

**LAWS OF SOUTH SUDAN**

**NATIONAL BUREAU OF STANDARDS ACT, 2012**

## **LAWS OF SOUTH SUDAN**

### **NATIONAL BUREAU OF STANDARDS ACT, 2012**

#### **Arrangement of Sections**

#### **CHAPTER I**

##### **PRELIMINARY PROVISIONS**

1. Title and Commencement.
2. Purpose of Act.
3. Application.
4. Interpretation.

#### **CHAPTER II**

##### **ESTABLISHMENT OF THE NATIONAL BUREAU OF STANDARDS**

5. Establishment of the National Bureau of Standards.
6. Common Seal of the National Bureau of Standards.
7. Symbol or Representation of the National Bureau of Standards.
8. Functions of the National Bureau of Standards.
9. Powers of the National Bureau of Standards.
10. National Bureau of Standards Council.
11. Appointment of Specialized Committees.

#### **CHAPTER III**

##### **STAFF OF THE NATIONAL BUREAU OF STANDARDS**

12. Executive Director and Other Staff of the National Bureau of Standards.
13. Appointment of Inspectors.
14. Powers of Inspectors.

#### **CHAPTER IV**

##### **ESTABLISHMENT OF STANDARDS**

15. Declaration of Standard Specifications, etc.
16. Directives by Minister.
17. Declaration of Standard Specifications and Codes of Practice.
18. Declaration of Standard Marks and Its Effects.
19. Application for Permit for Standards Mark.
20. Declaration of Compulsory Standard Specification.
21. Objections to Compulsory Standard Specification.
22. Permit for Distinctive Mark to Complying Commodities.
23. Product to Conform and Bear Distinctive Mark.
24. Samples.
25. When a Mark is Deemed Applied.
26. National Bureau of Standards May Cancel, Withdraw or Suspend Permit or Vary Conditions.

#### **CHAPTER IV**

##### **OFFENCES**

27. Offences.
28. General Penalty.
29. Offence by Body Corporate.
30. Defence to Offence.
31. Prosecution of Offences.

#### **CHAPTER V**

##### **MISCELLANEOUS PROVISIONS**

32. Protection from Personal Liability.
33. Secrecy of Information.
34. Regulations.
35. Appeals.
36. Power to Amend Schedules.

Schedule.

---

## NATIONAL BUREAU OF STANDARDS ACT, 2012

In accordance with the provisions of Article 55 (2) (3) (b) read together with Article 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly with the assent of the President of the Republic of South Sudan hereby enact the following:

### CHAPTER 1

#### PRELIMINARY PROVISIONS

**1. Title and Commencement.**

This Act may be cited as the National Bureau of Standards Act, 2012 and shall commence on the date of signature by the President.

**2. Purpose of Act.**

The purpose of this Act is to provide for a legal framework for the standardization of commodities and processes in South Sudan.

**3. Application.**

This Act applies to the whole of South Sudan.

**4. Interpretation.**

In this Act, unless the context otherwise requires —

"**certification mark**" means a standards mark and a distinctive mark;

"**code of practice**" means the code of practice declared as such under section 16;

"**commodity**" means any article, product or thing which is or will ultimately be the subject of trade or use;

"**company standard**" means a standard specification prepared for use by a company or factory in the production process;

"**compulsory standard specification**" means the standard specification declared as such under section 20;

"**Court**" means the High Court;

"**Executive Director**" means the Executive Director in charge of the National Bureau of Standards appointed under section 10 of the Act;

"**National Bureau of Standards**" means the National Bureau of Standards responsible for standards, metrology and weights and measures in the National government responsible for commerce and industry;

"**distinctive mark**" means a mark declared as such under section 20 of the Act;

"**industry**" means activities which include trade, manufacturing or services and other related activities of South Sudan;

"**inspector**" means an inspector appointed under section 13 of the Act;

**"President"** means the President of the Republic;

**"internal code of practice"** means a code of practice prepared for local use by a local administration, a Government department, a statutory corporation or any other person or association below thenational level;

**"internal standard"** means a standard specification prepared for local use by a local administration, a Government department, a statutory corporation or any other person or association below thenational level level;

**"licence"** means a licence granted or renewed by the National Bureau of Standards for the use of a certification mark;

