

No. 38 of 1964

BUREAU OF CEYLON STANDARDS

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE BUREAU OF CEYLON STANDARDS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[12th November, 1964.]

1. This Act may be cited as the Bureau of Ceylon Standards Act, No. 38 of 1964.

Short title.

ESTABLISHMENT OF THE BUREAU OF CEYLON STANDARDS

2. (1) There shall be established a corporation which shall be called the Bureau of Ceylon Standards (hereinafter referred to as "the Bureau").

Establishment of the Bureau of Ceylon Standards.

(2) The corporation shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

3. The members of the Council of the Bureau of Ceylon Standards (hereinafter referred to as "the Council") shall be the members of the Bureau.

Members of the Bureau.

4. (1) The powers, duties and functions of the Bureau shall be vested in the Council.

Vesting of the powers, duties and functions of the Bureau in the Council and constitution of the Council.

(2) The Council shall consist of—

(a) four members appointed or elected as provided in subsection (3) of this section, each of whom has distinguished himself in trade or industry or is otherwise specially qualified in relation to some aspect of the work of the Bureau ;

(b) one member appointed by the Minister of Finance from among the officers of the General Treasury ;

(c) one member nominated by the Ceylon Institution of Engineers ;

(d) one member nominated by the Ceylon Association for the Advancement of Science ;

- (e) one member nominated by the Ceylon Institute of Scientific and Industrial Research; and
- (f) the three following *ex officio* members—
 - (i) the person for the time being holding office as the Director of Development of the Ministry of the Minister in charge of the subject of industries,
 - (ii) the person for the time being holding office as the Director of the Bureau, and
 - (iii) the person for the time being holding office as the Director of Commerce.

(3) The four members of the Council referred to in paragraph (a) of subsection (2) shall be appointed in the first instance by the Minister. If for any reason any member so appointed vacates his office prior to the expiration of his term of office, the Minister shall in place of such a person appoint another person to serve for the unexpired portion of such term. Thereafter any vacancies among the four members appointed under paragraph (a) of subsection (2) shall be filled by the remaining members of the Council who shall elect duly qualified persons to fill such vacancies.

Term of office of members other than *ex officio* members of the Council.

5. Any member of the Council who is not an *ex officio* member shall, unless he vacates his office earlier, hold office for a term of two years and shall be eligible for reappointment or re-election:

Provided, however, that—

- (a) at the first meeting of the original Council two of the four members referred to in paragraph (a) of subsection (2) of section 4 shall be chosen by lot to hold office for an initial term of one year, and each of the two members so chosen shall, unless he vacates his office earlier, hold office for that initial term, in order to establish a rotation by which in each year the terms of office of two of the aforesaid four members will expire, and

- (b) if any member of the Council who is not an *ex officio* member vacates his office prior to the expiration of his term, his successor shall, unless such successor vacates his office earlier, hold office for the unexpired portion of such term.

6. A person shall be disqualified for being or continuing to be a member of the Council if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortune.

Disqualifica-
tion for
membership
of the
Council.

7. (1) A member of the Council shall vacate office—

Vacation
of office.

(a) if, not being an *ex officio* member, he resigns office, or

(b) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortune, or

(c) if he is adjudged by a competent court to be of unsound mind.

(2) A member of the Council who is not an *ex officio* member may resign office—

(a) if he is not the Chairman of the Council, by writing under his hand addressed to such Chairman, and

(b) if he is the Chairman of the Council, by writing under his hand addressed to the Minister.

8. (1) The Chairman of the Council shall be appointed by the Minister from among the members of the Council other than the Director of the Bureau.

Chairman
and Vice-
Chairman
of the
Council.

(2) The Chairman shall, unless he earlier vacates office as Chairman, hold that office for one year, but shall be eligible for reappointment to that office:

Provided, however, that where the Chairman ceases to hold office as Chairman prior to the expiration of his term of that office and a successor to him is

appointed, such successor shall, unless he earlier vacates office as Chairman, serve as the Chairman for the unexpired portion of such term.

(3) The Chairman may resign the office of Chairman by writing under his hand addressed to the Minister.

(4) The Director of the Bureau shall be the Vice-Chairman of the Council. The Vice-Chairman shall perform the duties of the Chairman in the absence of the Chairman or when there is a vacancy in the office of Chairman.

Reimburse-
ment of
expenses of
members of
the Council.

