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STANDARDS AUTHORITY ACT, 1973

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STANDARDS AUTHORITY ACT, 19731

AN ACT to provide for promulgation of standards, for ensuring high quality of goods and for related matters.

1. Establishment of the Standards Authority

- (1) There is hereby established a body to be known as the Standards Authority.
- (2) The Authority is a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name.
- (3) The Authority shall for the performance of its functions, acquire and hold movable or immovable property, dispose of property by lease or otherwise and enter into a contract or any other transaction.
- (4) Where there is a hindrance to the acquisition of property under subsection (3), the property may be acquired for the Authority, under the State Property and Contracts Act, 1960 (C.A. 6) or under the State Lands Act, 1962 (Act 125) and that Act shall apply with the modifications that are necessary to provide for the vesting of the property acquired, in the Authority and for the cost of the acquisition to be defrayed by the Authority.

2. Aims of the Authority

The aims of the Authority are

- (a) to establish and promulgate standards with the object of ensuring high quality of goods produced in Ghana, whether for local consumption or for export;
- (b) to promote standardisation in industry and commerce;
- (c) to promote industrial efficiency and development;
- (d) to promote standards in public and industrial welfare, health and safety.

3. Functions of the Authority

- (1) The Authority shall perform the functions which in the opinion of the Board are necessary to further most effectively the aims of the Authority as set out in section 2.
- (2) Without prejudice to the generality of subsection (1), the functions of the Authority are,
 - (a) to prepare, frame, modify, or amend specifications and promulgate standard specifications;

(b) to promote research in relation to specifications; and to provide for the examination and testing of goods, commodities, processes, and practices, and for those purposes the Authority may establish any laboratories and any other facilities as it thinks fit;

I. The Act was issued as the Standards Decree, 1973 (N.R.C.D. 175) made on the 2nd day of May, 1973 and notified in the *Gazette* on 4th May, 1973.

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- (c) to prohibit the sale or manufacture of goods in the national interest;²
- (d) to maintain the necessary machinery to ensure that goods prepared and manufactured for export are distinctly marked for export only, and to provide for the issue of a certificate to the effect that goods comply with the known requirement of standards in the country to which they are or about to be consigned, before the export of the goods is permitted;
- (e) to prohibit the importation into Ghana of foods which have not been certified by the Board as complying with standards;³
- (j) to provide for the registration and regulation of the use of standard marks;
- (g) to undertake and encourage educational work in connection with standardisation

- (h) to collect and disseminate information relating to standardisation and related matters, including the publication of reports, pamphlets, booklets, journals, and any other publication;
- (i) to develop and maintain a collection of library materials and a museum collection relating to standardisation and allied matters;
- (j) to assist government departments, local authorities and any other public bodies in the preparation of the specifications required by them;
- (k) to co-operate with representatives of industry, or with a government department, local authority, or any other public bodies or persons with a view to securing the adoption of standards; ..
- (l) to co-operate with any persons, associations, or organisations outside Ghana having similar functions with a view to furthering the functions of 'the Authority;
- (m) to solicit and accept for the purposes of the Authority money, land, or any other property from a local authority, organisation, or person by way of grant, subsidy, donation, gift, subscription or otherwise;
- (n) to become a member of or affiliate to an international body concerned with standardisation or a related matter;
- (o) to endorse an international or any other overseas specification as suitable for use in Ghana, but that endorsement shall not have the effect of making the specification a standard specification under this Act;
- (p) to appoint agents of the Authority in Ghana or any other country for the purpose that it determines;
- (q) to establish branch offices of the Authority in Ghana;

(r) to institute training schemes for its staff either in Ghana or elsewhere in furtherance of its aims.

2. Substituted by the Standards (Amendment) Decree, 1979 (A.F.R.C.D. 44). The original paragraph reads: "(e) to recommend to the Ministry responsible for Industries to prohibit the sale or manufacture of goods in the national interest as well as in the interest to public health and safety."

3. Substituted by The Standards (Amendment) Decree, 1979 (A.F.R.C.D. 44). The original paragraph reads: "(e) to recommend to the Ministry responsible for Trade to prohibit the importation into Ghana for the purposes of sale, use or human consumption any goods, unless the same have been certified by the Board as complying with standards set up by the Board."