**"mark"** includes any device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

**"Minister"** means the national minister in charge of commerce and industry;

**"permit"** means a permit issued under this Act;

**"process"** means any practice, system, procedure or activity in any industry, and includes any process for-

- (a) the design, manufacture, construction, installation, operation or maintenance of products, instruments, plant or equipment; and
- (b) the design, administration or operation of any system of quality management or testing;

**"product"** means a commodity, article or substance, artificial or natural or partly artificial or natural, or whether tangible or intangible, or whether raw or partly or wholly processed or manufactured, and includes any service;

**"quality control"** means a process, carried out at any time, including inspection, tests, record keeping or otherwise, to ascertain whether or to ensure that a product satisfies any standard applicable to it;

**"quality management"** includes the setting of quality objectives and quality control, organization, delineation of responsibilities, training, control of documentation and management of rejects and complaints to achieve those quality objectives;

**"registering authority"** means the authority competent under any written law to register a company, firm or other body of persons, or a trade mark or design;

**"South Sudan standard"** means a standard produced or adopted by the National Bureau of Standards for use in South Sudan;

**"specification"** means a description of a commodity, process or practice by reference to its nature, quality, strength, purity, colour, design, composition, quantity, origin, age or other characteristics, or by reference to any mark or label on the commodity, and includes a model form of bylaws, a glossary of terms, definitions, symbols, test methods and a recommended practice;

**"standard"** means a code, definition, classification, specification or description of a product or process, as far as possible, by reference to its procedure, safety requirement, mode of manufacture, nature, material, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics or any combination of the same;

**"standard specification"** means a specification declared as such under section 17; and

**"trade mark"** will have the same meaning as defined in the law on trademarks.

## **CHAPTER II**

### **ESTABLISHMENT OF NATIONAL BUREAU OF STANDARDS**

#### **5. Establishment of National Bureau of Standards.**

- (1) There shall be established a body corporate to be known as the National Bureau of Standards.
- (2) The National Bureau of Standards shall have perpetual succession and shall be capable, in its corporate name of –
  - (a) suing and being sued;
  - (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of both movable and immovable property;
  - (c) entering into any contract or transaction; and
  - (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.
- (3) The headquarters of the National Bureau of Standards shall be in the capital of the Republic of South Sudan.

#### **6. Common Seal of the National Bureau of Standards.**

- (1) The National Bureau of Standards shall have a common seal.
- (2) The common seal of the National Bureau of Standards shall be kept in the custody of the Executive Director or such other custody as he or she may direct and shall not be used except on his or her order.
- (3) The common seal of the National Bureau of Standards when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Executive Director under this section shall be presumed to have been duly given.
- (4) The Executive Director may in writing, appoint an officer of the National Bureau of Standards to execute or sign on behalf of the National Bureau of Standards an agreement or other instrument not under seal in relation to any matter within the functions of the National Bureau of Standards.

#### **7. Symbol or Representation of the National Bureau of Standards.**

- (1) The National Bureau of Standards shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter

display or exhibit such symbol or representation in connection with its activities or affairs.

- (2) A person who uses a symbol or representation identical with that of the National Bureau of Standards, or which so resembles the National Bureau of Standards' symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, commits an offence and is liable on conviction to a fine not exceeding SSP 10,000 or to imprisonment for a term not exceeding one year or to both.
- (3) A person, who, having been convicted under sub-section (2) above, commits the same offence or similar offence, shall be liable to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two years or to both.

## **8. Functions of the National Bureau of Standards.**

- (1) The functions of the National Bureau of Standards shall be –
  - (a) to formulate standard specifications for commodities and codes of practice as may from time to time be required;
  - (b) to promote and facilitate a standardization programme for South Sudan and the participation of South Sudan in international standardization activities;
  - (c) to advise government on formulation and development of policies and regulatory framework for standards and metrology in South Sudan, in conformity with international and regional instruments to which South Sudan is signatory;
  - (d) to be the accreditation body for the assessment and accreditation of bodies and institutions whose activities include sampling, testing, calibration, inspection or certification;
  - (e) to designate, appoint, authorize or recognize for any purpose any person who performs conformity assessment and any person who performs any test relating to conformity assessment, and to perform all functions necessary or incidental to conformity assessment, including:
    - (i) determining the qualifications of such persons;
    - (ii) controlling and regulating the practice of such persons; and
    - (iii) establishing, maintaining and developing the standards of practice, and professional conduct and ethics, of such persons;
  - (f) to represent the Government internationally in respect of matters relating to standards and conformity assessment;
  - (g) to promote standardization in commerce, industry, health, safety and social welfare;
  - (h) to determine, review, modify or amend standard specifications and codes of practice as may from time to time be required;

