

**PROPOSED STANDARDS BILL, 2025**

*Arrangement of Clauses*

**PART I—PRELIMINARY**

- 1- Short title
- 2- Interpretation.
- 3- Guiding principles.
- 4- Objects of the Act.

**PART II— THE ESTABLISHMENT AND FUNCTIONS OF THE KENYA  
BUREAU OF STANDARDS**

- 5- Establishment of the Bureau.
- 6- Functions of the Bureau.
- 7- Powers of the Bureau
- 8- Establishment and the composition of the National Standards Council.
- 9- Qualification for appointment as Chairperson or member of the Council.
- 10- Term of office of the Council.
- 11- Vacancy of Office
- 12- Remuneration.
- 13- Business of the Council
- 14- Committees of the Council
- 15- Functions of the Council.
- 16- Director General of the Bureau
- 17- Corporation Secretary
- 18- Staff of the Bureau.
- 19- Common Seal of the Bureau

**PART III—DEVELOPMENT AND TRAINING ON STANDARDS**

- 20- National Standards Body
- 21- The Purpose of Standards.
- 22- Development of standards
- 23- Adoption of regional and international standards.
- 24- Externally proposed standards
- 25- Mandatory standards
- 26- Exemptions
- 27- Precedence of Kenya Standards
- 28- Catalogue of the Kenya Standards.
- 29- Copyright of Kenya Standards
- 30- Training on Quality

**PART IV—LICENSING AND REGISTRATION**

- 31- Registration of manufacturers
- 32- Licensing of calibration service providers
- 33- Registration of cargo consolidators
- 34- Administrative penalties for violations

**PART V— CONFORMITY ASSESSMENT**

- 35- The purpose of conformity assessment
- 36- Conformity assessment activities
- 37- Certification marks
- 38- Application for product certification
- 39- Personnel and system certification
- 40- Responsibility for quality
- 41- Inspection of imports
- 42- Testing of products
- 43- Market surveillance

**PART VI – METROLOGY**

- 44- National Metrology Institute
- 45- Calibration services
- 46- Mandatory calibration
- 47- National Reference Time

**PART VIII – COMPLIANCE PROVISIONS**

- 48- Product compliance obligations
- 49- Obligations of manufacturers.
- 50- Obligations of importers.
- 51- Obligations of business operators
- 52- Mandatory product recall.
- 53- Product liability
- 54- Liability for costs

**PART IX ENFORCEMENT OF STANDARDS**

- 55- Enforcement of standards
- 56- Complaints on non-compliant products
- 57- Designation of inspectors
- 58- Duties of inspectors
- 59- Powers of inspectors
  
- 60- Destruction of products
- 61- Conditional release of products

**PART X– STANDARDS TRIBUNAL**

- 62- Establishment and composition of the Standards Tribunal
- 63- Tenure of office
- 64- Discipline and removal of members
- 65- Procedures of the Tribunal
- 66- Personal liability
- 67- Powers of the Tribunal
- 68- Remuneration and benefits of members

- 69- Jurisdiction of the Tribunal
- 70- Appeals from the Tribunal
- 71- Staff of the Tribunal
- 72- Protection of officers of the Tribunal

#### **PART XI- FINANCIAL MANAGEMENT**

- 73- Funds of the Bureau
- 74- Annual estimates
- 75- Accounts and audit
- 76- Standards levy

#### **PART XII-OFFENCES AND PENALTIES**

- 77- Non-compliance with standards
- 78- Obstruction of inspectors
- 79- Illegal use of certification marks
- 80- Impersonation of staff of the Bureau
- 81- False claims and misleading advertising
- 82- Failure to pay standards levy
- 83- Offence to dispose of products subject of conditional release
- 84- Victimization
- 85- General penalty

#### **PART XIII- MISCELLANEOUS**

- 86- Protection of Government, Bureau, Council members and employees
- 87- Trade secrets and confidentiality
- 88- Regulations

#### **PART XIV-TRANSITION, REPEAL AND SAVINGS**

- 89- Repeal of cap 496
- 90- Savings and transitional provisions
- 91- Transfer of assets

**THE STANDARDS BILL, 2025**

**A Bill for**

**AN ACT of Parliament to give effect to Article 46 (1) of the Constitution; to provide a framework for standardisation, scientific and industrial metrology and conformity assessment in the provision of products and services; to establish the Kenya Bureau of Standards; the Standards Tribunal, and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

Short title.

1. This Act may be cited as the Standards Act, 2025.

Interpretation.

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

“Bureau” means the Kenya Bureau of Standards established under section 5;

“business operator” means a distributor, fulfilment service provider, wholesaler, retailer, stockist, exhibitor or any other person who is subject to obligations in relation to making products available on the market.

“Cabinet Secretary” means the Cabinet Secretary responsible for industrialization.

“calibration” means set of operations which establishes, by reference to standards, the relationship which exists, under specified conditions, between an indication and a result of a measurement with associated uncertainties

“certification” means a third-party attestation related to an object of conformity assessment which may include a product, process, service, system, installation, project, data, design, material, claim, person, body or organization, or any combination thereof;

“certification marks” means protected mark, applied or issued under a certification system that indicate conformity of a product, process, practice or service with a Kenya Standard or other specification;

“Consolidator” means a person who assembles cargo from various persons into a single consignment at the country of supply which may be declared as a single import at the port of destination and then deconsolidated for delivery to the original consignees;

“conformity assessment” means a demonstration that specified requirements are fulfilled and includes testing, calibration, inspection, validation, verification, certification, and reference material production;

“container” means any box, bag, case, package, pot, sack or other receptacle used for transporting materials and articles and includes covering, wrapping or packing material;

“Council” means the National Standards Council established under Section 8;

“Director General” means the Director General of the Bureau appointed under Section 16;

“Inspector” means an officer of the Bureau designated under Section 57;

“Kenya Standard” means a specification or code of practice declared under Section 22;

“Manufacture” includes production, assembly, alteration, modification, adaptation, conversion, processing, treatment, installation, testing, operation, or integration of Internet of Things (IoT) and Artificial Intelligence (AI) technologies related to works, goods or services;

“Market” means any venue used for trade and includes physical market place and e-commerce platforms;

“Manufacturer” means a person engaged in manufacture;

“Measurement” means the process of experimentally obtaining one or more quantity values that can reasonably be attributed to a quantity;

“Metrology” means a science of measurement and its application.

“National Metrology Institute” means the body responsible for establishment, maintenance and dissemination of national measurement standards;

“Metrological traceability” is defined as the property of a measurement result whereby the result can be related to a reference through a documented unbroken chain of calibrations, each contributing to the measurement uncertainty.

“National Standards Body” means the national body designated for development of standards in a country;

“Premises” means any building or structure, and includes aircraft, vehicle or vessel on or offshore, movable or immovable or other place which may be used for the storage, manufacture, concealment, sale, handling, transport, or other related purposes.

