

MAURITIUS STANDARDS BUREAU ACT 1993

Act No. 12 of 1993 - July 16, 1993

[Amendments]

ARRANGEMENT OF SECTIONS

PART I – INTRODUCTION

- | | | | |
|---|-------------|---|----------------|
| 1 | Short title | 2 | Interpretation |
|---|-------------|---|----------------|

PART II – ADMINISTRATION

- | | | | |
|----|-------------------------------------|----|------------------------------------|
| 3 | Establishment of the Bureau | 4 | Objects of the Bureau |
| 5 | The Standards Council | 6 | Meetings of the Council |
| 7 | Director | 8 | Delegation of powers |
| 9 | Appointment of employees | 10 | Conditions of service of employees |
| 11 | Protection of members and employees | 12 | Powers of Minister |
| 13 | General Fund | 14 | Charges to General Fund |
| 15 | Estimates | 16 | Annual report |

PART III – STANDARDISATION AND QUALITY ASSURANCE

- | | | | |
|----|------------------------------------|----|-----------------------------|
| 17 | Technical committees | 18 | Declaration of standards |
| 19 | Amendment, revision and withdrawal | 20 | MSB certification mark |
| 21 | Licences | 22 | Certificate of registration |
| 23 | MSB registered firm symbols | 24 | Publication |
| 25 | Appeal | 26 | Compulsory standards |

PART IV – OFFENCES AND ENFORCEMENT

- | | | | |
|----|-------------------------------|----|------------------------------|
| 27 | Powers of authorised officers | 28 | Power to require information |
| 29 | Offences | | |

PART V – MISCELLANEOUS

- | | | | |
|----|---------------------------|----|--------------|
| 30 | Protection against claims | 31 | Secrecy |
| 32 | Use of word “standard” | 33 | Regulations |
| 34 | - | 35 | Repeal |
| 36 | Transitional provisions | 37 | Commencement |

To amend and consolidate the law relating to standards

PART I – INTRODUCTION

1 Short title

This Act may be cited as the Mauritius Standards Bureau Act 1993.

2 Interpretation

In this Act –

“applicant means a person or a firm seeking a licence or a certificate of registration under this Act;

“authorised officer means an employee of the Mauritius Standards Bureau designated as such by the Director;

“Bureau means the Mauritius Standards Bureau established under section 3;

“certificate of registration means a certificate issued under section 22 and recognising that the management system operated by a firm has been assessed and complies with the requirements of the relevant standard;

“Chairman means the Chairman of the Council appointed under section 5;

“code of practice means rules relating to the methods to be applied or the procedure to be adopted in connection with the construction, installation, testing, operation or use of any article, apparatus, instrument, device or process;

- “commodity means any article or thing which is the subject of industry, trade or business;
- “compulsory standard means a standard which has been declared as such under section 26;
- “Council means the Standards Council established under section 5;
- “Director means the person appointed as such under section 7;
- “draft standard means a proposed standard that is available for comment;
- “employee means any employee of the Bureau and includes the Director;
- “General Fund means the fund established under section 13;
- “licence means a licence issued under section 21 to use the MSB certification mark;
- “mark means the MSB certification mark;
- “Mauricert means the MSB certification marking scheme;
- “measurement standard means a material measure, measuring instrument or system intended to define, realise, conserve or reproduce a unit or one or more known values of a quantity in order to transmit them to other measuring instruments by comparison;
- “Minister means the Minister to whom responsibility for the subject of industry is assigned;
- “MSB means the Mauritius Standards Bureau;
- “national measurement standard means a measurement standard used as the basis for fixing the value in Mauritius of all other measurement standards of the quantity concerned;
- “secondary measurement standard means a secondary standard of the Legal Metrology Division of the Ministry responsible for the subject of commerce under the Legal Metrology Act 1985;
- “specification means a description of a commodity or a process, by reference to its nature, quality, strength, purity, composition, quantity, reliability, dimensions, weight, grade, durability, origin, age or other characteristic;
- “standard means a document which has been declared as such under section 18 and may include a specification or a code of practice.
- [Note]

PART II – ADMINISTRATION

3 Establishment of the Bureau

- (1) There is established for the purposes of this Act the Mauritius Standards Bureau.
- (2) The Bureau shall be a body corporate.