- (i) to endorse or adopt any international or other country's standard specification with or without any modification as suitable for use in South Sudan;
  - (j) to enforce standards in the protection of public health and safety and the environment against harmful ingredients, dangerous products, counterfeits, substandard products and materials, and poor performance;
  - (k) to carry out market surveillance to rid the market of dangerous products, counterfeits and substandard goods;
  - (l) to provide for the testing of locally manufactured or imported commodities with a view to determining whether the commodities conform to the standard specification declared under this Act;
  - (m) to make arrangements or provide facilities for the examination, testing or analysis of commodities and any material or substance from which or with which and the manner in which they may be manufactured, produced, processed or treated;
  - (n) to make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, for determining their degree of accuracy by comparing them with the devices approved by the Minister;
  - (o) to assist a State, a statutory corporation, a company or any other person in the preparation or framing of any internal or company standard specification or in the preparation or framing of any internal or company code of practice;
  - (p) to provide for cooperation with States, representatives of any industry, commercial organization, statutory corporation or any other person with a view to securing the adoption and practical application of standards;
  - (q) to encourage or undertake educational work in connection with standardization;
  - (r) to secure the recognition of the National Bureau of Standards by any other country;
  - (s) to seek membership of any international organization connected with standardization;
  - (t) to develop information services and maintain and provide a collection of materials relating to standardization, quality assurance, metrology and testing and related matters; and
  - (u) to perform any other function as may be provided by any other law.
- (2) In the performance of its functions under this Act, the National Bureau of Standards shall, so far as practicable, consult and cooperate with anybody, organization or association in South Sudan or outside South Sudan, having functions similar to those prescribed by this Act or relating to industrial or commercial standards generally with a view to furthering the functions of the National Bureau of Standards.



## **9. Powers of the National Bureau of Standards.**

- (1) The National Bureau of Standards shall have all such powers and may perform all such duties as it considers necessary or expedient to enable it to carry out its functions under this Act.
- (2) Without prejudice to the generality of subsection (1) the National Bureau of Standards may-
  - (a) establish, and operate any scheme considered necessary or desirable to the development of standards, standardization and conformity assessment, including grant of conformity certificates and South Sudan quality marks;
  - (b) collect, compile, analyse and disseminate by any convenient means information of a statistical nature or otherwise concerning matters relating to its functions;
  - (c) require certain products to comply with certain standards in manufacture, composition, treatment or performance and to prohibit substandard goods where necessary;
  - (d) conduct tests of proficiency on matters relating to standards;
  - (e) establish and publish, from time to time, by notification in the mass media, the South Sudan standard in relation to any product or process;
  - (f) carry out or cause to be carried out any study, examination or test in respect of any particular commodity or class of commodity;
  - (g) carry out or cause to be carried out any comparative study, examination or test in respect of commodities of different makes or brands or of different specifications whether produced in South Sudan or elsewhere;
  - (h) specify, by notification in the mass media, all the certification marks of the National Bureau of Standards for use in relation to any function of the National Bureau of Standards and control the use of such certification marks;
  - (i) undertake such measurement and conformity assessment activities as the National Bureau of Standards considers necessary for the upgrading of quality standards in industry or for gaining international recognition and acceptance of conformity declarations issued by accredited certification bodies;
  - (j) initiate and undertake or enter into contractual testing, consultancy, research and development projects in pursuance of its functions under this Act; or
  - (k) prescribe and levy fees and charges for any of the purposes of this Act and recover any costs and expenses incurred in the course of performing its functions under this Act.

