

No. 14.]

Standards Act

[1990.

SAINT LUCIA

No. 14 of 1990.

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I ASSENT

[L.S.]

STANISLAUS A. JAMES,
Acting Governor-General.

SAINT LUCIA

No. 14 of 1990.

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.

[15th December, 1990.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

1. This Act may be cited as the Standards Act, 1990. Short Title

Interpretation. 2. In this Act

"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 19 ;

"Council" means the National Standards Council established by section 7 ;

"goods" means commodities which are the subject of trade or commerce ;

"Minister" means the Minister charged with the responsibility for standard matters ;

"practice" includes advertising, labelling or packaging ;

"specification" means a description of any goods, services, process or practice by reference to its nature, quality, strength, purity, safety, composition, quantity, dimensions, weight, grade, durability, origin, age, or other characteristics, and includes guidelines for a process or practice, tables of data and a code of practice ;

"standard" means a specification declared by the Bureau to be a standard.

PART I

ESTABLISHMENT AND FUNCTIONS OF BUREAU

Establishment
of Bureau
of Standards.

3. There is established a body corporate to be known as the Saint Lucia Bureau of Standards (in this Act called the Bureau) with perpetual succession and a com-

com seal, and with power to acquire, hold and dispose of land and other property, to enter into contracts and to do all things necessary for the purpose of its functions.

4.—(1) The Bureau shall promote and encourage the maintenance of standards — Functions of
the Bureau of
Standards.

(a) for the improvement of goods produced or used in Saint Lucia ;

(b) for services produced or used in Saint Lucia ;
and

(c) in relation to processes and practices, for ensuring industrial efficiency and development and promoting public and industrial welfare and health and safety for safeguarding the environment and shall exercise such other functions as may be prescribed.

(2) For the purposes of subsection (1) the Bureau may —

(a) promote the general adoption and implementation of standards relating to structure, goods, materials, processes, practices, operations and other matters, on a national and international level ;

(b) promote research in relation to specifications, establish or designate laboratories and testing facilities, and provide for the examination and testing of goods, services, processes and practices ;

(c) inspect or cause to be inspected —

(i) any operations carried out and any books or records, in connection with the production, manufacture, processing or treatment of any goods ; and

(ii) the execution of any services, processes or practice for which a compulsory standard has been declared or for which application has been made to use the Standard Mark.

- (d) declare standards and keep the standards under review ;
- (e) collect and publish for public information and guidance, data relating to specifications and standards ;
- (f) encourage and undertake educational programmes relating to standards ;
- (g) provide for the examination, testing and calibration of instruments, appliances and apparatus ;
- (h) co-operate with and advise manufacturers in setting up quality control systems and preparing standards ;
- (i) do such other things as may be expedient or necessary to secure the proper execution of the purposes of this Act.

Bureau to
advise
manufacturers
on quality
control.

5.—(1) In addition to the functions specified in section 4 the Bureau may provide advisory services for manufacturers as to the type and methods of quality control applicable to their products and may undertake the training of manufacturing staff in quality control.

(2) The Bureau shall have the power to charge fees for services rendered under this section.

Appointment
of Director
and Staff of
the Bureau.

6.—(1) The Minister shall, after consultation with the Council, by notice published in the *Gazette* appoint a Director of the Bureau who shall be the Chief Executive of the Bureau.

(2) The Council shall, after consultation with the Director appoint such members and staff of the Bureau as the Council may deem necessary for the proper performance of the functions of the Bureau under this Act.

(3) No sum in excess of twenty-five thousand dollars may be assigned as the annual salary to a post in the Bureau without the approval of the Minister.

(4) An officer may, with the approval of the Public Service Commission, be transferred on secondment,

(a) from the public service to the Bureau; or

(b) from the Bureau to the public service.

(5) When an officer is transferred pursuant to subsection (4), the Bureau shall make such arrangements as are necessary to preserve the right of the officer to any pension, gratuity or other benefit to which he would have been entitled had the transfer not been effected.

PART II

ADMINISTRATION OF THE BUREAU

7. The general administration of the affairs of the Bureau shall be carried out by the Standards Council (in this Act called the Council) consisting of not less than eleven and not more than fifteen members.

