

THE STANDARDS ACT, 2017

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SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 4 of 2017

Date of Assent: 12th April, 2017

An Act to continue the existence of the Zambia Bureau of Standards and re-define its powers and functions; provide for standardisation and quality assurance of products and services through the setting of national standards and provision of conformity assessment services for products and services; repeal the Standards Act, 1994; and provide for matters connected with, or incidental to, the foregoing.

[13th April, 2017

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Standards Act, 2017, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

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

Interpretation

“ associate ” has the meaning assigned to it in the Anti-Corruption Act, 2012;

Act No. 3 of 2012

“ Board ” means the Board of the Bureau established under section 6;

“ Bureau ” means the Zambia Bureau of Standards continued under section 3;

“ certification mark ” means a Zambia Bureau of Standards mark declared under section 26 to be a mark of conformity in relation to a product or service;

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- “ Chairperson ” means the person appointed Chairperson of the Board under section 6;
- “ commodity ” means an article or product, whether manufactured or not;
- “ conformity assessment ” means the procedure used to determine, directly or indirectly, that the relevant requirements of a standard or technical regulation relating to a product, process, system or body has been fulfilled, and includes inspection, testing and certification or a combination of inspection, testing and certification;
- “ Director ” means a person appointed as such under section 11;
- Cap. 1 “ emoluments ” has the meaning assigned to it in the Constitution;
- Cap. 1 “ Emoluments Commission ” means the Emoluments Commission established under Article 232 of the Constitution;
- “ Executive Director ” means the person appointed Executive Director of the Bureau under section 11;
- “ informative document ” means a document to which reference is made in the standard for information, and for which application can be done without referencing;
- “ inspection ” means the examination of a product, product design, process or installation and determination of its conformity with general or specific requirements or on the basis of professional judgement;
- “ manufacture ” means to produce, assemble, alter, modify, convert, process or treat;
- “ member ” means a person appointed as a member of the Board under section 7;
- “ National Enquiry Point ” means the centre that is charged with the responsibility of providing information regarding technical regulations, standards and conformity assessment notified to the WTO as required in terms of the WTO TBT Agreement;
- “ normative document ” means a document relating to a standard to which reference is made in a standard in a manner that makes the reference indispensable for the application of the standard;

- “ power ” has the meaning assigned to it in the Constitution; Cap. 1
- “ product ” means a commercially distributed good that is tangible personal property, an output or result of a fabrication, manufacturing or production process and passes through a distribution channel being consumed or used;
- “ publish ” in relation to a *Zambian National Standard*, means making available a publication by printing, electronic, photographic or other means;
- “ relative ” has the meaning assigned to it in the *Anti-Corruption Act, 2012*; Act No. 3 of 2012
- “ repealed Act ” means the *Standards Act, 1994*; Cap. 416
- “ Secretary ” means the person appointed as such under section 11;
- “ service ” means a service provided for remuneration and at the request of a recipient of a service, and includes the process used to deliver the service;
- “ standard ” means a document that provides for common and repeated use of rules, guidelines or characteristics for products, services or processes and production methods, including terminology, symbols, packaging, marking or labelling requirements that apply to a product, service, process or production method;
- “ State institution ” has the meaning assigned to it in the Constitution; Cap. 1
- “ Vice-Chairperson ” means a person appointed as such under section 6;
- “ WTO TBT Agreement ” means the *World Trade Organisation Agreement on Technical Barriers to Trade*;
- “ WTO ” means the *World Trade Organisation*;
- “ Zambia Bureau of Standards ” means the *Zambia Bureau of Standards* provided for under the repealed Act and continued under this Act; and Cap. 416
- “ *Zambian National Standard* ” means a standard approved by the Bureau under this Act.

(2) Except where the contrary intention appears, a reference in this Act to a standard is a reference to the standard as amended.

