

STANDARDS ACT

CHAPTER 82:03

Act
18 of 1997

Current Authorised Pages

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L.R.O.

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Note on Omissions

The various subsidiary legislation made under sections 16 and 18 have been omitted. *(See the Current Edition of the Consolidated Index of Acts and Subsidiary Legislation for references to these Subsidiary Legislation).*

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CHAPTER 82:03

STANDARDS ACT

An Act to provide for the preparation and promotion of standards in relation to goods, services, processes and practices by the establishment and operation of a Bureau of Standards, to define the powers and functions of the Bureau of Standards and for matters incidental thereto. 18 of 1997.

[12TH AUGUST 1997]

Commencement.

PART I

PRELIMINARY

1. This Act may be cited as the Standards Act.

Short title.

2. In this Act—

Interpretation.

“Caribbean Community Standard” means a standard proposed by the Caribbean Common Market Standards Council and approved by the Caribbean Common Market Council of Ministers;

“code of practice” means a description of the method of production of any goods or of the execution of any service, process or practice by which in the opinion of the Bureau a person adhering to it is able to produce goods or offer services which are likely to comply with a specification or standard;

“compulsory standard” means a standard so declared by Order of the Minister under section 18;

“goods” means commodities such as are the subject of trade or commerce and includes services, processes and practices;

“home use” means consumption in Trinidad and Tobago;

“Minister” means the minister to whom responsibility for trade and industry is assigned;

“practice” includes advertising, labelling or packaging;

“specification” means a description of any goods, by reference to its nature, quality, strength, purity, safety, composition,

quantity, dimensions, weight, grade, durability, origin, age or other characteristics, guidelines for a process or practice, tables of data, and a code of practice;

“standard” means a specification declared by the Bureau under section 16 to be a standard and includes a Caribbean Community Standard;

“standard mark” means a mark attesting that a product or a service is in conformity with a specific standard or technical specification;

“test equipment” includes —

- (i) materials, instruments, apparatus, tools and other articles needed to perform a test accurately and reliably whether by direct observation and measurement or by simulation techniques on any specific goods, process or practice; and
- (ii) articles which represent, embody or reproduce a physical quantity, unit or any characteristic of any goods, service or practice, which can be used in assessing such goods, service or practice.

PART II

ESTABLISHMENT OF THE BUREAU

Establishment
of the
Bureau of
Standards.

3. (1) There is hereby established a body corporate to be known as the Trinidad and Tobago Bureau of Standards (hereinafter called “the Bureau”).

(2) The Bureau shall be—

- (a) the national standards body;
- (b) the national quality certifying body; and
- (c) the national laboratory accrediting body.

Management of
the Bureau.

4. (1) The Bureau shall consist of—
(a) an Executive Director appointed under section 12; and

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- (b) not less than nine and not more than fifteen persons appointed by the Minister by instrument in writing—
- (i) one of whom shall be a representative of the Ministry responsible for the administration of matters relating to industry and commerce; and
 - (ii) another of whom shall be a representative of the Ministry responsible for the administration of matters relating to food and drugs.

(2) In making an appointment under subsection (1)(b)(ii) the Minister shall act on the recommendation of the Minister to whom responsibility for the administration of matters relating to food and drugs is assigned.

(3) Members of the Bureau, one of whom shall be appointed Chairman and another Vice-Chairman by the Minister, shall have qualifications in fields relating to standards, or experience in business, or shall be members of organisations committed to the maintenance or promotion of standards.

(4) Members of the Bureau other than the Executive Director shall hold office upon such terms and conditions as the Minister may determine and for such period as may be prescribed in the instrument of appointment.

(5) The members of the Bureau shall be responsible for the management of the business of the Bureau.

5. No personal liability shall attach to any member of the Bureau or its staff in respect of anything done, permitted to be done or omitted to be done in good faith and any sums of money, damages or costs which may be recovered against any member of the Bureau or its staff shall be paid out of the funds of the Bureau.

Personal liability of members.

6. (1) A member of the Bureau, other than the Chairman, Executive Director and those members appointed by the Minister under section 4(1)(b)(i) and (ii) may resign his office at any time by giving notice in writing to the Minister through the Chairman.

Resignation of members.

(2) The Chairman may resign his office at any time by giving notice in writing to the Minister.

Termination of appointment of members.

7. The Minister may terminate the appointment of any member who—

- (a) becomes of unsound mind or incapable of carrying out his duties;
- (b) becomes bankrupt or suspends payments to his creditors;
- (c) is convicted and sentenced to a term of imprisonment;
- (d) is convicted of any offence involving dishonesty;
- (e) is guilty of misconduct in relation to his duties;
- (f) is absent, except on leave granted by the Bureau, from three consecutive meetings of the Bureau; or
- (g) fails to carry out any of the functions conferred or imposed on him under this Act.

Names of members to be published in *Gazette*.

8. The names of all members of the Bureau as first constituted and every change in membership shall be published in the *Gazette*.

Meetings.

9. (1) The Bureau shall meet at least once in each quarter and at such other times as may be necessary or expedient for the transaction of the business of the Bureau.

(2) Where the Bureau consists of not more than eleven members the quorum shall be five and where the Bureau consists of more than eleven the quorum shall be seven.

(3) Where both the Chairman and Vice-Chairman are absent, the members present at a meeting shall choose one of their number, not being the Executive Director of the Bureau, to preside at that meeting.

(4) The decisions of the Bureau shall be adopted by a majority of votes.

Members to declare interest.

10. (1) A member of the Bureau whose interest is likely to be affected whether directly or indirectly by a decision of the Bureau

on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Bureau at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Bureau and after the disclosure the member making it shall not vote on the matter and unless the Bureau otherwise directs shall not be present or take part in the deliberations at any meeting when the matter is being deliberated by the Bureau.

11. (1) The Bureau shall have a seal that shall be kept in the custody either of the Executive Director or the Secretary as the Bureau may determine and shall be authenticated by the Chairman, or in his absence the Vice-Chairman, the Executive Director and the Secretary. Custody and use of seal.

