

THE STANDARDS ACT

REGULATIONS
(under section 11)

THE STANDARDS REGULATIONS, 1983

(Made by the Minister on the 20th day of July, 1983)

L.N. 758/83
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 Citation.

1. These Regulations may be cited as the Standards Regulations, 1983.

2. In these Regulations—

Interpreta-
 tion.

“inspector” means any employee or agent of the Bureau designated by the Bureau to perform inspection services;

“licensee” means a person who holds a valid licence to use a standard mark in connection with a commodity, process or practice.

3.—(1) Every application for a licence to use a standard mark in connection with any commodity, process or practice shall be made in writing to the Bureau and shall—

Application
 for licence
 to use
 standard
 mark.

- (a) state the name and business address of the applicant, and the name of the company or business;
- (b) describe the commodity, process or practice in connection with which the standard mark is proposed to be used;
- (c) state the standard specification to which such commodity, process or practice conforms;
- (d) where the application is in connection with a commodity, state the estimated annual production and the method of quality control of such commodity and contain an undertaking that the applicant will supply to the Bureau free of charge, such samples of the commodity as may be reasonably required for testing.

(2) A person who wishes to use a standard mark in connection with more than one commodity, process or practice or in connection with any combination of commodity, process and practice shall make

a separate application for a licence for each commodity, process and practice.

(3) Before considering an application for a licence to use a standard mark, the Bureau shall cause an inspector—

- (a) to examine the commodity, process or practice in connection with which the mark is proposed to be used;
- (b) to examine materials, processes, finished articles and, where necessary, to obtain samples free of charge for testing;
- (c) to investigate the manner of selection of raw materials, methods of testing and methods of keeping records; and
- (d) to make such other investigations or enquiries as may be relevant to the application.

Granting of
licences.

4.—(1) The Bureau shall consider every application for a licence to use a standard mark, together with the inspector's report, and may grant such licence without conditions other than those specified in this regulation, or subject to such additional conditions as may be specified in such licence, or may refuse such licence.

(2) Where the Bureau grants a licence subject to conditions in addition to those specified in this regulation, the Bureau may from time to time vary such additional conditions in such manner as it may think necessary.

(3) A licence shall be valid for a period of one year from the date on which it is issued, unless it is sooner revoked and may be renewed annually.

(4) The fee to be paid in respect of a licence shall be fifty dollars for each commodity, process or practice and shall accompany the application:

Provided that where the Bureau refuses to grant or to renew a licence one-half of such fee shall be refunded to the applicant.

Register of
licences.

5.—(1) The Bureau shall keep a register in which shall be entered the name and business address of every person to whom a licence has been granted, the commodity, process or practice in connection with which the mark is to be used, and any revocation, suspension and restoration of the licence.

(2) The register shall be kept at such place as the Bureau may from time to time determine, and shall be open to inspection by the

public at all reasonable times on payment of a fee of one dollar for each such inspection.

6.—(1) A licensee may enter into a written agreement with the Bureau under which the Bureau shall provide **certification services** in accordance with the terms and conditions of that agreement and any endorsement attached thereto and the licensee shall comply with the terms and conditions of that agreement and endorsement and with these Regulations. Certification.

(2) A licensee who has entered into an agreement referred to in paragraph (1)—

- (a) shall pay to the Bureau an annual fee which shall be calculated according to the formula set out in Part A of the First Schedule; First Schedule.
- (b) shall submit to the Bureau for its approval the form in which he proposes to use the standard mark;
- (c) shall comply in all respects with the scheme of supervision approved by the Bureau in respect of the commodity, process or practice in connection with which he is a licensee;
- (d) shall, upon the request of an inspector, permit that inspector to enter any premises under the control of the licensee in which at the time of the request, any commodity or any component thereof is being manufactured, tested, processed or stored or any process or practice is being carried out, and to inspect that commodity and any materials, processes, practices and records in those premises.

7.—(1) A licensee shall use a standard mark—

- (a) in such manner and subject to such conditions as may be specified in his licence; Restrictions on use of standard mark.
- (b) in connection with the commodity, process or practice specified in his licence.

