

REPUBLIC OF LIBERIA

DRAFT STANDARD BODY
REGULATION

THE STANDARDS ACT (MODEL 1)

This Regulation to promote standardization and quality in production and service sectors and to provide for the establishment of the National Bureau Standards; to define its functions and provide for its management and control; and for matters incidental to, and connected with the foregoing.

1.0 PRELIMINARY

Sec. 1.1 This Act may be cited as the Standards Act.

In this Act, unless the context otherwise requires “Bureau” means the National Bureau of Standards established by Section 2 of this Act; “Code of practice” means a set of rules relating to the methods to be applied or the procedure to be adopted in connection with the construction, installation, testing, operation or use of any article, apparatus, instrument, device or process; “Compulsory standard specification” means a specification which has been declared to be a compulsory standard specification under section 6.7 of this Act;

“Council” means the National Standards Council established by section 3 of this Act;

“Director General” means the Chief Executive Officer of the Bureau appointed under section 2.1 of this Act; “Distinctive mark” means a mark which has been prescribed under section 6.7 of this Act; “Inspector” means an inspector appointed under section 7.3 of this Act;

“Mark” includes any device, brand, heading, label, ticket, name, signature, word, letter or numeral, or any combination thereof; “President” means the President of the Republic;

“Minister” means the Minister for the time being responsible for matters relating to commerce and industry; “Permit” means a permit issued under section 6 of this Act or the regulations; “Sell” includes barter and exchange, and exposure or offer for sale, and export or in pursuance of sale, and have in possession for any purpose of sale, export, trade or manufacturer; “Specification” means a description of any commodity 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, the manner in which, any commodity may be manufactured, produced, processed or treated; “Standardization mark” means a mark which has been declared to be a standardization mark under section 6 of this Act;

“Standard specification” means a specification which has been declared to be a compulsory standard specification under section 6.7Ofthis Act;

THE NATIONAL BUREAU OF STANDARDS

There is hereby created and established a National Bureau of Standards whose Chief Executive Officer shall be the Director General. The Director General shall be appointed by the President upon the advice and consent of the Senate and hold office at his/her pleasure. He shall have and use an official seal on all notices, documents, reports and other official documents issued by his office.

The President upon advice and consent of the Senate may appoint such deputies and assistants as are necessary to assist the Director General in the Administration of this Title.

2.3 (1) the functions of the Bureau shall be: to promote standardization and quality in industry and commerce; to make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, for the determination of their degree of accuracy by comparison with standards approved by the Minister on the recommendation of the Council, and for the issue of certificates in regard thereto; to function as a metrology center and repository of standards for weights and measures; to administer the provisions of the General Business Law in respect of weights and measures (chapter 1 of General Business Law, Title 14 of the Liberia Code of Laws)

(e) To make arrangements or provide facilities for the examination and testing of commodities and any material or substance from or with which and the manner in which they may be manufactured, produced, processed or treated;

(f) To control, in accordance with the provision of this Act, the use of standardization marks and distinctive marks;

(g) To prepare, frame, modify or amend specifications and codes of practice;

(h) To encourage or undertake educational work in connection with standardization;

(i) To assist the Government or any local authority or other public body or any other person in the preparation and framing of any specifications or codes of practice;

j) To provide for co-operation with the Government or the representatives of any industry or with any local authority or other person, with a view to securing the adoption and practical application of standards;

(k) To provide for the testing at the request of the Minister, and on behalf of the Government, of locally manufactured and imported commodities with a view to determining whether such commodities comply with the provisions of this Act or any other law dealing with standards of quality or description;

(l) To serve as the national channel for exchange of information and for cooperation in the co-ordination of standardization work with other countries, including work at the regional and the international levels;

(m) To serve as the national center of a clearing house for all information or subjects in the field of standardization, quality and metrology.

2.4 In the exercise of its functions, the Bureau shall maintain, so far as practicable, a system of consultation and cooperation with anybody established by the community having functions similar to those prescribed or relating to industrial or commercial standards generally.