9. The members of the Council shall not be paid any remuneration, but shall be reimbursed from the funds of the Bureau for such travelling, hotel and incidental expenses as they may incur in Ceylon for the purpose of attending meetings of the Council and for any such expenses as aforesaid which they may incur in Ceylon or in any other country by prior authorization of the Council in connection with any special mission performed on behalf of the Bureau.

Proceedings
of the
Council.

10. (1) The procedure for the transaction of business of the Council shall be determined in accordance with the provisions set out in the Schedule to this Act.

(2) All acts done at any meeting of the Council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or election of any member thereof or that any such member was disqualified, be as valid as if every such member had been duly appointed or elected or was qualified to be such member.

(3) No proceedings or act of the Council shall be invalidated by reason only of any vacancy in the membership of the Council.

The seal.

11. (1) The affixing of the seal of the Bureau to any instrument other than an instrument referred to in subsection (2) of this section shall be in the presence of and be attested by—

(a) the Chairman and the Vice-Chairman of the Council, or

(b) the Chairman or the Vice-Chairman and any other member of the Council, or

(c) such one member of the Council or of the staff of the Bureau as may have been authorized by the Council to act on its behalf on such an occasion.

(2) The affixing of the seal of the Council to an instrument containing an agreement for the rendering of any service by the Bureau shall be in the presence of, and be attested by, the Director of the Bureau or, in his absence, any member of the staff of the Bureau who has been authorized by the Council to act on behalf of the Director on such an occasion.

12. (1) The Council may establish committees to assist it in the performance of its functions and may appoint such persons (whether connected with the Bureau or not) as it may deem fit to be members of any such committee.

Establishment of committees.

(2) The Council may assign to a committee so established such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee. The Council may amend or revoke any decision made by a committee.

(3) The members of any such committee may out of the funds of the Bureau receive such remuneration and allowances as the Minister may determine with the concurrence of the Minister of Finance.

THE OBJECTS, FUNCTIONS, POWERS AND DUTIES OF THE BUREAU

13. The objects of the Bureau shall be—

Objects of the Bureau.

(a) to promote standardization in industry and commerce,

(b) to prepare, frame, modify or amend specifications and codes of practice,

(c) 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,

- (d) 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, commodities may be manufactured, produced, processed or treated,
- (e) to control, in accordance with the provisions of this Act, the use of standardization marks and distinctive marks,
- (f) to encourage or undertake educational work in connection with standardization,
- (g) to provide for co-operation with any person, association or organization outside Ceylon having objects similar to those for which the Bureau is established,
- (h) to assist in the rationalization of industry by co-ordinating the efforts of producers and consumers for the improvement of appliances, processes, raw materials and products,
- (i) to establish, form, furnish and maintain libraries and laboratories for the purpose of furthering the practice of standardization,
- (j) to provide for the testing at the request of the Minister, and on behalf of the Government, of locally manufactured and imported commodities, or of imported commodities, with a view to determining whether such commodities comply with the provisions of the Merchandise Marks Ordinance or any other law dealing with standards of quality, and
- (k) to do all such other acts as the Bureau may think identical with or conducive to the attainment of any or all of the objects of the Bureau referred to in this section.

Cap. 151.

14. The functions of the Bureau shall be—

Functions of
the Bureau.

- (a) to formulate on broad national lines the policy which, subject to the approval of the Minister, shall be adopted by it with a view to achieving the objects for which the Bureau is established,
- (b) to advise the Minister in regard to any matter within his purview under this Act,
- (c) to establish laboratories and other facilities for carrying out the objects for which the Bureau is established,
- (d) to prepare standards, specifications, and codes of practice,
- (e) to provide facilities for testing of all products and materials, including food and drugs,
- (f) to determine minimum standards for local industrial products by inspection and testing of all such products,
- (g) to licence and register standard marks and inspect factories so as to enforce conformity to the standards declared by the Minister, and
- (h) to house the primary standards for weights and measures and to calibrate secondary standards for use by the Weights and Measures Division of the Department of Commerce.

15. The Bureau may exercise all or any of the following powers :—

Powers of the
Bureau.