(2) A licensee shall not, without written permission from the Bureau, advertise that he is licensed to use the standard mark in connection with any commodity, process or practice, then omit to use the standard mark in connection with that commodity, process or practice while he is so licensed.

(3) If the Bureau informs a licensee in writing that—

- (a) the Bureau objects to the manner in which the licensee is using the standard mark; or
- (b) the Bureau is of opinion that some statement made by the

licensee with reference to his authority to use the standard mark or with reference to any other matter relating to the standard mark may tend to mislead the public, the licensee shall forthwith discontinue using the standard mark in the manner to which the objection is made, or discontinue the making of the statement specified by the Bureau.

(4) A licensee who intends to discontinue using the standard mark while his licence is still valid shall give to the Bureau notice in writing of his intention not less than fourteen days before he discontinues the use of the standard mark.

(5) A licensee shall, upon the suspension or termination of his licence—

- (a) discontinue the use of the standard mark and all advertising matter which contains the standard mark or any reference thereto;
- (b) if the Bureau so requires, obliterate the standard mark from any article which is in his possession.

Additional
causes for
revocation
of licences.

8. In addition to the general power conferred upon the Bureau by section 10 of the Act to revoke a licence, the Bureau may revoke a licence if the licensee—

- (a) uses the standard mark in connection with any commodity, process or practice which does not comply with a standard specification relating to that commodity, process or practice;
- (b) claims the right to use the standard mark in a form that may, in the opinion of the Bureau, tend to mislead the public;
- (c) contravenes these Regulations;
- (d) becomes bankrupt or makes any arrangement or composition with his creditors or, being a company, enters into liquidation (whether voluntary or compulsory, but not including voluntary liquidation for purposes of reconstruction) or has a receiver appointed to its business;
- (e) fails to comply with a request from the Bureau to recall a lot or batch of a product which has been verified to have failed to comply with a standard specification; or
- (f) attempts to transfer to another person the right to use the standard mark, or attempts to use the standard mark in connection with a commodity, process or practice other than the one in respect of which the licence was granted.

8A.—(1) Subject to the provisions of paragraphs (2) and (3), any person who imports into Jamaica (other than for personal use), manufactures or processes any commodity for which a compulsory standard specification has been declared shall mark or cause to be marked on that commodity or the label thereof the words “Jamaican Standard.”

Description of commodities for which compulsory standard specification has been declared.

(2) The Bureau may grant to any person referred to in paragraph (1) permission in writing—

- (a) to add to the words “Jamaican Standard” such words, symbols or numerals as shall be specified in the permission;
- (b) to import and sell the commodity without the words “Jamaican Standard” where the commodity is marked with some other word or symbol required under the law of the country from which it is imported, showing that the commodity conforms to a standard set by that country and recognized by the Bureau; or
- (c) to sell the commodity during such period as shall be specified in the permission, without the words “Jamaican Standard” being marked thereon.

(3) Paragraph (1) does not apply to a person who manufactures or processes a commodity in connection with which he holds a valid licence to use a standard mark.

8B.—(1) Subject to the provisions of paragraph (2), every person who imports into Jamaica (other than for personal use), manufactures or processes any commodity for which a compulsory standard specification has been declared shall be registered under this regulation in respect of that commodity.

Importer, manufacturer and processor to be registered.

(2) A person who manufactures or processes a commodity in connection with which he holds a valid licence to use a standard mark is not required to be registered under this regulation in respect of that commodity.

(3) Every application for registration under this regulation shall be made in writing to the Bureau and shall—

- (a) state the name and business address of the applicant and the name of the company or business;
- (b) describe the commodity in respect of which the application is being made; and
- (c) state the estimated annual production or importation and the method of quality control of the commodity.

(4) The Bureau may carry out such investigations as it thinks fit—

- (a) when considering an application for registration under this regulation; and
- (b) at such other times after registration as it thinks necessary, and may, subject to paragraph (4B), charge for those investigations, a fee in accordance with paragraph (4A).

(4A) The fee referred to in paragraph (4) shall—

- (a) in relation to commodities manufactured or processed in Jamaica, be a fee calculated in accordance with the formula set out in Part A of the First Schedule; and
- (b) in relation to commodities imported into Jamaica, be payable, in accordance with the formula set out in Part B of the First Schedule, in respect of each shipment of such commodities, upon the importation thereof.