4 Objects of the Bureau

- (l) The objects of the Bureau shall be –
 - (a) to promote and encourage standardisation and quality assurance in industry and trade;
 - (b) to prepare, frame, amend and revise standards;
 - (c) to control the use of the mark;
 - (d) to assess management systems and to control such systems;
 - (e) to examine, test or analyse articles, materials and substances;
 - (f) to hold and maintain the national, measurement standards;
 - (g) to calibrate the secondary measurement standards;
 - (h) to test precision instruments and measuring apparatus so as to determine their degree of accuracy and to calibrate them;
 - (i) to issue reports in connection with examinations, tests, analyses and calibrations;
 - (k) to provide technical information on standardisation and related subjects;
 - (l) to undertake applied research to promote technological development in industry;
 - (m) to advise the Minister on the formulation of policy for the purposes of this Act.
 - (n) to organise training courses on standardisation, quality assurance and related subjects

(2) The Bureau may provide consultancy and other services and charge fees as may be approved by the Council for such services.

[Note]

5 The Standards Council

(1) The Bureau shall be administered by the Council.

(2) The Council shall consist of –

- (a) a Chairman appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of industry;
- (c) a representative of the Ministry responsible for the subject of consumer protection;
- (d) a representative of the University of Mauritius;
- (e) a representative of the Mauritius Chamber of Commerce and Industry;
- (f) a representative of the Institution of Engineers (Mauritius);
- (g) a representative of the Mauritius Employers' Federation;
- (h) 3 members appointed by the Minister, one of whom shall be a member from a consumer organisation.

(3) Every appointed member shall –

- (a) be a person who has special knowledge and proven ability in the field of industry, trade, science or technology;
- (b) hold office for a period of 3 years and be eligible for reappointment.

(4) Every member shall be paid such fees or allowances as the Council may, with the approval of the Minister, determine.

(5) No member shall be deemed to hold a public office by reason only of his appointment.

(6) No member shall take part in the deliberations of the Council where he has a direct or indirect interest in the subject under consideration.

(7) The Director shall, unless directed otherwise by the Council, attend every meeting of the Council and may take part in its deliberations but he shall not be entitled to vote on any matter before the Council.

[Note]

6 Meetings of the Council

(1) The Council shall meet at the request of the Chairman or of not less than 3 members and at such time and place as the Chairman may direct.

(2) Six members shall constitute a quorum.

(3) Subject to this section, the Council shall regulate its meetings and proceedings in such manner as it thinks fit.

[Note]

7 Director

(1) There shall be a chief executive officer of the Bureau who shall –

- (a) be known as the Director; and
- (b) be appointed by the Council with the approval of the Minister.

(2) The Director shall be responsible for the execution of the policy of the Council and for the control and management of the day-to-day business of the Bureau.

(3) In the exercise of his functions, the Director shall act in accordance with such directions as he may receive from the Council.

(4) The Director may, with the approval of the Council, delegate his functions or any power delegated to him under section 8 to another employee.

8 Delegation of powers

(1) Subject to subsection (2) and to such instructions and rules of a general nature as it may give or make, the Council may delegate to the Chairman or to the Director, such of its powers under this Act as may be necessary to assist in the effective management of the Bureau, other than the power –

- (a) to borrow money;
- (b) to raise loans; or
- (c) to enter into any transaction in respect of capital expenditure which exceeds 500,000 rupees.

(2) Subject to subsection (3), no document shall be executed or signed by or on behalf of the Bureau unless it is signed by the Director and the Chairman or, in the absence of the Chairman, any other member appointed by the Council for that purpose.

(3) Any cheque or other negotiable instrument for an amount not exceeding 20,000 rupees shall be signed or endorsed by the Director and any other employee appointed by the Council for that purpose.

[Note]

9 Appointment of employees

(1) Subject to subsection (3), the Council may employ, on such terms and conditions as it thinks fit, such employees as may be necessary for the proper discharge of the functions of the Bureau.