- (a) to acquire in any manner whatsoever and to hold any movable or immovable property and to sell or otherwise dispose of any such property ;
- (b) to apply for, purchase, receive by assignment or otherwise acquire in accordance with the laws of Ceylon or any other country, any patents, brevets, inventions,

concessions, licences and the like conferring exclusive or non-exclusive or limited rights to use information as to any invention or discovery, and to develop, use, exercise, assign, transfer, sell, grant licences in respect of, or otherwise turn to account, the property, rights and information so acquired ;

(c) to utilize the services of other laboratories to whomsoever they belong, and to approve such laboratories, for the purposes of the Bureau ;

(d) to do all such things as are necessary for, incidental or conducive to, the attainment of the objects of the Bureau, or necessary for or incidental to the performance of any functions or the exercise of any powers of the Bureau or which are calculated directly or indirectly to enhance the value of, or render profitable, any of the property or rights of the Bureau.

Standardization marks.

16. (1) Subject to the provisions of subsection (2), the Bureau may, with the approval of the Minister, by notice published in the Gazette, declare any mark which has been adopted by the Bureau in respect of a specification framed by it for any commodity, or for the manufacture, production, processing or treatment of any commodity, to be a standardization mark in respect of that commodity or of the manufacture, production, processing or treatment of that commodity, and may in like manner abolish or amend any such mark.

Cap. 150.

(2) No mark which is identical with any trade mark registered in respect of any commodity under the Trade Marks Ordinance or which so nearly resembles any such trade mark as to be likely to be mistaken for it, shall under subsection (1) be declared a standardization mark in respect of that commodity or any similar commodity or in respect of the manufacture, production, processing or treatment of that commodity or any similar commodity.

(3) A notice under subsection (1) shall contain such information in regard to the relevant specification or amendment thereof as the Bureau may consider necessary.

17. No person shall cause any mark which is identical with a mark which has been declared under subsection (1) of section 16 to be a standardization mark, or which so nearly resembles a mark so declared as to be likely to be mistaken for a standardization mark, to be registered as a trade mark under the Trade Marks Ordinance.

Prohibition of registration of marks identical with standardization marks as trade marks.

Cap. 150.

18. (1) Whenever the Bureau has published any notice under subsection (1) of section 16, no person shall apply the standardization mark mentioned in that notice to any commodity—

Standardization marks not to be applied to commodities unless authorized by permits.

(a) except under a permit issued by the Bureau or a person authorized in that behalf by the Bureau, and

(b) unless that commodity complies with the relevant specification or has been manufactured, produced, processed or treated in accordance with that specification.

(2) Any person who—

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

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

(c) makes, in connection with the sale of any commodity, any reference, directly or indirectly, to a standardization mark in a manner or under circumstances calculated to convey the impression that the commodity complies with the specification to which the standardization mark relates, or that it has been manufactured, produced, processed or treated in accordance with that specification,

shall, for the purposes of subsection (1), be deemed to have applied that standardization mark to that commodity.

(3) No person shall in connection with the sale of any commodity make any reference directly or indirectly to the Bureau or a specification framed and approved, or purporting to have been framed and approved, by the Bureau unless—

- (a) the Bureau has declared any mark to be a standardization mark in respect of the specification framed by the Bureau for any commodity or for the manufacture, production, processing or treatment of that commodity, and
- (b) such person is in possession of a permit issued by the Bureau authorizing him to apply such standardization mark to that commodity.

Power of
Minister by
Order to
declare
compulsory
standard
specifications.

19. (1) The Minister may, subject to the provisions of subsection (2) of this section and section 20, by Order published in the Gazette—

- (a) on the recommendation of the Bureau, declare any standard specification for any commodity or for the manufacture, production, processing or treatment of any commodity to be, with effect from a date specified in the Order, a compulsory standard specification for that commodity or for the manufacture, production, processing or treatment of that commodity, and
- (b) prescribe, in respect of any compulsory standard specification, a distinctive mark for any commodity which complies with that specification or which has been manufactured, produced, processed or treated in accordance with that specification.

(2) If the Order proposed to be made under subsection (1) relates to any commodity, or the manufacture, production, processing or treatment of any commodity, which is the subject-matter of any other written law, the Order shall be made by the Minister

after consultation with the Minister to whom the subject or function of such other law has been assigned.

(3) The date specified in any Order under paragraph (a) of subsection (1) shall be a date not earlier than three months after the date of the Order.

(4) An Order made under subsection (1) may, by a subsequent Order published in the Gazette, be revoked or amended.