## **10. Bureau of Standards Council.**

- (1) The governing body of the National Bureau of Standards shall be known as the Bureau of Standards Council.
- (2) The Bureau of Standards Council shall be composed of the following members appointed by the President-
  - (a) the Chairperson;
  - (b) the Executive Director; who shall be recommended by the Minister;
  - (c) a representative of the directorate responsible for commerce;
  - (d) a representative of the directorate responsible for industry;
  - (e) a representative of the Ministry of Health;
  - (f) a representatives of the Ministry responsible for agriculture, animal resources and fisheries;
  - (g) a representative of the Ministry responsible for wildlife, tourism and environment protection;
  - (h) two representatives of the Ministries responsible for General Education and Higher Education;
  - (i) two representatives of the South Sudan Chamber of Commerce, Industry and Agriculture;
  - (j) a representative of the consumers protection association; and
  - (k) a representative of Kush Institution.
- (3) When appointing persons under paragraph (2) of section 10 above, the President shall have regard to the experience of the persons in commerce, industry or with technical experience or qualification relevant to the functions of the National Bureau of Standards.
- (4) The members specified under paragraph (2) (i) and (j) of section 10(2) above shall be appointed for a period of three years renewable once, by the President upon recommendation of the respective Minister or Chairperson.
- (5) If the Chairperson by reason of prolonged illness or absence is unable to perform the duties of his or her office, the President shall designate one of the Members of the Bureau of Standards Council to act as Chairperson during the absence.
- (6) Any other member of the Bureau of Standards Council referred to in subsection (2)(i) and (j) above may –
  - (a) resign from his or her office in writing addressed to the body or institution represented by the member and copied to the secretary of the Bureau of Standards Council; or
  - (b) be removed from office by the Bureau of Standards Council for inability to perform the functions of the office arising from infirmity of body or mind or from any other cause.

- (7) If a member of the Bureau of Standards Council dies, resigns, is removed from office or for any other reason ceases to hold office before the expiration of the term for which he or she was appointed, the nominating body shall appoint another person to take his place.
- (8) A person appointed in accordance with subsection (7) above shall hold office for the un-expired period of the term of office of the member in whose place he or she is appointed.
- (9) Members of the Bureau of Standards Council shall be paid such remunerations and allowances as may be appropriated by the South Sudan National Legislative Assembly after consultation with the Minister responsible for public service.
- (10) The Executive Director shall be the secretary to the Bureau of Standards Council.
- (11) In carrying out its functions, the Bureau of Standards Council may have regard to international developments in the field of standards and may consult any person, organization or institution with regard to any matter.
- (12) The proceedings of the Bureau of Standards Council shall be governed by the provisions of the Schedule to this Act.

#### **11. Appointment of Specialized Committees.**

- (1) The Minister may, on the recommendation of the Bureau of Standards Council, appoint specialized committees comprising wholly of staff of the National Bureau of Standards or partly staff of the National Bureau of Standards and partly of technical experts from outside the National Bureau of Standards, to assist the Bureau of Standards Council in the performance of its functions under this Act.
- (2) The Bureau of Standards Council may organize an association of technical experts and representative stakeholders from States and sectors in South Sudan for purposes for which, in the opinion of the Bureau of Standards Council, can assist in the development and implementation of standards in South Sudan.

## **CHAPTER III**

### **STAFF OF THE NATIONAL BUREAU OF STANDARDS**

#### **12. Executive Director and Other Staff of the National Bureau of Standards.**

- (1) There shall be an Executive Director and such number of staff in the National Bureau of Standards as may be necessary for the purposes of this Act.
- (2) The Executive Director shall be responsible for the administration and enforcement generally, of the provisions of this Act, subject to the general and special directions of the Bureau of Standards Council.
- (3) Any monies paid to the National Bureau of Standards as a result of the exercise of its functions under this Act shall be paid into the National Revenue Fund.

#### **13. Appointment of Inspectors.**

- (1) The Minister may, on the recommendation of the Bureau of Standards Council, by notice in the Gazette, appoint such number of standards inspectors as the Bureau of Standards Council may deem necessary for the purposes of this Act, on such terms and conditions as may be specified in the instruments of appointment.
- (2) The inspectors appointed under sub section (1) shall be persons qualified to handle any of the functions specified under this Act and may be appointed from outside the National Bureau of Standards.
- (3) Every inspector shall be furnished with a certificate of authority signed by the Minister stating that he or she is authorised to act as a standards inspector for the purposes of this Act, and shall produce the certificate when required to do so in the exercise of his or her powers and performance of his duties under this Act.