PART II

THE ZAMBIA BUREAU OF STANDARDS

- Continuation of Bureau Cap. 416
- 3.** The Zambia Bureau of Standards provided for under the repealed Act shall continue to exist as if established under this Act, as a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may, by law, do or perform.
- Seal of Bureau
- 4.** (1) The seal of the Bureau shall be such device as may be determined by the Bureau and shall be kept by the Executive Director.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Executive Director or any other person authorised in that behalf by a resolution of the Board.
- (3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Bureau by the Executive Director or any other person generally or specifically authorised by the Board in that behalf.
- (4) A document purporting to be a document under the seal of the Bureau or issued on behalf of the Bureau shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.
- Functions of Bureau
- 5.** (1) The functions of the Bureau are to—
- (a) develop, publish, maintain or withdraw *Zambian National Standards* and related normative publications serving the standardisation needs of *Zambia*;
 - (b) administer and maintain standards and ensure conformity with standards;
 - (c) provide inspection services, testing services and system and product certification;
 - (d) provide a voluntary certification mark scheme for the assurance of product conformity to standards;
 - (e) promote quality health and safety standards for commodities, products and services;
 - (f) facilitate efficiency in industry and promote trade through standardisation;
 - (g) facilitate training in, and provide public education on, standards and quality assurance;

- (h) render conformity assessment and related services;
- (i) participate and represent Zambia in international, regional and foreign bodies with functions similar to the functions of the Bureau;
- (j) manage and coordinate the multilateral or bilateral interactions with national standards bodies from other countries;
- (k) provide information services to the public on standards and distribute Zambian National Standards and similar publications from international and regional bodies;
- (l) provide information for the protection of the consumers on products and services which do not comply with this Act;
- (m) cooperate with State institutions and international organisations in ensuring conformity with standards;
- (n) operate as the National Enquiry Point, in consultation with the relevant Ministries; and
- (o) provide for a research and development programme for new standards, improvement of existing standards, standardisation of test methodology and the articulation of future needs that might affect the standards environment.

(2) The Bureau may—

- (a) determine the fees payable for an inspection conducted for the purposes of this Act;
- (b) determine fees for training services and sale of Zambian National Standards testing services, product certification and system certification; and
- (c) determine what portion of a fee is payable in respect of any part of a year and the date on which the fee or portion of the fee is payable.

6. (1) There is constituted a Board for the Bureau which consists of the following part-time members appointed by the Minister:

Board of
Bureau

- (a) a representative of the Ministry responsible for industry;
- (b) a representative of the Attorney General;
- (c) two persons representing manufacturers and chambers of commerce respectively; and
- (d) three persons with experience and knowledge in matters relevant to this Act.

(2) The Minister shall appoint the Chairperson of the Board from amongst the members of the Board who are not public officers.

(3) The members of the Board shall elect the Vice-Chairperson from amongst themselves.

(4) A person shall not be appointed as a member of the Board if that person—

(a) is not a citizen of Zambia;

(b) is an undischarged bankrupt;

(c) has a mental disability that makes the person incapable of performing the functions of a member; or

(d) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(5) A member shall hold office for a period of three years and may be reappointed for one further period of three years.

(6) A member may resign upon giving one month's notice, in writing, to the Minister.

(7) The office of a member becomes vacant if the member—

(a) dies;

(b) resigns;

(c) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member has had notice;

(d) is adjudged bankrupt;

(e) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine; or

(f) has a mental disability which makes the member incapable of performing the functions of a member.

(8) A member shall, on the expiration of the period for which the member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed four months.

(9) The Minister shall, whenever the office of a member becomes vacant before the expiring of the term of office, appoint another person in place of that member but that person shall hold office as a member only for the unexpired part of the term of the Board.

7. (1) The Board shall be the governing body of the Bureau and shall exercise and perform the functions of the Bureau. Functions of Board

(2) Without prejudice to the generality of subsection (1), the functions of the Board are to—

- (a) oversee the implementation and successful operation of the policy and functions of the Bureau;
- (b) review and approve the policy and strategic plans of the Bureau;
- (c) approve the annual budget and plans of the Bureau;
- (d) approve the methodology for the development and approval of Zambian National Standards;
- (e) approve the investment of the funds of the Bureau in accordance with Ministerial approval and relevant regulations;
- (f) monitor and evaluate the performance of the Bureau against budgets and plans; and
- (g) do all such things as are connected with, or incidental to, the functions of the Board under this Act.