(2) Every employee shall be under the administrative control of the Director.

(3) No employee shall take an active part in politics or seek election as a member of the Assembly or a local Authority.

10 Conditions of service of employees

The Council may make provision, in such form as it may determine, to govern the conditions of service of employees and, in particular, to deal with –

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, employees;
- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes, and the contributions payable to, and benefits recoverable from, those schemes.

11 Protection of members and employees

No liability, civil or criminal, shall attach to any member or employee or to the Council in respect of loss arising from the exercise in good faith by a member or an employee or the Bureau of his or its functions under this Act.

12 Powers of Minister

(1) The Minister may, in relation to the exercise by the Council of its powers under this Act, after consultation with the Council, give such directions of general character to the Council as he considers necessary in the public interest, and the Council shall comply with those directions.

(2) The Council shall furnish to the Minister such information with respect to its activities as he may require.

13 General Fund

The Bureau shall establish a General Fund –

- (a) into which all money received by the Bureau shall be paid; and
- (b) out of which all payments required to be made by the Bureau shall be effected.

14 Charges to General Fund

The Bureau may, in the discharge of its functions and in accordance with the terms and conditions on which its funds may have been obtained or derived, charge to the General Fund all remunerations, allowances, salaries, fees, pensions and superannuation fund contributions, gratuities, working expenses or all other charges properly arising, including any necessary capital expenditure.

15 Estimates

(1) The Bureau shall, not less than 3 months before the beginning of every financial year, submit to the Minister for his approval a consolidated estimate of the expenditure and income of the Bureau.

(2) In signifying his approval, the Minister may make comments of a general policy nature regarding the estimates.

16 Annual report

(1) The Bureau shall, not later than 6 months after the close of the financial year, issue an annual report on its activities and audited accounts for that financial year.

(2) The annual report shall be submitted to the Council for approval and be laid subsequently before the National Assembly by the Minister.

PART III – STANDARDISATION AND QUALITY ASSURANCE

17 Technical committees

(1) The Council shall appoint technical committees which shall assist it in matters relating to standardisation, quality assurance and metrology.

(2) Every technical committee shall –

- (a) be appointed on such terms and conditions as the Council thinks fit; and
- (b) be composed of persons from the private and public sectors who have knowledge or experience in matters relating to standardisation, quality assurance and metrology.

(3) The members of a technical committee shall be paid such fees and allowances as the Council may determine.

(4) Subject to subsection (2), and to any subsidiary enactment made under this Act, every technical committee shall regulate its meetings and proceedings in such manner as it thinks fit.

18 Declaration of standards

(1) Where the Council intends to declare a standard, it shall, by public notice, declare a draft standard.

(2) Any interested person may, within 60 days from the publication of the notice under subsection (1), lodge with the Director a written objection or representation concerning the draft standard.

(3) Any person may inspect the particulars of a draft standard at the Bureau.

(4) The Council shall, by public notice, declare a document as a standard after it has given due consideration to any objection or representation under subsection (2).

(3) Notwithstanding subsection (2), where there is any risk of danger to health, safety or the environment or any other urgency, the Council may —

- (a) require the lodging of any objection or representation under subsection under subsection (2); and
- (b) make any declaration under subsection (4),

within such period as it may decide.

[Note]

19 Amendment, revision and withdrawal

(1) Where the Council intends to amend, revise or withdraw a standard, it shall, by public notice, declare its intention to do so.

(2) Any interested person may, within 60 days from the publication of the notice under subsection (1), lodge with the Director a written objection or representation concerning the proposed amendment, revision or withdrawal of the standard.

(3) Any person may inspect the proposed amendment or revision of the standard at the Bureau.

(4) The Council shall, by public notice, declare an amendment, revision or withdrawal of a standard after it has given due consideration to any objection or representation made under subsection (2).

(5) Notwithstanding subsection (2), where there is any risk of danger to health, safety or the environment or any other urgency, the Council may —

- (a) require the lodging of any objection or representation under subsection (2); and
- (b) make any declaration under subsection (4),

within such periods as it may decide

[Note]

20 MSB certification mark

There shall be an MSB certification mark under Mauricert which shall be of such design and contain such words, figures or symbols as may be prescribed.

