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STANDARDS ORGANISATION OF NIGERIA ACT, 2015



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STANDARDS ORGANISATION OF NIGERIA ACT, 2015

ACT No. 14

AN ACT TO REPEAL THE STANDARDS ORGANISATION OF NIGERIA ACT, CAP S9 LAWS OF THE FEDERATION OF NIGERIA, 2004 AND ENACT THE STANDARDS ORGANISATION OF NIGERIA ACT, 2015 FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNCTIONS FOR THE ORGANISATION, INCREASING PENALTY FOR VIOLATIONS ; AND FOR RELATED MATTERS

[26th Day of May, 2015] Commence-
ment.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—STANDARDS ORGANISATION OF NIGERIA

1.—(1) There is the Standards Organisation of Nigeria (in this Act referred to as “the Organisation”).

Establishment
of the
Standards
Organisation
of Nigeria.

(2) The Organisation—

(a) shall be a body corporate with perpetual succession and a common seal ;

(b) may sue and be sued in its corporate name ; and

(c) may acquire, hold or dispose of any property, whether movable or immovable.

2.—(1) Subject to the provisions of this Act, the Minister may give general or special directives to the Organisation and the Organisation shall comply with and give effect to such directives.

Power of the
Minister to
give
directives to
the
Organisation.

(2) The Organisation shall give to the Minister such information and returns relating to its activities as the Minister may, from time to time, require.

PART II—THE STANDARDS COUNCIL OF NIGERIA

3.—(1) There is established for the Organisation the Standards Council of Nigeria (in this Act referred to as “the Council”) which shall consist of—

The
Standards
Council of
Nigeria.

(a) a Chairman ;

(b) one representative, each from the Federal Ministry of—

(i) Agriculture and Rural Development,

(ii) Defence,

(iii) Trade and Investment,

(iv) Finance,

(v) Works,

(vi) Health,

(vii) Science and Technology,

(c) one representative from each of the following fields of activity, recommended by the Minister after consultation with the appropriate body, if any—

- (i) university education and research,
- (ii) chambers of commerce, industry and mines,
- (iii) engineering and engineering consultancy services,
- (iv) processing and manufacturing,
- (v) construction industry,
- (vi) employers' association, and
- (vii) consumers' association ;

(d) one person not employed in the public service who shall be a person of unquestionable integrity and appearing to the Minister to represent interest or fields of activity not otherwise represented ; and

(e) the Director-General.

(2) When recommending a person for appointment to represent a Ministry, the Minister shall recommend a person, from the Ministry or any statutory corporation for which that Ministry has overall control or responsibility, to represent such Ministry.

(3) The President, on the recommendation of the Minister, shall appoint the Chairman and all the members of the Council.

(4) Each member of the Council shall serve for a term of 4 years and may be eligible for reappointment for a further term of 4 years and no more.

(5) Notwithstanding the provisions of subsection (1), a member of the Council ceases to hold office if he—

- (a) becomes of unsound mind ;
- (b) becomes bankrupt or makes a compromise with creditors ;
- (c) is convicted of felony or any offence involving dishonesty ;
- (d) is guilty of serious misconduct in relation to his duties ; or
- (e) is a person who has professional qualification and is disqualified or suspended (other than at his own request) from practising his profession in any part of Nigeria by the order of any competent authority made in respect of him personally.

(6) A member of the Council may resign his appointment by writing, under his hand, a letter addressed to the Minister, and his membership shall terminate on the date of receipt of his letter of resignation.

(7) Notwithstanding any provision to the contrary, the President may, at any time, remove any member of the Council from office if he is of the opinion

that it is not in the national interest or in the interest of the Organisation for such a member to continue in office and shall cause such member to be notified to that effect.

(8) A member appointed to any vacant position resulting from the application of the provision of subsection (3), (4) or (5) shall represent the same interest which the predecessor represented, and shall only complete the term which, if the predecessor had continued in office, he would have completed.

(9) The provision of the Schedule to this Act shall have effect with respect to the meetings and proceedings of the Council and other matters therein mentioned.

Schedule.

4.—(1) The functions of the Council shall to—

Functions of the Council, etc.

(a) advise the Federal Government generally on the national policy on standards, standards specification, quality control and metrology ;

(b) designate, establish and approve standards in respect of metrology, materials, commodities, structures and processes for the certification of products in commerce and industry throughout Nigeria ;

(c) provide the necessary measures for quality control of raw materials and products in conformity with the standard specification ;

(d) authorise the recognition and registration of quality certification bodies, inspection bodies, testing laboratories calibration laboratories and qualified personnel related to these activity area operating legally ; and

(e) carry out other functions imposed on it under this Act or any other enactment.

(2) Subject to this Act, the Minister may give the Council directives of a general character or relating generally to particular matters (but not to any individual or case) with regard to the exercise by the Council of its functions, and the Council shall comply with the directives.

PART III—FUNCTIONS AND DUTIES OF THE ORGANISATION

5.—(1) Subject to the provisions of section 4 of this Act, and any other law in that regard, the Organisation shall—

Functions of the Organisation.

(a) organise tests and do everything necessary to ensure compliance with standards designated and approved by the Council ;

(b) undertake investigation as necessary into the quality of facilities, systems, services, materials and product, whether imported or manufactured in Nigeria ;

(c) evaluate quality assurance activities, including certification of systems, products and laboratories throughout Nigeria ;

(d) ensure reference standards for calibration and verification of measures and measuring instruments and shall, with respect to metrology—

Cap. W3.
LFN, 2004.