20. (1) No Order under paragraph (a) of subsection (1) of section 19 shall be made by the Minister unless a notification declaring his intention to make such Order is published in the Gazette and in one Sinhala, one Tamil and one English newspaper, together with full particulars of the proposed Order and specifying a date on or before which objections to the proposed Order will be received by the Director of the Bureau.

Notice of
intention to
make an
Order under
section 19.

(2) Every objection so preferred shall be made in writing and shall contain a statement of the grounds upon which objection is taken to the proposed Order.

(3) The Director of the Bureau shall transmit all objections received by him to the Chairman of the Council.

(4) The Council shall consider every objection transmitted under subsection (3) and for the purpose of investigating such objection hold an inquiry.

(5) Notice in writing of the date on which, and the time and place at which, an inquiry under subsection (4) shall be held shall be given to the person preferring the objection. The person preferring the objection, or a person duly authorized by him in writing, shall be entitled to be present at such inquiry and to be heard on such objection.

(6) The decision of the Council on an objection considered by it under subsection (4) shall be communicated to the Director of the Bureau who shall notify such decision in writing to the person preferring such objection.

Appeals.

21. A person who is aggrieved by a decision of the Council on any objection considered by it under subsection (4) of section 20 may, within fifteen days after the date of the notification to him of such decision, appeal in writing against such decision to the Minister. The decision of the Minister on any such appeal shall be final and conclusive.

Sale of a commodity to which section 19 applies prohibited except under a permit and unless the commodity complies with the specification, &c.

22. (1) Where the Minister has by Order under section 19 declared a standard specification to be a compulsory standard specification for any commodity or for the manufacture, production, processing or treatment of any commodity, no person shall, with effect from the date specified in that Order, sell that commodity—

(a) except under a permit issued by the Director of the Bureau or other officer authorized in that behalf by such Director, and

(b) unless that commodity—

(i) complies with that specification, or

(ii) has been manufactured, produced, processed or treated in accordance with that specification.

(2) Where the Minister has by Order under section 19 prescribed a distinctive mark in respect of any compulsory standard specification, no person shall, with effect from the date specified in the Order, apply that mark to any commodity to which that specification applies—

(a) except under a permit issued by the Director of the Bureau or other officer authorized in that behalf by such Director, and

(b) unless that commodity—

(i) complies with that specification, or

(ii) has been manufactured, produced, processed or treated in accordance with that specification.

Permits.

23. (1) Every application for a permit for the purposes of this Act shall be made in writing to the Director of the Bureau or the officer authorized in that behalf by such Director.

(2) The issue of a permit under this section shall be in the discretion of the Director of the Bureau or the officer authorized in that behalf by the Director, and where a permit is issued it may be subject to such conditions as may be specified therein.

No permit shall be issued except upon payment by the person to whom it is issued of such fee as the Bureau may, with the approval of the Minister, determine.

(3) A permit issued under this section shall be valid for such period as may be specified therein and may at any time be cancelled after notice in writing thereof has been given to the person to whom it has been issued.

(4) Where an application for a permit under this section is refused, notice of such refusal shall be given by the Director or the officer authorized in that behalf by such Director to the person making such application.

(5) Any person who is aggrieved by the refusal of the Director of the Bureau, or other officer authorized in that behalf by such Director, to issue a permit or by the cancellation of a permit may, within fifteen days after the date of the notice of such refusal or cancellation, appeal in writing to the Minister. The decision of the Minister on any such appeal shall be final and conclusive.

STAFF OF THE BUREAU

24. (1) The Minister shall appoint a person who is suitably qualified, scientifically and technically, to be the Director of the Bureau. The conditions of employment, including the remuneration, of the Director shall be determined by the Minister in consultation with the Minister of Finance.

Appointment
of Director of
the Bureau.

(2) Whenever the Director of the Bureau is by reason of absence from Ceylon or illness or other infirmity unable to perform the duties of his office, the Minister may appoint some other person to act in his place.

(3) The functions of the Director shall be to organize, carry out, and direct the work of the Bureau in accordance with the policy adopted by the Council in terms of section 14.

Appointment of other officers and servants of the Bureau.

25. (1) The Council shall appoint such other officers and servants as it may deem necessary for carrying out the objects for which the Bureau is established.

(2) At the request of the Council, any officer in the public service may, with the consent of that officer and the Secretary to the Treasury, be temporarily appointed to the staff of the Bureau for such period as may be determined by the Council with like consent or be permanently appointed to such staff.