Standards
Council.

8. The Council shall comprise the following:

(a) two persons nominated by the Minister in his discretion, one of whom shall be appointed Chairman, and the other Vice-Chairman of the Council;

Appointment
of Council
members.

(b) four persons nominated from the private sector, one each to be nominated by the Chamber of Commerce, the Saint Lucia Industrial and Small Business Association, the National Farmers' Association and the Consumer's Association or in the absence of the Consumer's Association such person as may be deemed to represent the consumer;

- (c) three persons nominated by the Minister from the public sector, each of whom is employed in a senior capacity in the Ministries of Agriculture, Health and Trade ;
- (d) two *ex-officio* members, one being the Director of the Bureau/Standard Unit, who shall also be Secretary to the Council and the other being the Manager of the National Development Corporation or his nominee ; and
- (e) such other persons not being more than four with qualifications in fields relating to standards or experience in business or members of organisations committed to the maintenance or promotion of standards, as the Minister may determine.

Chairman of
Council
Meetings.

9. Where the Chairman is absent or unable to act the Vice Chairman shall preside at Council Meetings. In case both the Chairman or Vice Chairman are absent or unable to act, the members of the Council present at a meeting shall elect one of their members to preside as Chairman.

Tenure of
Office of
Council
Members.

10.—(1) The Minister shall appoint members nominated to the Council by instrument in writing for a period not exceeding three years and a member so appointed is eligible for reappointment on the expiration of his period of office.

(2) The Minister may terminate the appointment of the Chairman or any other nominated member of the Council who —

- (a) becomes of unsound mind or incapable of carrying out his duties ;
- (b) becomes bankrupt or compounds with, 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 Council, from three consecutive meetings of the Council; or
- (g) fails to carry out any of the functions conferred or imposed on him under this Act.

11. A member of the Council, other than members nominated by the Minister under section 8 (c), may resign his office at any time by letter addressed to the Minister, and conveyed through the Chairman and such resignation takes effect from the date the letter is received by the Minister.

Resignation of Council members.

12. The names of the members of the Council shall be published in the *Gazette*, and any subsequent change in the members of the Council shall be similarly gazetted.

Publication of membership of Council.

13.—(1) The Council shall meet at least once in every quarter and at such other times as may be necessary or expedient for transacting the business of the Bureau.

Meetings and quorum of Council.

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

(3) The decision of the Council shall be taken by a majority of the votes.

14.—(1) A member of the Council whose interest may directly or indirectly be affected by a decision of the Council on any matter shall disclose the nature of

Conflict of interest.

his interest at the first meeting of the Council 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 meeting of the Council and after the disclosure the member concerned may not vote on the matter, and unless otherwise directed by the Council shall not be present at any meeting when the matter is being decided by the Council.

Bureau's
Seal and
authentication
of documents.

15.—(1) The Seal of the Bureau shall be kept in the custody of the Secretary of the Council and shall be authenticated by the Chairman or in his absence, by the Vice Chairman and the Secretary of the Council.

(2) All documents other than those required to be under seal and all decisions of the Council may be authenticated by the Chairman or the Secretary.

Immunity of
Council
members.

16.—(1) No action, suit, prosecution or other proceedings may be brought or instituted against a member of the Council in his personal capacity, in respect of any act done or omitted to be done by him in good faith in execution or purported execution of his duties under this Act.

(2) Where a member of the Council is exempt from liability by reason only of this section the Bureau is liable for the acts of the member on the principles of agency.

Appointment
of committees
and co-opting
of members.

17.—(1) The Council may appoint committees for the better regulation and management of any matter with which the Council is concerned and may determine —

(a) the number of members of a committee so appointed ;

- (b) the terms of appointment of the members ;
- (c) the quorum of the committee ;
- (d) the functions of the committee as a whole and of individual members ; and
- (e) the area and scope of the committee's authority.

(2) The Council may co-opt members to a committee appointed under subsection (1) and in such case section 14 applies to the co-opted member as it applies to a Council member.

PART III

BUSINESS OF THE BUREAU

18.—(1) The Bureau may declare a specification to be a standard and a standard to be a Saint Lucia Standard. Declaration and publication of standards.