(i) realize and disseminate the units of physical measurements based on the International System (SI Units) under the Weights and Measures Act,

(ii) establish, keep, maintain, develop and update the Nigerian National Primary and Reference (Secondary and Tertiary) Standards of Measurements for the SI Units traceable to international standards,

(iii) ensure that working standards used in Nigeria are traceable to the National Standards kept by the Organisation,

(iv) establish, develop and maintain a National Physical Laboratory for measurement expertise and infrastructure necessary to enable business, technology and academia to take advantage of the advances in the field of measurement, and

(v) provide measurement and calibration services to industry and government ;

(e) compile an inventory of products in Nigeria requiring standardization ;

(f) compile Nigerian Industrial Standard Specifications ;

(g) develop methods for testing materials, supplies and equipment, including items purchased, whether locally manufactured or imported, for use of department of Government of the Federation or a State and private establishment ;

(h) establish an Import and Export Product Surveillance, Certification and Conformity Assessment Scheme ;

(i) establish a mandatory conformity assessment programme for locally manufactured products in Nigeria ;

(j) impose fees, fines or penalties on a person who contravenes any Import or Export Surveillance, Certification or Conformity Assessment Scheme ;

(k) register and regulate standards, marks and certification ;

(l) undertake registration of all manufactured products distributed, marketed and consumed throughout Nigeria ;

(m) undertake preparation and distribution of standard samples ;

(n) establish and maintain such number of laboratories or other institutions as may be necessary for the performance of its functions under this Act ;

- (o) compile and publish general scientific or other data ;
- (p) advise department of the Government of the Federation, State and Local on specific problems relative to standard specification ;
- (q) carry out training and undertake the accreditation of training institutions and organizations for purposes of international standards such as ITU, IEC, ISO, OIML, or Codex, standards or systems certification throughout Nigeria ;
- (r) coordinate all activities relative its functions throughout Nigeria and to cooperate with corresponding national or international organizations in such fields of activity as it considers necessary with a view to securing uniformity of standards specification ;
- (s) establish a Register for National Standards, Standard Marks, Certification Systems and Licences into which all matters relating to standards referred to under this Act shall be entered ;
- (t) undertake appropriate investigations into the production premises and raw materials and establish relevant quality assurance systems, including certification of the production sites for regulated products ;
- (u) undertake any other activity likely to assist in the performance of the functions imposed on it under this Act ; and
- (v) administer and enforce the provisions of this Act.

(2) For purposes of uniformity of standards in Nigeria, all Regulatory Agencies or Organisations dealing with matters pertaining to or related to standards shall do so in collaboration with the Standards Organisation of Nigeria.

(3) The Organisation shall undertake such research as may be necessary for the performance of its functions under this Act and, for that purpose, it shall have power to make use of research facilities available in other institutions, whether public or private upon such terms and conditions as may be agreed upon between the Organisation and the institution concerned.

6. The Organisation shall assemble, maintain and extend a collection of books and publications and such other matters as it considers appropriate for a standard library of the highest standing and may make the facilities of the library available to such categories of persons as it thinks fit and upon such terms and conditions as it considers necessary.

Standard
Library.

7. For all comparisons, tests or investigations performed by the Organisation under this Act, except those performed for the Government of the Federation or a State, or such other public bodies or institutions as may be approved by the Council, a fee sufficient in each case to compensate the Organisation for the entire cost of the service rendered shall be charged by the Organisation.

Power to
charge for
services.

PART IV—STAFF OF THE ORGANISATION

Appointment,
etc. of
Director-
General.

8.—(1) The President, upon the recommendation of the Minister, shall appoint the Director-General who shall be the Chief Executive and the Accounting Officer of the Organisation.

(2) Any person who may be appointed, as Director-General shall have such qualifications and experience as appropriate for a person required to perform the functions conferred on the Director-General by or under this Act.

(3) The Director-General shall—

(a) hold office for a period of 4 years, upon such terms and conditions as may be specified in his letter of appointment ; and

(b) may be eligible for re-appointment for another period of 4 years and no more.

Director-
General to
be
administrative
head of
Organisation.

9. The Director-General shall be the Chief Executive of the Organisation and, subject to the Council's directives on financial, operational and administrative programmes, he shall be free to manage the Organisation in accordance with this Act, and the Council shall not interfere with his methods or with the manner in which he employs the material and human resources of the Organisation in order to obtain results in accordance with this Act.

Special
responsibilities
of the
Director-
General.

10. Without prejudice to the generality of section 9 of this Act, the Director-General shall have responsibility for—

(a) advising the Council in the formulation, implementation and review of national policies and programmes pertaining to standardization, quality control of products, science of measurement and all matters relating to metrology ;

(b) co-ordinating the activities of the Directors appointed under this Act ;

(c) initiating the investigations to be conducted by the Organisation pursuant to the powers conferred by section 5 (1)(b) of this Act ;

(d) representing the Organisation at national and international levels in all matters relating to standardisation, quality control and metrology ; and

(e) enforcing standards and discharging the powers and duties of the Organisation.

Number of
Directors
and their
duties.

