LEGAL NOTICE NO. 78

THE STANDARDS ACT

(Cap. 496)

IN EXERCISE of the powers conferred by section 20 of the Standards Act, the Cabinet Secretary for Industrialisation, Trade and Enterprise Development, in consultation with the Council, makes the following Order—

THE STANDARDS (VERIFICATION OF CONFORMITY TO STANDARDS AND OTHER APPLICABLE REGULATIONS) ORDER, 2020

PART I—PRELIMINARY

1. This Order may be cited as the Standards (Verification of Conformity to Standards and Other Applicable Regulations) Order, 2020.

2. In this Order, unless the context otherwise requires—

“Bureau” means the Kenya Bureau of Standards established by section 3 of the Act; and

“Council” means the National Standards Council established by section 6 of the Act.

3. This Order shall apply to all products imported into Kenya.

4. (1) Notwithstanding any other provision of this Order, the products specified in the first column of the Schedule shall be exempted from the provisions of this Order:

Provided that a person importing any exempted product specified in the Schedule shall provide the documents specified in the second column of the Schedule with respect to the exempted product.

(2) The products specified in the Schedule may be inspected on arrival at a port of entry.

5. (1) An importer of products shall ensure that the imported products meet Kenya standards, approved specifications and other applicable regulations.

(2) An importer of products shall notify the Bureau in the prescribed form before importing any product into Kenya and provide proof that the imported product meets Kenya standards, approved specifications and other applicable regulations.

6. (1) The Bureau may appoint an inspection body in the country of exportation of products, or in a transhipment port, or in a
port of entry, to undertake verification of conformity to Kenya standards, approved specifications and other applicable regulations.

(2) The Bureau may recognise a national standards body of an exporting country that performs inspection functions as an inspection body for the purposes of pre-shipment verification of conformity.

7. (1) Any product which is the subject of this Order may be subjected to verification of conformity to Kenya standards, approved specifications and other applicable regulations in the exporting country or transhipment port by the inspection body appointed under paragraph 6.

(2) Notwithstanding the provisions of subparagraph (1), the Bureau may reinspect the imported product at a port of entry if, in the Bureau’s opinion, it is necessary to do so.

8. (1) The Bureau or an inspection body appointed under paragraph 6 shall issue a certificate of conformity, certificate of inspection or certificate of roadworthiness in respect of a product that conforms to Kenya standards, approved specifications and other applicable regulations.

(2) The Bureau or an inspection body appointed under paragraph 6 shall issue a non-conformity report in respect of a product that does not conform to Kenya standards, approved specifications and other applicable regulations.

(3) A product that does not conform to Kenya standards, approved specifications and other applicable regulations shall not be permitted to be imported into Kenya and shall be re-exported to the exporting country or destroyed at the importer’s expense.

9. (1) A product which is the subject of this Order which arrives at a port of entry without a certificate of conformity, certificate of inspection or certificate of roadworthiness shall be subjected to destination inspection at a fee equal to five per cent of the approved customs value of the product.

(2) The importer of a product which is the subject of this Order which arrives at a port of entry without a certificate of conformity, certificate of inspection or certificate of roadworthiness shall, in addition to the fee specified in subparagraph (1), execute a security bond in favour of the Bureau equal to five per cent of the approved customs value of the product.

(3) A product which is the subject of this Order which arrives at a port of entry without a certificate of conformity, certificate of inspection or certificate of roadworthiness shall be held at the port of entry or kept in an approved warehouse for the purposes of inspection and testing.

(4) A product which is the subject of this Order which arrives at a port of entry without a certificate of conformity, certificate of inspection or certificate of roadworthiness from an exporting country where the Bureau has not appointed an inspection body shall be subjected to destination inspection at the importer’s expense at the rate
that would be applicable if inspection had been undertaken in the exporting country by an inspection body appointed by the Bureau.

10. The Cabinet Secretary may, on the advice of the Council, exempt any product from the provisions of this Order if the Cabinet Secretary is satisfied that it is in the national interest to do so.

11. The Standards (Verification of Conformity to Kenya Standards and Other Applicable Regulations) Regulations, 2019, are revoked.

SCHEDULE

(para. 4)

CRITERIA FOR EXEMPTION OF SPECIFIC PRODUCTS FROM PRE-SHIPMENT VERIFICATION OF CONFORMITY REQUIREMENTS

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<th>CATEGORY</th>
<th>REQUIRED DOCUMENTS</th>
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| 1.  | Industrial raw materials excluding materials specified by the Council, completely knocked down kits for road vehicles, machinery and industrial spares imported by registered manufacturers for own use | (a) Certificate of registration of the manufacturer or assembler issued by the Bureau or any other regulatory agency responsible for regulating manufactured products  
(b) Certificate of analysis or material safety datasheet for raw materials |
| 2.  | Equipment and original equipment manufacturers (OEM) parts for licensed power generation companies | Evidence of original equipment manufacturer warranty |
| 3.  | Original equipment medical manufacturer’s parts for medical equipment | (a) Evidence of original equipment manufacturer for spare parts  
(b) Evidence of manufacturer’s warranty |
| 4.  | Products imported by diplomats and diplomatic missions except motor vehicles | Form PRO 1A or PRO 1B issued by the Ministry of Foreign Affairs |
| 5.  | Courier parcels with a value specified by the Council and direct assessment items approved by the Kenya Revenue Authority | (a) Parcel handler’s license issued by the Communications Authority of Kenya  
(b) Direct assessment documents approved by the Kenya Revenue Authority |
| 6.  | Products certified by the Bureau under the Diamond Mark Scheme          | Valid Diamond Mark Permit issued by the Bureau |
| 7.  | Products manufactured within the East African Community                 | (a) Certificate of origin  
(b) Product Certification Permit or Certificate of Analysis (Raw Materials) or Test Report issued by |
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<td>8.</td>
<td>Used personal effects belonging to returning residents and arriving expatriates excluding road vehicles</td>
<td>Approval by the Kenya Revenue Authority</td>
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| 9. | General consumables (stores) imported by international carriers for in-flight or ships services and duty-free products | (a) Proof of licensing as an international carrier  
(b) Authority by Kenya Revenue Authority to operate as duty-free |
| 10. | Re-imports | Re-importation certificate issued by the Kenya Revenue Authority |
| 11. | Temporary imports | (a) Proof of bond execution with Kenya Revenue Authority  
(b) Carnet certificate (for road vehicles) |
| 12. | New road vehicles and new mobile equipment | Manufacturer’s warranty or type approval |
| 13. | Printed matter and recorded digital media | Declaration that the material has not violated any intellectual property rights |
| 14. | The following products regulated under specific laws:  
(1) explosives, arms and ammunition  
(2) plants, seeds and planting materials  
(3) live animals, carcasses and hatching eggs  
(4) tissues and organs  
(5) human and veterinary pharmaceutical products  
(6) pesticides  
(7) aircraft and aircraft parts  
(8) marinecraft and marinecraft parts  
(9) radioactive materials and isotopes | Proof of compliance with the relevant Regulations |