

THE STANDARDS ACT, 2009

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SCHEDULE
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THE UNITED REPUBLIC OF TANZANIA



NO. 2 OF 2009

I ASSENT,

President

12 March, 2009

An Act to provide for the promotion of the standardization of specifications of commodities and services, to re-establish the Tanzania Bureau of Standards and to provide better provisions for the functions, management and control of the Bureau, to repeal the standards Act, Cap.130 and to provide for other related matters.

Enacted by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1.-(1) This Act may be cited as the Standards Act, 2008.

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

2. In this Act, unless the context requires otherwise—

“Board” means the Board of the Tanzania Bureau of Standards established by section 5;

“Bureau” means the Tanzania Bureau of Standards established by section 3;

Short title
and
com-
mence-
ment

Interpre-
tation

- “code of practice” means a set of rules relating to the method to be applied or the procedure to be adopted in connection with the construction, installation, designing, manufacturing, maintenance, testing, operation or use of any article, apparatus, instrument, device or process;
- “commodity” means an article or thing which is the subject of industry, trade or business;
- “compulsory standard” means a standard which has been declared by the Minister to be a compulsory standard under section 20;
- “Director” means a Director of a Directorate established pursuant to section 9;
- “Director General” means the Director General appointed under section 7;
- “inspector” means an Inspector appointed under section 23;
- “local government authority” has the meaning ascribed to it under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- “management” means the Director General, Directors of Directorates, Heads of Departments, Heads of Sections and any other officer appointed by the Board or the Director General;
- “measurement standard” means a realization of the definition of a given quantity, with stated quantity value and associated measurement uncertainty, used as a reference;
- “mark” includes any device, brand, heading, label ticket, name, signature, word, letter, numeral or any combination of them;
- “Minister” means the Minister responsible for industries and trade;
- “National Measurement Standard” means measurement standard recognized by the Bureau to serve as the basis for assigning quantity values to other measurement standards for the kind of quantity concerned;
- “National Standard” means a standard declared by the Minister under section 20;
- “Register” means official records for national standards, certification systems, standard marks and licenses;
- “sell” includes barter trade and exchange, exposure, offer for sale and export for or in pursuance of sale, and have in possession for any purpose of sale, export, trade or manufacturing;
- “service” means work performed as a support operation involving non-manufactured, non-tangible and utility provision for someone else, whose recipient is a consumer;

“specification” means a description of any commodity by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics or to any substance or material of or with which, or the manner in which, any commodity may be manufactured, produced, processed or treated;

“standard” means set of rules or conditions prescribing recommending or relating to the state of being of a matter or thing as universally recognized for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at achieving an optimum degree of order in a given context including other recommendations made by the Bureau, relating to or governing the specification, code of practice, safety, trade description, sampling method, testing method or any other aspect, quality, nature or matter relating to or connected with-

- (a) the production or marketing of any commodity or services; or
- (b) any component, raw material, machinery, instrument, apparatus or other thing used directly or indirectly, in the production or marketing of any commodity or service,

and includes, in relation to metrology, provisions approved or prescribed by the Bureau relating to the fundamental unit or physical constant and the testing of instruments and apparatus used for the determination of weights and measures;

“standardization” means an act or activity of establishing, with regard to actual or potential problems, provisions for the common and repeated use and includes the process of formulating, issuing and implementing standards, aimed at achieving an optimum degree of order in a given context; and

“standards mark” means a mark which has been approved and registered by the Bureau as a mark denoting conformity to a given standard.

PART II

THE TANZANIA BUREAU OF STANDARDS

3.-(1) There is re-established the Tanzania Bureau of Standards.

(2) The Bureau shall be the custodian and an overseer of observance of standards in Tanzania.

(3) The Bureau shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(4) The Bureau may, for the purpose of performance of its functions, take, purchase, acquire, charge, hold and dispose of movable and immovable property and enter into contracts or other transactions which may lawfully be done or performed by a body corporate.