11. The number of Directors to be appointed under this Act shall be determined by the Council but such Directors shall be responsible to the Director-General and shall carry out such duties as may be determined by the Director-General.

12.—(1) The Council shall determine or prescribe staff regulations relating generally to the conditions of service of management and other staff of the Organisation, and, without prejudice to the generality of the foregoing regulations, may provide for—

Staff regulations.

(a) the appointment, promotion and disciplinary control of all staff of the Organisation ; and

(b) appeals by such member of staff against dismissal or other disciplinary measures.

(2) Regulations made under sub-section (1) of this section may not be published in the *Gazette* but the Organisation shall bring such to the notice of all affected persons in such manner as it may, from time to time, determine.

13.—(1) Service in the Organisation shall be approved for the purpose of the Pension Reform Act, and all persons employed in the Organisation shall be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder, and nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension, gratuity or other retirement benefit in respect of that office.

Pensions.
Act No. 4,
2014.

(2) For the purposes of the application of the provisions of the Pension Reform Act, and power exercisable by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 of that Act is vested in and shall be exercisable by the Council.

Act No. 4,
2014

14. No staff of the Organisation shall be personally liable for any act or omission done or made by him in accordance with the terms of his engagement.

Exemption
from liability
in the course
of
employment.

PART V—FINANCIAL PROVISIONS

15.—(1) The Organisation shall maintain a fund from which shall be defrayed all expenditure incurred by the Organization for the purposes of this Act.

Fund of the
Organisation.

(2) There shall be paid or credited to the Fund of the Organisation—

(a) fees and penalties charged for services by the Organisation ;

(b) all sums accruing to the Organisation by way of gifts, endowment or other voluntary contribution by persons or organisations ;

(c) foreign aid and assistance from bilateral agencies ; and

(d) subventions and extra budgetary allocations from the Federal Government.

Expenditure
of the
organisation.

16. Subject to appropriation by the National Assembly, the Organisation shall, from time to time, apply the funds at its disposal to—

(a) the cost of establishing and maintaining the Head Office of the Organisation at the Federal Capital Territory, Abuja and its other offices located in other places in Nigeria ;

(b) pay allowances and other benefits of members of the Council and of its Committees ;

(c) pay the emolument and entitlement of the Director-General and other members of staff of the Organisation ;

(d) pay the personnel, overhead, allowance, benefits and other administrative costs of the Organisation ;

(e) the training of members of staff of the Organisation ;

(f) provide scholarships and awards for specialized training of personnel ;

(g) publicize and promote the activities of the Organisation ;

(h) support national, international, scientific and professional organisations and pay annual and other contributions to such bodies ; and

(i) undertake any other activity in connection with all or any of the functions of the Organisation.

Annual
estimates.

17. The Council shall submit to the Minister, not later than 31st October each year, its programme of work and estimates of its income and expenditure for the following year.

Accounts
and audits.

18.—(1) The Council shall keep proper accounts of the Organisation and proper records in relation to those accounts.

(2) The accounts of the Organisation shall be audited, not later than six months after the end of the year to which it relates, by auditors appointed by the Organisation from the list approved by the Auditor-General of the Federation and in accordance with existing financial regulations.

Annual
report.

19. The Organisation shall prepare and submit to the Minister, not later than 30th June, in each year a report on the activities of the Organisation during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Organisation for that year and the auditor's report therein.

Power to
borrow.

20.—(1) The Organisation may, from time to time, borrow, by overdraft or otherwise, such sums as it may require for the performance of its functions under this Act.

(2) The Organisation shall not, without the approval of the Minister, borrow money which exceeds, at any time, the limit set by the Minister.

(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Organisation shall not borrow the sum without the prior approval of the Minister.

21.—(1) The Organisation may accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organisation making the gift.

Power to accept gifts.

(2) The Organisation shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Organisation.

22. The Organisation shall cause to be prepared, not later than 30th September in each year, an estimate of the expenditure and income of the Organisation during the next succeeding year and when prepared, it shall be ratified by the Council and submitted, through the Minister, to the National Assembly for approval.

Budget and Expenditure.

PART VI—NIGERIAN INDUSTRIAL STANDARDS

23.—(1) Whenever the Council intends to establish industrial standards under section 4 (1) (b) of this Act, it shall do so in accordance with the provision of this section.

Procedure for establishment of Industrial Standards.

(2) Before establishing any industrial standard under this section, the Council shall—

(a) inform all parties having, in its opinion, substantial interests in the industrial standard in question ; and

(b) thereafter constitute a committee to inquire into all the relevant aspect of the matter and make a report and, in constituting the said committee, the Council shall ensure as wide a representation on the committee as possible including, where appropriate, representative of the parties herein referred to.

(3) After considering the report of the committee, the Council may establish the industrial standard if, in its opinion, that standard is of significance to the national economy and otherwise conforms to the objectives of this Act.

(4) The Council shall, in order to ensure that any industrial standard established under this section is still appropriate, have it reviewed from time to time and at least not less than once in every 5 years.

(5) The Council shall have power to revise or revoke any industrial standard established under this section, and for that purpose, subsections (2) and (3) of this section shall apply in relation to the revision or revocation of an industrial standard as they apply in relation to the establishment thereof.

Standards to be known as Nigerian Industrial Standards.

24.—(1) The industrial standards established under section 23 of this Act shall be called the “Nigerian Industrial Standards”.