(2) All documents, other than those required to be under seal and all decisions of the Bureau may be signified under the hand of the Chairman or the Secretary.

PART III

STAFF OF THE BUREAU

12. (1) The Bureau may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, an Executive Director, a Secretary and such other staff as it considers necessary for carrying out the provisions of this Act. Appointment and training of staff.

(2) The Bureau shall obtain the prior approval of the Minister in respect of the remuneration for any post equivalent to or higher than the post of Administrative Officer II in the Public Service.

(3) The Bureau may out of its funds make such arrangements for the training of its staff as it may consider expedient for the efficient conduct of its business.

13. (1) Subject to subsection (2), an officer in the Public Service or in the Bureau may, with the approval of the appropriate Service Commission and the consent of the Bureau, consent to be seconded to the service of the Bureau or from the service of the Bureau to the Public Service as the case may be. Secondment.

(2) Where a secondment contemplated by subsection (1) is effected, the rights of the officer to any pension, gratuity or other benefit for which he would have been eligible had he remained in the Public Service or in the service of the Bureau, shall be preserved.

(3) A period of secondment shall not in any case exceed seven years.

(4) Notwithstanding anything contained in any other law to the contrary, a person appointed by the Bureau under section 12(1) or an officer seconded from the Public Service to the service of the Bureau shall not, in the performance of his duties with the Bureau be regarded as the holder of an office in the Public Service.

Transfer of officers.

14. (1) An officer in the Public Service may, with the approval of the appropriate Service Commission and the Bureau consent to be transferred to the service of the Bureau and an officer in the service of the Bureau may with the approval of the Bureau and the appropriate Service Commission consent to be transferred to the Public Service.

(2) Where an officer is transferred to the Bureau under subsection (1) he shall become a member of any pension scheme established by the Bureau.

(3) All rights which may have accrued to an officer transferred under subsection (1) shall be preserved and such transfer shall be on terms which are acceptable to the Government, the Bureau and the officer concerned, but in any case shall be on terms no less favourable than those enjoyed by the officer before he was so transferred.

PART IV

BUSINESS OF THE BUREAU

Functions of the Bureau.

15. (1) The Bureau shall promote and encourage the development and maintenance of standards and further shall establish standards—

(a) for the improvement of goods produced or used in Trinidad and Tobago;

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- (b) to ensure industrial efficiency and development;
 - (c) to promote public and industrial welfare, health and safety; and
 - (d) for the protection of the environment.
- (2) The Bureau shall, for the purpose of the discharge of its functions under subsection (1)—
- (a) formulate or, in accordance with section 16(5), adopt specifications;
 - (b) promote research in relation to specifications and provide for the examination and testing of goods and establish or designate laboratories and testing facilities therefor;
 - (c) inspect or cause to be inspected any operations carried out, and any books or records, in connection with the production, manufacture, processing or treatment of any goods, the execution of any services, processes or practices for which a compulsory standard has been declared or for which application has been made to use a standard mark;
 - (d) declare standards and keep such standards under review;
 - (e) collect and publish for public information and guidance, data relating to specifications and standards;
 - (f) encourage and undertake educational programmes in connection with standards;
 - (g) co-operate with and co-ordinate the work of other institutions in the formulation and publication of specifications;
 - (h) co-operate with, and advise manufacturers in setting up quality control systems and in preparing standards;
 - (i) liaise with foreign, regional and international bodies dealing with standardisation and the quality of goods;

- (j) promote the carrying on of activities, not inconsistent with the purposes of this Act, by other bodies and for that purpose establish or expand, or promote the establishment or expansion of, other bodies to carry on any such activities either under the control or partial control of the Bureau or independently, and to give assistance to such bodies or to other bodies appearing to the Bureau to have facilities for the carry on of any such activities;
- (k) carry out any functions assigned to it by any written law;
- (l) provide advisory services for manufacturers and organisations as to the type and methods of quality control applicable to their goods and undertake the training of their staff in quality control;
- (m) institute a National Quality System and establish, administer and operate schemes of standardisation and certification of goods including—
 - (i) administering the certification of such goods;
 - (ii) assessing quality systems and administering the certification of systems thus assessed;
 - (iii) assessing the competence of quality practitioners offering consultancy, training and other services;
 - (iv) accrediting laboratories, and administering schemes with regard to such laboratories thus accredited; and
- (n) do all such other things as are necessary and expedient to secure the proper execution of the purposes of this Act.

(3) The Bureau may charge fees for services rendered under this section and may offer these services inside or outside of Trinidad and Tobago.

16. (1) Subject to subsections (2) and (3) the Bureau may declare any specification to be a standard. Bureau to declare a standard.

(2) No specification may be declared a standard and no standard may be varied or revoked unless the Bureau is satisfied that any person who may be affected thereby has had an opportunity to consider it and comment thereon.

(3) No specification for food, devices, drugs and cosmetics, as defined under the Food and Drugs Act, shall be declared standards, but the Bureau shall make recommendations to the Minister of Health who, after consultation with the Minister, may make Regulations under the Food and Drugs Act, in respect of the said specifications. Ch. 30:01.

(4) The Bureau shall—

- (a) publish in the *Gazette* and in such other publication as the Minister may direct, a notice of every declaration, variation or revocation of a standard; and
- (b) have available copies of every standard and any variation thereof.

(5) Where it is impracticable for the Bureau to formulate a specification it may adopt another specification formulated elsewhere than in Trinidad and Tobago to be a standard.

17. (1) The Bureau may designate test equipment for the purpose of measuring, comparing or testing the characteristics of any goods or process. Power to designate test equipment.

(2) The Bureau may designate and develop appropriate facilities, equipment, personnel and procedures to support quality management systems and the National Quality System referred to in section 15(2)(m).

(3) The Bureau shall publish in the *Gazette* a notice of designation of test equipment and of any designation or development undertaken under subsection (2) above.

18. (1) A standard which is intended primarily to— Compulsory standard.

