease to have effect.

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(2) The Director General shall, either of his own motion or upon the petition of any person, cancel any licence granted under these Regulations if he is satisfied that:-

- (a) the holder of the licence knowingly made a false statement or a statement which he did not believe to be true in his application or at any inquiry or inspection prior to the grant of the licence;
- (b) the holder of the licence no longer meets all or the majority of the conditions prerequisite to which the licence was granted;
- (c) the holder of the licence has been convicted of an offence under the Act or these Regulations involving the disregard of standards prescribed in connection with the commodities which he produces under the authority of the licence; and
- (d) the holder of the licence has been guilty of fraud or dishonesty in his business in relation to matters concerning the maintenance of standards.

(3) A licence may be cancelled for grounds specified in sub regulation 2(c) of these Regulations upon the recommendation, or the receipt of the judgement of the court by which the holder of the licence is convicted of the offence.

(4) When the licence is suspended or cancelled, the Director General shall cause the notification to be given to the holder informing him of that fact and of the reasons for the suspension or as the case may be, the cancellation

(5) Save in the case of cancellation under sub regulation (2) (c) of these Regulations, no licence shall be cancelled or suspended unless:-

- (a) the holder of licence has previously been notified of the proposed measure and the reasons for it; and
- (b) the holder of the licence has thereafter been given a reasonable opportunity to be heard; and the Director General takes into account the findings of the inquiry so conducted, subject to regulation 12 of these Regulations.

12.-(1) The Director General shall, prior to suspending or cancelling any licence, give to the holder a notice of not less than fourteen days, informing him of the intention to suspend or cancel the licence.

Procedure for
suspension or
cancellation

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(2) Upon receipt of the notice, the holder of the licence may, within not more than seven days from the receipt, submit such explanation to the Director General as he may have.

(3) Where an explanation is submitted, the Director General shall consider and afford a hearing to the holder of the licence within fourteen days of its receipts or before the expiry of the notice, whichever is the latter occurrence; but where no explanation is submitted the Director General may, on expiry of the notice, cancel or suspend the licence.

Consequences
on suspension or
cancellation of
licence

13-(1) Where any licence is cancelled or suspended, the Director General shall cause to be published in at least one newspaper published and circulated in the United Republic of Tanzania, the reasons for cancellation or suspension and the particulars of the licence cancelled or suspended as the case may be.

(2) Upon the licence being cancelled, or suspended or where a licence is not renewed, the holder of the licence shall forthwith discontinue the application of the standards mark concerned in respect of the commodity or process in question, notwithstanding that there is an appeal pending against the cancellation, suspension or non-renewal of the licence.

(3) Where a licence is cancelled, if there be with the holder or his agents any articles in stock which bear the standards mark concerned, the holder shall remove, cancel deface the standards mark from these commodities.

14. All decisions made by the Director General of the Bureau in relation to any applications or licence shall be made known to the applicant or holder of a licence, and shall be communicated in writing and sent by registered post to his last known address.

Communication
of decisions and
findings

15.(1) It shall be a condition attached to every licence that the holder shall institute and maintain a system of control to keep unreduced the quality of his production or process by means of a scheme of inspection and testing approved by the Bureau prior to the issuance of the licence.

Inspection and
testing

(2) Every holder of licence shall keep and maintain a detailed record of the application of the scheme of inspection and testing for the purposes of establishing the actual maintenance of the required control of the quality of the production or process, and the records shall be

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available for inspection on demand by any inspector of the Bureau.

(3) Where there is reasonable cause to believe that any standards mark has been or is being used in contravention of the Act or these Regulations, the Bureau may at any time cause an inspection to be carried out in accordance with section 18(3) of the Act.

Fees

16. There shall be charged and paid such fees in respect of the matters specified in the Third Schedule to these Regulations.