3.0 THE NATIONAL STANDARDS COUNCIL

Sec. 3.1 there is hereby established a National Standards Council whose members shall be appointed by the President;

Sec. 3.2 the Council shall consist of the following members -

(a) The Minister of Commerce and Industry, as Chairman

(b) A Secretary who shall be the Director General of the Bureau;

(c) Permanent members

- One from the Ministry of Agriculture;

- Public Works;

- Health & Social Welfare;

- Lands, Mines & Energy;

(d) Permanent members

- National Consumer Council;

- Liberia Chamber of Commerce;

- Liberia Manufacturers' Association;

- Rubber Planters' Association Inc. of Liberia

- University of Liberia.

Sec. 3.3 Permanent members shall hold office for a period of six years as of the date of publication of the Regulation after which they may be reappointed for the same number of years continuously.

Sec. 3.4 Non-permanent members shall hold office for three years after which they may be reappointed by the President on the recommendation of the Chairperson of the commission, who may consider a different organization in the interest of effective contribution from the sector represented.

Sec. 3.4 The President may, after consultation with the Council , appoint not more than two persons to be additional members of the Council being persons whose assistance or advice it may require from time to time.

4.0 POWERS OF THE COUNCIL

4.1 The Council shall have power

- (a) To supervise and control the administration and financial management of the Bureau;
- (b) To advise and obtain advice from the Minister in regard to any matter within his purview under this Act;
- (c) To formulate matters of policy for the purpose of providing general or specific guidance to the Bureau for the better performance of its functions under this Act;
- (d) To do all things necessary for the better carrying out of the provisions and purposes of this Act except where otherwise provided.

Sec. 4.2 The Council may, whether or not for reward, at the request of any person, carry out or cause to be carried out.

- (a) Any study, examination or test in respect of any particular commodity or class of commodity;
- (b) Any comparative study, examination or test in respect of commodities of different makes or brands or of different specification whether produced in Liberia or elsewhere.

5.0 FUNDS OF THE BUREAU

Sec. 5.1 the funds of the Bureau shall consist of all moneys received or recovered under the provisions of this Act or the regulations by or on behalf of the Bureau or the Council and any moneys provided by the National Legislature.

Sec. 5.2 The Minister may, out of the funds of the Bureau authorize the payment of all such sums of money as may be necessary to enable the Bureau to discharge its functions under this Act and give effect thereto.

Sec. 5.3 the Accounts of the Bureau shall be examined, audited and reported upon annually by the Auditor-General.

Sec. 5.4 the Bureau shall submit to the Council and President an annual report at the end of each fiscal year.

6.0 ESTABLISHMENT OF STANDARDS

Sec. 6.1 The Council may, with the approval of the Minister and subject to the provision of Sec. 6.2 and 6.3 declare any mark which has been adopted by the Council in respect of any specification framed by the Bureau for any commodity, or for the manufacture, production, processing or treatment of any commodity, to be a standardization mark in respect thereof, and may in like manner abolish or any' such mark.

Sec. 6.2 Every such notice shall contain such information in regard to the relevant specification or amendment thereof as the Council considers necessary.

Sec. 6.3 After the publication of a notice under Sec. 6.1 no person shall apply any standardization mark mentioned in such notice to any commodity except under a permit issued by the Bureau or a person acting under its authority and unless that commodity complies with the relevant specification or has been manufactured, produced, processed or treated in accordance therewith.

SEC. 6.4 ANY PERSON WHO

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

(b) Places or encloses any commodity in a receptacle or covering to which a standardization mark has been applied, or in a receptacle or cover to which is attached a label to which any such mark has been applied; shall, for the purposes of Sec. 6.3 be deemed to have applied that standardization mark to that commodity.

Sec. 6.5 The issue of a permit under Sec. 6.3 of this section, shall be at the discretion of the Bureau or a person acting under its authority, and any such permit may be issued subject to condition to be specified therein and subject to the payment of such fees as the Council may, determine.

Sec. 6.6 Any person who contravenes any of the provisions of Sec. 6.3 or who contravenes any of the conditions which may be specified in a permit issued to him, shall be guilty of an offence.

Sec. 6.7 The Minister may, on the recommendation of the Council and subject to the provisions of this section,

(a) declare a standard specification for any commodity or for the manufacture,, production, processing or treatment of any commodity to be a compulsory standard specification in relation thereto with effect from a date specified in such notice being a date not less than two months after the date of publication thereof; prescribed, amend any compulsory standard specification in the manner/in paragraph.