“Product” means goods intended for own use, release or sale in the market;

“Specification” means a description of any product, process, practice or service by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, or other characteristics or to any substance or material of or with which, or the manner in which, any commodity may be manufactured, produced, processed, treated, tested or sampled.

“Standards levy” means the levy payable as referred by Section 76;

“Standard” means a set of rules, guidelines, characteristics, artefacts or materials including measurement standards and reference materials approved by a recognized body for products and services or related processes and production methods for common and consistent use to achieve optimal order.

“Standardisation” means the activity of establishing, with regard to actual or potential problems, provisions for common and repeated use, aimed at the achievement of the optimum degree of order in a given context;

“Testing” means determination of one or more characteristics of an object of conformity assessment, according to a specified procedure;

“Tribunal” means the Standards Tribunal established under Section 62.

Guiding principles.

**3.** This Act shall be guided by the following principles-

- (a) the right of every consumer to safe and quality products and services;
- (b) collaborative approach to standardisation, metrology and conformity assessment; and
- (c) facilitation of fair trade.

Objects of the Act.

**4.** (1) The objects of this Act are to—

- (a) Promote standardization in industry and trade;
- (b) promote health, safety and environmental protection within the framework of standardisation, metrology and conformity assessment.
- (c) establish and sustain mechanisms for quality products and services; and
- (d) ensure traceability of measurements to the International System of Units;

## **PART II—THE ESTABLISHMENT AND FUNCTIONS OF KENYA BUREAU OF STANDARDS**

Establishment of the  
Bureau.

**5.** (1) There is established the Kenya Bureau of Standards.

(2) The Bureau shall be a body corporate with perpetual succession and a common seal, and which shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property for the purposes of this Act;
- (c) entering into contracts; and
- (d) doing or performing all such other things or acts necessary for or incidental to the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

Functions of the Bureau

- 6.** (1) The functions of the Bureau shall be to—
- (a) develop standards and specifications;
  - (b) be the custodian of the national measurement standards and provide scientific and industrial metrology services;
  - (c) realise, maintain and provide measurement traceability to the International System of Measurement Units (SI);
  - (d) monitor the quality of products, processes, systems and services to safeguard consumers;
  - (e) promote quality and safety of products, process, system and service by creating awareness among the consumers and the industry;
  - (f) provide testing services for products;
  - (g) enforce standards in respect of domestic and imported products and services;
  - (h) exercise oversight authority over entities that offer scientific and industrial metrology;
  - (i) provide technical support and training in standardization, metrology and conformity assessment;



- (j) support trade facilitation through provision of technical expertise in standardization, metrology and conformity assessment.;
- (k) issue and regulate the use of certification marks for products and services;
- (l) provide national reference testing for products conformity assessment;
- (m) assist ministries, departments, agencies and county governments or any public or private entities on the development and use of standards;
- (n) conduct research to support standardization, metrology and conformity assessment;
- (o) disseminate the reference time in Kenya;
- (p) advise the Cabinet Secretary on any matters relating to standardization, metrology and conformity assessment; and
- (q) perform any other function necessary for the proper and efficient discharge of the functions of the Bureau under this Act.

Powers of the Bureau

7. The Bureau shall have all the powers necessary for the performance of its functions under this Act including the power to:
- (a) Declare Kenya Standards;
  - (b) Declare mandatory standards;
  - (c) collect fees, fines and penalties in respect to standardization, metrology and conformity assessment services;
  - (d) issue directives to regulate industry practices in standardization, metrology and conformity assessment;
  - (e) issue, suspend, withdraw and cancel certification permits;

- (f) enter any premises at which there is, or is suspected to be a commodity in relation to which any Kenya standard exists;
- (g) require any person to provide samples of any commodity or any material or substance;
- (h) require from any person the production of any book, notice, record, list or other document which is in the possession or custody or under the control of that person or of any other person on his behalf; and
- (i) seize and detain any goods or documents.

Establishment and  
composition of the National  
Standards Council.

8. (1) There shall be a board of the Bureau to be known as the National Standards Council.
- (2) The Council shall consist of the following members—
- (a) a chairperson appointed by the President;
  - (b) the Principal Secretary of the State Department responsible for the National Treasury or a designated alternate;
  - (c) the Principal Secretary of the State Department responsible for matters relating to industry or a designated alternate;
  - (d) The Attorney General or a designated alternate;
  - (e) Not more than 5 persons appointed by the Cabinet Secretary who shall possess knowledge of industrial or commercial standards, metrology, conformity assessment, consumer protection, trade or other matters likely to be of assistance to the Bureau in the performance of its functions under this Act.
  - (f) the Director General of Bureau who shall be an *ex-officio* member.

(3) A person being a former staff of the Bureau shall not be eligible for appointment to the council before expiry of five years after exit from the Bureau

Qualifications for  
appointment as Chairperson  
or member of the Council.

**9.** (1) A person shall qualify for appointment as the Chairperson if such a person—

(a) holds at least a bachelor's degree from an institution recognised in Kenya.

(b) has knowledge and competence and at least ten years' experience in leadership and management.

(c) meets the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as member of the Council if such a person—

(a) holds at least a bachelor's degree from an institution recognised in Kenya;

(b) has qualifications in any of the following fields—engineering, technology, finance, sciences, law, social sciences and business.

(c) has knowledge and at least five years' experience in leadership and management; and

(d) meets the requirements of Chapter Six of the Constitution.

Term of office of the  
Council.

**10.** (1) Members of the Council shall hold office for a term of three years and may be reappointed for one further term.

(2) For the purpose of continuity, the appointment of members shall be done in such manner as to ensure that their terms do not expire at the same time.

Vacancy of Office.

**11. (1)** The office of the Chairperson or a member of the Council other than an ex-officio member shall become vacant if the Chairperson or a member—

- (i) resigns from office in writing, to the appointing authority;
- (ii) is absent from three consecutive meetings of the Council convened as provided in this Act without approval of the chairperson;
- (iii) is adjudged bankrupt;
- (iv) is unable to exercise the functions of the office arising out of physical or mental incapacity;
- (v) is removed from office on grounds of violating ethics and integrity provisions of the Constitution or any relevant law;
- (vi) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (vii) expiry of term; or
- (viii) dies

Remuneration.

**12.** The chairperson and members of the Council shall be paid such remuneration and benefits as the Salaries and Remuneration Commission may advise.

Business of the Council

**13.** Subject to this Act and any other written law, the Council shall determine the procedure for the conduct of its business and cause to be kept records of minutes of its proceedings and decisions.

Committees of the Council

**14.** The Council may establish such committees as shall be necessary for the discharge of its functions.

Functions of the Council.