- (a) protect the consumer or user against danger to health or safety;

- (b) protect public or industrial health, welfare or safety;
- (c) protect the environment;
- (d) ensure acceptable quality in products whether produced for home use or export;
- (e) ensure acceptable quality in any case where there is restriction in choice of source of supply;
- (f) require adequate information to be given to the consumer or user;
- (g) prevent fraud or misrepresentation arising from misleading advertising or labelling,

may, on the recommendation of the Bureau, be declared by Order of the Minister to be a compulsory standard.

(2) The Minister shall by publication in the *Gazette* give at least thirty days notice of his intention to make an order declaring a compulsory standard and shall thereby indicate the date on which it is intended that the compulsory standard shall come into effect and having regard to paragraphs (a) to (g) of subsection (1) the Order shall state the purposes for which the standard is intended.

Standard marks.

19. The Minister may, on the recommendation of the Bureau, prescribe standard marks which shall be used in relation to goods.

Use of standard mark.

20. (1) A person desiring to use a standard mark in connection with any goods shall make application to the Bureau in such manner as may be prescribed.

(2) The Bureau may, if satisfied that the goods conform to a standard, grant a licence to the applicant to use a standard mark upon such terms and conditions, as may be prescribed.

Restriction of use of word "standard".

21. (1) Except with the consent of the Bureau no person shall carry on any business or perform any function under a name which contains the word "Standard".

(2) Nothing in this section shall apply to the use of any name that was in use in Trinidad and Tobago on 14th July 1972.

22. (1) A person possessing such qualifications as may be prescribed for the testing or examination of the quality of goods may be appointed either by the Minister on the advice of the Bureau or by the Bureau at the direction of the Minister. Test or examination of quality.

(2) The direction of the Minister may be general or specific, conditional or unconditional.

(3) The Bureau, or the person appointed by the Minister pursuant to subsection (1), may require a manufacturer in Trinidad and Tobago to submit for testing or examination any goods manufactured by him where—

- (a) the manufacturer has a licence to use a standard mark in respect of such goods; or
- (b) a compulsory standard has been declared for such goods,

and in pursuance of its functions under section 15(2)(b) the Bureau may rank the results of any test or examination and may publish the ranking for the information of consumers.

(4) Where a compulsory standard has not been declared or a foreign specification exists with respect to certain goods, the Bureau may—

- (a) certify that the goods comply; or
- (b) report that the goods do not comply,

with the standard or foreign specification.

(5) In the exercise of his duties under this Act the appointee referred to in this section shall be accountable to the Executive Director.

23. (1) Subject to subsection (2), where a standard is compulsory and goods tested or examined under section 22 fail to conform with the required standard such goods shall not be exported and shall not be released for home use unless clearly stamped or marked “export rejects”, “seconds” or “imperfect” or some other similar classification as may be prescribed. Deficient goods.

(2) Where a compulsory standard is declared in order to protect the consumer or user against danger to health or safety,

and goods fail to conform to the required standard such goods may neither be exported nor released for home use, but shall be disposed of as the Bureau may reasonably decide.

(3) Goods which are in circulation but fail to conform to the compulsory standard shall be recalled, at the expense of the manufacturer or supplier by such means as the Bureau may reasonably decide.

Examination of imports.

24. (1) Where goods for which a standard has been declared, are produced or manufactured outside Trinidad and Tobago—

- (a) the Bureau may authorise any member of its staff; and
- (b) the Minister may in writing authorise any public officer or, at a fee to be prescribed, any suitably qualified person to assist the staff of the Bureau,

to examine the goods upon landing and any Customs entries in respect of such goods.

(2) A person authorised to examine goods under this section may take samples thereof and submit the samples for analysis or testing.

(3) Where imported goods are found to bear any mark so closely resembling a standard mark as to be misleading or which falsely represents a mark of compliance with a specification formulated or adopted elsewhere than in Trinidad and Tobago, the goods shall not be entered for home use unless the mark is removed or substantially changed.

(4) Where the standard declared is compulsory, goods referred to in subsection (1) may be entered for home use, only if—

- (a) upon an examination it is found that the goods comply with the compulsory standard; or
- (b) they are accompanied by a certificate of examination and compliance with the compulsory standard issued by a laboratory or other similar institution in the country of origin recognised by the Bureau.

(5) Where there is reason to believe that goods imported or about to be imported are likely to be a danger to the health or safety of consumers or likely to threaten the environment, whether a standard exists for such goods or not, the Bureau may require the importer or vendor to submit such goods for testing, and the goods may only be entered for home use or sold if—

- (a) upon examination of the goods they are found to be safe; or
- (b) the importer or vendor shows proof, satisfactory to the Bureau, that the goods are safe.

25. (1) In pursuance of its functions under section 15(2)(c) and of this Act generally the Minister may, on the advice of the Bureau and by instrument in writing designate an employee of the Bureau or any other suitably qualified person to be an inspector for the following purposes:

Duties of inspectors where standards compulsory.

- (a) to monitor compulsory standards;
- (b) to eliminate any process or practice the effect of which adversely affects the environment;
- (c) to prevent the access to the market place of goods which are likely to be a danger to the health or safety of consumers; and
- (d) to monitor any service, process or practice.

(2) An inspector may at any reasonable time on production of his credentials and with or without assistance and equipment as may to him seem necessary—

- (a) request to enter any place where he has reasonable grounds to believe any article to which this section applies is manufactured, prepared, stored or offered for sale, and examine any such article and take samples thereof;
- (b) request to enter any place where he has reasonable grounds to believe that any activity to which this section or the Regulations apply is carried on and inspect or investigate any such activity and take samples of any articles, materials or substances related to such activity;

- (c) open and examine any receptacle or package that he has reasonable grounds to believe contains any article to which this section applies;
- (d) examine any books, documents or other records found in any place mentioned in paragraphs (a) and (b) which he has reasonable grounds to believe contain any information relevant to the enforcement of this section with respect to any matter or to any article or activity to which this section applies and make copies or transcribe extracts therefrom;
- (e) examine any Customs entries relating to the goods referred to in section 24 and take samples of the goods and submit the samples to the Bureau, or to a designated test facility for analysis or examination; and
- (f) seize and detain for such time as may be necessary any article by means of which or in relation to which he has reasonable grounds to believe any provision of the Act has been infringed.