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The Board

4. Composition of the Board

- (1) The governing body of the Authority is a Board consisting of
- (a) the chairman,
- (b) the person appointed the Director under section 6, and
- (c) four other members.
- (2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.
- (3) The Board may co-opt a person to act as an adviser at any of its meetings, but a person co-opted is not entitled to vote at the meeting on a matter for decision by the Board.
- (4) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of any of them.

5. Meetings of the Board

- (1) The Board shall meet at six least times in every year at the times and places that the Board may appoint.
- (2) The chairman shall preside at the meetings of the Board, and in the absence of the chairman a member of the Board appointed by the members present from among them-selves shall preside. .
- (3) The chairman may call a special meeting of the Board, and shall call a special meeting of the Board when requested to do so by a requisition in writing signed by at least three members of the Board.
- (4) At a meeting of the Board four members shall form a quorum.
- (5) A question before a meeting of the Board shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote.
- (6) A special meeting shall not be held, unless at least seven days notice in writing and of the business to be transacted at the meeting has been given to the members of the Board.
- (7) Subject to this Act and to the Rules, the Board may regulate its own procedure.

6. Director

- (1) There shall be a Director
- (a) who shall be appointed by the President in accordance with article 195 of the Constitution, and
- (b) who shall hold office on the terms and conditions specified in the instrument of appointment.

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(2) The Director is the administrative head and chief disciplinary officer of the Authority and is generally responsible to the Board for maintaining and promoting good order and efficiency.

(3) Any other functions of the Director shall be prescribed by by-laws.

7. Staff of the Authority

The Authority may employ advisers and consultants, officers or members of the technical, administrative and any other staff of the Authority that the Board considers necessary in pursuance of the aims of the Authority.

8. By-laws

(1) The Minister may, on the advice of the Board, enact by-laws to prescribe or regulate

(a) a matter which is required by this Act to be prescribed by by-laws;

(b) the functions, constitution and terms of membership of the bodies that the Board or the Director may think proper to set up;

(c) the procedure for employment, the functions, and terms of office, of those officers that the Board thinks appropriate to employ; and the procedure for the conduct of disciplinary proceedings;

(d) any other matters in furtherance of the aims of the Authority.

(2) By-laws shall not be made which are consistent with this Act.

9. Rules

(1) The Board may make Rules

(a) j prescribing the manner in which specifications may be declared to be standard specifications;

(b) regulating the promulgation of standard specifications;

(c) providing for the amendment or revocation of a standard specification and regulating the procedure in relation to amendment or revocation;

(d) governing

- (i) the treatment, processing and manufacture of goods;
- (ii) the packaging, labelling, advertising and selling of goods; and
- (iii) the size, dimensions, and any other specifications of packages of goods;
- (e) prescribing standards of composition, purity, or any other property of goods
- (f) regulating the issue of licences for using standard marks, prescribing terms and conditions on or subject to which, the licences may be issued; and providing for and regulating the renewal, suspension, or revocation of licences;
- (g) prescribing methods of proving the existence or non-existence or the terms and conditions of a licence or consent issued or given under this Act;

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- (h) prescribing the forms required for the purposes of this Act;
 - (i) prescribing the sale price or methods of fixing the sale price or copies of standard specifications or any other publications for the purposes of this Act;
 - (j) prescribing matters in respect of which fees are to be payable under this Act or under the Rules the amount of the fees, and the persons liable to pay them;
 - (k) authorising the refund or remission, in the circumstances that may be specified in Rules of the fees payable under this Act or under the Rules;
 - (l) providing for the custody of the property of the Authority and the custody and use of the common seal of the Authority; and
 - (m) providing for the matters that are necessary or expedient for the administration of the affairs of the Authority or as may be required to be prescribed under this Act.
- (2) Where it is proposed to submit to a meeting of the Board a motion for the making, alteration, or rescission of the Rules, written notice of the motion shall be served on every member of the Board, at least fourteen days before the date of the meeting.

10. Committees

- (1) The Board may appoint the committees that it thinks fit for the purpose of advising the Board on the matters relating to the Board's functions that are referred to them by the Board.
- (2) Subject to the Rules and to the directions given by the Board a committee may regulate its own procedure.