**15. (1)** The functions of the Council are to—

- (a) oversee the proper and effective performance of the functions of the Bureau;
- (b) determine the mission, vision, purpose and core values of the Bureau;
- (c) oversee sound financial management of the Bureau
- (d) set and oversee the overall strategy and policy guidance over the administration of the Bureau;
- (e) ensure availability of adequate resources for the achievement of the Bureau's objectives;
- (f) advise the Cabinet Secretary on any matters relating to standardization, metrology and conformity assessment; and
- (g) any other function as may be prescribed under this Act or any other law.

(2) In the performance of its functions under subsection (1), the Council shall have power to—

- (a) Declare Kenya Standards;
- (b) Approve mandatory standards;
- (c) approve and oversee implementation of projects and programs of the Bureau;
- (d) approve the budgets and procurement plans of the Bureau;
- (e) monitor performance and ensure effective utilization of the resources of the Bureau;
- (f) approve the instruments of appointment and terms of service for staff of the Bureau; and
- (g) approve the opening of the bank account(s) of the Bureau.

Director General of the  
Bureau

**16. (1)** There shall be a Director General of the Bureau who shall be appointed by the Council through a competitive and transparent process on such terms as the Council may determine.

(2) A person qualifies to be appointed as the Director General if the person:

- a. is a citizen of Kenya;
- b. holds a bachelor's degree from a university recognized in Kenya;
- c. holds a masters degree from a university recognized in Kenya;
- d. possess knowledge and experience in a relevant field for a period of not less than 15 years;
- e. Leadership and senior management experience of at least ten years; and
- f. meets the requirements of chapter six of the constitution.

(3) The Director General shall be responsible for the day-to-day management of the Bureau.

(4) The Director General shall hold office for a term of three years and be eligible for reappointment for one further term of three years.

(5) The office of the Director General shall become vacant if the Director General—

- (a) is adjudged bankrupt;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (c) is unable to perform the functions of the office arising out of physical or mental incapacity;
- (d) is removed by the Council in accordance with the terms and conditions of service;
- (e) resigns from office by notice in writing to the Chairperson of the Council; or
- (f) dies.

Corporation Secretary      **17.** (1) There shall be a Corporation Secretary who shall be appointed by the Council on such terms and conditions as the Council may determine and who shall perform such duties as the Council may, from time to time, assign.

(2) In the performance of their duties under this Act, the Corporation Secretary shall be responsible to the Director-General.

Staff of the Bureau.      **18.** (1) The Council shall appoint such staff of the Bureau as it considers necessary for the exercise of its powers and discharge of its functions.

(2) The Staff of the Bureau shall be appointed on such terms and conditions as shall be determined by the Council

Common Seal of the Bureau      **19.** The Common seal of the Bureau shall be kept in the custody of the Corporation Secretary and used in the manner the Council shall direct.

### **PART III—DEVELOPMENT AND TRAINING ON STANDARDS**

National Standards Body      **20.** The Bureau is hereby designated as the National Standards Body of Kenya.

Purpose of Standards      **21.** (1) Standardisation shall be carried out to—

(a) protect the health and safety of human beings, plants and animals;

(b) safeguard the environment;

- (c) promote the quality and fitness for purpose of products and services;
- (d) ensure compatibility, interchangeability, interconnectivity, and interoperability of products and services;
- (e) control products and services variety;
- (f) encourage efficient utilization of resources and sustainability;
- (g) facilitate trade;
- (h) support technology transfer; and
- (i) prevent deceptive practices.

Development of standards

**22.** (1) The Bureau shall develop, modify, review, adopt or withdraw standards and specifications.

(2) The Bureau may constitute technical committees for purposes of developing standards and specifications.

(3) Before finalising a proposed standard or specification, the Bureau shall conduct public consultation and provide adequate notice and opportunity for industry stakeholders and consumers to offer feedback.

(4) The standard or specification formulated by the Bureau shall be submitted to the Council for approval.

(5) Upon approval by the Council, the Bureau shall declare and publish in the *Gazette* the developed standard or specification as the Kenya Standard or approved specification.

(6) The Bureau shall periodically review the published Kenya standards or approved specifications for adequacy and suitability.



(7) Upon review, the Bureau may amend or withdraw a Kenya Standard or approved specification and shall publish a notice of such amendment or withdrawal.

Adoption of regional and international standards

**23.** (1) The Bureau may adopt standards developed at regional and international level.

(2) Prior to the adoption and subject to any treaty considerations, the Bureau shall assess the standard for suitability and the requirements of this Act.

(3) The Bureau shall publish the adopted standard as a Kenya Standard.

Externally proposed standards

**24.** (1) Any standards proposed by a government agency or any other person to be declared as a Kenya Standard shall be submitted to the Bureau for consideration and approval in accordance with this Act.

(2) Standards, specifications or codes of Practice developed under any other statute shall only be gazetted as Kenya Standards in line with the provisions of this Act.

Mandatory Standards

**25.** (1) On behalf of the Cabinet Secretary, the Council may, by notice in the *Gazette*, specify any Kenya Standard or part of it as having mandatory application.

(2) The notice shall specify the date after which no person shall manufacture, sell, distribute any commodity, method or procedure unless it complies with the declared standard.

(3) In determining which standard will have mandatory application, the Council shall consider such criteria including the impact on health, safety, environmental protection and prevention of deceptive practices.

Exemptions

**26.** Notwithstanding the provisions of any declared mandatory standards, the Cabinet Secretary, 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 mandatory standards; 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 mandatory standards

may, 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 as the Council shall advise.

Precedence of Kenya Standards

**27.** In case of conflict between a Kenya Standard gazetted under this Act and any other standard, specification or code of practice, the Kenya Standard shall take precedence.

Catalogue of the Kenya Standards.

**28.** The Bureau shall be the custodian of Kenya Standards and shall maintain and make available a catalogue of the Kenya Standards.

Copyright of Kenya Standards

**29.** The copyright with respect to Kenya Standards and other publications of the Bureau shall be vested in the Bureau.

Training on Quality

**30.** The Bureau may directly or in collaboration with other learning institutions:

(a) Offer training, awareness and information programs relating to standards, metrology, conformity assessment and quality in general;

(b) Develop curricula, assess and award qualifications relating to standards, metrology, conformity assessment and quality in general;

(c) Manage and undertake national awards for excellence in quality for various sectors;

Register certified quality practitioners and undertake continuous professional development programs.

#### **PART IV - LICENSING AND REGISTRATION**

Registration  
manufacturers

of **31.** (1) A person shall not operate as a manufacturer unless the person is registered as a manufacturer under this Act.

(2) A person who seeks to be registered as a manufacturer under this Act shall apply to the Bureau for registration.

(3) An application under this section shall be made in the prescribed form and shall be accompanied by such particulars or information as may be prescribed by the Bureau.

(4) The Bureau shall, upon receiving an application under this section consider the application and any other information submitted by the applicant and —

(a) if satisfied that the application meets all the requirements under this Act, register the applicant in the register of manufacturers and issue a certificate of registration in the prescribed form; or

(b) where the application does not meet the registration requirements under this Act-

(i) Notify the applicant of the deficiency in the Application

(ii) Require the Applicant to meet the requirements within a prescribed period

(iii) Where the conditions in (i) and (ii) are not met, the Bureau may reject the application and notify the applicant of the rejection and give reasons thereof.