(2) Industrial standards other than those established under section 23 of this Act, shall not be called “Nigerian Industrial Standards.”

Certificate marks.

25.—(1) Where the Council, after the receipt of the report of a committee set up in accordance section 23(2) of this Act, is satisfied that an item of manufacture is of particular importance or significance to the national economy, it may permit the manufacturer (hereinafter referred to as the “permitted manufacturer”) to affix a special certification mark showing that the item of manufacture is one of those falling under the Nigerian Industrial Standards.

(2) The Council may charge such fee as it thinks appropriate for every permit issued under this section.

(3) The Council may revise, reallocate or revoke any permit issued under subsection (1) of this section in accordance with the procedure laid down in that subsection and the issue revision, reallocation or revocation of every such permit shall be notified in the *Federal Gazette*.

(4) For the purpose of this section, the references to item of manufacture includes references to the packages, containers and invoices relative thereto.

(5) The standardisation mark and registration of products specified under Section 5 (1) (k) shall not be identical with any trade mark registered under the Trade Marks Act or so nearly resemble it as likely to be mistaken for it and no mark identical with those standardisation marks or so nearly resembling them as likely to be mistaken for them shall be registered as a trade mark under the Trade Mark Act.

(6) The fact that any product complies or is alleged to comply with Nigerian Industrial Standard approved specification or has been or is alleged to have been manufactured in accordance with any such specification or that a standardisation mark is used in connection with any product shall not give rise against the Organisation or its employees thereof.

(7) Where there is a conflict between the provisions of a specification declared to be a Nigerian Industrial Standards under this Act and a specification made or declared under any other written law, the Nigerian Industrial Standards shall prevail.

Cap. T13,
LFN, 2004.

Offences in relation to standards.

26.—(1) Any person, other than the permitted manufacturer, who makes or sells or exposes for sale or uses, for the purpose of advertising, any material or document on or in which is portrayed—

Power of the Minister to declare established standards as binding.

27.—(1) The Minister may, from time to time, on the recommendation of the Council by—

(a) order published in the Federal *Gazette*, or

(b) publication in any two national dailies having nation-wide circulation, or

(c) notice served on any affected manufacturer,

declare that an industrial standard established under section 12 of this Act shall be binding.

(2) Any industrial standard declared and published in the Federal *Gazette* by virtue of subsection (1) of this section shall be known as “Mandatory Industrial Standard”.

(3) Every manufacturer of any item manufacture in respect of which a mandatory industrial standard has been declared shall ensure that the item complies with (or was manufactured in accordance with) such standard which is for the time being in force.

(4) In any criminal proceeding commenced against any person under this section, the production of a certificate signed by the Director-General or any other person duly authorised by the Director-General stating that an item of manufacture does not comply with the applicable mandatory industrial standard and describing the nature of the failure to comply with the mandatory industrial standard, shall be sufficient evidence of such failure to comply.

(5) For the purposes of the trial of any person charged with an offence under this section, any item of manufacture bearing the name or mark of that person shall, unless the contrary is proved, be presumed to have been manufactured by that person and the item shall be presumed to have been produced by him in the form in which it was found offered for sale.

(6) Where any person is convicted of an offence under this section, the court may make such order as to the forfeiture or destruction of the item of manufacture in question as it may think appropriate in the circumstances.

Designation of ports for special entry.

28.—(1) The Minister, in consultation with the Minister of Finance, may, from time to time, for the purpose of standardization, on the recommendation of the Director-General, by order published in the Federal *Gazette*, designate any port for the importation into Nigeria of the products specified in the order and in such case, the products named in the order shall be imported into Nigeria through only the designated port.

(2) A person who contravenes subsection (1) of this section commits an offence under this Act and is liable on conviction to a fine of not less than ₦2,000,000.00 or to imprisonment for a term not exceeding 5 years or to both.

(a) an industrial standard in any way resembling or purporting to be any of the Nigerian Industrial Standards established under this Act, or

(b) certification mark resembling or purporting to be a certification mark issued under section 25 of this Act,

commits an offence and is liable on conviction to a fine not less than ₦1,000,000.00 or to imprisonment for a term not exceeding 2 years or both.

(2) If an item of manufacture does not comply with any mandatory industrial standard and that item is sold or delivered to any person in Nigeria for consumption or sale to the public—

(a) the manufacturer of the item ; and

(b) any person who imports or is concerned with the importation of the item that does not comply with such mandatory standard, commits an offence under this Act and is liable on conviction—

(i) in the case of the manufacturer, to a fine of not less than 20% of the value of the product or ₦2,000,000.00 (whichever is higher) or to imprisonment for a term not less than 3 years or to both such fine and imprisonment,

(ii) in the case of a seller to a fine of not less than 15% of the value of the product or ₦1,000,000.00 (whichever is higher) or imprisonment for a term not less than 2 years or to both, and

(iii) in the case of an importer, to a fine not less than 20% CIF per shipment or ₦2,000,000.00 (whichever is higher) or imprisonment for a term not less than 2 years or to both.

(3) Where any person is convicted of an offence under this Act, the court may—

(a) in addition to any penalty imposed in respect of that offence and subject to section 30 of this Act, order that a commodity, consignment or batch of a commodity or product, any other article or material or substance in respect of which that offence was committed, be forfeited to the State ; and

(b) summarily inquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence and impose on that person a fine to a maximum equal to the amount so assessed and, in a default of payment of such amount, further imprisonment for an additional period not exceeding 1 year.