(3) The Minister may enter into a performance contract with the Board for a specified period, which shall be consistent with the provisions of this Act.

8. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure. Proceedings of Board

(2) The Board shall meet for the transaction of its business at least once in every three months at such places and times as it may determine.

(3) A meeting of the Board may be called by the Chairperson upon giving notice of not less than fourteen days and shall be called by the Chairperson if one third or more of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of the notice, a special meeting may be called upon giving a shorter notice.

(4) Four members shall constitute a quorum at a meeting of the Board.

(5) There shall preside at a meeting of the Board—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson; and

(c) in the absence of the Chairperson and the Vice-Chairperson, such other member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) A member appointed under section 6(1) (a) and (b) who is, for any reason, unable to attend a meeting of the Board may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite a person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board, but that person shall have no vote.

(9) The validity of any proceedings, acts or decisions of the Board shall not be affected by a vacancy in the membership of the Board or by any defect in the appointment of a member or by reason that a person not entitled to do so took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and every meeting of a committee of the Board.

Committees
of Board

9. (1) The Board may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it may determine.

(2) The Board may appoint as members of a committee, persons who are or are not members, except that at least one member of a committee shall be a member of the Board.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

Emoluments

10. A member of the Board or any committee of the Board shall be paid such emoluments as the Emoluments Commission may determine.

Executive
Director,
Directors,
Secretary and
other staff

11. (1) The Board shall appoint the Executive Director of the Bureau on such terms and conditions as it may determine with the approval of the Emoluments Commission.

(2) The Executive Director shall be the chief executive officer of the Bureau and shall be responsible, under the direction of the Board, for the day-to-day administration of the Bureau.

(3) The Executive Director shall attend meetings of the Board and may address a meeting, but shall not vote on any matter.

(4) The Board may appoint, on such terms and conditions as it may determine with the approval of the Emoluments Commission, the Directors, Secretary and such other staff as it considers necessary for the performance of the functions of the Bureau and Board under this Act.

(5) The Secretary shall perform corporate secretarial duties for the Board and such other functions as the Board may determine, under the direction of the Board and the Executive Director.

12. (1) The Board may, whenever the need arises, convene an *ad hoc* consultative forum consisting of representatives of organisations and State institutions with an interest in promoting standardisation in industry and commerce.

Standards
Consultative
Forum

(2) The Standards Consultative Forum shall—

(a) consider matters that promote consumer protection, industrial efficiency and development through standardisation;

(b) make recommendations to the Board on—

(i) the impact of standards in public safety and health and factors affecting compliance with standards;

(ii) areas of cooperation to secure the adoption of standards; and

(iii) any other matter on which the Board requests for input for purposes of this Act; and

(c) recommend areas for law reform taking into account international best practice.

(3) The Board shall establish rules for the procedure of the standards consultative forum which are consistent with the provisions of this Act.

13. (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement

Disclosure
of interest

of the meeting, declare that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to, that matter.

(2) A disclosure of interest made under sub section (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
persons

14. (1) A person shall not, without the consent, in writing, given by or on behalf of the Bureau, publish or disclose to an unauthorised person, otherwise than in the course of that person's duties, the contents of a document, communication or information which relates to, or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Immunity

15. An action or other proceeding shall not lie or be instituted against a member of the Board, committee of the Board or a member of staff of the Bureau for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers conferred under this Act.

PART III
ZAMBIAN NATIONAL STANDARDS

16. (1) The Bureau shall establish and maintain a system to develop and publish **Zambian National Standards** in conformity with international norms and best practice.

(2) The Bureau may, in the development of a **Zambian National Standard**—

(a) establish national technical committees and provide for their composition, functions and tenure; and

(b) recognise standards development organisations for a specified scope of activity, except that such organisations shall comply with the criteria set out in the standard development process referred to in subsection (3).