(5) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or both.

Licensing of calibration  
service providers

**32.** (1) The Bureau shall license calibration service providers.

(2) Any person who intends to provide calibration services shall apply to the Bureau.

(3) The Bureau may grant a licence to an Applicant who has sufficient infrastructure and demonstrates competence to offer calibration services.

(4) The Bureau upon being satisfied that the applicant can comply with the set criteria, may issue a licence to the Applicant.

(3) If the Bureau declines to grant the licence, it shall notify the applicant in writing within fourteen days of the decision and provide reasons for the decision.

(5) A licensed calibration services provider shall ensure that its measurement standards are referenced to the national measurement standards maintained by the Bureau.

(6) The Bureau may suspend or withdraw a licence by issuing a seven day notice if the Bureau determines that the calibration service provider violates the provisions of this Act or the licence.

(7) The Bureau shall maintain a publicly accessible register of all licensed calibration service providers.

Registration of Cargo consolidators

**33.** (1) The Bureau shall register consolidators of air and sea cargo prior to commencement of offering consolidation services.

(2) An entity shall be qualified to be registered as a cargo consolidator, if it —

(a) is registered as a business entity in Kenya

(b) is tax compliant;

(c) maintains a warehouse in both the country where the goods originate and Kenya;

(d) has not committed any offence relating to importation of substandard or counterfeit goods in the last three years.

(3) An entity seeking to be registered as a consolidator shall apply to the Bureau.

(4) The Cabinet Secretary may, in consultation with the Council, make regulations necessary to implement and enforce this section.

(4) A person who imports cargo as a consolidator without being registered as required under this section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding one year, or to both.

Administrative penalty for violations

**34.** (1) The Bureau may impose an administrative penalty on any manufacturer, calibration service provider or cargo consolidator who fails to comply with the terms of their licensing or any provisions of this Act.

(2) The penalty imposed under subsection (1) shall not exceed five million shillings in addition to any corrective measures as may be specified in the compliance notice.

(3) For repeat violators or cases of severe non-compliance, the Bureau may impose an additional penalty up to twice the penalty levied under subsection (2).

## **PART V—CONFORMITY ASSESSMENT**

The Purpose of Conformity Assessment.

**35.** The Bureau shall conduct conformity assessment activities to—

- (a) verify that products, systems and services comply with Kenya standards, technical regulations or approved specifications;
- (b) safeguard consumer health and safety and protect the environment;
- (c) enhance the competitiveness of Kenya products and services;
- (d) prevent deceptive trade practices; and
- (e) fulfil any other purpose permitted under this Act.

Conformity assessment activities

**36.** To ensure compliance with Kenya standards, technical regulations and approved specifications the Bureau shall —

- (a) conduct product and system certification;
- (b) carry out imports inspection;
- (c) perform testing of products;
- (d) undertake market surveillance; and
- (e) take any other measure to ensure compliance.

Certification marks

**37. (1)** The Bureau may certify products, systems and personnel that comply with the Act.

**(2)** The Bureau shall develop and establish certification marks for products, processes or systems which comply with Kenya Standards or approved specifications.

(3) The Bureau shall publish by notice in the *Gazette* to declare a mark developed as a certification mark.

(4) The certification mark shall be used by persons who have been granted a permit for use by the Bureau.

Application for Product  
certification

**38.** (1) Any person who intends to manufacture or import any commodity shall make an application in the prescribed manner and pay the prescribed fee.

(2) The Bureau, upon being satisfied that the applicant can comply with the relevant standard or approved specifications, may issue a permit to use the certification mark.

(3) If the Bureau declines to grant the permit, it shall notify the applicant in writing within fourteen days of the decision and provide reasons for the decision.

(4) A permit holder shall comply with the applicable Kenya Standard, and any condition under which the permit was granted.

(5) The Bureau may, by notice in writing to the permit holder –

(a) amend or set aside any condition under which the Permit was granted;

(b) impose any additional condition on the permit.

(6) The Bureau may suspend or withdraw a permit by issuing a seven day notice if -

(a) the Bureau determines that the permit holder no longer meets the requirements under this Act; or

(b) the permit holder fails to comply with the conditions of the permit.

Personnel and system certification	<p><b>39.</b> (1) A person intending to use the Bureau’s personnel or a system certification mark shall apply to the Bureau.</p> <p>(2) An application made under sub-section (1) shall be granted upon payment of the prescribed fees and determination that the person or system conforms with the requirements of the relevant standard.</p> <p>(3) For purposes of this Section,</p> <p>(a) Personnel certification means a third-party attestation that a person has proven competencies that comply with specified qualification requirements.</p> <p>(b) System certification means a third-party attestation that an organization has established processes and systems that comply with specified requirements.</p>
Responsibility for quality	<p><b>40.</b> The permit holder shall be responsible for the quality, safety and compliance of the products and services offered.</p>
Inspection of imports	<p><b>41.</b> (1) An Importer shall ensure that imported products comply with Kenya standards or approved specifications.</p> <p>(2) The Bureau may-</p> <p>(a) inspect imported products to verify compliance with Kenya Standards.</p> <p>(b) arrange for inspection of imported products using methods that may include:</p> <p>(i) destination inspection at the port of entry;</p> <p>(ii) product registration;</p> <p>(iii) pre-export verification of conformity at the country of origin;</p>



(iv) mutual recognition agreements;

(v) any other method as may be applicable from time to time.

(3) The Cabinet Secretary may, in consultation with the Council, make regulations necessary to implement and enforce this section.

Testing of products

**42.** (1) The Bureau shall be the national reference testing laboratory for purposes of conformity assessment of products.

(2) The Bureau may establish laboratories to-

(a) conduct testing and measurement services;

(b) produce reference materials;

(c) develop test methods;

(d) provide proficiency testing services

(e) offer chemical metrology services; and

(f) carry out any other function under this Act.

(3) The Bureau may, where necessary, designate competent bodies to provide testing and measurement services.

(4) Only a laboratory that has been assessed by the Bureau and found to have met set criteria for designation shall be designated as such.

(5) The Cabinet Secretary may, in consultation with the Council, make regulations necessary to implement and enforce this section.

Market surveillance

**43.** (1) To verify compliance with this Act, the Bureau may carry out market surveillance on—

(a) any product, consignment, lot or batch of a product;

(b) a premises where products are manufactured, stored or distributed; or

(c) any other relevant area, including the source of raw materials or processed intermediates that may affect the quality of a product.

(2) The Cabinet Secretary may, in consultation with the Council, make regulations necessary to implement and enforce this section

## **PART VI – METROLOGY**

National Metrology Institute **44.** The Bureau is the National Metrology Institute for scientific and industrial metrology with respect to the Metre Convention and any other pertinent treaties.