4.-(1) Subject to any direction of a general nature which the Minister may give under section 31, the functions of the Bureau shall be to-

Functions
of the
Bureau

- (a) undertake measures for quality control of commodities, services and environment of all descriptions and to promote standardization in industry and trade;
- (b) make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, for the determination of their degree of accuracy and traceability by comparison with standards approved by the Minister on the recommendation of the Board, and for the issued of certificates in regard to them;
- (c) make arrangements or provide facilities for the examination and testing of commodities and any material or substance from or with which, and the manner in which, they may be manufactured, produced, processed or treated;
- (d) approve, register and control the use of standard marks in accordance with the provisions of this Act;
- (e) grant, renew, suspend, vary or cancel any license issued for the use of any standards mark;
- (f) assist industries in setting up and enforcing quality assurance and environmental management systems procedures;
- (g) prepare, frame, modify or amend National Standards;
- (h) encourage or undertake educational work in connection with standardization quality assurance, metrology, testing and environment;

- (i) assist the Government or any other person in the preparation and framing of standards;
- (j) co-operate with other Government agencies, representatives of any industry or any other statutory corporation or person with a view to securing the adoption and practical application of standards;
- (k) provide for the inspection, sampling and testing of locally manufactured and imported commodities with a view to determining whether the commodities comply with the provisions of this Act or any other law dealing with standards relevant to those commodities;
- (l) act as the custodian of the National Measurement Standards of weights and measures and from time to time adjust, replace or cancel any standards where the adjustment, replacement or cancellation is necessary for the maintenance of conformity to the international standards;
- (m) be the signatory of the mutual recognition arrangement with other national metrology institutes;
- (n) collect, publish and disseminate literature and other materials on standardization and other related subjects and to provide facilities for the members of the public to have access to the materials;
- (o) carry-out, promote or assist in research or standardization and related subjects;
- (p) participate in, or to make arrangements for conferences, workshops, seminars and discussions on matters connected with the activities of the Bureau;
- (q) co-operate with regional and international organizations in all matters related to standardization and quality assurance and represent the country in such matters;
- (r) publish from time to time an updated version of a National Standard for the quantities and units of measurement to be used, which shall be in conformity with the latest version of the International System of Units;
- (s) undertake pre-shipment verification conformity (PVoC) to standards; and

- (t) do all other acts and things, and enter into any transactions, which are, in the opinion of the Board, expedient or necessary for the proper and efficient discharge of the functions of the Bureau.
- (2) In the performance of its functions the Bureau shall-
- (a) have regard to the health, safety, environment and general welfare of the people of the United Republic; and
 - (b) maintain, as far as may be practicable, a system of consultation and co-operation with any body established by or under any written law and having functions similar to those specified in subsection (1) or having functions relating to industrial or commercial standards generally.
- (3) Notwithstanding the existence of any other standard, the standards declared by the Minister shall prevail over any other existing standards.

5.-(1) There shall be a Board of Directors of the Tanzania Bureau of Standards. Board

(2) The provisions of the Schedule to this Act shall have effect as to the composition, appointment and termination of members, proceedings and other matters relating to the Board.

(3) The Minister may, by Order published in the *Gazette*, amend, vary, alter or replace all or any of the provisions of the Schedule to this Act.

6.-(1) Subject to the provisions of this Act, the management and control of the Bureau shall be vest in the Board. Powers and duties of the Board

(2) In particular and without prejudice to the generality of subsection (1), the Board shall have powers to -

- (a) administer properties of the Bureau, both movable and immovable;
- (b) administer the funds and other assets of the Bureau;
- (c) signify acts of the Bureau by using official seal;
- (d) on behalf of the Bureau, receive gifts, fees, donations, grants or other moneys;

- (e) subject to the provisions of this Act, appoint officers of the Bureau which the Board may consider necessary;
- (f) establish subsidiary organizations or agencies to undertake specialized services related to standardization and quality assurance activities; and
- (g) do all acts and things which may be provided for in this Act or as may, in the opinion of the Board, be necessary or expedient for the proper discharge of the functions of the Bureau.

Appointment and functions of the Director General

7.—(1) There shall be a Director General of the Bureau who shall be appointed by the President.

(2) The Director General shall be the chief executive of the Bureau and Secretary to the Board.

(3) The Director General shall form technical committees charged with formulation of univiersally applicable standards in various sectors of the economy.