#### **14. Powers of Inspectors.**

- (1) A standards inspector may—
  - (a) at all reasonable times upon identifying himself or herself to the person in charge, enter any premises where goods are kept, manufactured, produced, processed or treated;
  - (b) inspect and take reasonable samples of any commodity or any material, component, or substance used or likely to be or capable

- of being used in the manufacture, production, processing or treatment of any commodity;
- (c) inspect and test any process, treatment, or other operation which is or appears likely to be carried out on the premises in connection with the manufacture, production, processing or treatment of any commodity in relation to the quality of which any investigation is necessary;
  - (d) require a person to produce any book, record or other document in his or her possession, custody or control;
  - (e) examine and if necessary carry away any commodity, ingredient, material, component or substance, book, record or other document which appears to him or her relevant to an investigation;
  - (f) require information relevant to his or her inquiry from a person who is reasonably believed to possess such information as may assist in any investigation made under this Act;
  - (g) require a person in charge of any commodity, material, ingredient, component or substance to carry out such demonstration, test or analysis as he or she is able to do, or to give such assistance as the inspector may require in any investigation required under this Act; and
  - (h) require a person to report to his or her office or to any other place within such time as he may specify for the purpose of obtaining the information the inspector may require from that person.
- (2) An inspector entering any premises under subsection (1) may take with him or her such equipment and may be accompanied by such persons as are required in the performance of his or her duty.
- (4) A sample, material or document taken under this section may be selected at random.

## **CHAPTER IV**

### **ESTABLISHMENT OF STANDARDS**

#### **15. Declaration of Standard Specifications, etc.**

The Minister shall, on the recommendation of the National Bureau of Standards, declare standard specifications, certification marks and codes of practice developed by the National Bureau of Standards, under this Act.

#### **16. Directives by Minister.**

The Minister may give to the National Bureau of Standards, such directives not inconsistent with the provisions of this Act as he or she considers reasonable as to

the carrying out by the National Bureau of Standards, of its functions under this Act and the National Bureau of Standards, shall give effect to such directions.

**17. Declaration of Standard Specification and Code of Practice.**

- (1) The Minister may, on the recommendation of the National Bureau of Standards, declare a specification for any commodity or for the manufacture, production, processing, treatment or performance of any commodity to be a standard specification for the purposes of this Act, and may amend or revoke any such declaration.
- (2) The Minister may, on the recommendation of the National Bureau of Standards, declare a set of recommended practices for any process, installation, construction, testing, operation or use of any article or device to be a code of practice for the purposes of this Act.

**18. Declaration of Standards Mark and its Effects.**

- (1) Subject to subsection (2), the Minister may, on the recommendation of the National Bureau of Standards, by notice in the Gazette, declare a mark which may have been adopted by the National Bureau of Standards, to distinguish goods that conform to a standard specification from goods that do not so conform, to be a standards mark in respect of those goods, and may in like manner abolish or amend the mark.
- (2) No mark which is identical with any trademark registered in respect of any commodity in accordance with the law on trademarks, or which so nearly resembles such mark as to be likely to be mistaken for it, shall be declared to be a standards mark.
- (3) After the publication of a notice declaring a standards mark, a person shall not apply that mark to any commodity or use the mark in any way except under a permit issued by the National Bureau of Standards, or a person acting under the authority of the National Bureau of Standards, and, unless the commodity complies with, or has been manufactured in accordance with, the relevant standard specification.

**19. Application for Permit for Standards Mark.**

- (1) An application for a permit issued under section 18 (3) may be made to the Bureau of Standards Council or a person acting under the authority of the Bureau of Standards Council in such manner as may be prescribed by regulations.

- (2) The Bureau of Standards Council or the person acting under the authority of the Bureau of Standards Council may grant the permit subject to such conditions the Bureau of Standards Council may consider reasonable to impose.
- (3) A permit granted under this section shall be valid for twelve months and may be renewed by the Bureau of Standards Council or a person acting under the authority of the Bureau of Standards Council.
- (4) Where the Bureau of Standards Council refuses to grant or renew a permit under this section, the Bureau of Standards Council shall, in writing addressed to the applicant, give reasons for the refusal to grant or renew the permit.