(c) prescribe a distinctive mark for any commodity which complies with a compels standard specification or which has been manufactured, produced, processed or treated in accordance therewith and may abolish or amend any such mark.

Sec. 6.8 The Council shall not recommend and the Minister shall not declare a compulsory standard specification for the manufacture, production, processing or treatment of a commodity unless the Council is satisfied that it is not practicable to achieve the purposes of such a compulsory standard specification by a compulsory standard specification for the commodity in question.

Sec. 6.9 The Council shall, at least two months before making any decision for the Purposes of paragraph (a) of Sec. 6.7 publish a preliminary notice setting forth the precise purport of the recommendation proposed and shall call upon, all interested persons to lodge any objections in writing with the Council in such manner and within such time as may be prescribed.

Sec. 6.10 Every person who has lodged an objection in accordance with the foregoing subsection shall be entitled to appear before the Council and be heard, either personally or through a representative, at such time and place as the Council shall determine, and publication of the relevant notice under paragraph (a) Sec. 6.7 shall not take place if any

such objection is upheld or until after every such objector has had an opportunity to be heard and their reasons for the objection of any such objection have been furnished in writing to that objector or his representative.

C. 6.11 Every notice published by virtue of this section shall contain particulars of the relevant standard specification or the amendment thereof.

c. 6.12 whenever the Minister has, under Sec. 6.7 declared a standard specification to be a compulsory standard specification no person shall sell the commodity to which the standard specification relates after the date specified unless it complies with that standard specification or has been manufactured, produced, processed or treated in accordance therewith.

Sec. 6.13 After a distinctive mark has been prescribed in accordance with paragraph

(c) of Sec. 6.7 No person shall apply that mark to any commodity except under and by virtue of a permit issued to him under this Act and unless that commodity or its manufacture, production, processing or treatment complies with the compulsory standard specification relative thereto.

Sec. 6.14 Any person who contravenes any of the provisions of Sec. 6.12 and 6.13 shall be guilty of an offence.

Sec. 6.15 The provisions of Sec. 6.3 and 6.5 of this Act shall apply with reference to a distinctive mark as they apply to a standardization mark, and the provisions of Sec. 6.6 and 6.7 shall apply respectively to the issue of a permit and a permit issued under this section.

Sec. 6.16 Where a person is charged with contravening. Sec. 6.12 it shall be a defense for him to prove to the satisfaction of the court that he had no knowledge nor any reasonable means of ascertaining, whether before or at the time of sale, that the commodity specified in the charge did not comply with the standard specification relating thereto.

Sec. 6.17 Any person who is aggrieved by

(a) The refusal of the Bureau to issue any permit;

(b) The attaching of any condition to a permit; or

(c) The variation, cancellation or suspension of any permit, may, within fourteen days of the notification of the act complained of being received by him, appeal in writing to the Minister, who shall as soon as reasonably practicable, either confirm, set aside or vary the decision complained of, and whose decision shall be final.

Sec. 6.18 Any person who is aggrieved by any decision of the Minister may in writing require the Minister to give the reasons for his decision and the Minister shall give his reasons in writing accordingly.

7.0 ENFORCEMENT

Sec.7.1 Every person to whom a permit has been issued under this Act shall, if so requested by the Council in writing, furnish within such period as may be specified such samples of any commodity to which the permit relates and all such information in regard to such commodity or its manufacturer, production, processing or treatment as may be specified in the request.

Sec. 7.2 Any person who contravenes any of the provisions of this Act shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Sec. 7.3 The Minister may, at the request of the Council by notification appoint inspectors for the purposes of this Act any persons who, in his opinion, are suitably qualified.

Sec. 7.4 Every person so appointed shall be either a public officer or a member of the staff of the Bureau and shall be furnished with a certificate or appointment signed by the Director General, stating that such person is authorized by the Minister to act as an inspector for the purposes of this Act.