(3) Where a person is convicted of an offence under this section, the court may make an order of forfeiture or destruction of the products in question.

29.—(1) The Director-General may, upon being satisfied that the quality, purity or potency of any product is detrimental or hazardous to life, property and the national economy—

Powers of Director-General in relation to hazardous products.

(a) seize and detain such products for such a time as may be reasonable, but not exceeding 90 days without a court order, for the satisfaction of, and compliance with this Act ;

(b) prohibit any person from selling or offering for sale the suspicious product ;

(c) apply to court for an order of forfeiture of such product ;

(d) seal up the premises where such product is manufactured or stored ; or

(e) direct the person to rectify the deficiency in the case of a substandard, misdescribed or hazardous product subject to such conditions as may be imposed.

(2) The court may order that any product seized which is hazardous or injurious to life shall be destroyed or disposed of in such manner as it thinks fit.

(3) The Organisation may order the destruction of goods detained under subsection (1) of this section if the following conditions are satisfied—

(a) testing indicates that the goods did not meet the relevant Nigerian Industrial Standard ; and

(b) it is reasonably necessary to destroy the goods because the goods are in a dangerous state or injurious to the health of human beings, animals or plants ;

(c) in an order under subsection (2) of this section, the Organisation may require the owner of the goods to pay the costs of the destruction of the goods including the costs of transporting and storing the goods, before destruction ;

(d) at least 14 days notice of the order shall be given under subsection (2) of this section either by giving the owner of the goods a written notice or by publishing a written notice in the *Gazette*.

PART VII—OFFENCES

30.—(1) For the purposes of carrying out the functions of the Organisation under this Act, the Director-General, other officer or employee of the Organisation or any other person authorized by him in writing—

Power to enter premises.

(a) may stop and search any vehicle which he reasonably believes may contain any article or product or material or goods that is in contravention of this Act ;

(b) shall have a right of access at reasonable times to any premises including all Nigerian sea ports, airports and land borders where an industrial or commercial undertaking is being carried on, and may use reasonable force, if need be, to gain entry ;

(c) may, seize and detain for such length of time, not exceeding 90 days without leave of court, any article, or product or material or goods which he reasonably believes is in contravention of this Act; and

(d) may, by notice in writing served on any person carrying on an industrial or commercial undertaking, require that person to furnish, in such form as he may direct, information on such matters as may be specified by him.

(2) An article, item, product or material seized under this section shall be kept or stored in such a place (including the place of seizure) as the Director-General may direct.

(3) A person required to furnish returns under subsection (1) (d) of this section shall, within any period specified in such notice, comply with directives contained therein.

(4) For the purposes of carrying out duties under this Act, every officer of the Organisation shall have the powers, rights, privileges and protection equivalent to that of a police officer.

Evasion of
fees, levies,
etc.

31.—(1) A person who, by any means, evades or attempts to evade, or neglects or omits to pay any levy, charge or fee payable under this Act commits an offence and is liable on conviction to a fine of not less than ₦1,000,000.00 or to imprisonment for a term of not less than 9 months or to both, and is, in addition, liable to pay to the Organisation a penalty double the amount of the levies, charges or fees he evaded or attempted to evade, neglected or omitted to pay.

(2) A person who refuses, neglects or fails to comply with any directive lawfully given by the Organisation in exercise of its power under this Act, or who fails to comply with any provision of this Act or of any regulation made under this Act, commits an offence and, unless another penalty is established for such offence in this Act, is, in addition to the forfeiture of any article or product seized, liable on conviction to a fine of not less than ₦1,000,000.00, or to imprisonment and, in the case of a continuing offence, to a further fine not less than ₦250,000.00 for every day during which the offence continues.

(3) Where a person refuses or neglects to obey any directive lawfully given under this Act or the regulations made under this Act, the Organisation may, irrespective of whether any proceeding has been instituted against, or any punishment imposed on such a person for the refusal or neglect, do or

cause to be done all such acts as are, in its opinion, reasonable or necessary for the purpose of carrying out such directive.

(4) The powers conferred by this section include the power to hire and employ such persons as are necessary and proper for making good, loss or damage that has been caused by any refusal or neglect of the person to whom the directive has been given.

(5) Any expenses incurred by the Organisation in the exercise of its powers under this section shall be recoverable from the person to whom the directive has been given.

32.—(1) If any person required to furnish returns pursuant to section 30 (1) of this Act fails to furnish those returns as required under this Act, he commits an offence and is liable on conviction to a fine not exceeding ₦1,000,000.00 or imprisonment for a period not exceeding one year or to both.

Offences.

(2) If a person, in purported compliance with a requirement to furnish returns, knowingly or recklessly makes any statement in the return which is false in a material particular, he commits an offence and is liable on conviction to a fine not exceeding ₦1,000,000.00 or imprisonment for a term not exceeding 1 year or both.

(3) A person who wilfully obstructs, interferes with, assaults or resists any officer or employee of the Organisation in the execution of his duty under this Act or who aids, invites, induces or abets any other person to obstruct, interfere with, assault or resist any officer or employee commits an offence and is liable on conviction to a fine not exceeding ₦1,000,000.00 or imprisonment for a term not exceeding one year or both.