(3) The Bureau shall develop and maintain a standard to provide for the process to be used to set or amend and approve a **Zambian National Standard**.

(4) The **Zambian National Standard** referred to in subsection (1) shall be approved by the Board and shall comply with the requirements of international and regional trade agreements to which Zambia is a party.

(5) The Bureau may withdraw a **Zambian National Standard** if it is no longer required or is outdated or cannot be amended or revised.

(6) Where the **Zambian National Standard** referred to in subsection (5) is used in regulation or incorporated in a written law, the Bureau shall consult the relevant State institution responsible for the regulation of the written law before withdrawing the **Zambian National Standard**.

17. (1) The Bureau may develop, publish, amend and withdraw normative and informative documents other than **Zambian National Standards**.

(2) A document published in terms of subsection (1) shall specify that the document does not have the status of a **Zambian National Standard**.

18. (1) The Bureau shall publish a **Zambian National Standard**, including an amendment, revision or withdrawal of the **Zambian National Standard**, in the *Gazette*.

(2) The notice in the *Gazette* shall—

(a) state the title, number and date of issue of the **Zambian National Standard**; and

Zambian
National
Standards

Development
of normative
and
informative
documents

Publication of
standard

(b) contain a summary of the scope and purpose of the Zambia National Standard or its amendment.

(3) Despite the provisions of any other written law, a person shall not issue a document which creates or may create the impression that it contains or is a Zambian National Standard.

Incorporation
of standard
in legislation

19. (1) A Zambian National Standard that is published in the *Gazette* pursuant to section 18 may be incorporated in any law by reference or title and number.

(2) Where a Zambian National Standard is incorporated in any law in terms of subsection (1) without indicating the year or edition number and that Zambian National Standard is amended or revised, the amended or revised Zambian National Standard shall be deemed to have been incorporated.

Copyright in
standard and
publication

20. (1) Despite the provisions of any other law—

(a) the copyright in a Zambian National Standard or a publication issued by the Bureau is vested in the Bureau; and

(b) the Bureau shall not be deprived of the copyright referred to in paragraph (a), if a Zambian National Standard, a provision of the Zambian National Standard or any publication issued by the Bureau is incorporated into a law in terms of this Act or any other law.

(2) A person shall not publish, reproduce or record in any manner or form a document or part of the document in which the copyright vests in the Bureau, without the authorisation of the Bureau.

Restriction
on
certain
claims on
products and
services

21. (1) A person shall not claim or declare that a product or service conforms with a Zambian National Standard or other publication of the Bureau, unless the claim or declaration is true and accurate in all material aspects.

(2) A person shall not, in connection with the sale of a product or the supply of a service, refer directly or indirectly to the Bureau or the Board in a manner or under circumstances likely to create the impression that the product or service has been approved by the Bureau or the Board, unless the product or service is formally licensed in terms of a conformity assessment scheme administered by or on behalf of the Bureau under Part IV.

PART IV

CONFORMITY ASSESSMENT SERVICES

22. (1) The Bureau may, with the approval of the Board, establish, maintain and provide inspection services to the public and private sectors. Inspection services

(2) The Bureau may enter into contracts with the public and private sectors for the provision of inspection services.

(3) The Bureau shall, in order to ensure the integrity of the inspection services—

- (a) appoint suitably qualified staff with knowledge of the relevant sectors;
- (b) establish suitable infrastructure to enable it to perform the required tests; and
- (c) operate quality management systems in accordance with the relevant international standards.

23. (1) The Bureau may, with the approval of the Board, establish and maintain testing laboratories in order to provide scientific and technical services to the public and private sectors. Testing services

(2) The Bureau shall, in providing analytical and testing services and in setting up the testing laboratories—

- (a) provide information on analytical methods and comparative testing to other laboratories;
- (b) co-ordinate the development of new analytical methods; and
- (c) participate in interlaboratory comparisons and proficiency testing schemes among testing laboratories at national, regional and international level.