Committees and sub-committees

8.—(1) The Board may appoint committees and sub-committees it considers necessary consisting of its members, co-opted members or both—

- (a) to perform any function of the Board assigned to the committee or sub-committee;
- (b) to advise the Board on a matter referred to the committee or sub-committee.

(2) The provisions of the Schedule to this Act (other than the provisions which relate to the composition of the Board) shall apply, *mutatis mutandis* in relation to the committees and sub-committees appointed under this section.

Notwithstanding subsection (2), that the Board may by directions in writing, in relation to any committee or sub-committee, disapply all or any of the provisions of the Schedule to this Act or modify the same in such manner as may be specified in such direction.

Directorates, departments and sections

9. The Board shall establish such number of directorates, departments and sections as may be necessary and proper for performance of the functions of the Bureau.

10. There shall be a Register for National Standards, standard marks, certification systems and licenses into which all matters relating to standards referred to under this Act shall be entered.

Register

PART III
FINANCIAL PROVISIONS

11. The funds of the Bureau shall include -

Funds of
the
Bureau

- (a) money appropriated by Parliament;
- (b) any funds or assets which may vest in or accrued to the Bureau from other sources;
- (c) gifts, grants, donations or otherwise;
- (d) any fee, levy or charge determined and approved by the Minister responsible for finance; and
- (e) loans granted by the Government or by any other person or body.

12. The Board may, with the prior approval of the Minister responsible for finance, borrow for the purposes of the Bureau by way of loan, overdraft or otherwise such sums of moneys as may be required to meet current obligations or performance of its functions under this Act or other relevant law.

Loans

13.-(1) In this Act "financial year" means the financial year of the Government.

Annual
and
supple-
mentary
budget

(2) Not less than two months before the beginning of any financial year, other than the first financial year, the Board shall, at its meeting specially convened for that purpose, pass a detailed budget (in this Act called "the annual budget") of the amounts respectively-

- (a) expected to be received; and
 - (b) expected to be disbursed,
- by the Bureau during that financial year.

(3) Where, in any financial year, the Board requires to make any disbursement not provided for or of an amount in excess of the amount provided for in the annual budget for that year, the Board shall, at a meeting, pass a supplementary budget detailing the disbursement.

(4) The annual budget and every supplementary budget shall be in the form and shall include the details which the Minister may direct.

(5) Forthwith upon passing any annual budget or any supplementary budget, the Board shall submit the same to the Minister for his approval.

(6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to any amendment which he may deem fit.

(7) Where the Minister has approved any annual budget or any supplementary budget, the budget or as the case may be, the supplementary budget, shall be binding on the Board and the Board shall, subject to the provisions of subsection (8), confine the disbursements within the items and the amounts contained in the budget or supplementary budget as approved by the Minister.

(8) The Board may-

- (a) with the sanction in writing by the Minister, make disbursement that has not been provided for in the budget;
- (b) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum not exceeding fifty million shillings to any other item contained in the budget;
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

Investment

Cap. 53

14. With prior approval of the Minister, the Board may, invest the funds of the Bureau in investments authorized by the Trustees Investments Act for the investment of any trust fund.

Accounts and audit

15.-(1) The Board shall keep books of accounts and proper records in relation to them and in the form approved by the Controller and Auditor General.

(2) Within six months of the close of each financial year the Board shall cause the accounts including the balance sheet of the Bureau to be audited by the Controller and Auditor General.

(3) As soon as the accounts of the Bureau have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister a copy of the audited accounts together with a copy of the report made by the Controller and Auditor General.

(4) The audited accounts shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with a certificate that it has been so adopted.

16. The Director General shall, at the end of each financial year, prepare a report on the activities of the Bureau and submit that report to the Minister after approval by the Board.

Director
General's
report

17. The Minister shall, as soon as may be practicable after the close of a financial year, lay before the National Assembly the following documents in relation to that financial year-

Annual
statement
of
accounts
and report
to be laid
before
National
Assembly

- (a) a copy of the audited accounts of the Bureau;
- (b) a copy of the Controller and Auditor General's report, if any;
and
- (c) a copy of the Director General's report.