Specifications and Licences

11. Standard specifications

- (1) The Board may in accordance with the advice of the appropriate committee, declare a specification, including an international or any other overseas specification, to be a standard specification for the purpose of this Act and may in accordance with the advice of that committee amend or revoke the declaration.
- (2) Wherever the Board declares a specification to be a standard specification or amends or revokes a standard specification, notification of the declaration, amendment or revocation shall be published in the *Gazette*.

(3) A standard specification, amendment, or revocation shall in addition, be promulgated in the manner that the Board directs or as specified by the Rules.

(4) The fact that a specification has been declared to be a standard specification shall, in the absence of proof to the contrary, be sufficient evidence that the requirements of this section have been complied with

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12. Licences to use standard marks

(1) A person desiring to use a standard mark in connection with goods, a commodity, a process, or a practice, may apply to the Board in the manner determined or prescribed by the Board.

(2) The Board may, if it is satisfied that the goods, commodity, process, or practice with respect to which the applicant desires to use a standard mark conforms to a standard specification, grant to the applicant a licence to use a standard mark on, or subject to, the conditions the Board may think fit or as prescribed by the Rules.

(3) A licence shall not be granted for a period exceeding one year.

(4) So long as the terms of a licence are complied with, the licence may be renewed by the Board for the period that it thinks fit, not exceeding one year at any time.

(5) A licence shall be deemed to have been renewed for periods of one year, unless specifically revoked.

(6) A person to whom a licence is granted under this section shall, if and when required by the Board so to do, submit a sample for examination or testing or submit the information required by the Board.

(7) A sample required under subsection (6) to be submitted for examination or testing may be selected at random by a person authorised by the Board.

(8) Where a sample has been submitted or selected for examination or testing, the licensee shall pay the prescribed costs for the examination or testing.

(9) The Board shall keep a register in which there shall be recorded the details of a licence granted under this section.

(10) The register shall at reasonable times be open for inspection by the public at the office of the Authority.

(11) The Board may revoke a licence granted under this section, for good cause.

(12) A person aggrieved by the revocation may appeal to the Minister not later than twenty-eight days after the date of the revocation.

(13) The Minister may confirm, reverse or otherwise vary the Board's decision.

13. Protection

The fact that the goods, commodity, process, or practice conforms, are or are alleged to conform to a standard specification, or the fact that a standard mark is used in connection with the goods, commodity, process or practice shall not give rise to a

claim against the Government or Authority.

Financial Provisions

14. Funds

The funds and property of the Authority consist of

(a) the moneys appropriated by Government for the purposes of the Authority,

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- (b) the moneys paid to the Authority by way of grants, subsidies, donations, gifts, fees, subscriptions, rent, interest, and royalties,
- (c) the moneys derived from the sale of property held by or on behalf of the Authority,
- (d) any other moneys and property lawfully received by the Authority for its purposes, and
- (e) the accumulations of income derived from the property or moneys of the Authority.

15. Borrowing powers

Subject to article 181 of the Constitution and with the prior consent in writing of the Minister responsible for Finance, the Authority may borrow money from Government or from a corporation, local authority, or person, and for the purpose of securing the money so borrowed, may mortgage, charge, or pledge a right, title, or an interest in any of its property.

16. Money paid into bank

- (1) The moneys received for or on behalf of the Authority by an officer or employee of the Authority amounting to twenty cedis or more shall, as soon as practicable after it has come into the hands of that person be paid into the bank account of the Authority.
- (2) Moneys shall not be withdrawn from the bank, except by cheque signed by an officer or employee of the Authority approved by the Board and countersigned by another officer or employee approved by the Board.

17. Accounts

- (1) The Authority shall keep full and correct accounts of the moneys received and expended by it, and the accounts shall be audited by the Auditor-General.
- (2) The Board shall, as soon as practicable after the end of each financial year ending with the thirtieth day of June, cause full and true statements of accounts of the income and expenditure of the Authority in that year and of its assets and liabilities at the end of that year to be prepared.

18. Annual report

(1) The Board shall, not later than three months after the thirtieth day of June in each year, furnish the Minister with a report of the activities of the Authority during that year, and shall attach to the report a copy of the accounts of the Authority for that year certified by the Auditor-General.