(3) Where it is shown to the satisfaction of a Magistrate, on sworn information in writing, that admission to any premises has been refused, or that refusal is apprehended, or that a request for admission would defeat the object of the entry, the Magistrate may, by warrant under his hand, authorise entry on the premises.

(4) For the purposes of subsection (2)—

- (a) the expression “article to which this section applies” includes—
 - (i) any goods for which a compulsory standard has been declared;
 - (ii) anything used in the manufacture, transportation, testing, preparation, processing, packaging, storage or sale of goods referred to in subparagraph (i); and
 - (iii) any labelling or advertising material referring to such goods whether bearing a standard mark or not;

- (b) the expression “activity to which this section applies” includes—
- (i) any process or practice for which a compulsory standard has been declared;
 - (ii) anything used in the performance or such process or practice referred to in subparagraph (i).

(5) Where an inspector enters a place pursuant to this section, the owner or person in charge of the place and any of his servants or agents found in such place shall give to the inspector all reasonable assistance and furnish him with such information as he may reasonably require.

(6) Any article seized under this section may at the option of the inspector either be kept in the building or place where it was seized or be removed to be stored in any other place.

(7) An inspector shall release any article seized under this section and not destroyed by testing, when satisfied that all the provisions of the section have been complied with.

(8) Where an inspector seizes an article under this section and the owner or the person in whose possession the article was at the time of seizure consents to its destruction, the article shall be forfeited to the State and may be destroyed or otherwise disposed of as the Minister may direct.

(9) Where a person has been convicted of an offence under this Act the Court may order that—

- (a) any article by means of or in relation to which the offence was committed or any article or thing of a similar nature either in the possession of that person or found with such article whether or not that other article or thing has been proven to be in violation of this section shall be forfeited to the State and may be disposed of as the Minister may direct; and
- (b) that person shall cease and desist from performing any activity by means of or in relation to which the offence was committed, until such time as the Court may direct.

(10) An inspector may prosecute in Courts of summary jurisdiction in cases arising from violations of this Act or the Regulations.

PART V

FINANCIAL PROVISIONS

Funds and resources.

- 26.** (1) The funds and resources of the Bureau shall consist of—
- (a) such amounts as may be appropriated by Parliament for the use of the Bureau;
 - (b) fees derived from the sale of publications and fees charged for examination, testing, certification, use of a standard mark, for any services rendered under section 15 and for any other services rendered by the Bureau;
 - (c) grants, covenants, donations and other receipts from persons, including national and international bodies;
 - (d) sums borrowed by the Bureau in accordance with section 27; and
 - (e) all other sums or property that may in any manner become lawfully payable to or vested in the Bureau in respect of any matters incidental to its functions, powers and duties.

(2) The Bureau may, with the approval of the Minister build up reserves, the limit of which shall be determined by the Minister

(3) The donations and such other funds received by the Bureau not immediately required to be expended to meet any obligation or discharge of any function may be invested in a fixed deposit or Government securities as the Bureau, with the approval of the Minister, considers fit.

Power to borrow.

27. (1) Subject to subsection (2), the Bureau may borrow any money required by it for the efficient exercise of its functions or for meeting its obligations.

(2) Borrowing may be effected only with the approval of the Minister.

(3) Approval of the Minister in respect of borrowing may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

(4) The Bureau shall not pledge its assets as security for any loan without the written approval of the Minister.

(5) For the purposes of this section and section 26, “Minister” means the Minister to whom responsibility for finance is assigned.

28. The funds of the Bureau may be applied in defraying the following expenditure: Application of funds.

- (a) the remuneration, fees and allowances of the members of the Bureau and of members of committees established by the Bureau;
- (b) the salaries, fees, allowances, advances, loans, gratuities and pensions of, and other payments to, the staff of the Bureau;
- (c) the capital and operating expenses including maintenance and insurance of the property of the Bureau;
- (d) the making and maintenance of investments by the Bureau in the discharge of its duties and functions; and
- (e) any other expenditure authorised by the Bureau in the discharge of its duties, functions and contractual obligations.

29. (1) The Bureau shall keep proper accounts and other records in relation to its functions and obligations, and shall prepare annually a statement of its accounts and may by resolution make rules for the proper control of its finances and the system of accounting. Accounts of the Bureau.

(2) The accounts of the Bureau shall be audited annually by auditors to be appointed annually by the Bureau.

(3) The Bureau shall, within three months of the end of each financial year, submit to the Minister—

- (a) a report dealing generally with the activities of the Bureau during the preceding financial year including a balance sheet and such other financial statements and such information relating to the operations and policies of the Bureau as the Minister may require; and
- (b) the annual report of the auditor appointed in accordance with subsection (2).

(4) The Minister shall cause a copy of every report submitted under subsection (3) to be laid before Parliament, within ninety days of its receipt by him, or if Parliament is not then in session, within ninety days of the commencement of its next sitting.

Bureau a
statutory
authority.
Ch. 71:81.

30. The Bureau is a statutory authority for the purposes of the Guarantee of Loans (Statutory Authorities) Act.

Tax exemptions.

31. (1) Notwithstanding any rule of law to the contrary, the President may by Order exempt the Bureau in whole or in part from the payment of any tax imposed by or under any written law.

(2) In this section “tax” includes assessments, fees, charges, impositions and such other levies as form part or are intended to form part of the revenue.

PART VI

MISCELLANEOUS

Regulations.

32. The Minister may make Regulations for carrying the provisions of this Act into effect and without prejudice to the generality of this provision, may make Regulations—

- (a) in respect of the declaration of standards;
- (b) concerning the use of a standard mark and for prescribing the terms and conditions subject to which a standard mark may be used;
- (c) in respect of packaging, labelling and advertising;
- (d) in respect of the examination or testing of goods;

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- (e) in respect of the keeping and production of records in relation to any goods;
- (f) in respect of the payment of fees;
- (g) prescribing the qualifications, powers and duties of persons authorised under section 22 and of inspectors;
- (h) in respect of the grant of licences; and
- (i) for prescribing penalties not exceeding a fine of one thousand dollars and imprisonment for six months.