(3) The Bureau may enter into contracts with the public and private sectors for the provision of testing services.

(4) The Bureau shall, in order to ensure the integrity of the testing services—

- (a) appoint suitably qualified persons with knowledge of the relevant sectors;
- (b) establish suitable infrastructure to enable it to perform the required tests; and
- (c) operate quality management systems in accordance with the relevant international standards.

- (5) The Bureau shall, in order to ensure the integrity of the testing services, attain accreditation for test laboratories to international standards.
- Product certification
- 24.** (1) The Minister may, on the recommendation of the Board, by statutory instrument—
- (a) establish product certification schemes to be administered by the Bureau; and
- (b) declare a mark to be a certification mark for the purposes of certifying conformity of a product with a declared standard.
- Cap. 401
- (2) A certification mark shall not be declared which so closely resembles a trade mark registered under the Trade Marks Act as to be likely to be mistaken for that trade mark.
- (3) A person shall not apply a certification mark to a product that does not comply with the requirements of the relevant standard except with the authority of the Bureau, in writing, and in accordance with this Act or any other relevant law.
- (4) The Bureau shall not unreasonably withhold an authorisation of a product that conforms with the relevant standard.
- (5) A person shall not apply to a product or commodity, or otherwise use in connection with the supply or promotion of a product or commodity, a mark that so closely resembles a certification mark as to be likely to be mistaken for the certification mark, unless it was registered as a trade mark before the commencement of the repealed Act.
- Cap. 416
- (6) A person shall not, in connection with the supply or promotion of a product or commodity, make any reference to the Board or the Bureau or to any certification mark, except to the extent authorised under subsection (3).
- (7) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units.
- System certification
- 25.** (1) The Minister may, on recommendation of the Board, by statutory instrument—
- (a) establish a system certification scheme to be administered by the Bureau; and
- (b) declare a mark to be a certification mark for the purposes of providing independent evidence of conformity of a company, process or body with a management system standard.

(2) A certification mark shall not be declared which so closely resembles a trade mark registered under the Trade Marks Act as to be likely to be mistaken for that trade mark. Cap. 401

(3) A person may, with the written authority of the Bureau, in accordance with this Act or any other written law, apply for a certification mark in respect of a management system where the system conforms with the requirements of the relevant standard.

(4) The Bureau shall not unreasonably withhold an authorisation under this section for a management system that conforms with the relevant standard.

(5) A person shall not apply to a product or commodity, or otherwise use in connection with the supply or promotion of a management system, any mark that so closely resembles a certification mark as to be likely to be mistaken for the certification mark, unless it was registered as a trade mark before the commencement of the repealed Act. Cap. 416

(6) A person shall not, in connection with the promotion of a management system, make any reference to the Board or the Bureau or to any certification mark, except to the extent authorised under subsection (3).

(7) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units.

26. The certification mark for all products and services in the Republic shall be as prescribed by the Minister by statutory instrument. Certification mark

PART V

FINANCIAL PROVISIONS

27. (1) The funds of the Bureau shall consist of such monies as may— Funds of Bureau

- (a) be appropriated to the Bureau by Parliament;
- (b) be paid to the Bureau by way of grants or donations; or
- (c) vest in or accrue to the Bureau.

(2) The Bureau may, subject to the approval of the Minister—

- (a) accept monies by way of grants or donations from a source within or outside Zambia;
- (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions; and

(c) charge and collect fees for services provided by the Bureau.

(3) There shall be paid from the funds of the Bureau—

(a) the emoluments of the members and staff of the Bureau as approved by the Emoluments Commission;

(b) such travelling and other allowances for members of the Board, members of a committee of the Board or staff of the Bureau when engaged on the business of the Bureau at such rates as the Emoluments Commission may approve; and

(c) any other expenses incurred by the Bureau in the performance of its functions under this Act.

(4) The Board may, with the approval of the Minister, invest in such manner as it considers appropriate, such funds of the Bureau that it does not immediately require for the discharge of its functions.