PART IV

ESTABLISHMENT OF STANDARDS

18.—(1) The Minister may, on the recommendation of the Bureau and subject to the provisions of subsections (2) and (3), by notice published in the *Gazette*, declare any mark which has been approved by the Bureau in respect of any standard prescribed or recognized by the Bureau for any commodity or the manufacturing, production, processing or treatment of any commodity, to be a standards mark in respect of it and may, in like manner, cancel or amend that mark.

Standards
marks

(2) The notice shall contain information with regards to the relevant standard or its amendment which the Minister considers necessary.

(3) No mark which is identical with any trade mark registered in respect of any commodity in accordance with the Trade and Service Marks Act or resembling that mark as to be likely to be mistaken for it, shall be declared to be a standards mark in respect of that or any similar commodity, or in respect of the manufacturing, production, processing or

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treatment of that or any similar commodity, and no mark identical with a mark which has been duly declared to be a standards mark, or resembling that mark as to be likely to be mistaken for it, shall be registered as a trade mark under that Act in respect of any commodity.

(4) After the coming into operation of a notice made pursuant to subsection (1), no person shall apply any standards mark mentioned in that notice to any commodity except under a license issued by the Bureau or a person acting under its authority and unless that commodity complies with the relevant standard or has been manufactured, produced, processed or treated in accordance with the standard.

(5) Any person who-

- (a) applies a standards mark to any receptacle or cover of any commodity or to any label attached to any commodity or any receptacle or its cover; or
- (b) places or encloses any commodity in a receptacle or cover to which a standards mark has been applied or in a receptacle or cover to which is attached a label to which that mark has been applied,

shall, for the purposes of subsection (4), be deemed to have applied that standards mark to that commodity.

(6) The issuance of license under subsection (4) shall be in the discretion of the Bureau or the person acting under its authority, and the license may be issued subject to conditions to be specified in it and subject to the payment of any fees which may be prescribed.

(7) The Bureau may at its discretion revoke or suspend any license issued under this section or vary any condition attached to any license.

(8) Any person who contravenes subsection (4) or any of the conditions specified in a license issued to him commits an offence.

19. Every person who is required to make a statement in a contract, tender, quotation or other similar document as to the question whether the commodity offered or supplied by him complies with or has been manufactured in accordance with a particular National Standard, shall

make such a statement provided compliance therewith has been verified by the Bureau.

20.—(1) The Minister may, on the recommendation of the Bureau and subject to the provisions of this section, by notice published in the *Gazette*—

Powers of the Minister in declaration of standards

- (a) declare a standard for any commodity or for the manufacturing, production, processing or treatment of any commodity to be a compulsory standard in relation to it with effect from a date specified in the notice being a date not less than two months after the date of its publication;
- (b) declare any standard, specification or code of practice prescribed by the Bureau to be a National Standard;
- (c) amend or repeal any compulsory standard or National Standard in the manner prescribed in this section; and
- (d) prescribe a standards mark for any commodity which complies with a compulsory standard or which has been manufactured, produced, processed or treated in accordance with that standard and may cancel or amend that standard mark.

(2) The Bureau shall, at least two months before making any recommendation for the purposes of paragraph (a) of subsection (1), publish in the *Gazette*, a preliminary notice setting out the precise purpose of the recommendation proposed and shall call upon all interested persons to lodge any objection in writing with the Bureau in the manner and within the time prescribed.

(3) Every person who has lodged an objection in accordance with the provisions of subsection (2) shall be entitled to appear before the Board and be heard, either personally or through a representative, at the time and place which the Board shall determine, and publication of the relevant notice under paragraph (a) of subsection (1) shall not take place if any such objection is upheld or until after every objector has had an opportunity to be heard and the reasons for the rejection of the objection have been furnished in writing to that objector or his representative.

(4) Where an objector or his representative under sub-section (2) has failed to appear before the Board in accordance with section 3, the Board shall, before determining the matter, consider the objection lodged in writing by the objector.

(5) Every notice published by virtue of this section shall contain full particulars of the relevant standard or its amendment.

(6) Whenever the Minister has declared a standard to be a compulsory standard, a person shall not sell the commodity to which the standard relates after the date specified unless it complies with that standard or has been manufactured, produced, processed or treated in accordance with that standard.