(3) Where the Council employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service in the Bureau by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract. The conditions of service, including remuneration, of any officer or servant appointed under this subsection shall be determined by the Council.

Powers of the Council to exercise disciplinary control over members of the staff of the Bureau.

26. (1) The Council shall have the power to exercise disciplinary control over the Director of the Bureau other than the power of dismissal.

(2) The Council shall have the power to exercise disciplinary control over, and dismiss, any other officer or servant of the Bureau :

Provided that the Council shall not dismiss any such officer or servant of the Council as was appointed to the staff of the Bureau under subsection (2) of section 25.

Delegation of powers of the Council.

27. (1) The Council may delegate to the Director of the Bureau all or any of its powers relating to the appointment of other officers or servants to the staff of the Bureau. The conditions of employment, including remuneration, of any such officer or servant

appointed by the Director under the power delegated to him shall be determined by him with the concurrence of the Council.

(2) The Director of the Bureau shall not, except with the prior approval of the Council, request the services of, make agreements for obtaining, or appoint, any person who is not a citizen of Ceylon as an officer or servant of the Bureau.

(3) The dismissal by the Director of any officer or servant shall not have effect unless it is approved by the Council.

28. (1) The Council may appoint any member of the staff of the Bureau who, in the opinion of the Bureau, is suitably qualified as an inspector for the purposes of this Act.

Appointment
of inspectors.

(2) Every inspector shall be provided with a certificate by the Council to the effect that he has been appointed as an inspector for the purposes of this Act.

29. (1) Any inspector may, for the purposes of this Act, if generally or specifically instructed thereto by the Bureau in writing—

Powers of
inspectors.

(a) without previous notice at any time during business hours, enter upon any premises in or upon which any commodity specified in such instructions, for which, or for the manufacture, production, processing or treatment of which, there is a compulsory standard specification or a standardization mark, is or is reasonably suspected to be manufactured, produced, processed or treated, or in or upon which any such commodity is or is reasonably suspected to be kept for the purpose of trade ;

(b) inspect or take samples of such commodity or any material or substance used or suspected to be intended for use in the manufacture, production, processing or treatment thereof, and open any package or container which contains or is suspected to contain any quantity of any such commodity, material or substance ;

- (c) inspect any operations carried out in or upon any such premises in connection with the manufacture, production, processing or treatment of any commodity for the manufacture, production, processing or treatment of which there is a compulsory standard specification or a standardization mark ;
- (d) at any time, require from any person the production then and there, or at a time and place fixed by the inspector, 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 ;
- (e) examine any such book, notice, record, list or document, make copies of or take extract from any such book, notice, record, list or document which relates to any commodity referred to in paragraph (a) or to any permit issued or to be issued under this Act, require from any person an explanation of any entries therein, and seize any such book, notice, record, list or document as in his opinion may afford evidence of any offence under this Act ;
- (f) question either alone or in the presence of any other person, as he thinks fit, with respect to any matter which is being investigated by him, every person whom he finds on the premises entered by him by virtue of the aforesaid powers or whom he has reasonable grounds for believing to be or to have been employed on any such premises or to be in the possession, custody or control of anything referred to in this subsection ;

(g) require any person referred to in paragraphs (d), (e) or (f) to appear before him at a time and place fixed by him, and then and there question that person concerning any matter which is being investigated by him.

(2) A person who is in charge of any premises referred to in subsection (1) (a) shall at all times furnish such facilities as are required by an inspector for the purpose of exercising his powers under the said subsection.

(3) Any inspector exercising any powers conferred upon him by this section shall, on demand produce the certificate provided to him in terms of subsection (2) of section 28 and the written instructions referred to in subsection (1) of this section.

30. The Council may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities or retiring allowances to members of the staff of the Bureau and a widows' and orphans' pension fund or scheme for providing pensions to the widows and orphans of deceased members of the staff, and may require contributions to be made to any such scheme or fund by members of the staff of the Bureau and may deduct such contributions from the salaries or wages of such members and may make contributions to any such scheme or fund from the revenues of the Bureau.

Pension schemes, &c., for staff of the Bureau.

FINANCE AND ACCOUNTS OF THE BUREAU

31. (1) The Bureau shall have a fund called the Capital Fund.

Capital Fund of the Bureau.

