

**THE STANDARDS (AMENDMENT) ACT, 1980**

**No. 5 of 1980**

*Date of Assent: 30th June, 1980*

*Date of Commencement: 4th July, 1980*

**An Act of Parliament to amend the Standards Act**

ENACTED by the Parliament of Kenya as follows:—

Short title.

**1.** This Act may be cited as the Standards (Amendment) Act, 1980.

Amendments  
to section 2  
of Cap. 496.

**2.** Section 2 of the Standards Act is amended—

(a) by deleting the definitions of “compulsory standard specification”, “distinctive mark”, “standardization mark” and “standard specification”;

(b) by inserting in the definition of “code of practice” immediately after the word “testing” a comma and the word “, sampling”;

(c) by deleting from the definition of “permit” the expression “9 or”;

(d) by deleting, at the end of the definition of “specification”, the words “or treated” and substituting “, treated, tested or sampled”;

(e) by inserting, in appropriate alphabetical sequence, the following new definitions—

“approved specification” means a specification in respect of which a standardization mark has been specified under section 10 (1) (b);

“Kenya Standard” means a specification or code of practice declared under section 9 (1);

“manufacture” includes produce, process, treat, install, test, operate and use;

“standardization mark” means a mark which has been specified by the Council under section 10.

Amendment to  
section 4.

**3.** Section 4 of the Standards Act is amended by deleting subsection (2).

4. Sections 5 (2), 6 (1), 17 and 20 (2) (f) of the Standards Act are amended by deleting "Institute" and substituting "Bureau" in each case.

Amendments to sections 5, 6, 17 and 20.

5. The Standards Act is amended by repealing sections 9 and 10 and substituting the following new sections—

Repeal of sections 9 and 10 and replacement.

Declaration of Kenya Standard.

9. (1) The Council may by notice in the Gazette—

- (a) declare any specification or code of practice framed or prepared by the Bureau to be a Kenya Standard;
- (b) notify from time to time any amendment to, replacement of, or abolition of, a Kenya Standard declared under paragraph (a).

(2) Where a Kenya Standard has been declared under subsection (1), the Minister, on the advice of the Council, shall, by order in the Gazette, prescribe a date after which no person shall manufacture or sell any commodity, method or procedure to which the relevant specification or code of practice relates unless it complies with that specification or code of practice.

(3) Notwithstanding the provisions of any order made under subsection (1), the Minister, on the advice of the Council after a resolution thereof to the effect that—

- (a) it is satisfied that it is temporarily impossible or impractical for a person, industry or trade to comply with the order; and
- (b) it is nevertheless desirable in the public interest that that person, industry or trade should be permitted to manufacture or sell any commodity, method or procedure referred to in the order,

may, by notice in the Gazette, exempt that person, industry or trade, either generally or for the purposes of a particular transaction or particular transactions, from compliance with the order for such period and subject to such conditions, to be specified in the notice, as the Council shall advise.

(4) Any person who contravenes the provisions of an order under subsection (2) shall, unless there is in force in respect of him a notice of exemption under subsection (3), be guilty of an offence.

Standardi-  
zation marks.

10. (1) The Council shall, by notice in the Gazette, specify a separate mark, to be known as a standardization mark, for each of the following purposes—

- (a) application to any commodity which is the subject of an order under section 9 (2); and
- (b) application to a commodity which is not the subject of an order under section 9 (2) but concerning the manufacture or sale of which the Council has approved a specification.

Cap. 506.

(2) The standardization marks specified under subsection (1) shall not be identical with any trade mark registered under the Trade Marks Act or so nearly resemble it as to be likely to be mistaken for it, and no mark identical with those standardization marks or so nearly resembling them as to be likely to be mistaken for them shall be registered as a trade mark under the Trade Marks Act.

(3) Where, after the publication of an order under section 9 (2), any person intends to manufacture any commodity to which that order refers after the date specified therein he shall notify the Bureau in the prescribed form of his intention and the Bureau, if it is satisfied that he is capable of manufacturing the commodity in accordance with the relevant Kenya Standard, shall issue him with a permit to use the standardization mark referred to in paragraph (a) of subsection (1).

(4) Where any person manufactures, or intends to manufacture, any commodity in respect of which a standardization mark has been specified under paragraph (b) of subsection (1) he may notify the Bureau of his intention to comply with the approved specification and his wish to apply the relevant standardization mark, and the Bureau, if it is

satisfied that he is capable of manufacturing the commodity in accordance with the relevant specification, shall issue him with a permit to use that standardization mark.

(5) A permit issued under this section may be issued subject to conditions to be specified therein, which conditions may be varied from time to time, and any person to whom it is issued shall comply with those conditions and shall pay to the Bureau such fees in respect thereof as may be prescribed.

(6) No person shall apply a standardization mark specified under subsection (1) to any commodity except under a permit issued by the Bureau or a person acting under its authority and unless that commodity complies with the relevant Kenya Standard or approved specification.