Calibration services **45.** (1) The Bureau shall provide calibration services in Kenya.  
(2) The Bureau may, where necessary, designate competent bodies to provide calibration services.  
(3) Only a laboratory that has been assessed by the Bureau and found to have met set criteria for designation shall be designated as such.  
(4) The Cabinet Secretary may, in consultation with the Council, make regulations necessary to implement and enforce this section

Mandatory Calibration **46.** (1) All medical and industrial equipment requiring calibration shall be calibrated in accordance with this Act to ensure compliance with this Act:  
(2) The Bureau may designate any other categories of measuring instruments and equipment used for scientific and industrial purposes as mandatory for calibration.  
(3) A person who operates a measuring instrument and equipment without it being calibrated as required under this

section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding one year, or to both.

(4) The Cabinet Secretary, on advice of the Council, may make regulations designating specific categories of measuring instruments and equipment used for health, safety or environmental purposes that shall be calibrated. These may include equipment used in the following fields:

- a) medical and healthcare
- b) industrial application
- c) trade practices
- d) aerospace and defence
- e) pharmaceuticals

(5) Without prejudice to the generality of subsection (1), the Regulations may prescribe the timeframe after which it shall be unlawful to use an instrument or equipment that is not calibrated.

National Reference Time

**47.** (1) The Bureau shall establish, maintain, and disseminate the National Standard Reference Time.

(2) All persons that operate time-sensitive systems or engage in activities where accurate timekeeping is essential, as determined by the Bureau, shall utilize the National Standard Reference Time as their primary time source.

(3) The Bureau shall publish dissemination methods and such fees, terms and conditions as the Bureau may determine from time to time for accessing the National Standard Reference Time.

(4) The Cabinet Secretary may, in consultation with the Council make regulations necessary to implement and enforce this section.

(5) A person who operates a time-sensitive system or engages in activities where accurate timekeeping is essential without utilizing the National Standard Reference Time as their

primary time source as required under this section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding one year, or to both.

## **PART VIII– COMPLIANCE PROVISIONS**

Product  
obligations

compliance

**48.** (1) A person who manufactures, imports, stocks, distributes, sells, or exhibits a product shall ensure that-

- (a) the product complies with Kenya standards or approved specifications.
- (b) the product bears a valid certification mark issued or recognized under this Act;
- (c) they maintain records that uniquely identify the suppliers, immediate customers, products and production at all times for purposes of traceability.
- (d) the product has not exceeded its declared shelf life or expiry date.

(2) The Bureau may request from any person who manufactures, stocks, distributes, sells or exhibits a product any documentation and information that the Bureau requires for the purpose of carrying out its mandate.

(3) A manufacturer, importer or business operator who has reason to believe that a product which has been made available on the market is not in conformity with the requirements of this Act, shall withdraw or recall the product.

(4) A Business operator shall cooperate with the Bureau to eliminate or mitigate risks presented by non- compliant products made available on the market.

Obligations  
of manufacturers.

of **49.** (1) A manufacturer shall ensure that every product has been designed and manufactured in accordance with this Act.

(2) A manufacturer shall, in addition to any other obligations under this Act—

- (a) ensure that every product meets the requirements of the relevant Kenya standards or approved specifications;
- (b) carry out sample testing of a product before releasing the product into the market;
- (c) have procedures for ensuring full traceability of a product from the factory to the consumer;
- (d) ensure that the labelling of each product meets the requirements of the relevant standard;
- (e) investigate any complaint related to any product and take appropriate action;
- (f) keep a register of complaints, non-conforming products and product recalls; and
- (g) keep distributors informed of any monitoring activities related to the product.

Obligations of importers.

**50.** (1) An importer shall—

- (a) ensure that their products meet the requirements of Kenya standards or approved specifications;
- (b) produce the goods for verification of compliance to standards;
- (c) affix a valid certification mark on applicable imported products;
- (d) ensure that the products with a specified shelf life shall at importation have a remaining shelf life as shall be prescribed; and
- (e) comply with the provisions under this Act or any other written law.

Obligations of business operators

**51.** (1) A business operator shall—

- (a) exercise due care when transporting, warehousing, distributing or selling products;
- (b) keep a register of complaints and product recalls;
- (c) distribute products that are in conformity with the provisions of this Act; and
- (d) ensure proper storage and handling conditions of products in line with the conditions prescribed by the manufacturer.

Mandatory product recall.

**52.** (1) The Bureau may issue a notice to any person who manufactures, imports, stocks, distributes, sells or exhibits products, to recall or withdraw any product which does not comply with this Act within the timelines and using the medium indicated in the notice.

(2) A person who receives the notice issued under sub-section (1) shall-

- (a) comply with the notice; and
- (b) submit evidence of compliance to the Bureau.

(2) The Bureau may require the manufacturer or importer to issue a public notice informing consumers of the mandatory recall if the product does not comply with the standard;

(3) A person who fails to comply with this section commits an offense and shall be liable upon conviction to fine not exceeding ten million Kenya shillings or a imprisonment for a term not exceeding ten years or both.

Product liability

**53.** (1) A manufacturer, importer, business operator or their agents shall be liable for any damage caused by products declared by the Bureau to be—

- (a) defective;
- (b) unsafe;
- (c) presenting a risk on health, safety and environment; or
- (d) non-compliant.

(2) The manufacturer, importer, business operator or their agent shall compensate any person who suffers loss or damage from contravention of subsection (1).

Liability for costs

**54.** (1) A manufacturer, importer, or their agent shall meet the following costs as determined by the Bureau—

- (a) costs incurred in seizure, removal or detention of any alleged substandard or unsafe products;
- (b) any cost related to handling, transportation and storage; and
- (c) costs of destruction of non-compliant products.

## **PART IX– ENFORCEMENT OF STANDARDS**

Enforcement of Standards.

**55.** (1) The Bureau shall enforce Kenya Standards and approved specifications.

(2) No person shall manufacture, trade, distribute, sell, supply or import or in any other way deal with a product to which a Kenya Standard or approved specification applies unless the product complies to the requirements of that standard or approved specifications.

(3) In case of non-compliance with subsection (2), the Bureau may

—

- (a) stop further production of a product;
  - (b) close the production premises;
  - (c) halt distribution or sale of the product;
  - (d) seize and detain the product;
  - (e) order product recall;
  - (f) direct removal of content referring to the non-compliant products from online interface or platforms accessible in Kenya;
  - (g) order reshipment at the expense of the importer;
  - (h) mandate correction or corrective action;
  - (i) mandate rework or recycling;
  - (j) instruct an arrest of the persons involved in the production or sale of non-conforming products;
  - (k) order destruction at the expense of the importer, manufacturer, or business operator;
  - (l) suspend or cancel a permit;
  - (m) issue an order to stop importation of a product;
  - (n) recommend prosecution of the persons involved in the production or sale of non-conforming products;
  - (o) issue a public notice informing the public of a non-compliant product; and
  - (p) take any other action necessary to achieve the objectives of this section.
- (4) Any person aggrieved by any decision under this Section may request for a review by the Director General within seven (7) days of receipt of the decision.