(2) A copy of the annual report of the Authority including the accounts shall be laid before Parliament within twenty-eight days after the date of its receipt by the Minister.

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19. Tax exemption

Subject to article 174 of the Constitution, the Authority shall be exempt from the taxes and duties that the Minister responsible for Finance may by writing direct.

Miscellaneous

20. Bona fide acts

A member of the Board appointed or holding office under this Act and a member of a committee of the Board and an employee of the Authority is be personally liable for an act done or default made by the Board or a committee in good faith in the course of operations of the Board or the committee.

21. Offences and penalties

(I) A person commits an offence if that person

(a) makes a statement or representation, whether in writing or not, or uses a mark, which conveys or is likely to convey the impression that the goods comply, or the process, or practice complies with a standard specification when it does not do so;

(b) makes a statement or representation, whether in writing or not, or uses a mark with reference to the goods commodity process, or practice, which conveys or is likely to convey the impression that a person who is not licensed to use a standard mark with reference to the goods, commodity, process, or practice is licensed or is otherwise entitled to use a standard mark;

(c) without the authority of the Board, and for the purpose of gain or profit, whether by means of sale or otherwise makes a statement or representation, whether in writing or not, by which comparison is made in respect of the goods, commodity, process, or practice, with the standard provided for by a standard specification, unless that person proves having acted without intent to defraud; or

(d) having been licensed to use a standard mark, uses the standard mark after the revocation of the licence to do so, or otherwise than in accordance with the terms and conditions of the licence.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term

of imprisonment

not exceeding two years and, in the case of a continuing offence, to a further fine not exceeding on penalty unit for every day during which the offence continues.

22. Offences by bodies of persons

(I) In the case of an offence by a body of persons,

(a) where the body of persons is a body corporate, other than a partnership, every director and officer of that body shall also be deemed to have committed that offence; and

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(b) where the body of persons is a firm, every partner of that firm shall be deemed to have committed that offence.

(2) A person shall not be convicted of that offence, if it is proved that the offence was committed without the knowledge of, or that due diligence was exercised by, that person to prevent the commission of the offence.

23. Secrecy

(1) The information obtained by the Board or by an officer or employee of the Authority or by any other person in the course of administration of this Act as to a formula, process, or practice shall be treated as confidential, except for purposes connected with the administration of this Act.

(2) The disclosure of any information relating to a formula, process, or practice to the Authority or to a member of the Board, or an officer or employee of the Authority, or to any person for purposes connected with the administration of this Act shall not prejudice an application subsequently made for a patent.

24. Transfer of assets and liabilities

*Spent.*⁴

25. Interpretation

In this Act, unless the context otherwise requires,

"Auditor-General" includes an auditor appointed by the Auditor-General;

"Authority" means the Authority established by section 1;

"Board" means the governing body established by section 4; **"by-laws"** means the by-laws made under section 8;

"functions" includes powers and duties;

"good" means an article, a commodity, or any other matter that may be prescribed;

"Minister" means the Minister responsible for Industries;

"Rules" means Rules made under section 9;

"specification" includes a description of the goods, commodity, process of practice, by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin,

age, or any other characteristics or by reference to a mark or label on the goods, commodity, process or practice and a model""form of bye-laws, a glossary of terms, definitions, or symbols, and a recommended practice;

4. The section provided that

"(I) All assets and liabilities which immediately before the commencement of this Decree vested in the National Standards Board set up under the Standards Decree, 1967 (N.L.C.D. 199) are hereby vested in the Board.

(2) Every contract in respect of any matter subsisting between the National Standards Board and any other person immediately before the commencement of this Decree shall be deemed to subsist between the Board and other person."

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"standard mark" means a mark licensed as a standard mark under section 12;

"standard specification" means a specification which has been declared a standard specification under section 11.

26. Repeal

*Spent*⁵

5. The section provided that:

"(1) The Standards Decree, 1967 (N.L.C.D. 199) is hereby repealed.

(2) Notwithstanding the repeal of the said enactment, every statutory

instrument made there-under, and in force immediately before the commencement of this Decree, shall until altered, revoked or modified under this Decree, continue in force as if made under the corresponding provisions of this Decree."

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Source: World Intellectual Property Organization

<http://www.wipo.int>