(7) Any person who—

(a) applies a standardization mark to any receptacle or covering of any commodity or to any label attached to any commodity or any receptacle or covering thereof; or

(b) places or encloses any commodity in a receptacle or covering to which a standardization mark has been applied, or in a receptacle or covering to which is attached a label to which any such mark has been applied,

shall, for the purposes of subsection (6), be deemed to have applied that standardization mark to that commodity.

(8) Any person who contravenes any of the provisions of subsection (3) or (6), or fails to comply with any condition in a permit or pay the fees in respect of the use thereof, shall be guilty of an offence.

10A. (1) The Bureau may, where it is satisfied that the holder of a permit—

(a) has not complied with any condition specified therein; or

Cancellation  
and suspension  
of  
permit.

(b) has not manufactured any commodity to which the permit relates to the relevant Kenya Standard or approved specification, as the case may be; or

(c) has ceased to manufacture the commodity to which the permit relates,

cancel, or suspend the operation of, a permit; and suspension under this subsection may be for such period, not exceeding one year, as the Bureau deems fit.

(2) The provisions of subsection (1) shall be in addition to, and not in derogation of, the power to prosecute for an offence under this Act.

Amendments to section 14.

6. Section 14 of the Standards Act is amended by deleting subsection (2) and substituting the following new subsections—

(2) An inspector entering any premises under this section shall, if so required, produce for inspection by the person apparently in charge of the premises the certificate issued to him under section 13 (2) and may take with him thereon such persons and such equipment as may appear to him to be necessary.

(3) Where—

(a) premises to which this section relates are unoccupied; or

(b) the owner, occupier or person in charge thereof is temporarily absent; or

(c) entry thereon is refused or obstructed, the inspector may use such force as is reasonably necessary to effect entry:

Provided that in the case of an entry under paragraph (a) or (b)—

(i) reasonable steps shall be taken prior to entry by the inspector to find the owner, occupier or person in charge of the premises to be entered; and

(ii) the premises shall be left by the inspector as effectively secured against trespassers as he found them.

(4) Any person who resists, hinders or obstructs an inspector acting in the course of his duty under this section or who wilfully fails to comply with any requirements lawfully made thereunder shall be guilty of an offence.

7. The Standards Act is amended by repealing sections 15 and 16 and substituting the following—

Repeal and replacement of sections 15 and 16.

General provisions with regard to penalties.

15. (1) Any person convicted of an offence under this Act for which no penalty is specifically provided shall, in the case of a first offence, be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding ten thousand shillings or to both such imprisonment and fine and, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three years or to a fine or to both such imprisonment and fine, and, where an offence is of a continuing nature, he shall in addition be liable to a fine not exceeding five hundred shillings for each day or part thereof during which the offence continues.

(2) On the conviction of any person for an offence under this Act the court may, in addition to any other penalty which may be imposed, make an order—

(a) confiscating all or any part of any goods in respect of which the offence was committed;

(b) prohibiting the manufacture or sale of that commodity unless it complies with the relevant Kenya Standard,

and the court may order that any goods which are the subject of an order under paragraph (a) shall be disposed of in such manner as it may direct.

(3) Where a complaint is or has been made in respect of an offence under section 9 (2), the court may, on application *ex parte* by an inspector, and

on receiving evidence that the commodity, method or procedure complained of, or its manufacture or sale, fails to comply with the relevant Kenya Standard, make an interim order prohibiting, either absolutely or subject to conditions, the manufacture or sale of that commodity, method or procedure until the earliest opportunity for hearing and determining the complaint.

(4) Any person who contravenes an order of the court under paragraph (b) of subsection (2), or subsection (3), shall be guilty of an offence.

Evidence by  
certificate.

16. (1) The Minister may by regulations provide that certificates issued by such persons as may be specified therein in relation to such matters as may be specified may, subject to this section, be received in evidence of those matters in any proceedings under the Act.

(2) A certificate under regulations made in pursuance of this section shall not be received in evidence—

(a) unless the party against whom it is to be given in evidence has been served with a copy of the certificate not less than seven days before the hearing; and

(b) if that party has, not less than three days before the hearing, served on the other party a notice requiring the attendance of the person issuing the certificate.

(3) For the purposes of this section a document purporting to be certificate issued in pursuance of regulations made under subsection (1) shall be deemed to be such unless the contrary is shown.

Amendments to  
section 17.

8. Section 17 of the Standards Act is amended—

(a) by deleting the words “a standard specification or a compulsory standard specification” from the second and third lines and substituting “a Kenya Standard or approved specification”;

(b) by deleting the expression “, produced, processed or treated” from the fourth line;

(c) by deleting the words “distinctive mark or” from the fifth line.

9. The Standards Act is amended by adding after section 20 the following new section—

**Conflicting standards.**

21. Where there is a conflict between the provisions of a specification declared to be a Kenya Standard under section 9 (1) and a specification made or declared under any other written law the Kenya Standard shall prevail.

**Addition of new section 21.**

10. The Schedule to the Standards Act is amended in paragraph 1 (1) by deleting the expression “paragraph (b), (c) or (d) of section 6” and substituting “paragraph (a), (c) or (d) of section 6 (2)”.

**Amendment to the Schedule.**