**20. Declaration of compulsory standard specification.**

- (1) Subject to this section, the Minister may, on the recommendation of the Bureau of Standards Council, by notice in the Gazette –
  - (a) declare a standard specification for any commodity or for the manufacture, production, composition, blending, processing or treatment of any commodity to be a compulsory standard specification; and
  - (b) declare a mark which may have been adopted by the Bureau of Standards Council, as a distinctive mark for any such commodity.
- (2) The Bureau of Standards Council shall not recommend any standard for being declared a compulsory standard, unless it is satisfied that it is not practicable to achieve the purposes of the standard specification otherwise than by means of making the standard compulsory.

**21. Objections to Compulsory Standard Specification and Their Hearing.**

- (1) The Bureau of Standards Council shall, at least two months before making recommendations for the purposes of section 20, publish in the Gazette and in the mass media, a preliminary notice containing full particulars of the relevant standard specification and call upon all persons interested or likely to be affected by the recommendations to lodge objections in writing within such time as may be prescribed by regulations.
- (2) A person who has lodged an objection under subsection (1) shall be entitled to appear before the Bureau of Standards Council or such person as the Bureau of Standards Council may designate and be heard in person or through a representative at such time and place as the Minister may determine.

- (3) A standard specification shall not be declared to be a compulsory standard specification until all persons who have lodged objections have had an opportunity of being heard, provided the objector appears as provided under subsection (2).

**22. Permit for Distinctive Mark to Complying Commodities.**

- (1) After a distinctive mark has been declared in accordance with section 20 (1) (b), a person shall not apply that mark to any commodity except under a permit issued by the Bureau of Standards Council or a person acting under the authority of the Executive Director and unless the commodity complies with or has been manufactured in accordance with the relevant standard specification.
- (2) An application for a permit under subsection (1) may be made to the Bureau of Standards Council or a person acting under the authority of the Bureau of Standards Council in such manner as may be prescribed by regulations.
- (3) The Bureau of Standards Council or the person acting under the authority of the Bureau of Standards Council may grant the permit subject to such conditions as the Bureau of Standards Council or that person may consider reasonable to impose.
- (4) A permit granted under this section shall be valid for twelve months and may be renewed by the Bureau of Standards Council or a person acting under the authority of the Bureau of Standards Council.
- (5) Where the Bureau of Standards Council refuses to grant or renew a permit under this section, the Bureau of Standards Council shall, in writing addressed to the applicant, give reasons for the refusal to grant or renew the permit.

**23. Product to Conform and Bear Distinctive Mark.**

- (1) A person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared unless the commodity conforms to the compulsory standard specification.
- (2) A person shall not import, distribute, sell or have in his or her possession or control for sale or distribution a commodity for which a compulsory standard specification has been declared unless the commodity bears the distinctive mark.



- (3) Where disputes arise in having a commodity so marked with the distinctive mark prior to importation as required under subsection (2), the Bureau of Standards Council may authorize in writing any intending importer of the commodity to have the commodity so marked immediately on arrival in South Sudan.

**24. Samples.**

- (1) A person to whom a permit has been granted under this Act shall, if and whenever required by the Bureau of Standards Council, submit for examination or testing a sample of the commodity in respect of which the permit has been granted, or submit any information relating to the manufacture of, and testing done by him or her on that commodity.
- (2) A sample required to be submitted under this section may be selected at random by a person acting under the authority of the Bureau of Standards Council.

**25. When a mark is deemed to be applied.**

A person who—

- (a) applies a standards or distinctive mark to any receptacle or covering of any commodity or to any label attached to or associated with any commodity;  
or
- (b) places or encloses any commodity in a receptacle or covering to which a standards or distinctive mark has been applied or on a label to which such a mark has been applied,

shall be deemed, for the purposes of this Act, to have applied that mark to that commodity.

**26. National Bureau of Standards may cancel, withdraw or suspend permit or vary conditions.**

- (1) The Bureau of Standards Council may withdraw, suspend, revoke or cancel a permit granted under this Act if the holder of the permit fails to observe the conditions of the permit.
- (2) The Bureau of Standards Council may vary the conditions of a permit granted under this Act.