Sec. 7.5 (1) An inspector may, for the purposes of this Act, at all reasonable times

(a) Enter upon any premises at which there is, or is suspected to be a commodity in relation to which any standard specification or standardization mark exists;

(b) Inspect and take samples of any commodity or any material or substance used, or likely to be, or capable of being used in the manufacture, production, processing or treatment thereof, and cause any container within which there is or is suspected to be any quantity of any such commodity, material or substance, to be opened;

(c) inspect any process or other operation which is or appears likely to be carried out in the said premises in connection with the manufacture, production, processing or treatment of any commodity in relation to which a standard specification or a standardization mark exists;

d) 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 such person or of any other person on his behalf;

(e) examine and copy any or any part of such book, notice, record, list or other document which appears to him to have relevance to his inspection or inquiry, and require any person to give an explanation of ancestry therein, and take possession of any such books, notice, record, list or other document as he believes may afford evidence of an offence under this Act;

(f) Require information relevant to his inquiry from any person whom he has reasonable grounds to believe is or has been employed at any such premises or to have in his possession or custody or under his control any article referred to in this subsection.

Sec. 7.6 An inspector entering any premises under Sec. 7.5 of this section shall, if so required, produce the certificate issued to him in accordance with section 7.3 of this Act and may be accompanied, if necessary, by an interpreter.

Sec. 7.7 Any person, who resists, hinders or obstructs an inspector acting pursuant to section 7.5 or willfully fails to comply with any requirement made of him under the said subsection shall be guilty of an offence.

Sec. 7.7 (1) any person convicted of an offence under this Act for which no penalty is specifically provided shall be liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding ten thousand dollars, or to both such imprisonment and fine.

(2) On a second or subsequent conviction of any person for any offence under this Act he shall be liable to imprisonment for a term not exceeding three years or to fine, or to both such imprisonment and fine.

(3) 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, order the confiscation of all or any part of any goods in respect of which the offence was committed, and all goods the subject of such an order shall be disposed of in such manner as the court may direct.

(4) Any person who employs any agent, clerk, servant or other person shall be answerable for any act or omission of such agent, clerk, servant or other person which is an offence under this Act or which would be an offence if committed or made by such employer, and every such employer and his agent, clerk, servant or other person shall be jointly and severally guilty of the offence and liable to the penalties provided therefor.

(5) Provided that it shall be a defense for such employer to prove that he did not know and could not reasonably be expected to know that the act or omission was taking place and he took all reasonable steps to ensure that the relevant provisions of this Act were being complied with.

MISCELLANEOUS

Sec. 8.1 The fact that any commodity complies or is alleged to comply with a standard specification or a compulsory standard specification or has been or is alleged to have been manufactured, produced, processed or treated in accordance with any such specification, or that a distinctive mark or standardization mark is used in connection with any commodity, shall not give rise to any claim against the Government, the Council, or the Bureau, or any member or employee thereof.

Sec. 8.2 Any person who is or has been engaged in the administration of this Act who discloses, except for the purpose of the exercise of his functions or when required to do so by a court or under an written law, any information acquired by him in the exercise or purported exercise of his functions under this Act to any other person shall be guilty of an offence.

Sec 8.3 No employer shall dismiss any person employed by him or reduce the rate of remuneration of such person or otherwise alter the conditions of his employment to conditions less favorable to him or alter his position to his disadvantage relative to other persons employed by such employer by reason of the fact that he believes or suspects (whether or not such belief or suspicion is justified or correct) that, that person has given any information which he could be required under this Act to give an inspector or has complied with any lawful requirement of an inspector or has given evidence in any proceedings under this Act.

Sec. 8.4 An employer who contravenes any of the provisions of Sec. 8.3 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 such 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 such 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.

Sec. 8.5 An order made under paragraph (b) of Sec. 8.4 may be enforced as if it were a judgment of circuit court in favor of the employee concerned.

Sec. 8.6 The Minister, after consultation with the Council may make regulations generally for the better carrying out of the provisions and purposes of this Act.

Sec. 8.7 Without prejudice to the generality of Sec 8.6 such regulation may-

(a) Make provision for all matters in respect of which fees shall be payable under this Act or the regulations;

(b) Impose a levy for any sector of industry or commerce for furtherance of the objectives of the Act.

(c) Prescribe the amount of any such fees and the persons who shall be liable for payment thereof;

(d) Prescribe forms to be used under this Act and the regulations;

(e) Provide for matters connected with appeals under this Act;

(f) Make provision of requiring persons to supply information relevant to the provisions of this Act and the regulations;

(g) Prescribe anything which under this Act 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.