33. (1) The Bureau may investigate complaints regarding goods referred to it by consumers and its staff and may institute legal proceedings against the person supplying the defective goods. Complaints.

(2) Where upon representations made by the Bureau the Court is of the opinion that any goods are dangerous to the public, the Court may order the person manufacturing or supplying the goods to cease operations and the defective goods shall be forfeited to the State.

(3) Where the person manufacturing or supplying the goods does not immediately comply with the order of the Court he shall be liable to a fine of five thousand dollars for every day the operation continues and the seizure and forfeiture of the equipment and all properties real or personal which have been used in the commission of the offence.

34. (1) Any person who— Offences.

- (a) sells or offers for sale or supplies to any other person any goods for which a compulsory standard has been declared and which do not conform to that standard;
- (b) labels, packages or advertises any goods otherwise than in compliance with any compulsory standard;
- (c) makes any statement or representation whether in writing or not or uses any mark with reference

- to any goods which conveys or is likely to convey the impression that a person who is not entitled to use a standard mark with reference to the goods is entitled to use a standard mark or falsely represents that any goods complies with specifications formulated or adopted elsewhere than in Trinidad and Tobago;
- (d) before offering or exposing for sale, goods which do not conform to the required standard, obliterates or otherwise removes any stamp or mark which denotes the deficiency;
 - (e) makes any statement or representation whether in writing or not, or uses any mark which conveys or is likely to convey the impression that any goods comply with a standard when they do not or have been certified, calibrated, examined, tested or approved by the Bureau when they have not;
 - (f) without the authority of the Bureau and for the purposes of gain or profit, makes any statement or representation whether in writing or not, whereby comparison is made in respect of any goods with a standard declared by the Bureau or the Minister unless he proves that he acted without intent to defraud;
 - (g) hinders or obstructs or knowingly makes any false or misleading statement to any person authorised by the Minister or the Bureau in that behalf, in the execution of his duty under this Act;
 - (h) with intent to defraud, represents that he is an inspector or a person authorised by the Minister or Bureau under this Act;
 - (i) having been entitled to use a standard mark uses it after he is no longer so entitled or otherwise than in accordance with the terms and conditions of such use;
 - (j) uses the word “Standard” in any name contrary to the provisions of section 21;

- (k) impersonates an inspector;
- (l) obstructs an inspector by not giving him reasonable assistance or access to records, documents or information relevant to the performance of his functions under this Act;
- (m) interferes with any article seized by an inspector in such a way as to change any of the characteristics of the article described in the standard applicable to such articles;
- (n) engages in any process or practice the effect of which adversely affects the environment,

is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to a further fine of five hundred dollars for every day on which the offence continues and to imprisonment for two years.

(2) Expenses incurred by the Bureau in respect of any tests, evaluation, examination or analysis are recoverable by the Bureau from the defendant, upon conviction.

(3) No personal liability shall attach to a member of a company, firm or unincorporated body for anything done or permitted to be done or omitted to be done in good faith in respect of any offence against the Act or Regulations made hereunder.

(4) Where any person is convicted under this Act, it shall be competent for the Bureau to cause the name and place of business of the person, the nature of the contravention, the fact that the person has been so convicted and such other particulars as the Bureau may consider to be appropriate in the circumstances of the case to be published in a daily newspaper in circulation in Trinidad and Tobago.

(5) No publication under subsection (4) shall be made until any period for preparing an appeal against the order of the Court has expired without any appeal having been prepared, or such an appeal having been prepared, has been disposed of.

(6) The expenses of publication under subsection (4) are recoverable from the person as if it were a fine imposed by the Court.

Evidence of standard.

35. (1) A copy of any standard issued by the Bureau together with a copy of the notice in the *Gazette* relating to the declaration or amendment of the standard shall be *prima facie* evidence of that standard in any legal proceedings.

- (2) Notwithstanding provisions contained in any other law—
- (a) the copyright in any standard or other publication issued by the Bureau shall vest in the Bureau; and
 - (b) no person shall, without the authority of the Bureau, publish, reproduce or record in any manner or form, any document or part thereof in respect of which the copyright vests in the Bureau unless such copy is for the person's own use.

Secrecy of information obtained.

36. (1) All information obtained by the Minister or by the Bureau or any member of its staff or by any other person in the course of the administration of this Act, as to any formula, process or practice shall be treated as confidential save for purposes connected with the administration of this Act.

(2) The disclosure of any information relating to any formula, process or practice to the Minister or to the Bureau or any member of its staff or to any other person for purposes connected with the administration of this Act, shall not prejudice any application subsequently made for the patent of the formula, process or practice.

Protection against claims.

37. The fact that any goods conform or is alleged to conform to a standard or the fact that a standard mark is used in connection with any goods shall not give rise to any claim against the State or the Bureau.

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[Subsidiary]

234/2004.

STANDARDS REGULATIONS*made under section 32*

Citation.

1. These Regulations may be cited as the Standards Regulations.

PART I**DECLARATION OF STANDARDS**

Bureau may appoint advisory committees.

2. The Bureau may appoint advisory committees to assist in the formulation or adoption of specifications.

Bureau to publish notice to declare a standard.

3. (1) Where the Bureau formulates or adopts a specification and proposes to declare that specification as a standard, it shall publish on three days, in any period of seven days, a notice to that effect in at least two daily newspapers circulating in Trinidad and Tobago.

(2) The notice shall invite comments from the public on the specification or on the proposal to have it declared a standard and shall state—

- (a) the title and scope of the specification;
- (b) the address at which details of the specification may be obtained;
- (c) the last day on which comments may be submitted; and
- (d) the name or other designation of main specifications used in the formulation of the specification, which is the subject of the notice or from which it was adopted.

(3) Where it is proposed that the specification be declared as a compulsory standard, the notice shall so indicate and shall in addition to the matters set out in subregulation (2) state the date from which it is proposed the compulsory standard shall have effect and the reasons for proposing a compulsory standard.