(7) After a standards mark has been prescribed in accordance with the provisions of paragraph (c) of subsection (1), a person shall not apply that mark to any commodity except under and by virtue of a license issued to him under this Act and unless that commodity or its manufacturing, production, processing or treatment complies with the compulsory standard relative to it.

(8) Any person who contravenes any of the provisions of subsection (6) or (7) commits an offence.

(9) The provisions of subsections (3) and (5) of section 18 shall apply with reference to a standards mark prescribed under subsection (1) and the provisions of subsections (6), (7) and (8) of section 18 shall apply respectively to the issuance of a license and a license issued under this section.

(10) Where a person is charged with contravening the provisions of subsection (6), it shall be a good defence for him to prove to the satisfaction of the court that he had no knowledge nor any reasonable means of ascertaining whether before or at the time of sale, that the commodity specified in the charge did not comply with the standard relating thereto.

Appeals

21.—(1) Any person who is aggrieved by-

- (a) the refusal of the Bureau to issue a license;
- (b) any condition attached to a license; or
- (c) the variation, cancellation or suspension of any license, may, within fourteen days of the notification of the act complained of being received by him, appeal in writing to the

Minister who shall, within ninety days, either confirm, set aside or vary the decision complained of.

(2) Any person who is dissatisfied by the decision of the Minister may prefer an appeal to the commercial Division of the High Court.

PART V ENFORCEMENT PROVISIONS

22.-(1) Every person to whom a license has been issued under this Act shall, if so requested by the Board in writing, furnish within a period which may be specified the samples of any commodity or service to which the license relates and all such information with regards to such commodity or service or its manufacturing, production, processing or treatment as may be specified in the request.

Samples,
equip-
ments
and
informa-
tion

(2) Every person to whom a license has been issued to offer a calibration service shall be required to submit such samples of any commodity to the Bureau for calibration against the National Measurement Standard of his equipment or instrument.

(3) Every person who has been licensed to undertake a scientific or industrial measurement or use of such measurement equipment shall submit the equipment to the Bureau for calibration or re-calibration against the National Measurement Standard.

(4) Any person who contravenes any of the provisions of this section commits an offence.

23.-(1) The Minister may, at the request of the Board by notice published in the *Gazette*, appoint any public officer or officer of the Bureau as an Inspector for the purposes of this Act.

Appoint-
ment of
inspectors

(2) Every person appointed as Inspector under subsection (1) shall be furnished with a certificate of appointment signed by the Director General stating that the person is authorized by the Minister to act as an Inspector for the purposes of this Act.

24.-(1) An Inspector may, for the purposes of this Act, at all reasonable times-

Powers of
inspectors

- (a) enter upon any premises at which there is or is suspected to be a commodity in relation to which any compulsory standard or standards mark exists;
- (b) inspect and take samples of any commodity or any material or substance used, or likely to be, or capable of being used in its manufacturing, production, processing or treatment and cause, any container within which there is or is suspected to be any quantity of the commodity, material or substance, to be opened;
- (c) inspect any process or other operation which is or appears likely to be carried out in those premises in connection with the manufacturing, production, processing or treatment of any commodity in relation to which a compulsory standard or standards mark exists;
- (d) require from any person the production of any book, notice, record, list or other document which is in the possession or custody or under the control of that person or for any other person on his behalf and which the Inspector believes to be relevant to any inspection or inquiry being carried out by him;
- (e) examine and copy any or any part of any book, notice, record, list or other document which appears to him to have relevance to his inspection or inquiry, and require any person to give an explanation of any entry in it and take possession of that book, notice, record, list or other document as he believes may afford evidence of an offence under this Act;
- (f) require information relevant to his inquiry from any person whom he reasonably believes to be or to have been employed at the premises or to have in his possession or custody or under his control any article referred to in this subsection.

(2) An Inspector entering any premises under subsection (1) of this section shall, if so required, produce the certificate issued to him in accordance with the provisions of section 23 and may be accompanied, if necessary, by an independent witness.