(5) Any person aggrieved by any decision of the Director General in sub-section (4) above this Section may, within fourteen (14) days, appeal to the Tribunal.

(6) In addition to any orders under subsection (2), the Bureau may impose an administrative penalty not exceeding 15% of the estimated market value of non-compliant goods on any person who fails to comply with this Section.

(7) The penalty amount imposed under subsection (6) shall be determined by the nature and severity of non-compliance.

complaints on non-compliant products

**56.** (1) Any person may file a complaint or any other information with the Bureau regarding any product suspected to compromise the health and safety of consumers or the environment or which fails to comply with Kenya standards or approved specifications.

(2) The Bureau shall establish procedures for the submission of complaints and intelligence.

(3) The Bureau shall investigate the matter in subsection (1) and take appropriate action under this Act.

Designation of Inspectors.

**57.** (1) The Bureau shall for the purposes of enforcing the provisions of this Act, designate suitably qualified staff of the Bureau as inspectors.

(2) The Director General shall issue a Certificate of Authority to the person designated as an inspector under this section.

(3) The Bureau may revoke the designation of an Inspector if the inspector:

- (a) ceases to be a member of staff of the Bureau; or
- (b) for any other reason as the Bureau may determine.

Duties of inspectors

**58.** (1) The duties of an inspector shall be to—

- (a) inspect any premises, processes, and products to ensure compliance with relevant standards and approved specifications;
- (b) examine documents and records related to standards compliance;
- (c) investigate consumer complaints of any alleged non-complying products or other violations under this Act;
- (d) gather market intelligence on matters related to standards compliance;
- (e) assess and verify the standards levy payable by manufacturers;
- (f) supervise correction or corrective action to be taken on any process or product;
- (g) issue enforcement notices as prescribed by this Act; and
- (h) any other duty as may be assigned by the Bureau.

Powers of Inspectors.

**59. (1)** For the purposes of carrying out their duties, an inspector shall have power to:

- (a) enter any premises at which there is, or is suspected to be a commodity in relation to which any Kenya standard exists;
- (b) cause any container within which there is or is suspected to be a quantity of any such commodity, material or substance, to be opened;
- (c) take samples of any commodity or any material or substance used, or likely to be used in the manufacture of a product;
- (d) direct correction or corrective action on any process or product;
- (e) inspect and retain a copy of any document and seek explanation for any entry;

- (f) summon a person to give such information as may be necessary under this Act;
  - (g) seize and detain, for the purpose of testing, any goods in respect of which he has reasonable cause to believe that an offence has been committed; and
  - (h) seize and detain any goods or documents reasonably required as evidence in any proceedings under this Act.
- (2) An Inspector entering any premises for inspection shall present to the person apparently in-charge of the premises an identification document signifying their appointment.
- (3) Where –
- (a) premises are unoccupied;
  - (b) the owner, occupier or person in charge thereof is temporarily absent; or
  - (c) entry thereon is refused or obstructed,
- an Inspector may use such force as is reasonably necessary to effect entry and may use such equipment or other person as may be necessary to conduct inspection.
- (4) Before carrying out an inspection, an inspector shall take reasonable steps prior to entry by the Inspector to find the owner, occupier or person in charge of the premises to be entered.
- (5) The Inspector who seizes goods from any premises may affix seals on the premises to secure the goods.
- (6) Seals affixed by an Inspector shall not be tampered with and may only be broken in the presence and on the instruction of the Inspector.
- (7) An Inspector shall have power to record statements and confessions and collect evidence in the course of their duties
- (8) Any person who tampers with the seal affixed by an Inspector commits an offence.

- (9) The Director General shall have the powers to review the decisions of inspectors and communicate any change to the inspector in writing.

Destruction of products.

- 60.** (1) An Inspector may order the destruction of products if—
- (a) inspection or testing indicates that the products do not meet the relevant Kenya Standard or approved specifications; or
  - (b) it is reasonably necessary to destroy the products because the products are in a dangerous state or likely to be injurious to the health of human beings, animals or plants.
- (2) In an order under subsection (1) an Inspector may require the owner of the products to pay the costs of the destruction of the products including the costs of transporting and storing the products before destruction.
- (3) A notice of at least fourteen days shall be given of an order under subsection (1) either by giving the owner of the products a written notice or by publishing the notice in the *Gazette*:
- (4) Where the products are of a perishable nature, the notice period shall be seven days or as soon as it is practicable.
- (5) Any person who is aggrieved by an order for destruction may appeal in writing to the Tribunal within the notice period specified under subsection (3) and (4).
- (6) The owner of imported products intended for destruction may give an undertaking to the Bureau to reship the goods to the Country of origin.

Conditional Release of  
imported products

- 61.** (1) An Inspector may authorize conditional release of products for storage to an importer or their agent's appointed premises pending the testing of the samples of products to determine

whether they comply with the relevant Kenya Standard or approved specifications.

(2) Where the products are conditionally released, the Inspector shall ensure that the samples are tested within reasonable time and the results thereof released to the importer or his agent.

(3) Where products are conditionally released, they shall not be removed, sold, used, disposed off, re-exported, damaged, wasted, destroyed or in any manner dealt with contrary to conditions of release.

(4) Where the products are found to comply with the relevant Kenya Standard or approved specifications, they shall be released to the importer, or his agent forthwith.

(5) Where the products fail to comply with the relevant Kenya standard or approved specifications, the Bureau may order destruction, reshipment or corrective action.

(6) Any person who contravenes the provisions of this section commits an offence.

## **PART X – THE STANDARDS TRIBUNAL**

Establishment  
composition of  
Standards Tribunal.

and  
the

**62.** (1) There is established a tribunal known as the Standards Tribunal.

(2) The Tribunal shall consist of—

(a) a Chairperson who shall be a person who is qualified to be appointed as a Judge of the High Court;

(b) A member who shall have knowledge and seven years' experience in law.

(c) Two members with knowledge and seven years' experience in standardisation, metrology, conformity assessment or consumer protection.

(d) A person with knowledge and seven years' experience in financial management.

(3) the Judicial Service Commission shall appoint members of the Tribunal

(4) A member of the Council or employee of the Bureau is not eligible to be appointed as a member of the Tribunal.

Tenure of office.

**63.** The Chairperson and members of the Tribunal shall serve for a term of five years and shall be eligible for re-appointment for one final term, provided that the terms of the members shall not expire at the same time.

Discipline and removal of members

**64.** The Chairperson and members of the Tribunal shall be disciplined or removed from office on grounds and in accordance with the provisions of the Third Schedule to the Judicial Service Commission Act.