4. The Bureau shall forward to the advisory committee that assisted in the formulation or adoption of the specification for their recommendations, all comments received in response to the notice referred to in regulation 3 and the committee shall report thereon to the Bureau. The report may include a recommendation that the specification be modified or amended before being declared a standard.

Comments to be forwarded to advisory committee.

5. (1) Where it is proposed to declare a compulsory standard the Bureau shall forward to the Minister the following:

Compulsory Standard.

- (a) the specification as formulated or adopted by the Bureau;
- (b) the report of the advisory committee on the public comments received;
- (c) the Bureau's recommendation in the matter; and
- (d) a copy of the notice published under regulation 3 and the dates of its publication.

(2) Where, notwithstanding the recommendation of the Bureau, the Minister does not make an Order declaring a compulsory standard, the Bureau may declare that specification as a standard.

PART II

USE OF STANDARD MARKS

6. The Trinidad and Tobago Standard Mark, the standard marks called the Product Certification Mark, the TTTIC Mark, TTBS/ISO 9001 Mark, TTBS/ISO 14001 Mark and TTBS Q&EMS-SME Mark are set out in Part I, Part II, Part III, Part IV and Part V, respectively of the First Schedule.

Standard marks prescribed in the First Schedule.

7. In addition to the standard marks prescribed in the First Schedule, the Minister may by Order, on the recommendation of the Bureau, prescribe other standard marks.

Standard marks prescribed by Minister.

8. (1) A person who seeks to use the standard mark in connection with any goods shall make application to the Bureau in the form set out as Form I in the Second Schedule which shall be accompanied by the requisite fee, as prescribed by the Bureau.

Use of standard mark.

Form I. Second Schedule.

Form II.
Second
Schedule.

(2) All goods covered by a compulsory standard shall carry a standard mark approved by the Bureau and an application to use such standard mark shall be made in the form set out as Form II in the Second Schedule accompanied by the requisite fee, as prescribed by the Bureau.

(3) The Bureau may exempt any person from making an application under subregulation (2).

Bureau to
undertake
assessment.

9. (1) The Bureau may in connection with an application under regulation 8—

- (a) undertake the assessment of goods;
- (b) undertake inspections of—
 - (i) premises, raw materials and components;
 - (ii) quality control methods and procedures;
 - (iii) testing facilities;
 - (iv) records as may be necessary; and
- (c) require additional information to be supplied by the applicant.

(2) All goods, raw materials and components, quality control method and procedures required to be examined and tested shall be supplied to the Bureau by the applicant free of charge.

Issue and
expiration of
licence.

10. (1) The Bureau shall, if satisfied that the goods conform to a standard or a compulsory standard grant a licence to the applicant to use a standard mark upon such terms and conditions, including payment of fees, as may be prescribed by the Bureau.

(2) A licence to use any standard mark shall expire on the anniversary date of its issue or as determined by the Bureau.

Licence to relate
to specific
goods.

11. A licence to use a standard mark shall relate only to the goods specified therein.

Revocation of
licence.

12. The Bureau may revoke a licence where—

- (a) any of its terms and conditions have been violated;
- (b) any statement or information contained in or provided with the application is false, deceptive or misleading; or
- (c) information required was not provided.

13. (1) Where a licence is revoked the Bureau may take all reasonable steps to prevent the continued use of any standard mark in connection with the goods named in the licence.

Bureau to prevent continued use of standard mark.

(2) The Bureau may require the person to whom the licence was issued to obliterate or remove the standard mark from any—

- (a) marking device;
- (b) die mark;
- (c) goods wrapping material; or
- (d) packaging or advertising matter,

on which he was authorised to use it under the licence.

14. The Bureau shall keep a register of licences issued and the register shall contain—

Bureau to keep register of licences.

- (a) the name and address of any person to whom a licence was issued;
- (b) the goods named in the licence;
- (c) the date of issue, renewal or revocation of the licence; and
- (d) such other terms and conditions as the Bureau may determine.

15. At least once every year, the names of persons to whom licences have been issued and the goods in connection with which such persons may use the standard mark shall be published by the Bureau.

Names of licensees to be published.

16. (1) The Bureau shall charge fees for a licence to use any standard mark in connection with any goods.

Bureau to charge fees for use of standard mark.

(2) Fees charged under subregulation (1) shall be based on—

- (a) the sales of the goods;
- (b) the frequency of the use of the standard mark;
- (c) the necessity to purchase samples for testing; and
- (d) such other considerations as the Bureau may think appropriate.

PART III

TESTING OF ARTICLES

Bureau to ensure goods are tested.

17. Where goods are submitted for examination or testing in compliance with a requirement of the Bureau or where goods are seized, the Bureau shall ensure those goods are tested or examined by a laboratory or testing facility registered or accredited for that purpose.

Bureau may purchase samples.

18. The Bureau may purchase goods or articles required for testing in order to determine whether they comply with any standard or whether the conditions attaching to the use of any standard mark in connection with those goods or articles have been fulfilled.

Goods for testing to be marked, labelled and stored.

- 19.** (1) Goods that have been—
- (a) submitted for examination;
 - (b) seized; or
 - (c) purchased by the Bureau for testing,

shall be marked, labelled and stored in such a manner as to be clearly identified and protected from reasonably foreseeable damage.

(2) The goods referred to in subregulation (1) shall be delivered to the laboratory or testing facility where the required test or examinations are to be conducted.

Where duplicate samples requested.

20. (1) Where the manufacturer or vendor of any goods or articles taken or seized, requests that a duplicate sample be taken for testing or examination, the person taking or seizing the goods or articles shall—

- (a) select goods or articles similar to those taken or seized;
- (b) mark them so that they may be clearly identified;
- (c) store them to protect them from foreseeable damage;
- (d) label the goods or articles “Duplicate Sample”; and
- (e) deliver the goods to the manufacturer or the vendor, as the case may be.