(2) No specification may be declared a standard and no standard may be varied or revoked unless the Bureau is satisfied that persons who may be affected thereby have had an opportunity to consider and comment on the standard.

(3) The Bureau shall keep a copy of every standard and every variation of a standard available for public inspection and shall cause every declaration, variation or revocation of a standard to be published in the *Gazette*, and in such other publication as the Minister may direct.

(4) The Bureau may adopt any international specification or other specification formulated outside Saint Lucia where it is impractical to formulate its own specification.

19.—(1) A standard may be voluntary or compulsory. Voluntary and compulsory standards.

(2) A standard which is intended primarily —

- (a) to protect the consumer or user against danger to health or safety ;
- (b) to prevent fraud or deception arising from misleading advertising or labelling ;
- (c) to ensure quality in goods produced for export ;
- (d) to require adequate information to be given to the consumer or user ;
- (e) to ensure quality in any case where the choice of source of supply is restricted ; or
- (f) to generally ensure the quality of goods and services ;

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

(3) An Order made under subsection (2) shall state the purpose for which the standard is intended.

(4) The Minister shall, by Notice published in the *Gazette*, give at least thirty days notice of his intention to make an Order to declare a standard to be a compulsory standard and shall in the Notice indicate the date on which it is intended that the compulsory standard shall come into effect.

Standard Mark. 20. The Minister may on the recommendation of the Bureau prescribe a mark which shall be called the Saint Lucia Standard Mark (in this Act called the Standard Mark), the property of which vests in the Bureau, and which shall be used in relation to goods, services, processes or practices to signify conformity to a standard.

Licences to use Standard Mark. 21.—(1) A person desiring to use the Standard Mark in connection with any goods, service, process or practice shall make application to the Bureau in such manner as may be prescribed.

(2) The Bureau may, if satisfied that the goods, service, process or practice conforms to a standard, grant a licence to the applicant to use the Standard Mark

upon such terms and conditions, including the payment of a fee, as may be prescribed.

22.—(1) No person shall carry on a business or perform any function under a name which contains the word “Standard” without the consent of the Bureau.

Restriction on the use of the word “Standard”

(2) Where a written law provides for the registration of an association of persons, the registering authority shall refuse registration if in its opinion the use of the name by which the association desires to be registered is prohibited by subsection (1).

(3) This section does not apply to a name that was in use in Saint Lucia before the commencement of this Act.

23.—(1) The Minister may —

(a) direct the bureau ; or

(b) by letter authorise the Bureau to obtain the service of a public officer or other person having such qualifications as may be prescribed ;

to test or examine the quality of any goods for which a compulsory standard has been declared.

Testing of goods for compliance with compulsory standard.

(2) The Bureau or a public officer or other person as mentioned in subsection (1) (b) may require any person in Saint Lucia to submit goods manufactured by him for testing or examination where —

(a) that person has a licence to use the Standard Mark in respect of the goods ; or

(b) a compulsory standard has been declared for the goods.

(3) The Bureau may —

(a) certify that the goods comply with ; or

(b) report that the goods do not comply with

a standard or specification where the standard is voluntary or where a foreign specification exists with respect to certain goods.

Prohibition of
sale or export
of rejected
goods.

24. Where a standard is compulsory and goods tested or examined under section 23 fail to conform to the standard, the goods shall not be exported or released for home use, unless the goods are clearly stamped or marked with the words "rejects" or "seconds" or "imperfect" or other similar words as may be prescribed:

Except that, where the compulsory standard is declared to protect the consumer or user against danger to health or safety, the goods may neither be exported nor released for home use, but shall be disposed of as the Bureau thinks fit.

Examination
of imported
goods.

25.—(1) Notwithstanding the provision of any other law, the Bureau may authorise a member of its staff to examine goods manufactured outside Saint Lucia and any custom entries relating to such goods, where a standard is declared for the goods.

(2) The Minister may in writing —

(a) authorise a public officer; or

(b) retain at a fee to be prescribed a suitable qualified consultant

to assist the staff of the Bureau in an examination carried out under subsection (1).

(3) A person who examines goods under this section may take and submit samples of the goods for testing or analysis.