FIRST SCHEDULE

FORM A (FO1/CER/001)



TANZANIA BUREAU OF STANDARDS

APPLICATION FOR LICENCE TO USE THE STANDARDS MARK

To:
The Director General, Tanzania Bureau of Standards

- I/We, carrying on business at.....(full business address) under the style of (full name of individual or firm) hereby apply a licence under the STANDARDS ACT, 2009 to use the Standards Mark in respect of the article which conforms to the Tanzania Standard(s) listed below: process

Article

Type

Grade:

(b) Process:

(c) Related TZ standards(s)

No.....	Title
No.....	Title

- The above article(s) is/are manufactured by
process is carried out(name of the factory)
on the premises situated at(address)

- Production figures for the said article(s)/process and the value there of to the best of my/our knowledge and estimate are as follows:

Year	Production	Unit	Value T.shs
Last year from			
to			
Current year from			
to(estimates)			

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Only one of the two items under (a) and (b) may be covered by one application.
Strike out the other one.

4. In order to ensure conformity of the said article(s)/process to the related TZ Standard(s).

*I/We have in use/propose to use the Scheme of Inspection and Testing described in the statement attached hereto. Routine records of all the inspections and tests are being/will be kept in the form detailed in the statement. *I/We further undertake to modify, amend or alter my/our Scheme of Inspection and Testing to bring it in line with that which may be specified by you from time to time.

*I/We have at present no Scheme of Inspection and Testing in operation.

*I/We however, undertake to put in operation any such scheme as recommended by the Bureau.

5. Should any initial enquiry be made by the Bureau, *I/We agree to extend to the Bureau all reasonable facilities at my/our command and *I/We also agree to pay all expenses of the said enquiry, including charges for testing, as and when required by the Bureau.

6. Should the licence be granted and as long as it will remain operative, *I/We hereby undertake to abide by all the terms and conditions of the licence and the Regulations prescribed under the aforesaid Act. In the event of the licence being suspended or cancelled, *I/We also undertake to cease with immediate effect to use the Standards Mark on any article covered by the licence and to withdraw all relevant advertising matters and to take such other steps as may be necessary to fulfill the provisions of the aforesaid Regulations.

7. This application is valid for a maximum period of three months from the date of receipt.

8. Testing and inspection may be subcontracted.

Dated thisday of
Signature

.....
Name:

Designation
for and on behalf of
.....(Name of firm)

*Strike out one not applicable

SECOND SCHEDULE

FORM B (F06/CER/005)



TANZANIA BUREAU OF STANDARDS
SHIRIKA LA VIWANGO TANZANIA
P O Box 9524 Dar es Salaam

LICENCE
to use the Mark of the Bureau
No.

1. By virtue of the power conferred on it by the STANDARDS ACT 2009, the BUREAU hereby grants to M/S.....of..... (hereinafter called "the licensee") this licence to use the Standards Mark set out in the first column of the First Schedule hereto upon and in respect of the article(s) set out in the second column of the said Schedule which is (are) manufactured in accordance with the related TZ Standards) referred to in the third column of the said Schedule as from time to time amended or revised.
2. This licence carries the rights and obligations stipulated in the regulations made under the above mentioned Act. In pursuance of his obligations, the licensee shall pay in due manner and time the scheduled Marking Fee set out in the Third Schedule hereto and maintain to the satisfaction of the Bureau, the Scheme of inspection and Testing a copy of which is attached hereto.
3. This licence shall be valid from toand may be renewed as prescribed in the Regulations. Signed and sealed for and on behalf of the Bureau

Signed and sealed for and on behalf of the Bureau


DIRECTOR GENERAL

Signed by the licensee.....

Date:

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SCHEDULE

Standards Mark	Good in respect of which the use of the Mark is granted	Tanzania Standard (s) according to which the goods are to be produced
		

FORM B

THIRD SCHEDULE

FEES STRUCTURE FOR STANDARDS MARK LICENCE SCHEME

1. A non-refundable application fee payable upon filling the application form.
2. Pre-licence inspection fees covering transport, board and lodging costs for inspector. This varies depending on factory location.
3. Testing fees for the pre-licence sample. This varies depending on product.
4. Annual certification fees covering transport, accommodation, inspection costs, purchase of market samples, testing fees for surveillance samples and third party certification guarantee fees.

Dar es Salaam,
....., 2009

MARY M. NAGU
*Minister for Industry, Trade
and Marketing*