21 Licences

(1) An applicant for a licence under Mauricert in respect of a commodity or process shall make on the prescribed form an application to the Director who may request for such additional information as he thinks fit.

(2) On receipt of an application under subsection (1), the Council may, if it is satisfied that the commodity or process to which the application relates conforms to the standard, grant a licence to the applicant to use the mark subject to such terms and conditions as it thinks fit.

(3) Subject to subsection (4), the Council may, at any time –

- (a) suspend a licence for a period not exceeding 6 months; or
- (b) revoke a licence.

- (4) Before suspending or revoking a licence the Council shall –
 - (a) give to the licensee 14 days' notice of its intention; and
 - (b) specify in the notice the ground upon which it proposes to revoke or suspend the licence.
- (5) The Director may, by written notice, require a licensee –
 - (a) to transmit a sample of any commodity in respect of which a licence has been issued to such person and within such period as may be specified in the notice; or
 - (b) to furnish to the Bureau such information relating to the commodity or the manufacture, production, processing or treatment of the commodity, within such period as may be specified in the notice.

(6) No person shall, in connection with the sale of any commodity, directly or indirectly, refer to a standard declared under this Act in a manner likely to convey the impression that the commodity complies with or has been manufactured in accordance with the standard, unless that commodity bears the mark.

(7) Notwithstanding subsection (6), any person required to make a statement in a contract, tender, quotation or other similar document as to the question whether any commodity offered or supplied by him complies with or has been manufactured in accordance with a particular standard, may make such a statement.

22 Certificate of registration

(1) Any applicant for a certificate of registration shall make on the prescribed form an application to the Director who may request for such additional information as he thinks fit.

(2) On receipt of an application under subsection (1), the Council may, if it is satisfied that the management system of the firm complies with the relevant standard, grant a certificate of registration to the applicant subject to such terms and conditions as it thinks fit.

- (3) Subject to subsection (4), the Council may, at any time –
 - (a) suspend a certificate of registration for a period not exceeding 6 months; or
 - (b) revoke a certificate of registration.
- (4) Before suspending or revoking a certificate of registration the Council shall –
 - (a) give to the licensee 14 days' notice of its intention; and
 - (b) specify in the notice any ground upon which it proposes to suspend or revoke the licence.

[Note]

23 MSB registered firm symbols

(1) There shall be MSB registered firm symbols which shall be of such design and contain such words or figures as may be prescribed.

(2) The holder of a certificate of registration may use the MSB appropriate registered firm symbol in such manner as may be prescribed.

(3) No person shall use an MSB registered firm symbol other than the holder of a certificate of registration.

[Note]

24 Publication

The Council shall cause a notice to be published in the *Gazette* relating to the grant, suspension and revocation of licences and certificates of registration.

25 Appeal

- (1) Any person who is aggrieved by a decision of the Council –
 - (a) refusing an application under this Act;
 - (b) suspending or revoking a licence or a certificate of registration,

may appeal to the Minister who may confirm, amend or set aside the decision of the Council.

(2) An appeal shall be lodged within 10 days of the date on which the decision of the Council has been communicated to the applicant or to the holder of a licence or certificate of registration.

(3) A decision of the Council to suspend or revoke a licence or certificate of registration issued to any person shall not be withheld by reason of an appeal under subsection (1).

26 Compulsory standards

(1) The Minister may, subject to the other provisions of this section, by public notice, declare a standard to be a compulsory standard with effect from the dates referred to in that notice.

(2) Where the Minister intends to declare a standard to be a compulsory standard, he shall, in a public notice –

- (a) declare his intention to do so;
- (b) invite interested persons to lodge objections in writing with the Director not later than 2 months after the publication of the notice.

(3) Where an objection is made under this section, the Minister –

- (a) may require the person objecting to furnish further particulars of the grounds for objection;
- (b) shall, in dealing with the objection, give it such consideration as he thinks fit.