(4) Where a penalty is not elsewhere prescribed in this Act, any person who commits an offence under this Act is liable on conviction to a fine of not less than ₦500,000.00 or to imprisonment for a term of not less than 9 months or both.

(5) The provisions of this Act are, in addition to and not in derogation of, any penalty for offences imposed on the conviction of any person for an offence under this Act or other enactment or law.

33. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other official of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is deemed to be guilty of that offence and is liable to be proceeded against and punished.

Offences by
bodies
corporate.

PART VIII—LEGAL PROCEEDINGS

Legal proceedings.

34.—(1) Subject to the provision of section 174 of the Constitution of the Federal Republic of Nigeria, the Organisation shall be charged with the responsibility for—

(a) prosecuting offenders under this Act; and

(b) conducting such proceedings as may be necessary for the enforcement and due administration of this Act.

Cap L11
LFN, 2004.

(2) Subject to subsection (1) of this section, a staff of the Organisation who is a Legal Officer within the meaning of the Legal Practitioners Act, shall, while in the employment of the Organisation be entitled to represent the Council or the Organisation as a Legal practitioner for the purpose and in the course of his employment.

(3) Proceedings under this section may be undertaken by the Organisation or by a person authorized by it in that behalf in the Federal High Court.

Jurisdiction and prosecution of Offences.

35.—(1) All offences under this Act may be tried by the Federal High Court.

(2) Where a provision is made in this Act for a Criminal sanction to be imposed in case of an act, omission or default without reference therein to the default being an offence, or without reference to conviction thereof in a court, as the case may be, the reference to the act, omission or default shall be construed as referable to an offence, and the expression “offences” as used in this section shall have effect in relation to any act, omission or default.

Application of fines.

36. The court imposing a fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards compensating the Organisation and subject to any such direction, all fines under this Act shall notwithstanding anything in any other enactment to be paid into the Fund of the Organisation or into the appropriate Consolidated Revenue Fund.

Application to the Federal High Court for direction.

37.—(1) The Organisation may apply to the court for directions in respect of any matter concerning its duties, powers and functions under this Act and, on such application, the court may give a direction and make such further order or orders as it deems fit in the circumstance.

(2) The Organisation may conduct inquiries with respect to the compliance with the provisions of this Act by any authorized person or body.

38. Every member, agent, auditor or employee for the time being of the Organisation shall be indemnified out of the funds or assets of the Organisation against any liability incurred by him in defending any proceeding whether civil or criminal in which judgment is given against him in his capacity as a member, agent, auditor or employee.

Indemnity of members and employees of the Organisation.

39.—(1) No suit against the Organisation, member or any employee of the Organisation, for any act done in pursuance or execution of any act, public duty or authority, shall lie or be instituted in any court unless it is commenced within 6 months next after the act, negligence or default complained of or, in the case of a continuance of damage or injury, within 6 months next after the cessation thereof.

Limitation of suits against the Organisation.

(2) No suit shall be commenced against the Organisation before the expiration of a period of 3 months after a written notice of intention to commence the suit.

(3) Such notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims.

40. The notice referred to in section 39 (2) of this Act and any summons, notice or other document required or authorized to be served upon the Organisation, under the provisions of this Act or any other enactment or law, may be served by delivering the same to the Director-General of the Organisation or by sending it by registered post addressed to the Director-General at the Head Office of the Organisation.

Service of processes, documents, etc.

41. Where in any proceeding under this Act a person is summoned or otherwise dealt with as the manufacturer, importer or seller, and such person alleges that he is not as alleged, the burden of proof shall be upon such person.

Onus of proof in certain cases.

42. In any action or suit against the Organisation, no execution or attachment or process in the nature thereof shall be issued against the Organisation, but any sum of money which may be the judgment of the court be awarded against the Organisation shall be, subject to any directive given by the court where notice of appeal has been given by the Organisation in respect of the said judgment, be paid by the Organisation from the funds of Organisation.

Restriction on execution against the property of the organisation.

43. Any function performed under this Act by the Minister, the Organisation, the Council, a member of the Council, a committee, or a member of a committee, the Director-General or an employee of the Organisation in connection with the certification of any commodity, product, material, substance, service, process, act or matter, shall not be interpreted as an assurance or a guarantee of any nature in respect of that commodity, product, material, substance, service, process, act or matter.

Certain acts not interpreted as assurances or guarantees.

PART IX—MISCELLANEOUS PROVISIONS

Reports.

44.—(1) The Council shall, within the first three months of the next year after the end of each year, submit to the Minister a report on the activities of the Council and the Organisation during the last preceding year.

(2) The Organisation may publish in each year reports on any of its activities and when such reports are published the Organisation shall—

(a) distribute copies free to the National Assembly, departments of the Government of the Federation or a State and to such other bodies as may be approved by the Council ;

(b) where appropriate, make copies available for sale to the public and other interested parties, and such reports shall be in addition to any other publication made by it under this Act.

Power to
make test
purchases.

45. The Director-General or any other officer of the Organisation designated in that behalf shall have power to make purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of this Act are complied with.

Recall of
products.