First
Schedule.

(4B) No fee shall be payable under this regulation in relation to commodities specified in the Second Schedule.

Second
Schedule.

(5) A registration under this regulation shall be valid for one year from the date of the receipt by the Bureau of the application therefor in accordance with paragraph (3).

(6) Upon the expiry of a registration, an application for renewal of registration may be made in accordance with paragraph (3) for another year, and the provisions of paragraphs (4) and (5) shall apply in relation to a renewal as they apply to an original registration.

(7) The Bureau shall keep a register in which it shall cause to be entered the name and business address of every person who is registered under this regulation and the commodity in respect of which he is so registered.

(8) The register shall be open to inspection by the public at all reasonable times on payment of a fee of one dollar for each inspection.

9. Upon the declaration of a compulsory standard specification the Bureau may, by notice published in the *Gazette*, grant a permit for the sale or use, during such period as shall be specified in the notice, of any commodity, process or practice which was being sold or used immediately before that declaration and does not, after that declaration, conform with the compulsory standard specification. Permits.

10.—(1) Any inspector may at any reasonable time— Powers of inspectors.

- (a) enter premises in or upon which any operation is being carried out in connection with the manufacture, production, processing or treatment of any commodity, process or practice for which a standard specification or a compulsory standard specification has been declared, or in or upon which any such commodity is offered for sale or stored;
- (b) inspect such operation and such commodity, process or practice, take samples of such commodity, free of charge, for testing or analysis and examine anything that he reasonably believes is used or is capable of being used for the manufacture, production, processing or treatment of such commodity;
- (c) examine the packaging and labelling of such commodity;
- (d) examine any books and records kept in relation to such commodity, process or practice;
- (e) make such other investigations as may appear to him to be necessary in order to determine whether such commodity, process or practice conforms to the relevant standard specifications or to any conditions subject to which a licence to use a standard mark was granted.

(2) Where an inspector takes samples for analysis, he shall inform the owner of the commodity or such other person from whom the sample is obtained that the sample will be tested or analysed.

(3) Where after considering the result of a test or analysis of a sample, the Bureau is satisfied that a further test or analysis of another sample of the commodity should be carried out, an inspector shall—

- (a) take another sample of the commodity from the batch from which the first sample was obtained;
- (b) divide the sample into three parts;
- (c) identify the three parts as the owner's part, the sample, and the duplicate sample;
- (d) so seal each part that it cannot be opened without breaking the seal; and

- (e) deliver the part identified as the owner's part to the owner or the person from whom the sample was obtained, and cause the sample to be tested or analysed as the case may require, and retain the duplicate sample.

(2) Any person who refuses to permit an inspector to enter any premises or carry out any examination and investigation specified in paragraph (1), or who attempts to obstruct him in the execution of his duty under these Regulations shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding two thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

Failure to conform with compulsory standard specification an offence.

11.—(1) No person shall sell, or use in any trade or business any commodity, process or practice in respect of which a compulsory standard specification has been declared unless he does so in accordance with a permit granted under regulation 9, or unless such commodity, process or practice conforms to the compulsory standard specification.

(2) Any person who contravenes this regulation shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding two thousand dollars, and in default of payment to imprisonment for a term not exceeding twelve months.

Bureau may order withdrawal of commodity.

11A.—(1) If any person offers for sale any commodity—

- (a) which does not conform to a compulsory standard specification relating to that commodity; and
(b) for the sale of which no permit has been granted under regulation 9,

the Bureau may by notice in writing require that person to withdraw that commodity from sale within such period as the notice shall specify.

(2) Any person who fails to comply with the requirement of a notice under this regulation shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

Seizure and detention of commodity.

11B.—(1) Where a person served with a notice under regulation 11A(1) refuses to withdraw a commodity within the time specified in that notice, an inspector may seize and detain such commodity.

(2) Upon taking action under paragraph (1), the inspector shall notify the person concerned of the action taken and that person may—

- (a) enter into an agreement in writing with the Bureau to take such steps as are necessary to rehabilitate the commodity in order to satisfy the compulsory standard specification;
- (b) appeal against the seizure and detention of the commodity to a Judge in Chambers.