- (a) recall the commodity and all other type that were supplied to him, in the manner, and within the period, specified in the order;
- (b) disclose to the public, or to a class of person specified in the order, in the manner and within the period so specified-
 - (i) the nature of any defect in any commodity identified in the order;
 - (ii) the circumstances in which the use of any of such commodity is dangerous;
 - (iii) procedures for disposal of such commodity; or
- (c) notify the public or a class of persons specified in the order, in the manner and within the period specified in the order, that the supplier undertakes to -
 - (i) repair the defective commodity;
 - (ii) replace the defective commodity; or
 - (iii) refund to a person to whom the commodity was supplied the price of the commodity (whether by the supplier or by another person) the price of the commodity, within the period specified in the order.

(2) Where an order made under this section is still in force, a supplier of a commodity to which the order relates, fails to comply with the requirements or direction in the order, shall be guilty of an offence.

26. Any person who resists hinders or obstructs an Inspector acting pursuant to subsection (1) of section 24 or willfully fails to comply with any requirement made of him under the said subsection commits an offence.

Obstruction

27.-(1) Where a person contravenes any of the provisions of this Act for which no specific penalty is provided, commits an offence and on conviction, shall be liable to imprisonment for a term not less than two years or to a fine not less than fifty million shillings and not exceeding one hundred million shillings or to both.

penalty

(2) On a second or subsequent conviction of any person for an offence committed under this Act, that person shall be liable to imprisonment for

a term not less than three years or to a fine not less than fifty million shillings and not exceeding one hundred million shillings or to both.

(3) On the conviction of any person for an offence under this Act, the court may, in addition to any other penalty which may be imposed, order the confiscation of all or any part of any goods in respect of which the offence was committed, and all goods so confiscated shall be disposed of in the manner which the court directs.

Commis-
sion of an
offence
by a body
corporate

28. Where any offence under this Act is committed by a body corporate then, as well as the body corporate, any person who, at the time of the commission of the offence, was holding the office of a Director General, Chief Executive Officer, or an officer, with the management of the affairs of such body corporate commits an offence and shall be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge of the commission of the offence.

Liability of
employer
or principal

29. Where any offence under this Act committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer shall be guilty of the offence and shall be liable on conviction to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge and could not, in exercising reasonable diligence, have had knowledge, of the commission of the offence.

Compound-
ing of
offences

30.—(1) The Bureau may, where it is satisfied that a person has committed an offence under this Act, compound the offence by accepting from such person a sum of money not exceeding twenty million shillings.

(2) The powers conferred under this section shall be exercised when a person admits that he has committed the offence under this Act.

(3) Subject to the provisions of sub-section (5), where proceedings are brought against a person for an offence under this Act, it shall be a good defence if that person proves that the offence with which he is charged has been earlier compounded.

(4) Any sum of money received under this section shall be dealt with as if the sum of money were a fine imposed by the court of law for the offence.

(5) Where an offence is compounded under the provisions of this section, the court may make an order under section 27, as if the person concerned had been convicted by the court for that offence.

(6) The order shall not be made under subsection (5) unless the person concerned had first had an opportunity of showing cause against the making of the order.

PART VI

GENERAL PROVISIONS

31. Subject to this Act, the Minister may give the Board directions of a general or specific nature and the Board shall give effect to every direction given.

Minister may give directions to Board

32. The fact that any commodity complies or is alleged to comply with a compulsory standard or has been or is alleged to have been manufactured, produced, processed or treated in accordance with that standard or that a standards mark is used in connection with any commodity, shall not give rise to any claim against the Government, the Bureau or the Board or any of its members or employees.

Protection of Government, Bureau, Board members and employees against claims in relation to standards marks

33.—(1) No matter or thing done by any member of the Board or an officer of the Bureau shall, if done *bona fide* in the execution or purported execution of the functions conferred upon that member or officer by this Act or by regulations or by-laws made under it, render the member or officer personally liable for that matter or thing.

Protection of members of the Board and officers of the Bureau

(2) For the avoidance of doubts, it is hereby declared that the provisions of this section shall be without prejudice to the provisions of section

Cap. 16 and Cap. 76

284A of the Penal Code or the provisions of the Public Officers (Recovery of Debts) Act.

Disclosure
of infor-
mation

34. Any person who is or has been engaged in the administration of this Act and discloses, except for the purpose of the exercise of his functions or when required to do so by a court or under any written law, any information acquired by him in the exercise or purported exercise of his functions under this Act to any other person commits an offence and on conviction shall be liable to penalties prescribed by section 27.