(2) All moneys recovered by the Bureau, including such sums as may be voted by Parliament for the use of the Bureau, shall be credited to the Capital Fund.

(3) The Capital Fund shall be utilized only for expenditure of a capital nature, but any moneys remaining so unexpended may either be added to that Fund, or, with the approval of the Minister, be utilized for the objects for which the Bureau is established, in a manner to be determined by the Council.

Financing of the running expenses of the Bureau.

32. (1) The Minister may, out of funds appropriated by Parliament for the purpose, and subject to such conditions as the Minister of Finance may impose, contribute annually for the purposes referred to in subsection (2), such an amount as the Minister, in consultation with the Minister of Finance, may determine.

(2) The moneys contributed under subsection (1) shall be utilized by the Bureau to defray its annual running expenses, including the allowances of the members of the Council and of any committee established under section 12, and of the Director and other members of the staff of the Bureau, and any balance of those moneys remaining unexpended at the end of a financial year of the Bureau may, subject to the directions of the Council, be used for defraying the running expenses of the next financial year of the Bureau or utilized for the objects for which the Bureau is established.

Charging of fees for services rendered and disposal of income derived therefrom.

33. Subject to the provisions of any regulations made under section 48, the Bureau may, in respect of any services rendered by it under this Act, charge such fees or make such financial arrangements as it may deem fit, and may deal with any moneys derived from such fees or in respect of such arrangements in the same manner as is specified in subsection (2) of section 32 in respect of moneys contributed by the Government.

Donations and contributions made to the Bureau.

34. The Bureau may receive donations or contributions from any person and shall use any moneys so received for the purpose designated by the person making the donation or contribution and in accordance with the conditions imposed by the donor or contributor, or, if no purpose has been so designated or no conditions have been so imposed, utilize such moneys in the manner specified in subsection (2) of section 32 or in such other manner as the Minister may direct.

Accounts of the Bureau.

35. (1) The financial year of the Bureau shall end on the thirtieth day of September.

(2) The Bureau shall cause accounts of the receipts and expenditure, contractual obligations, investments, allocation of funds for specific purposes, distribution of actual costs amongst the various research operations and activities of the Bureau, and other accounts as may be required by the nature of the Bureau's work or as may be requested by the Minister of Finance, to be kept.

36. (1) The accounts of the Bureau shall be audited annually by an auditor (hereinafter referred to as "the auditor") appointed by the Minister on the advice of the Auditor-General. The auditor so appointed shall be registered under the Companies Ordinance. The auditor shall receive such remuneration from the funds of the Bureau as the Minister may determine with the concurrence of the Minister of Finance.

Audit.

Cap. 145.

(2) The Auditor-General shall have power—

- (a) to direct the manner in which the accounts of the Bureau shall be audited by the auditor and to give the auditor instructions in regard to any matter relating to the performance of his functions as the auditor, and
- (b) to conduct a supplementary or test audit of the accounts of the Bureau by such person or persons as the Auditor-General may authorize in that behalf, and for the purpose of such audit, to require information or additional information to be furnished to any person or persons so authorized on such matters, by such person or persons, and in such form, as the Auditor-General may by general or special order direct.

(3) The auditor shall examine the accounts of the Bureau and furnish a report stating—

- (i) whether he has or has not obtained all the information and explanations required by him, and

(ii) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Bureau.

(4) The auditor shall submit a copy of his audit report to the Auditor-General who shall have the right to comment upon, or supplement, the auditor's report in such manner as the Auditor-General may think fit.

(5) The Auditor-General shall transmit the audit report together with his comments upon, or his supplement to, such report to the Bureau.

Documents to be sent to the Minister and laid before the House of Representatives.

37. (1) The Bureau shall, on receipt of the auditor's report in each year, transmit to the Minister—

- (a) a report by the Council on its work for the Auditor-General's comments (if any) upon, and his supplement (if any) to, such report,
- (b) a copy of the profit and loss account,
- (c) a copy of the balance sheet, and
- (d) a report by the Council on its work for the period for which the profit and loss account and the balance sheet have been made up.

(2) The Minister shall cause copies of all the documents specified in subsection (1) to be laid before the House of Representatives for approval.

GENERAL

Protection of Council and members thereof.

38. 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 standardization mark or distinctive mark is used in connection with any commodity, shall not give rise to any suit or prosecution against the Council or any member thereof, or any member of the staff of the Bureau.