No. 1 of 2011

Procedures of the Tribunal.

**65.** (1) The Chief Justice may in consultation with the Chairperson of the Tribunal, and by notice in the *Gazette*, make rules governing the practice and procedure of the Tribunal having regard to the objectives of this Act.  
(2) The Tribunal shall not be bound by the rules of evidence.

Personal liability.

**66.** The Chairperson and members of the Tribunal are not liable for any action or suit in respect of anything done or omitted to be done in good faith in the lawful performance of their duties.

Powers of the Tribunal.

**67.** In the exercise of its powers under this Act, the Tribunal may confirm, set aside or vary the decision or act in question and may

make such other orders as the Tribunal considers appropriate, including an order with respect to the payment of costs.

Remuneration and Benefits  
of Members of the Tribunal.  
  
No 1 of 2011

**68.** The Chairperson and members of the Tribunal shall be paid such remuneration and benefits as shall be advised by Judicial Service Commission.

Jurisdiction of the Tribunal.

**69.** (1) The Tribunal shall have jurisdiction to—  
(a) hear or determine any appeal lodged to it arising out of registration, licensing, issuance, withdrawal and cancellation of permits, enforcement, and all other decisions under this Act; and  
(b) to perform such other functions as may be conferred upon it by this Act or any other written law.

Appeals from the Tribunal.

**70.** (1) Any party to the proceedings before the Tribunal who is aggrieved by an order of the Tribunal may, within thirty days of the decision lodge an appeal to the High Court.

Staff of the Tribunal

**71.** The Judicial Service Commission shall appoint the Secretary and such other staff of the Tribunal as are necessary for the proper functioning of the Tribunal

Protection of Officers of the  
Tribunal.

**72.** No officer of the Tribunal or other person bound to execute the lawful warrants, orders or other processes of the Tribunal shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the Tribunal issuing it.

## **PART XI – FINANCIAL MANAGEMENT**

Funds of Bureau.

**73.** (1) The funds of the Bureau shall consist of—

- (a) Such monies as may be appropriated by the National Assembly;
- (b) Standards levy;
- (c) such moneys or assets as may accrue to or vest in the Bureau in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (d) any grants, gifts, donations or other endowments as may be given to the Bureau; and
- (e) monies from any other source provided, or lent to the Bureau.

Annual estimates.

**74.** (1) The Council shall cause to be prepared estimates of the revenue and expenditure of the Bureau for that year at least three months before the commencement of each financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Bureau for the financial year concerned and in particular, shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Bureau;
- (b) the payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the Bureau;
- (c) the maintenance of the buildings and grounds of the Bureau;
- (d) the creation of such funds to meet future or contingent liabilities in respect of, insurance or replacement of buildings or installations, equipment and in respect of



such other matters as the Council may consider necessary;

- (e) all expenses related to the working and management of the Bureau and its projects and other properties including proper provision for depreciation, wear and tear or renewal of assets, insurance and other matters as the Council may consider necessary;
- (f) such sums including compensation as may be payable by the Bureau;
- (g) taxes, rates and levies payable by the Bureau under any law; and
- (h) the funding of the activities of the Bureau in respect of any financial year.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

Accounts and audit

**75.** (1) The Council shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Bureau.

(2) Within a period of three months after the end of each financial year, the Bureau shall submit its accounts in respect of that year to the Auditor-General together with a—

- (a) statement of the income and expenditure of the Bureau as at the end of that financial year; and
- (b) statement of the assets and liabilities of the Bureau as at the end of that financial year.

Cap. 412B

(3) The annual accounts of the Bureau shall be prepared, audited and reported upon in accordance with the provisions of the Constitution and the Public Audit Act, 2015.

(4) The Council shall submit to the Cabinet Secretary an annual report detailing the affairs of the Bureau for every year.

Standards Levy.

**76.** (1) The Cabinet Secretary may, on the advice of the Council, make a Standards Levy Order for the purposes of giving effect to proposals submitted by the Council;

(2) A Standards Levy Order may contain provisions as to the evidence by which a person's liability to the levy or his discharge of that liability may be established, and as to the time at which any amount payable by any person by the way of the levy shall become due and the manner in which it shall be recoverable by the Bureau.

(3) If any person fails to pay an amount payable by him by way of the Standards Levy within the time prescribed by the Standards Levy Order, five per cent of that amount shall be charged in addition to the amount for each month or part of a month thereof that the amount due remained unpaid.

(6) Any person aggrieved by an act or decision under a Standards Levy Order may appeal in writing to the Tribunal.

(7) where any person liable to pay levy defaults on the payment, the outstanding levy shall be recoverable as a summary debt pursuant to the Debt (Summary Recovery) Act.

cap 42

## **PART XII –OFFENCES AND PENALTIES**

Non-compliance  
Standards.

with

**77.** Any person who manufactures, trades, distributes, sells, exhibits, supplies or imports a product that does not comply with the requirements of Kenya Standard shall be guilty of an offence and liable to a fine not exceeding ten million Kenya Shillings or imprisonment for a term not exceeding ten (10) years or both.

Obstruction of Inspectors

**78.** Any person who—

(a) wilfully prevents, hinders or obstructs an Inspector appointed under section 57 of this Act;

(b) fails without reasonable cause to produce any document when required to or give information to an Inspector;

(c) knowingly gives false or incomplete information to an Inspector;

(d) fails to appear at the premises or Bureau as required to under section 59(1) (f);

shall be guilty of an offence and liable to a fine not exceeding five million Kenya shillings or imprisonment for a term not exceeding five years or both.

Illegal Use of the certification marks. **79.** Any person who—

(a) Applies a certification mark prescribed under this Act on any product, without a permit granted by the Bureau;

(b) in the use of a certification mark contravenes any conditions of the permit; or

(c) uses a mark of quality which conveys, or is likely to convey the impression that a product, process or practice conforms to a Kenya standard, as the case may be, when it does not do so;

shall be guilty of an offence and liable upon conviction to a fine not exceeding Kenya shillings five (5) million or to imprisonment for a term not exceeding five (5) year or both.

Impersonation of staff of the Bureau **80.** If Any person who is not a staff of the Bureau purports to act as such, commits an offence and shall be liable to imprisonment for a term not exceeding five (5) years or a fine not exceeding five million Kenya Shillings or both.

False claims or Misleading Advertising. **81.** Any person who,

(a) for the purpose of effecting or promoting the sale of any product within the scope of Kenya Standards, publishes or causes to be published an advertisement which is false or misleading,

(b) makes any statement or representation, whether in writing or otherwise, and is likely to convey the impression that a Product, process or practice conforms to a Kenya standard, as the case may be, when it does not do so; or

(c) makes a statement whether in writing or otherwise that is intended to mislead, defraud or deceive any person in connection with a Kenya Standard;

shall be guilty of an offence and liable to imprisonment for a term not exceeding three years (3) or to a fine not exceeding Kenya shillings three million or both.