Prohibi-
tion of
victimi-
sation

35.—(1) An employer shall not terminate the employment of any person employed by him or reduce the rate or remuneration of that person or otherwise alter the conditions of his employment to conditions less favourable to him, alter or lower his position to his disadvantage relative to other persons employed by that employer by reason only of the fact that he believes or suspects (whether or not the belief or suspicion is justified or correct) that the person has given any information which he could be required under this Act to give to an inspector or has complied with any lawful requirement by an inspector or has given evidence in any proceedings under this Act.

(2) An employer who contravenes any of the provisions of subsection (1) commits an offence and on conviction shall be liable to the penalties prescribed by section 27, and the court convicting an employer may, in addition to any penalty it imposes, order the employer-

- (a) to restore the rate of remuneration or conditions of employment or the position of an employee to that which existed immediately before, and with effect from, the date of the reduction, alteration or lowering which gives rise to the conviction;
- (b) to pay to any employee whose dismissal is the subject of the convictions a sum estimated by the court to be equal to his total remuneration for any period not exceeding twelve months calculated according to the rate at which he was being remunerated at the time of his dismissal.

(3) In any proceedings for an offence under subsection (2), if the court is satisfied that the employee's employment was terminated or that his remuneration was reduced or that his terms of employment were

adversely varied within twelve months of the employee having given any information to an inspector or complied with a requirement made by an Inspector or given evidence in any proceedings under this Act, the court may, unless it is satisfied to the contrary, presume that such termination of employment, reduction of remuneration or variation of terms of employment was made by the employer because of the employee having given the information, complied with the requirement or given the evidence, as the case may be.

(4) An order made under paragraph (b) of subsection (2) may be enforced as if it were a decree issued by a court in the civil proceedings in favour of the employee concerned.

PART VII MISCELLANEOUS PROVISIONS

36.—(1) The Minister may make regulations generally for the better carrying out of the provisions and purposes of this Act.

Regula-
tions

(2) The Minister responsible for local government authorities in consultation with the Minister may make by-laws for implementation of this Act.

(3) Without prejudice to the generality of subsection (1), the regulations may provide for -

- (a) provisions for matters in respect of which fees, levies and other charges shall be payable;
- (b) the amount of the fees, levies and other charges, and the persons who shall be liable for their payment thereof;
- (c) forms to be used;
- (d) matters connected with appeals;
- (e) provisions for requiring persons to supply relevant information;
and
- (f) anything which, under this Act, is to be prescribed, and in particular the procedure to be followed by the Bureau in the performance of any of its functions under this Act.

(4) Regulations and By-laws made under this Act may provide for a penalty not exceeding one hundred million shillings and not less than five million shillings or a term of imprisonment not exceeding five years or to both.

Fees and
allow-
ances

37. The Minister may, by directions under his hand, prescribe the fees and allowances payable to the members of the Board.

Repeal
and
savings
Cap. 130

38.—(1) The Standards Act is hereby repealed.

(2) Notwithstanding the repeal of the Standards Act—

(a) all subsidiary legislation and all exemptions made or given under that Act which are in force on the appointed day shall be deemed to have been made or given under this Act, and shall remain in force until revoked by subsidiary legislation made under this Act or until it otherwise expires or ceases to have effect;

Cap. 130

(b) all officers appointed pursuant to the provisions of the Standards Act to perform functions specified under the Bureau's Staff Regulations and Scheme of Service made under that Act, shall, unless their appointments are revoked or any officer otherwise ceases to hold office or are re-appointed, be deemed to be authorized officers appointed under this Act.

SCHEDULE

(Made under section 5(2))

Construc-
tion

1. In this Schedule unless the context otherwise requires—
“appointing authority” means, in relation to the Chairman of the Board, the President and in relation to any other member, the Minister;
“member” includes the Chairman.