39. (1) No member of the Council or of a committee thereof, or an officer or servant of the Bureau, or inspector or other person who is or was engaged in the administration of this Act, shall disclose to any person except to the Minister, or for the purposes of the performances of his duties or the exercise of his functions, or when required to do so before a court or under any law, any information acquired by him in the performance of his duties or the exercise of his functions.

Secrecy.

(2) The disclosure by any person of any information to the Minister or to the Council or any committee or representative thereof or to an inspector or any other person for purposes connected with the administration of this Act shall not prejudice any application subsequently made for a patent.

40. (1) The rights in all discoveries and inventions and all improvements in respect of processes, apparatuses and machines made by an officer of the Bureau shall vest in and be the property of the Bureau and shall be made available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Bureau may determine.

Rights in discoveries, inventions and improvements made by any member of the staff of the Bureau to vest in the Bureau.

(2) The Bureau may out of the funds of the Bureau pay to any officer of the Bureau, who has made any discovery, invention or improvement referred to in subsection (1) of this section, such bonus, or make provision for such officer to participate in the profits derived from that discovery, invention or improvement, as the Bureau may determine.

(3) The Bureau may apply for letters patent in respect of any inventions made by any officer of the Bureau and shall for the purpose of the Patents Ordinance be regarded as the assign of the inventor.

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41. The Minister may by Order, with the concurrence of the Minister for the time being in charge of the subject of Crown lands, transfer to the Bureau any Crown land or building, and any Crown land or

Crown lands and buildings.

building so transferred shall, with effect from the date of the Order, vest in and be the property of the Bureau.

Exemption from taxes and duties.

42. (1) The Bureau shall be exempt from the payment of—

(a) any tax on the income or profits of the Bureau, and

(b) any stamp duty on any instrument executed by, or on behalf of, or in favour of, the Bureau.

(2) The Bureau shall be exempt from the payment of any customs or excise duty on any goods imported or purchased out of bond by the Bureau, if the Minister in consultation with the Minister of Finance, approves such exemption.

The use by any person carrying on any activity, business, trade or occupation, of certain words.

43. (1) Except with the written approval of the Minister and subject to the provisions of subsections (3) and (4), no person shall carry on any activity, business, trade or occupation under any name which contains the words "Bureau Standards", "Standards Bureau" or such words which would create an impression that such person were the Bureau of Ceylon Standards or is associated or connected with the Bureau.

(2) Except with the written approval of the Minister and subject to the provisions of subsections (3) and (4)—

(a) no trade mark which contains the word "standard" shall be registered under the Trade Marks Ordinance, and

(b) no person shall, unless authorized thereto by a permit, sell any commodity under a mark which contains the word "standard" or under a description in which the said word is used in a manner which may create the impression that the commodity complies with a specification framed therefor by the Bureau.

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(3) Any person who, at the commencement of this Act, carries on any activity, business, trade or occupation or is registered under any such name as is referred to in subsection (1) may, notwithstanding the provisions of subsection (1), continue to carry on that activity, business, trade or occupation, or to be registered, as the case may be, under such name.

(4) The provisions of subsection (2) shall not affect any trade mark registered at the commencement of this Act, or the sale of any commodity under any such trade mark.

(5) The Minister may at any time withdraw any approval given by him under subsection (1) or subsection (2) if, in his opinion, it is necessary to do so in order to avoid confusion or abuse.

44. Any person to whom a permit has been issued under this Act shall, upon a request in writing made thereto by the Bureau—

(a) transmit to the Council or any person approved by the Bureau within such time as may be specified in such request such samples as may be so specified of any commodity in respect of which that permit has been issued, or

(b) furnish to the Council or any person approved by the Bureau within such time as may be specified in such request such information as may be so specified in regard to such commodity or the manufacture, production, processing or treatment thereof,

and the first-mentioned person shall comply with the requirements of such request.

Duty of persons to whom permits have been issued to transmit samples of commodities or furnish information relating to commodities whenever required to do so.