## CHAPTER V

### OFFENCES

#### 27. Offences.

- (1) A person commits an offence if he or she does any or all of the following –
- (a) makes any statement or representation, whether in writing or not, or applies a mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the standards mark of that commodity or is otherwise entitled to apply that standards mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that standards mark;
  - (b) makes a statement or representation, whether in writing or not, or applies a mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the distinctive mark of that commodity or is otherwise entitled to apply that distinctive mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that distinctive mark;
  - (c) makes a statement or representation, whether in writing or not, or applies a mark which conveys or is likely to convey the impression that a commodity complies with a standard specification or a compulsory standard specification when in fact it does not do so;
  - (d) having been granted a permit for a standards mark or a distinctive mark applies that mark after the permit has expired or has been withdrawn, suspended, revoked or cancelled;
  - (e) applies a standards or distinctive mark otherwise than in accordance with the conditions of his or her permit;
  - (f) refuses to produce before an inspector a document, commodity, material, ingredient, component or substance the production of which has been required by the inspector;
  - (g) obstructs, assaults or insults an inspector or person assisting the inspector in the performance of his or her duty;
  - (h) fails to comply with a reasonable requirement made of him or her by an inspector to enable the inspector to perform his or her duties under this Act;
  - (i) fails to give an inspector any information or assistance under this Act;
  - (j) fails to report to the inspector when required to do so by the inspector;
  - (k) willfully removes, destroys or renders illegible or undecipherable or incapable of identification any document, mark or writing with a

view to preventing it from being used as evidence in any investigations under this Act; or

- (1) gives an inspector any information which he or she knows to be false when complying with any requirement made by an inspector.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two years or to both.
- (3) A court convicting a person for an offence under subsection (1) may, in addition to the penalty provided for in subsection (2) -
  - (a) order the confiscation of all or any part of the commodity which is the subject matter of the offence or the implement, as the case maybe, and the commodity or implement shall be disposed of in such manner as the court may direct; and
  - (b) make such other order as may be necessary to meet the ends of justice.

## **28. General Penalty.**

A person found guilty of contravening any provision of this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two years or to both.

## **29. Offence by Body Corporate**

- (1) Where an offence under this Act is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he or she, as well as the body corporate, commits that offence and shall be liable on conviction:
  - (a) in case of a body corporate, to a fine not exceeding SSP 100,000.
  - (b) in case of a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two yeras or to both.
- (2) A court convicting a body corporate , a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he or she, as well as the body corporate for an offence under subsection (1) above may, in addition to the penalty provided for in subsection (1) above -
  - (a) order the confiscation of all or any part of the commodity which is the subject matter of the offence or the implement, as the case

maybe, and the commodity or implement shall be disposed of in such manner as the court may direct.

- (b) make such other order as may be necessary to meet the ends of justice.

### **30. Defense to Offence.**

- (1) It shall be a defense for a person charged with an offence relating to standard specifications to prove-
  - (a) that he or she obtained the commodity, material, component or substance from a reputable manufacturer, supplier or dealer with a written assurance that it conformed to the relevant standard specification;
  - (b) that at the time of the commission of the offence, he or she had no reason to believe or suspect that the written assurance was inaccurate; and
  - (c) that he or she took all reasonable steps to ensure that, while in his or her possession, the commodity, material, component or substance remained intact, and in the same state as when he obtained it.
- (2) A person who sets up in his or her defense a written assurance which he or she knows or has reason to believe to be forged or false commits an offence and is liable on conviction to a fine not exceeding SSP 10,000 or to imprisonment for a term not exceeding one year or to both.
- (3) For the purposes of this section, a statement which is contained in a document associated with any commodity by way of delivery note, invoice or label shall be deemed to be a written assurance.

### **31. Prosecution of Offences.**

- (1) Prosecution of an offence under this Act shall be carried out by the Director of Public Prosecutions.
- (2) In case of an offence involving corruption, prosecution shall be carried out by the Anticorruption Commission.
- (3) Notwithstanding sub section (1) above, a prosecution of an offence under this Act may, with the consent of the Director of Public Prosecutions, be conducted by an inspector or an officer of the National Bureau of Standards.

## CHAPTER VI

### MISCELLANEOUS PROVISIONS

#### **32. Protection from Personal Liability.**

No suit or other legal proceedings shall lie against any officer or employee of the National Bureau of Standards, inspector appointed under this Act or any other person acting under the direction of the National Bureau of Standards for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

#### **33. Secrecy of Information.**

A person who is or has been engaged in the employment of the National Bureau of Standards, who discloses, except for the purposes of exercising a function under this Act, or when required to do so by a court, or by any law, any secret information acquired by him or her in the course of his or her employment, commits an offence and is liable on conviction to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two years or to both.