(3) An agreement referred to in paragraph (2) (a) shall contain the following—

- (a) a statement signed by the inspector that the commodity contravenes the compulsory standard specification;
- (b) a requirement for the person concerned to pay the costs of storage, handling and supervision of the commodity by the Bureau during the period of detention;
- (c) an undertaking by the person concerned that the rehabilitation of the commodity will be carried out under the supervision of the Bureau at that person's expense.

11C.—(1) Subject to paragraph (2), a commodity shall not be detained under regulation 11B for any period exceeding thirty days. Period of detention.

(2) A commodity may be detained for any period exceeding thirty days in the following circumstances—

- (a) where rehabilitation of the commodity is being carried out; or
- (b) where an appeal against seizure and detention has not been determined.

11D.—(1) A commodity which fails to satisfy the compulsory standard specification may be condemned by an inspector who shall give notice in writing of such condemnation to the owner of that commodity. Condemnation and forfeiture of commodity.

(2) Where —

- (a) a commodity is seized, detained and condemned;
- (b) a person is convicted of an offence under regulation 11A(2) in respect thereof; and
- (c) the Court is satisfied that the commodity fails to satisfy the compulsory standard specification and that—

- (i) the commodity cannot be rehabilitated in order to meet that standard;
- (ii) the person notified under regulation 11B(2) refuses to take such steps as are necessary to rehabilitate the commodity in order to satisfy that standard,

the Court may, on the application of the prosecution, order the forfeiture of that commodity.

(3) Where the Clerk of the Court intends to apply for forfeiture of any commodity under paragraph (2), he shall give notice of that intention and the reasons therefor to any person who, to his knowledge, was the owner thereof at the time of seizure:

Provided that such a notice shall not be required to be given if the seizure was made in the presence of the owner or of any of the owners of the commodity or any servant or agent of such owner.

(4) A notice under paragraph (3) may, without prejudice to any other form of service, be given by publication in a daily newspaper printed and circulating in the Island.

(5) Any person having a claim to any commodity to which this regulation applies may appear before the Court at the hearing of the application and show cause why an order for forfeiture should not be made.

(6) If no person appears before the Court to show cause as mentioned in paragraph (5), the Court shall presume that the commodity has been abandoned.

(7) If, upon the application of any person prejudiced by an order made by the Court under paragraph (2), the Court is satisfied that it is just to revoke that order, the Court—

- (a) may revoke the order on such terms and conditions as it deems appropriate; and
- (b) shall require the person to pay such charges as may be imposed by the Bureau in respect of storage and administrative expenses in relation to the commodity.

(8) An application to the Court for revocation of an order shall be made within thirty days of the date of the order or within such longer time, not exceeding three months as the Court may allow.

(9) Where a commodity is forfeited under paragraph (2), the Bureau shall take all necessary steps to have the commodity destroyed or otherwise disposed of, other than by sale, as the Bureau considers fit.

12. Any person who—

Penalties.

- (a) contravenes any of the provisions of regulations 7, 8A and 8B; or
- (b) not being licensed so to do, uses a standard mark in connection with any commodity, process or practice, or in the title of any patent, or in any trade mark or design,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

FIRST SCHEDULE (Regulations 6(2) and 8B (4A))

PART A

Formula for calculation of annual fee

$$\text{Cost per man hour} = \frac{\text{salary per annum of officer} \times \text{factor}}{\text{No. of hours per annum work for Bureau}}$$

No. of hours per annum work for Bureau

NOTE: The factor is based on the cost of the Bureau's operations during the last preceding financial year.

PART B

Formula for calculation of fee payable on each shipment of imported commodities

0.3% of CIF value of the commodities contained in each shipment.

SECOND SCHEDULE (Regulation 8B (4B))

Commodities exempt from payment of fees under regulation 8B.

1. Commodities imported in connection with 807 programmes or Government incentive programmes.
2. Commodities which are gifts to Government programmes relating to health and welfare.
3. Commodities imported in connection with international agreements or protocols or both.
4. Commodities which are personal and household effects as specified in Items 6 and 6A of the Second Schedule to the Customs Tariff (Revision) Resolution, 1972.
5. Commodities which are raw materials and capital goods, imported for use in the manufacturing process.