(4) Where goods imported into Saint Lucia bear a mark so closely resembling the Standard Mark as to be misleading or which falsely represents a mark of compliance with a specification formulated or adapted out-

side Saint Lucia, the goods shall not be entered for home use unless the mark is removed or substantially changed.

(5) Where a standard is compulsory, goods produced or manufactured outside Saint Lucia may be entered for home use if —

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

(6) In this section and in section 24, “home use” means consumption in Saint Lucia.

26.—(1) For the purpose of monitoring compulsory standards, or eliminating any process or practice the effect of which adversely affects the environment, the Minister may on the advice of the Bureau designate employees of the Bureau or public officers to be Inspectors and shall provide every Inspector with documentary evidence of his designation.

Appointment
and powers of
Inspectors.

(2) An Inspector may at any time with or without a warrant issued by a Magistrate enter a place —

- (a) Where he has reasonable grounds to believe that an article to which this section applies is manufactured, prepared, stored or offered for sale, to examine and take samples of the article ; or
- (b) where he has reasonable grounds to believe that an article to which this section applies is carried out to inspect or investigate the activity and take samples of any article, material or substance relating to the activity ;

and while there may

- (c) open and examine any receptacle or package that he has reasonable grounds to believe contains an article to which this section applies ;
- (d) examine and make copies of or transcribe extracts from any book, document or other record found in the place which he has reasonable grounds to believe contains information relevant to the enforcement of this Act ; and
- (e) 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 this Act has been infringed.

(3) A Magistrate shall issue a warrant under this section where he is satisfied by sworn information in writing that admission to any premises has been refused, or that refusal is apprehended or that a request for admission could defeat the purpose of the entry.

(4) In this section —

- (a) “ article to which this section applies ” means any goods for which a compulsory standard is declared and includes —
 - (i) anything used in the manufacture, testing, preparation, processing, packaging, storage or sale of the goods ; and
 - (ii) any labelling or advertising material referring to the goods, whether or not bearing the Standard Mark ; and
- (b) “ activity to which this section applies ” includes any process or practice for which a compulsory standard has been declared and anything used in the performance of the process or practice.

(5) Where an Inspector enters a place pursuant to this section, the owner or person in charge of the place and any servant or agent present at the time shall give to the Inspector all reasonable assistance and shall furnish him with such information as he may reasonably require.

(6) An Inspector may in his discretion leave any article seized under subsection (2) (e) in the place where it was seized or remove it to be stored in another place, and upon being satisfied that this section has been complied with shall release all seized articles not destroyed by testing.

(7) Where an article is seized under subsection (2) (e) and the owner or person from whom the article is seized consents to its destruction, the article forfeits to the State and may be destroyed or otherwise disposed of as the Minister may direct.

(8) An Inspector may prosecute in courts of summary jurisdiction in cases arising from violation of this Act.

PART IV MISCELLANEOUS

27.—(1) The Bureau shall investigate complaints Complaints. regarding goods, services, processes and practices referred to it by consumers and users and may institute legal proceedings against the manufacture or other person supplying the defective goods or service or engaged in the defective process or practice.

(2) Where upon representations made by the Bureau the Court is of the opinion that any goods, service, process or practice is dangerous to the public, the Court may order the manufacturer of the goods or the person supplying the service or engaged in the process or practice to cease operations of that service, process or practice.

Finance.

28. The Bureau shall be financed by moneys appropriated by Parliament for the purpose, by fees charged for examination, testing, certification, use of the Standard Mark and for any service rendered under section 5 and by Government grants and subsidies.

Accounts and records.

29.—(1) The Bureau shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister.

(2) Accounts kept in accordance with subsection (1) shall be submitted to be audited from time to time with vouchers to the Director of Audit or such other auditor as the Minister may approve.

Annual Reports.

30.—(1) The Bureau shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister —

- (a) a statement of its accounts audited in accordance with section 29 (1);
- (b) a report dealing generally with activities of the Bureau during the financial year, and containing such information relating to the proceedings and policy of the Bureau.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the respective tables of both Houses of Parliament.

Returns.