#### **34. Regulations.**

- (1) The Minister may, on the recommendation of the Bureau of Standards Council make regulations for carrying out the purposes and provisions of this Act and for prescribing any matter which may be prescribed under this Act.
- (2) Without prejudice to the generality of subsection (1) above, the Minister may make regulations with regard to the following matters-
  - (a) procedure for applying for permits for use of standard mark and permits for use of distinctive mark;
  - (b) procedure for lodging objections against declaration of compulsory standard specifications and time within which such objections may be made;
  - (c) the test of proficiency in courses conducted by the National Bureau of Standards;
  - (d) fees and charges for the purposes of this Act;
  - (e) the forms that may be required under this Act; and
  - (f) prescribing matters which are required to be prescribed under this Act.

- (3) Regulations made under subsection (1) and (2) may provide that a person who contravenes the regulations commits an offence and is liable on conviction to a fine not exceeding SSP 25,000 or to imprisonment for a term not exceeding two years or to both.
- (4) The Regulations shall be presented to the National Legislative Assembly as soon as possible after publication in the Gazette.

### **35. Appeals.**

- (1) A person aggrieved by—
  - (a) the refusal to issue a permit;
  - (b) the attachment of any conditions to a permit;
  - (c) the withdrawal, suspension, revocation or cancellation of a permit; or
  - (d) the variation of any conditions on a permit, may, within fourteen days of his or her being informed of that action, appeal in writing to the Minister; and
  - (e) the Minister shall respond to the appeal within 14 days.
- (2) A person aggrieved by a decision of the Minister under this section may appeal to court.

### **36. Power to Amend Schedules.**

The Minister may, on the recommendation of the Bureau of Standards Council, by notification in the *Gazette*, amend the Schedules to this Act.

---

## **SCHEDULE**

### **PROCEEDINGS OF THE NATIONAL BUREAU OF STANDARDS COUNCIL**

- (1) The Chairperson of the Bureau of Standards Council or, in his or her absence, the secretary shall convene meetings of the Bureau of Standards Council at least once in every four months, and whenever he or she receives a written request signed by at least five members.
- (2) The chairperson shall preside at every meeting of the Bureau of Standards Council and in his or her absence the Minister shall designate one of the members of the Bureau of Standards Council to preside at the meeting.
- (3) The quorum of the Bureau of Standards Council shall be Seven members.
- (4) Subject to this Act, the Bureau of Standards Council shall regulate its own procedure.
- (5) All questions before the Bureau of Standards Council shall be decided by consensus or, where this fails, by a majority of the members present.
- (6) Except insofar as may be necessary for the purposes of giving effect to any decision of the Bureau of Standards Council, confidentiality shall be maintained in all proceedings conducted by Bureau of the Standards Council.
- (7) The Bureau of Standards Council may act notwithstanding a vacancy in its membership and the presence or participation of a person not entitled to be present at or to participate in the proceedings of the Bureau of Standards Council shall not invalidate those proceedings.
- (8) A member of the Bureau of Standards Council shall declare to the Bureau of Standards Council, the nature and extent of all conflicts of interest or potential conflicts of interest, if any, with his or her duties or interests as a member of the Bureau of Standards Council.
- (9) Where the Bureau of Standards Council, is satisfied that a member of the Bureau of Standards Council is unable to carry out his or her duties properly and effectively on account of any conflict of interest or potential conflict of interest referred to in paragraph (8), the Bureau of Standards Council may direct that member to abstain from taking part in any proceedings relating to any matter affected by his or her conflict of interest or potential conflict of interest.

ASSENT OF THE PRESIDENT OF THE REPUBLIC OF SOUTH SUDAN

In accordance with the provision of Article 85 (1) of the Transitional Constitution of the Republic South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the National Bureau of Standards Act Act, 2012 and sign it into law.

Signed under my hand in Juba, this 24<sup>th</sup> day of the month of MAR in the year 2012.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line through the middle, and the initials 'K 14' written below it.

Gen. Salva Kiir Mayardit  
President  
Republic of South Sudan  
RSS/ Juba.