(2) Where the manufacturer or vendor of any goods, taken or seized under the Act does not request a duplicate sample, the person taking or seizing the goods or articles may purchase a duplicate sample or may divide the goods or articles taken or seized into two similar parts making one part the “Duplicate Sample”.

21. In any proceedings under the Act, the Court may order that the duplicate sample referred to in regulation 20 be tested or examined. Court may order test.

PART IV

ADVERTISING, LABELLING AND PACKAGING

22. In this Part “advertisement” includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale, disposal or use of any goods. Definition.

23. The Bureau may direct that any advertisement, label or package used in connection with any goods for which a compulsory standard has been declared may be published or used in trade only with the approval of the Bureau. Approval of Bureau.

24. Where a compulsory standard is declared for the practice of advertising, labelling and packaging, the Bureau may require that an advertisement, labelling or packaging in violation of that standard shall be withdrawn from publication and amended or changed as the Bureau may direct in order to bring it into conformity with the compulsory standard. Bureau may require withdrawal of publication.

25. A person who— Penalty.

- (a) advertises, labels or packages contrary to the requirements of any compulsory standard; and
- (b) fails to make modifications to conform to such standard as required by the Bureau,

commits an offence and is liable on summary conviction, to a fine of five hundred dollars.

PART V

ENFORCEMENT OF COMPULSORY STANDARDS

Imports to be
examined and
tested on.

26. (1) Where a compulsory standard is declared for any goods, imports of the goods shall, subject to subregulation (2), be sampled and examined on entry before being delivered out of the charge of the Comptroller of Customs and Excise, except where otherwise provided by the Bureau.

(2) Samples of imports may be taken to a laboratory or other testing facility without the payment of import duties or other taxes.

(3) Where samples of imports are found from examination or testing not to comply with the relevant compulsory standard, the Bureau shall send a report of the examination or test to the Comptroller of Customs and Excise and to the importer, and subject to subregulation (4), the imports shall not be admitted.

(4) Where in the opinion of the Bureau the imports may be modified so as to effect compliance with the compulsory standard, the imports may be admitted for the modification to be carried out to the satisfaction of the Bureau. In any other case, or where the modification is not to the satisfaction of the Bureau, the imports shall not be admitted.

(5) Where goods are not admitted, the Bureau may require and shall obtain reasonable evidence from the importer and the Comptroller of Customs and Excise as to the disposal of goods not so admitted.

Bureau may
waive sampling.

27. The Bureau may waive the requirement of sampling and examination of any shipment of goods to which regulation 26 refers where—

- (a) a representative sample of similar goods from the same country of origin has been examined or tested by a laboratory or testing facility registered or accredited by the Bureau and found to comply with the compulsory standard; or
- (b) a representative sample of goods taken from the shipment has been examined or tested in the country of origin by an accredited laboratory or other similar institution, recognised by the Bureau

and found to comply with the compulsory standard and a certificate of conformity or test report has been submitted to and accepted by the Bureau.

28. (1) Where imported goods for which a compulsory standard has been declared, are exhibited for sale the Bureau may request samples or may purchase such samples for examination and testing and where the goods are found from examination or testing not to conform to the relevant compulsory standard the Bureau shall be entitled to—

Imports exhibited for sale to be examined and tested.

- (a) prohibit the sale of such goods;
- (b) direct the removal of such goods by the person exhibiting the goods for sale within a time specified by the Bureau;
- (c) direct the closure of the business premises in which the goods are exhibited for sale; and
- (d) seize the goods.

(2) Any person who fails to comply with a directive of the Bureau made in accordance with subregulation (1) commits an offence and is liable on summary conviction, to a fine of one thousand dollars.

29. (1) Where a compulsory standard is declared for goods locally manufactured for home use or for export, the Bureau may request samples from the manufacturers or may purchase samples for examination and testing.

Goods locally manufactured to be examined and tested.

(2) Where samples of locally manufactured goods are found from examination or testing not to comply with the relevant compulsory standards, the Bureau may request and allow the manufacturer to carry out modifications necessary for compliance with the relevant compulsory standards.

(3) Where the modifications referred to in subregulation (2), are not made to the satisfaction of the Bureau, the Bureau may—

- (a) direct the manufacturer to cease manufacture of

the goods and where such goods are in circulation to recall the same at the expense of the manufacturer;

- (b) direct that the goods shall not be exported; or
- (c) direct that the goods shall not be released for home use, unless clearly stamped or marked “export rejects”, “seconds”, “imperfect” or some other similar classification.

(4) A manufacturer who fails to carry out a directive of the Bureau made in accordance with this regulation, commits an offence and is liable to a fine of one thousand dollars.

Bureau may petition Court.

30. Without prejudice to the provisions of regulation 29, where a compulsory standard is declared for any goods, the Bureau may petition the Court to order any person manufacturing the goods in Trinidad and Tobago to cease manufacture of the goods after a specified date if in the opinion of the Bureau that person has failed to comply with the compulsory standard.

PART VI

QUALITY CERTIFICATION

Bureau quality certifying body.

31. The Bureau is the national quality certifying body and shall operate in compliance with the relevant national, regional and international standards, guides and other requirements.

Bureau to issue certificate of conformity.

32. The Bureau shall certify against national, regional and international standards, guides and other requirements and shall issue certificates of conformity.

Bureau to maintain integrity and impartiality.

33. The Bureau shall maintain integrity and impartiality in the application of the relevant standards, guides and other requirements.

Quality practitioners.

34. (1) The Bureau shall establish a register for all national, regional and international persons offering consultancy, training and other related services in quality management.

- (2) Each quality practitioner shall—
 - (a) submit his qualifications to the Bureau or to a qualified registrar determined by the Bureau; and

(b) undergo an assessment by the Bureau on his competence as a quality practitioner.

(3) Where after an assessment the Bureau decides to enter the quality practitioner's name in the register, a licence shall be issued to the quality practitioner upon payment of the requisite fee as prescribed by the Bureau.

35. All local, regional and international bodies performing certification and accreditation services in Trinidad and Tobago shall register with the Bureau subject to such terms, conditions and payment of fees prescribed by the Bureau.

Registrar and other bodies.