Failure to pay Standard  
Levy

**82.** Any person who fails to pay the standards levy or comply with any provisions of the standard levy order shall be guilty of an offence and liable to imprisonment for a term not exceeding three (3) years or to a fine not exceeding Kenya shillings three (3) million or both.

Offence to dispose products  
subject of conditional  
release

**83.** Any person who removes, sells, uses, disposes off, re-exports, damages, wastes, destroys or in any manner deals with the goods, contrary to conditions of release specified in section 61 of this Act before the release of the results shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years (10) or to a fine not exceeding twenty million Kenya shillings.

Victimization.

**84.** (1) No person shall be victimized on account of any Act done or omitted to be done or any information given whether to Bureau, to the National Standards Council or to an Inspector pursuant to the Provisions of this Act.

- (2) No employer shall dismiss any person employed by him or reduce the rate or remuneration of that person or otherwise alter the conditions of his employment to conditions less favourable to him or alter his position to his disadvantage relative to other persons employed by that employer by reason of the fact that he believes or suspects, whether or not the belief for suspicion is justified or correct, that that person has given any information which he could be required under this Act to give to an Inspector or has complied with any lawful requirement of an Inspector or has given evidence in any proceedings under this Act.
- (3) An employer who contravenes any of the provisions above, shall be guilty of an offence, and the court convicting an employer of any such contravention may in addition to any sentence which it imposes, order the employer—
- (a) to restore a rate of remuneration, or conditions of employment, or the position of an employee, to that which existed immediately before, and with effect from the date of the reduction or alteration which gives rise to the conviction;
  - (b) to pay to any employee whose dismissal is the subject of the conviction a sum estimated by the court to be equal to his total remuneration for any period not exceeding twelve months calculated according to the rate at which he was being remunerated at the time of his dismissal.

General penalty.

- 85.** (1) Any person convicted of an offence under this act for which no penalty is specifically provided shall—
- (a) in the case of a first offence, be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one million shillings or both ;

- (b) in the case of a second or subsequent offence, to imprisonment for a term not exceeding three years or to a fine not exceeding three million or both ; and
  - (c) where an offence is of a continuing nature, the person shall, in addition, be liable to a fine not exceeding fifty thousand 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, and the destruction of such goods at the cost of the offender;
  - (b) prohibiting the manufacture or sale of that product unless it complies with the relevant Kenya Standard or approved specification 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 provided for under this Act the court may, on application ex-parte by an Inspector, and on receiving evidence that the product, 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 product, method or procedure until the earliest opportunity for hearing and determining the complaint.

### **PART XIII—MISCELLANEOUS**

Protection of Government,  
Bureau, Council Members  
and Employees.

- 86.** The fact that any product complies or is alleged to comply with a Kenya Standard, or has been or is alleged to have been manufactured in accordance with any such specification, or that a certification mark is used in connection with any product, shall

not give rise to any claim against the Government, the Council, or Bureau, or any employee thereof.

Trade Secrets  
Confidentiality.

- and **87.** (1) Except for the purposes of this Act or any other Act or when required by the Tribunal or any court, no person shall disclose information in relation to any product, process or practice which he has acquired in the exercise of his/her function under this Act.
- (2) The disclosure of any information for purposes connected with the administration of this Act shall not prejudice any application made subsequently for registration of a patent under any written law.
- (3) Notwithstanding anything in this Act or any other Act or in an undertaking in respect of disclosure of information, a worker shall not be liable to any penalty for disclosure of information to an Inspector or any person when required to do so under section 33 and the employer of that employee shall not do anything to the prejudice of the worker on the ground of such disclosure.

Regulations.

- 88.** (1) The Cabinet Secretary, on advice of the Council , may make regulations generally for the better carrying out of the provisions and purposes of this Act.
- (2) Without prejudice to the generality of sub-section (1), regulations may on the advise of the Council—
- (a) make provision for all matters in respect of which fees shall be payable under this Act;
  - (b) prescribe procedures for issuing exemptions;
  - (c) make provision for requiring persons to supply information relevant to the provisions of this Act and the regulations;
  - (d) issuance and admissibility of test certificates as evidence in Tribunal or court proceedings; and

- (e) prescribe anything under this Act that is to be prescribed, and in particular the procedure to be followed by the Bureau in the performance of any of its functions under this Act.

#### **PART XIV –TRANSITION, REPEAL AND SAVINGS**

Repeal of Cap 496.

**89.** The Standards Act Cap 496 is repealed.

Savings and transitional provisions.

**90.** (1) Notwithstanding the provisions of this Act—

- (a) any orders, notices or certificates issued by the Kenya Bureau of Standards established under the Repealed Act shall be deemed to have been issued under this Act;
- (b) any function, transaction, agreement, inspection or conformity assessment carried out by or on behalf of Bureau under the Repealed Act and any civil proceedings or other legal processes in respect of any matter carried out by Bureau under the Repealed Act shall be deemed to have been carried out under the Act; or
- (c) save as otherwise provided for in this Act, any undertaking or responsibility falling on the Bureau established under the Repealed Act shall be assumed by Bureau.

(2) The Council of the Bureau under the repealed Act shall continue in office for their unexpired term.

(4) Any person who is an officer or employee of the Bureau immediately before the coming into operation of this Act shall be deemed to be an officer or employee of the Bureau established under this Act.

(5) Any rule or regulation made, order or directive issued, notification given or any administrative act undertaken under the repealed Act, shall be deemed to have been made, issued,



given or undertaken under this Act and shall continue in force and have effect as if it had been so made, issued, given or undertaken under this Act.

(6) the pension scheme established under the Bureau in the repealed Act shall be deemed to be the pension scheme of the Bureau under this Act.

(7) The Bureau shall be the successor to the Kenya Bureau of Standards existing immediately before the commencement of this Act, and subject to this Act, all rights, obligations, assets and liabilities of the Kenya Bureau of Standards existing at the commencement of this Act shall be automatically and fully transferred to the Bureau and any reference to the Kenya Bureau of Standards shall be deemed to be a reference to the Bureau established under section 6(1).

Transfer of Assets

**91.** (1) All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in acquired, or entered in to by or on behalf of the Kenya Bureau of Standards established under the Repealed Act, shall be deemed to have been acquired, incurred or entered into by or on behalf of the Bureau to the same extent as they were enforceable by or against the said Kenya Bureau of Standards before the commencement of this Act.

(2) Where the transfer of any property transferred to or vested in Bureau under subsection (1) above is required by any written law to be registered, Bureau shall within three months from the commencement of this Act or within such other period as the written law may prescribe apply to the appropriate registering authority for registration of the transfer and thereupon the registering authority shall at no cost to the Bureau or any person by way of registration fees, stamps or other duties—

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the Bureau a certificate of title or other statutory evidence of ownership of property or make such amendments on such certificates or on the appropriate register as may be necessary; and
- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.