46.—(1) The Minister may, upon the recommendation of the Organisation, require the supplier of any defective commodity certified by the Organisation to—

(a) recall the commodity and all other types that were supplied to him, in the manner and within the period, specified in the order ;

(b) disclose to the public, or to a class of person specified in the order, in the manner and within the period so specified ;

(c) the nature of any defect in any commodity identified in that order ;

(d) the circumstances in which the use of the commodity is dangerous ;

(e) procedures for disposal of the commodity ; or

(f) notify the public or a class of persons specified in that order, that the supplier undertakes to—

(i) repair the defective commodity,

(ii) replace the defective commodity, or

(iii) refund to a person to whom the commodity was supplied the price of the commodity (whether by the supplier or by another person), within the period specified in the order.

(2) Where an order made under this section is still in force, a supplier of a commodity to which the order relates, fails to comply with the requirements or direction in the order, he commits an offence.

- 47.—(1) The Organisation may order the destruction of goods detained under this Act, if—
- (a) the testing indicates that the goods did not meet the relevant Nigerian Industrial Standards ; and
- (b) it is reasonable to destroy the goods because the goods are in a dangerous state or injurious to the health of human beings, animals or plants.
- (2) In an order under sub-section (1) of this section, the Organisation may require the owner of the goods to pay the cost of the destruction of the goods including the costs of transporting and storing the goods before destruction.
- (3) At least 14 days notice shall be given of the order under subsection (1) of this section, either by giving the owner of the goods a written notice or by publishing a written notice in the Federal Gazette.
48. In every government procurement, where compliance with standards is a requirement, no payment for execution for such contract shall be made unless compliance to the relevant standards have been verified by the Organisation.
- 49.—(1) The Council may make rules, not inconsistent with this Act, for the general and efficient performance of the functions of the Organisation.
- (2) No rules under subsection (1) of this section shall be made by the Council without the prior approval of the Minister, and the rules shall be published in the Federal Gazette.
- 50.—(1) The Standards Organisation of Nigeria Act No. S9 Laws of the Federation of Nigeria, 2004 is repealed.
- (2) Without prejudice to section 6 of the Interpretation Act, the repeal of the enactment referred to in subsection (1) of this section shall not affect anything done under or pursuant to that enactment, and—
- (a) all notices, designations and certificates issued under the repealed Act, or any other enactment, in respect of any matter dealt with in this Act, are deemed to have been issued under this Act ;
- (b) all regulations made under the repealed Act, or any other enactments, in respect of any matter dealt with in that Act, are deemed to have been made under this Act ;
- (c) the employees and appointees of the Organisation remain employees of the Organisation ; and
- (d) the Director-General of the Organisation appointed under the repealed Act is deemed to be the Chief Executive of the Organisation and remains in office for the unexpired term of his office.

Destruction
of violative
goods.

Statement in
document.

Power to
make rules.

Repeal and
savings.
Cap. 123.
LFN, 2004.

(3) The offices, rights, interest, obligations and liabilities of the Council or Organisation existing before the commencement of this Act under any contract or instrument or in law or in equity, shall, by virtue of this Act, become vested in the Council or Organisation, as the case may be, and shall be of the same force and effect against or in favour and shall be enforceable fully and effectively.

Interpretation.

51.—(1) In this Act—

“*Chairman*” means the Chairman of the Council appointed under section 3 (1) (a) of this Act ;

“*Council*” means the Standards Council of Nigeria established under section 3 (1) of this Act ;

“*certification mark*” means the special certification mark issued to a permitted manufacturer ;

“*Director-General*” means the Director-General appointed under section 8 (1) of this Act ;

“*member*” means a member of the Council and includes the Chairman ;

“*Minister*” means the Minister responsible for Industries ;

“*Nigerian Industrial Standards*” means the industrial standards established by the Council under this Act ;

“*Organisation*” means the Standards Organisation of Nigeria established by section 1(1) of this Act ;

“*permitted manufacturer*” has the meaning assigned under section 25 (1) of this Act ;

“*State*” means a State of the Federation.

(2) In this Act a reference to “officer or employee of the Organisation” is a reference to any person appointed under section 1 of this Act.

(3) In this Act, a reference to a numbered section is a reference to the section so numbered in this Act.

Citation.

52. This Act may be cited as the Standards Organisation of Nigeria Act, 2015.

SCHEDULE

Section 3 (9)

MEETINGS AND PROCEEDINGS OF THE COUNCIL MEETINGS

Number of Meetings

1. Subject to the provisions of this Act and any standing order of the Council, the Council shall meet not less than once every 3 months and on such other occasions as may be necessary for the fulfillment of its functions.

Place of Meeting

2. Unless the Council otherwise directs all meetings shall be held in Nigeria.

Length of Notice for Calling Meetings

3.—(1) The notice required for all types of meetings from the commencement of this Act shall be 14 days from the date on which the notice was sent out.

(2) A meeting of the Council shall, notwithstanding that it is called by a shorter notice than that specified in subsection (1) of this section, be deemed to have been duly and properly called if it is so agreed by all the members entitled to attend and vote or by the members present provided a quorum is formed.

Contents of Notice

4.—(1) The notice of meeting shall specify the place, date and time of the meeting and the general nature of the business to be transacted in sufficient detail.

(2) No business may be transacted at any meeting unless a notice of it has been duly given.

(3) An error or omission in a notice with respect to the place, date, time or general nature of the business of a meeting shall not invalidate the meeting provided that in the case of bonafide error or omission, the secretary shall effect the necessary correction either before or during the meeting.