36. The Bureau shall publish annually, by Notice in the *Gazette*, the register of quality practitioners.

Bureau to publish register of quality practitioners.

37. Any person who is refused registration, a certificate or a licence after examination and assessment by the Bureau under this Part may, appeal in writing against such refusal in accordance with the appeals procedure prescribed from time to time by Order of the Minister in consultation with the Bureau.

Procedure for appeals.

PART VII

ACCREDITATION OF LABORATORIES

38. In this Part—
“laboratory” means any facility that—

Interpretation.

- (a) offers testing or calibration services and includes facilities for the biological, biophysical, cytological, pathological or other examination of materials derived from the human body in the assessment of health or for the diagnoses, prevention or treatment of disease; and
- (b) provides a consultation or advisory service relating to any aspect of laboratory investigation including the interpretation of results, advice on further investigations and procedures for determining, measuring or describing the presence or absence of various substances or micro-organisms;

“TTLAS” means the Trinidad and Tobago Laboratory Accreditation Service established under regulation 39.

Bureau to function as TTLAS.

39. The Bureau is the national body for accrediting laboratories and shall carry out this function as the Trinidad and Tobago Laboratory Accreditation Service.

Register of laboratories.

40. (1) TTLAS shall establish a register for all laboratories which term shall include testing facilities and laboratories shall—

- (a) submit details of the physical accommodation of the laboratory;
- (b) submit details of the scientific, engineering and technological apparatus with which the laboratory is equipped and of the arrangements for their proper housing and maintenance; and
- (c) allow TTLAS to inspect the laboratory.

(2) After inspection TTLAS may enter the laboratory into the register subject to such terms and conditions and payment of fees as prescribed by the Bureau.

Bureau to publish register of laboratories.

41. The Bureau shall publish annually, by Notice in the *Gazette*, the register of laboratories.

Exemption.

42. The Minister may on the recommendation of the Bureau exempt any laboratory from the requirements of regulation 40(1).

TTLAS to comply and to accredit against relevant standards.

43. TTLAS shall operate in compliance with relevant national, regional and international standards, guides and other requirements and shall accredit against—

- (a) national, regional and international standards;
- (b) guides and other requirements; and
- (c) publicly available criteria agreed by the Minister.

TTLAS to promote T & T system of accreditation.

44. TTLAS shall promote national, regional and international recognition for the Trinidad and Tobago system of accreditation and will encourage the adoption of this system into accepted international models.

45. TTLAS shall maintain integrity and impartiality in the application of the relevant standards, guides and other requirements and judge conformity to those standards, guides and other requirements.

TTLAS to act with integrity.

46. Any person may appeal in writing against a decision of TTLAS under this Part in accordance with the appeals procedure as may be prescribed from time to time by the Minister, in consultation with the Bureau.

Procedure for accreditation Appeals.

PART VIII

FEES AND OFFENCES

47. (1) The Bureau may publish by notice in the *Gazette* a list of its fees including the application fee for a licence and fees payable for its services.

Bureau to publish list of fees.

(2) The Bureau may, from time to time, vary the fees referred to in subregulation (1), by notice in the *Gazette*.

48. Subject to regulations 25, 28 and 29, a person who contravenes any of these Regulations, commits an offence and is liable on summary conviction, to a fine of one thousand dollars or to imprisonment for six months.

Offences.

Regulation 6.

FIRST SCHEDULE



Part I
Production Certification

Part II
TTIC Mark

Part III
TTBS/ISO 9001

Part IV
TTBS/ISO 14001

Part V
TTBS Q&EMS- SME Mark

SECOND SCHEDULE

Regulation 8(1).

FORM I

APPLICATION FOR A LICENCE TO USE THE STANDARD MARK

1. I/We, carrying on
business at (address)
(business name)

hereby apply for a licence to use the Standard Mark in connection with the
goods/service/practice mentioned below—

- (1) (a) description of goods;
(b) brand name;
(c) type, size, grade, style.
- (2) Description of service/practice.

2. Related Trinidad and Tobago Standards—

No.	Title
No.	Title
No.	Title

3. Information on production (calendar years)—

No. of Units		Value <i>ex works</i>	
Last year 1st January	20	to 31st December	20
This year 1st January	20	to 31st December	20 .

(estimates)

4. Sources of raw materials/components purchased.

5. Standards or specifications used for checking raw materials/components
purchased.

6. Testing facilities available to applicant—

- (a) in factory;
- (b) elsewhere in Trinidad and Tobago;
- (c) in other countries.

7. We operate/do not operate a quality assurance programme of sampling and testing products and inputs (if so, give details).

DECLARATION

- 8. (a) I/We agree that for the purposes of any enquiry into the quality of the goods prior to being issued a licence to use the Standard Mark the Bureau may be given free of charge samples of any goods, raw materials or components needed for tests by the Bureau so that the Bureau may be satisfied that the Standard Mark may be used on the goods and that the goods conform with the Trinidad and Tobago standards mentioned about;
- (b) I/We agree to allow the Bureau to make such inspections of processes, practices as may be necessary;
- (c) I/We agree that any costs for testing or consultations involved in assessing the quality of the goods prior to being issued a licence to use the Standard Mark shall be paid by me/us at the Bureau's request;
- (d) I/We undertake to abide by the terms of any licence to use the Standard Mark issued to me/us by the Bureau so long as the licence is in force, and to observe the provisions of the Standards Act and Regulations. In the event of the licence being revoked, I/We undertake to cease immediately any use of the Standard Mark.

Signed

Name in Block Letters

Position

For and on behalf of

Dated thisday of , 20..... .



FORM II

Regulation 8(2).

REPORT OF SPECIFICATION TEST

1. I, the undersigned, state that on the day of
....., 20..... I received a sample of
..... marked
from
2. I carried out an examination/analysis/test using the method specified in T & T
Standard TTS as a test/analysis/
examination for
3. I obtained the following results
.....
.....
4. It is my conclusion that the goods submitted in this sample did/did not
comply with the requirements of T & T Standard TTS
.....
.....
Signed

Dated (.....).