Composi-
tion of
the Board

2.—(1) The Board shall consist of—

- (a) a Chairman;
- (b) a representative from the Tanzania Private Sector Foundation;
- (c) one member from Small and Medium Industries;
- (d) one member from the higher learning institutions;

- (e) a member from the Ministry responsible for finance;
- (f) a member from the Ministry responsible for health;
- (g) a member from the Ministry responsible for industries and trade;
- (h) a State Attorney from the Attorney General's Chambers;
- (i) a member from the Fair Competition Commission; and
- (j) two members who has knowledge and experience in standards work, science, technology or environment.

(2) In making appointments under paragraph 1, the Minister shall ensure that, there is a gender balance.

3. An act or proceedings of the Board shall not be invalid by reason only of the number of members not being complete at the time of the act or proceeding or of any defect in the appointment of any member or of the fact that any member was at the time disqualified or disentitled to act as such.

Proceedings not to be invalid by reason of irregularity

4.-(1) A member of the Board shall, unless his appointment is sooner determined by the appointing authority or he otherwise ceases to be a member hold office for the period which the appointing authority may specify in his appointment, or if no period is so specified for a period of three years from the date of his appointment, be eligible for re-appointment for one further term:

Tenure of appointment

Provided that in the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that office.

(2) Any member of the Board may, at any time resign by giving notice in writing to the appointing authority and from the date specified in the notice or where no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

5. Where any member absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

Absence from three consecutive meetings

6. Where any member is, by reason of illness, infirmity or absence from the United Republic, unable to attend any meeting of the Board, the appointing authority may appoint a temporary member in his place and that temporary member shall cease to hold office on the resumption of office of the substantive member.

Appointment of temporary member

7. The Board shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold the office of Vice-Chairman for a term of one year from the date of his election and shall be eligible for re-election.

Vice-Chairman

**Powers of
the
Chairman
and Vice-
Chairman**

8.-(1) The Chairman shall preside at all meetings of the Board.

(2) Where at any meeting of the Board the Chairman is absent, the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Board, the members present may, from amongst their number, elect a temporary Chairman who shall preside at that meeting.

(4) The Chairman, Vice-Chairman or a temporary Chairman presiding at any meeting shall have a casting vote in addition to his deliberative vote.

**Meetings
and
procedure
of the
Board**

9.-(1) The Board shall meet not less than twice in every year and at any additional times which may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.

(2) The Chairman or, in his absence from the United Republic, the Vice-Chairman may, and shall upon application in writing by at least five members, convene a special meeting of the Board at any time.

(3) The Secretary of the Board shall give to each member adequate notice of the time and place of meeting.

Quorum

10. At any meeting of the Board not less than one-half of the members in office for the time being shall constitute a quorum.

**Decisions
of the
Board**

11. Subject to the provisions relating to a casting vote, all questions at a meeting of the Board shall be determined by a majority of the votes of the members present.

**Decision
by
circula-
tion of
papers**

12. Notwithstanding the preceding provisions of this Schedule, decisions may be made by the Board without a meeting, by circulation of the relevant papers among the members and the expression of the views of the majority of them in writing:

Provided that any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.

**Seal of
the Board**

13.-(1) The seal of the Board shall be of the shape, size and form which the Board may determine.

(2) The seal shall be authenticated by the signature of the Chairman, the Secretary or any officer of the Bureau authorised to act in that behalf by the Board.

**Significa-
tion of
other
docu-
ments**

14. All documents (other than those required by law to be under seal) to be executed by the Board and all decisions of the Board, shall be signified under the hand of the Chairman, the Secretary, any member of the Board or an officer of the Bureau authorised in that behalf by the Board.

15.-(1) The Board shall cause the minutes of all proceedings of meetings of the Board to be entered in a book kept for that purpose.

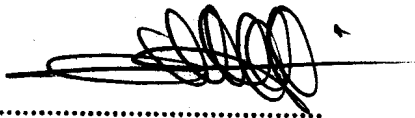
Record of proceeding of the Board

(2) The minutes if purporting to be approved by, and signed by the Chairman of, the next succeeding meeting of the Board shall be evidence of the proceedings and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and all proceedings thereat to have been duly transacted.

16. Subject to the provisions of this Schedule the Board may regulate its own proceedings.

The Board may regulate its proceedings

Passed in the National Assembly on the 28th January, 2009.



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Dr. Thomas D. Kashililah
Clerk of the National Assembly