31. The Bureau shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Bureau, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

32. A person who —

Offences.

- (a) sells, offers for sale or supplies to another person any goods, service, process or practice for which a compulsory standard is declared and which does not conform to that standard ;
- (b) labels, packages or advertises goods or services, process or practice otherwise than in compliance with a compulsory standard ;
- (c) makes any statement or representation or uses a mark with reference to any goods, service, process or practice which conveys or is likely to convey the impression that a person who is not entitled to use the Standard Mark is so entitled, or falsely represents that any goods, process or practice complies with a specification formulated or adopted outside Saint Lucia;
- (d) obliterates or otherwise removes a stamp or mark which denotes deficiencies before offering or exposing for sale goods which do not conform to a required standard ;
- (e) makes any statement or representation whether in writing or not, or uses a mark which conveys or is likely to convey that any goods, service, process or practice complies with a standard when it does not ;
- (f) without the authority of the Bureau and for the purpose of gain or profit makes a statement or representation whether in writing or not comparing any goods, service, process or practice with a standard declared by the Bureau, unless he proves that he acted without intention to defraud ;
- (g) hinders, or obstructs or knowingly makes a false or misleading statement to any person 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 Bureau or the Minister to perform a function under this Act ;
- (i) being entitled to use the Standard Mark uses it in contravention of the terms and conditions of the licence or after he is no longer entitled to use the Mark ;
- (j) uses the word " Standard " in a name contrary to section 22 ;
- (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 ;
or
- (m) tampers with an article seized by an Inspector in such a way as to change any of the characteristics of the article described in the standard applicable on such article ;

is liable on summary conviction to a fine of ten thousand dollars and to an additional penalty of one thousand dollars for every day on which the offence continues or to imprisonment for six months.

Forfeiture of
articles on
conviction of
offenders.

33. Where a person is convicted of an offence under this Act, the Court —

- (a) may order the forfeiture of any article by means of or in relation to which the offence was committed or any similar item in the possession of that person or found with such article whether or not the item is proved to be in con-

travention of section 26, and may order that such article or item be disposed of as the Minister may direct; and

- (b) may order the person to 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.

34. A copy of a standard authenticated by the Bureau together with a copy of the *Gazette* notice declaring or amending the standard is *prima facie* evidence of that standard in legal proceedings.

Evidence of
Standard.

35.—(1) All information obtained by the Minister, the Council, 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, except for any purpose connected with the administration of this Act.

Secrecy of
information.

(2) The disclosure of any information relating to any formula, process or practice to the Minister, the Council, 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 a subsequent application for the patent of the formula, process or practice.

36. No person has a claim against the State or against the Bureau by reason only of the fact that the Standard Mark is used in connection with any goods, or that any goods, service, process or practice conforms or is alleged to conform to a standard.

Protection
against
claims.

37. The Minister may make Regulations for the purpose of this Act, and for prescribing all things re-

Regulations.

quired to be prescribed and in particular he may make Regulations

- (a) regarding the declaring of standards including compulsory standards ;
- (b) concerning the use of the Standard Mark and the terms and conditions subject to which the Mark may be used and the fees to be paid in respect of such use ;
- (c) regarding packaging, labelling and advertising of any goods ;
- (d) regarding the examination and testing of goods, processes and practices and entry upon premises for that purpose ;
- (e) requiring any person to keep and produce in relation to any goods, services, process or practice, such records as the Bureau may consider necessary for the purposes of this Act ;
- (f) prescribing matters in respect of which fees are to be paid, the amount of the fees and the persons by whom the fees are to be paid and authorising the refund or remission of fees in such circumstances as may be prescribed ;
- (g) prescribing penalties for the breach of any Regulation not exceeding a fine of five thousand dollars or imprisonment for twelve months ;
- (h) prescribing the qualifications, powers and duties of persons authorized under section 23 to examine goods upon landing and of persons designated Inspectors under this Act ; and

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(i) prescribing anything required under this Act
to be prescribed.

Passed in the House of Assembly this 6th day of
November, 1990.

W. ST. CLAIR-DANIEL,
Speaker.

Passed in the Senate this 13th day of November, 1990.

E. HENRY GIRAUDY,
President.