45. (1) Any person who—

(a) contravenes, or fails to comply with, the provisions of subsection (1) or subsection (3) of section 18 or subsection (1) or subsection (2) of section 22, or

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- (b) contravenes, or fails to comply with, the conditions of any permit issued under this Act, or
- (c) contravenes the provisions of section 39 or of subsection (1) or subsection (2) of section 43, or
- (d) falsely holds himself out to be an inspector, or
- (e) makes any relevant statement to an inspector which is false in any material particular and which he knows to be false, or
- (f) refuses or fails to answer any relevant question which an inspector in the exercise of his powers has put to him, or
- (g) refuses or fails to comply with any lawful direction made by an inspector, or
- (h) hinders or obstructs an inspector in the exercise of his powers or duties, or
- (i) fails to comply with any request under section 44,

shall be guilty of an offence under this Act.

(2) If any person is charged with an offence referred to in paragraph (a) of subsection (1), he shall be deemed to be not guilty of that offence if he proves that—

- (a) he took all reasonable precautions against committing the offence; and
- (b) on demand by the Council or an inspector, he furnished all information which was or should reasonably have been available to him as to the person from whom he acquired the commodity to which the charge under section 22 (1) relates.

Penalties.

46. (1) Every person guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable, notwithstanding anything in any other law—

- (i) in the case of an offence referred to in paragraph (a) or paragraph (b) of subsection (1) of section 45, to a fine not exceeding:

three thousand rupees or to imprisonment of either description for a period not exceeding two years, or to both such fine and imprisonment,

(ii) in the case of an offence referred to in each of the paragraphs (c) to (h) of subsection (1) of section 45, to a fine not exceeding two thousand rupees or to imprisonment of either description for a period not exceeding one year, or to both such fine and imprisonment, and

(iii) in the case of an offence referred to in paragraph (i) of subsection (1) of section 45, to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

(2) Whenever any person is convicted of an offence referred to in paragraph (a) or paragraph (b) of subsection (1) of section 45, or of a contravention of subsection (2) of section 43, the court may, in addition to any other penalty which it may impose, order that all or any part of the goods in respect of which the offence was committed be forfeited to the Crown, and the goods so ordered to be forfeited shall be disposed of in such manner as the Minister may direct.

47. Where an offence under this Act is committed by a body of persons, then—

Offences by
bodies of
persons.

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence :

Provided, however, that no such director shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Regulations.

48. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in respect of all matters for which regulations are authorized or required by this Act to be made.

(2) No regulation made by the Minister under subsection (1) shall take effect until it is approved by the Senate and the House of Representatives and notification of such approval is published in the Gazette.

Interpretation.

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

“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 a compulsory standard specification under subsection (1) of section 19, and includes any such specification as amended under subsection (4) of the said section 19 ;

“distinctive mark” means a mark which has been prescribed under paragraph (b) of subsection (1) of section 19 ;

“inspector” means an inspector appointed under section 28 ;

“mark” includes any device, brand, heading, label, ticket, pictorial representation, name, signature, work, letter, numeral or any combination thereof ;

“sell” includes expose or offer for sale, or export for the purposes of sale, or have in

possession for the purpose of sale or export or for any purpose of trade or manufacture ;

“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 of the material or substance from or with which or of the manner in which any commodity may be manufactured, produced, processed or treated ;

“standardization mark” means a mark which has under subsection (1) of section 16 been declared to be a standardization mark ;

“standard specification” means a specification, which is the subject of a notice under section 16, declaring any mark to be a standardization mark in respect of any commodity or of the manufacture, production, processing or treatment of any commodity.

SCHEDULE

(Section 10)

PROCEEDINGS OF THE COUNCIL

- (1) The Chairman shall summon a meeting of the Council once in every three months.
- (2) The Chairman shall summon a special meeting of the Council within fourteen days after being requested in writing to do so by three members of the Council.
- (3) The Chairman shall give at least ten days' notice in writing of every meeting of the Council to each of the members, and shall specify in such notice the business to be dealt with at such meeting.
- (4) The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Council.
- (5) Four members shall form a quorum at any meeting of the Council.

- (6) All questions for decision by the Council shall be decided by the vote of the majority of the members present. In case of an equality of votes the presiding officer shall have a casting vote.
- (7) If at least four members of the Council are present in Ceylon, any question may be decided by the circulation of the relevant papers to the members present in Ceylon and by such members' recording in writing their views and their votes on that question ; and in such case a report of such question, views and votes shall be made to the next meeting of the Council and shall be recorded in the minutes book, and, if there is an equality of such votes, such question shall be submitted for decision to a meeting of the Council.
- (8) The proceedings at every meeting of the Council shall be recorded in a minutes book.
- (9) Subject to the provisions herein, the Council may determine its own procedure.