Persons entitled to Notice

5. (1) The following persons are entitled to receive notice of meeting—

- (a) every member ; and
- (b) co-opted members, if any.

(2) No other person is entitled to receive a notice of meetings.

6. (1) A notice may be given by the secretary to any member either personally or by sending it by post to him or to his address or (if he has no address within Nigeria) to the address, if any, supplied by him to the secretary for the giving of notice to him.

(2) Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying the posted letter containing the notice, and to have been effected at the expiration of 7 days after the letter containing the same is posted.

(3) Failure to give notice of meeting to a person entitled to receive it shall invalidate the meeting unless such failure is a bonafide omission on the part of the person or persons giving the notice.

Attendance at Meetings

7.—(1) Every person who is entitled to receive a notice of meeting of the Council is entitled to attend such a meeting.

(2) The secretary shall produce a list showing the names, descriptions and addresses of the members at the commencement of the meeting and it shall remain open and accessible to any member during the continuance of the meeting.

Right of certain persons to attend

8. Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

PROCEEDINGS

Decisions on Questions

9.—(1) Subject to the provisions of this Act, all acts of the Council and all questions arising before the Council shall be determined by a majority of the members present and voting at a meeting of the Council.

Casting Vote

(2) The person presiding shall have original vote and, in the event of an equality of votes, shall have a second casting vote.

Standing Orders

10. Subject to the provision of this Act, the Council may make standing orders for the regulation of its proceedings and business and may amend or revoke such Standing Orders.

Quorum

11.—(1) The quorum of the Council shall be 5 and shall include at least 3 of the persons mentioned in subsection 3 (1) (b) and (c) of this Act.

(2) The quorum of any committee of the Council shall be determined by the Council.

(3) For the purpose of determining a quorum, members present shall be counted.

(4) Unless otherwise provided by the standing order of the Council, no business shall be transacted at any meeting unless a quorum is present at the time when the meeting proceeds to business and throughout the meeting.

Presiding at Meeting

12. At any meeting of the Council, the Chairman shall preside, or, in his absence, the members present at the meeting shall elect one of them to preside at the meeting.

Minutes of Proceedings and Effects

13.—(1) The secretary shall—

(a) cause minutes of all proceedings at meetings ; and

(b) all proceedings at meetings of its committees to be entered in books kept for that purpose.

(2) Any such minutes purporting to be signed by the Chairman of the next succeeding meeting shall be *prima-facie* evidence of the proceedings.

Committees

14.—(1) The Council may appoint such technical and project committee as it deems fit to deal with specific materials or groups of materials or topics or such other tasks as the Council may direct any such committee to undertake.

(2) Each committee shall be presided over by a member of the Council and shall be made up of such number of experts not necessarily members of the Council, as may be determined in each case.

(3) Subject to its power to appoint technical and project committees in accordance with sub-paragraphs (1) and (2) of this paragraph, the Council shall appoint the following standing committees—

- (a) Finance and General Purpose Committee ;
- (b) Appointment, Promotion and Disciplinary Committee ; and
- (c) Technical Committee.

(4) Each committee shall be presided over by a member of the Council.

(5) The Council may increase or reduce or otherwise vary the composition of the membership of each committee as it deems fit.

(6) The decision of any committee appointed under this paragraph is of no effect until it is ratified by the Council.

*Miscellaneous Matters relating to Meetings, Proceedings
and Status of Members*

15.—(1) The validity of any proceeding of the Council or any committee shall not be vitiated by—

- (a) any vacancy in the membership of the Council or any committee, or
- (b) any defect in the appointment of any such member, or
- (c) reason that a person not entitled to do so took part in the proceedings.

(2) Where a person not duly appointed as a member acts as such on behalf of the Council, his act shall not bind the Council and he shall be personally liable for such an action.

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SALISU ABUBAKAR MAIKASUWA, OON, mni
Clerk to the National Assembly
25th Day of May, 2015.

EXPLANATORY MEMORANDUM

This Act repeals the Standards Organisation Act Cap. S9 Laws of the Federation of Nigeria, 2004 and enact the Standards Organisation Act, 2015 for the purpose of providing additional functions for the Organisation and increasing penalty for violations.

SCHEDULE TO STANDARDS ORGANISATION OF NIGERIA BILL, 2015

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date Passed by the Senate</i>	(5) <i>Date Passed by the House of Representatives</i>
Standards Organisation of Nigeria Bill, 2015.	An Act to repeal the Standards Organisation of Nigeria Act, 2015 Cap. S9 Laws of the Federation of Nigeria, 2004 and enact the Standards Organisation of Nigeria Act, 2015 for the purpose of providing additional functions for the organisation, increasing penalty for violations ; and for related matters.	This Bill repeals the Standards Organisation Act, Cap. S9 Laws of the Federation of Nigeria, 2004 and enact the Standards Organisation Act, 2015 for the purpose of providing additional functions for the Organisation and increasing penalty for violations.	21st May, 2015.	7th November, 2013.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT



SALISU ABUBAKAR MAIKASUWA, OON, mni
Clerk to the National Assembly
25th Day of May, 2015.

DR. GOODLUCK EBELI: JONATHAN, GCFR
President of the Federal Republic of Nigeria
26th Day of May, 2015.