(4) Where a compulsory standard has been declared, every person concerned at any stage of the manufacture, production, treatment or distribution of the relevant commodity, shall ensure that the compulsory standard is complied with.

(5) Where a compulsory standard has been declared under this Act or a standard has been otherwise made compulsory by another enactment, the Minister may, by public notice, require local manufacturers to apply for a licence for the production of commodities or for the processes referred to in the standard, as from the date specified in the notice.

(6) Where a request has been made under subsection (5), no local manufacturer shall produce or continue to produce any commodity, or engage in any process referred to in the standard after the date specified in the notice unless he has applied for, and obtained, the relevant licence.

(7) The Minister may withdraw any notice issued under subsection (1) or (5).

PART IV – OFFENCES AND ENFORCEMENT

27 Powers of authorised officers

An authorised officer may –

- (a) at all reasonable times enter any premises on which a commodity or process, in relation to which the mark is used, is or is reasonably suspected of being manufactured, produced, treated or kept for the purpose of any trade or business;
- (b) at all reasonable times enter the premises of any firm which holds a certificate of registration;
- (c) at all reasonable times inspect and take samples of –
 - (i) any commodity in relation to which the mark is used;
 - (ii) any material or substance used or suspected to be intended for use in the manufacture, production or treatment of the commodity;
- (d) open any package or container on premises specified in paragraph (a) which contains or is suspected to contain any commodity, material or substance specified in paragraph (c);
- (e) where there is a compulsory standard or mark for any product or process, inspect any operation carried out in connection with the manufacture, production, distribution or treatment of the commodity;
- (f) require any person to produce any document which is in his possession or custody and which relates to a commodity or process specified in paragraph (a) or to a firm specified in paragraph (b);
- (g) examine, make copies of, or take extracts from, any document specified in paragraph (f).

28 Power to require information

The Director may request a firm to submit information relating to the specification and quality of its products and related matters.

29 Offences

(1) Any person who –

- (a) makes any statement or representation, whether in writing or not, with reference to any commodity or process which conveys or is likely to convey the impression that a person who is not licensed to use the mark with reference to that commodity or process is so licensed or is otherwise entitled to use the mark;
- (b) knowingly makes use of the mark in relation to a commodity or process in respect of which no licence has been issued;

- (c) makes any statement or representation, whether in writing or not, or uses any MSB registered firm symbol which conveys or is likely to convey the impression that a management system complies with a standard where it does not do so;
- (d) fails to comply with a request under section 21 (5);
- (e) contravenes this Act or any subsidiary enactment made under this Act or the terms of any licence issued under section 21, or certificate of registration issued under section 22,

shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

[Note]

PART V – MISCELLANEOUS

30 Protection against claims

Notwithstanding any other enactment, the fact that –

- (a) any commodity or process is alleged to conform to a standard;
- (b) the mark is used in connection with any commodity or process;
- (c) any MSB registered firm symbol is used in connection with a management system,

shall not give rise to any claim against the Bureau or any employee.

[Note]

31 Secrecy

(1) Except for purposes connected with the administration of this Act, no person shall disclose any matter which comes to his knowledge in the course of the exercise of any functions under this Act and which relates to any formula, manufacture, process or treatment.

(2) The disclosure to the Bureau, or to any person for the purposes of the administration of this Act, of any information relating to any formula or process, shall not prejudice any application subsequently made for a patent under the Patents Act.

32 Use of word “standard”

Notwithstanding any other enactment, no person shall, except with the Minister’s written consent, for the purposes of any trade or business, use a name which contains the word “standard or any other word likely to lead people to believe that reference is made to a standard.

32A. Exemption from duty and charges

Notwithstanding any other enactment, the Bureau shall be exempt from the payment of any duty, rate, charge, fee or tax.

[Note]

33 Regulations

The Council may with the approval of the Minister, make such regulations as it thinks fit for the purposes of this Act.

34 -

35 Repeal

The Standards Act is repealed.

36 Transitional provisions

Notwithstanding section 35, anything done or deemed to have been done under the Standards Act shall be deemed to have been done under this Act.

37 Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

[P 12/93]