Financial
year

28. The financial year of the Bureau shall be a period of twelve months ending on 31st December.

Accounts
and audit

29. (1) The Bureau shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Bureau shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

(3) The Auditor-General's fees shall be paid by the Bureau.

Annual
report

30. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Bureau shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Bureau and there shall be appended to that report

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

PART VI

GENERAL PROVISIONS

31. (1) A person aggrieved with the decision of the Bureau under this Act may appeal to the Minister within thirty days of the receipt of the decision of the Bureau.

Appeals

(2) A person aggrieved with a decision of the Minister may appeal to the High Court.

32. Where a judgment order is obtained against the Bureau, execution, attachment or process of any nature shall not be issued against the Bureau or against any property of the Bureau, but the Bureau shall cause to be paid out of its revenues such amount as may, by the judgment or order, be awarded against the Bureau to the person entitled to such amount.

Immunity from execution of judgments

33. (1) A person shall not commence or register an activity, society, trade, company, business, occupation or association under any name containing the words “Bureau of Standards”, “Standards Bureau”, “Council of Standards”, “Standards Council”, “Standards Board”, “Board of Standards” or other words that purport that the person is, or is connected or associated with, the Bureau or the Board.

Prohibition on use of certain words

(2) A person shall not—

(a) under any law, register any trade or trade name that contains the word “standard”; or

(b) supply any commodity under a mark or description that contains the word “standard”; in a manner that purports that the commodity to which the trade mark, trade name or description relates conforms with any standard under this Act.

(3) A person who contravenes this section commits an offence.

34. A person who contravenes a provision of this Act for which a specific penalty is not provided for shall, upon conviction, be liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

General penalty

35. Where an offence under this Act is committed by a body corporate or unincorporated body, and the director, manager or shareholder of that body is suspected to have committed the offence and is charged of that offence, that director, manager or shareholder of the body corporate or unincorporate body is liable, upon conviction, to the penalty specified for the offence, unless the director, manager or shareholder proves to the satisfaction of the court that

Offences by principal officer or shareholder of body corporate or unincorporate body

the act constituting the offence was done without the knowledge, consent or connivance of the director, manager or shareholder or that the director, manager or shareholder took reasonable steps to prevent the commission of the offence.

Regulations **36.** The Minister may, in consultation with the Bureau, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Repeal of
Cap. 416 **37.** (1) The Standards Act, 1994, is repealed.
(2) Despite subsection (1), the provisions of the Schedule apply in respect of the matters specified in that Schedule.

SCHEDULE

(Section 37(2))

1. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Bureau by virtue of this Act and without further assurance, such assets, rights, liabilities and obligations as the Minister may determine which immediately before that date were the assets, rights, liabilities and obligations of the Zambia Bureau of Standards which are necessary for performance of the Bureau's functions under this Act.

Transitional
provisions

(2) Subject to subsection (1), every deed, bond and agreement, other than an agreement for personnel service, to which the Zambia Bureau of Standards was a party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this subsection, have effect as if -

- (a) the Bureau had been party to it;
- (b) for any reference to the Zambia Bureau of Standards there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Bureau; or
- (c) for any reference to any officer of the Zambia Bureau of standards, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Bureau as it shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the Zambia Bureau of Standards are deemed to be transferred to the Bureau in respect of which transfer a written law provides for registration, the Bureau shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in subsection (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal
Proceedings

2. (1) Any legal proceedings or application of the Zambia Bureau of Standards pending immediately before the commencement of this Act by or against the Zambia Bureau of Standards may be continued by or against the Bureau.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Zambia Bureau of Standards may be instituted by or against the Bureau.

Staff of
Zambia
Bureau of
Standards

3. (1) There shall be transferred to the service of the Bureau such staff as are necessary for the performance of the functions of the Bureau under this Act.

(2) The service of the persons referred to in subsection (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the Zambia Bureau of Standards before the commencement of this Act.
