

CHAPTER 212

SEYCHELLES BUREAU OF STANDARDS ACT

(20th October 1987)

Act 8 of 1987

Act 14 of 1997

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PART I-PRELIMINARY

Short title 1. This Act may be cited as the Seychelles Bureau of Standards Act.

Interpretation 2. In the Act-

"Bureau" means the Seychelles Bureau of Standards established by section 3;

"code of practice" means a set of rules relating to methods and procedures to be applied or adopted in respect of any commodity, process or practice;

"Council" means the National Standards Council established by section 11;

"Director" means the Director of the Bureau appointed under section 5;

"Commodity" means an article, product or thing which is the subject of trade or commerce;

"inspector" means a person appointed under section 6(2) as an inspector;

"mandatory standards specification" means a standard specification declared under section 16(1);

"mark" includes any device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof;

"specification" means a description of a commodity, process or practice by reference to its nature, quality, strength, purity, composition, quantity, dimension, weight, grade, durability, origin, age or other characteristic;

"standard code practice" or "standard specification" means a code of practice or a specification declared under section 15(5);

"Standard mark" means a mark authorised under section 17(1);

PART II - THE BUREAU

Establishment of the Bureau
3. There is hereby established the Seychelles Bureau of Standards which shall be a body corporate.

Functions of the Bureau
4. The functions of the Bureau are-

(a) to promote standardisation in industry and commerce;

(b) to prepare draft specifications and codes of practice and to declare the standard specifications and standard codes of practice;

(c) to make arrangements or provide facilities for the examination and testing of commodities and any material or substance from which or with which they may be manufactured, produced, processed or treated and for the manner of such manufacture, production, processing or treatment;

(d) to provide for use of standard marks;

(e) to provide for the examination, testing and calibration of instruments, appliances, apparatus and, subject to

Cap 245 the Weights and Measures Act, weights and measures and weighting and measuring instruments in relation to their accuracy;

(f) to provide for the testing of commodities manufactured in Seychelles or imported into Seychelles for the purpose of determining whether the commodities comply with the provisions of this Act or any other law dealing with specifications;

Cap 245 (g) subject to the Weight and Measures Act, to be place of deposit for the National Standards and secondary standards for weights and measures and to calibrate the working standards kept under that Act;

(h) to do such thing as may be expedient or necessary for the proper performance of its functions, including the levy of such fees and charges for the performance of its functions as may be prescribed; and

(i) to exercise the functions conferred on any person by or

Cap 245 under the Weights and Measures Act, other than those conferred by or under that Act on the Minister responsible for the administration of that Act and to do such things as may be incidental to or consequential upon the exercise of those functions.

Bureau to be respon- sible for

4A. The Bureau shall be responsible for research and development in general, and shall be charged with the following functions -

(a) to advise the Government on a national research and development policy, including general planning and the assessment of the requisite financial resources;

(b) to identify research and development activities consonant with the national development objectives;

(c) to ensure the application of the results of research activities to national development and for the welfare of the people of Seychelles;

(d) to initiate, support, coordinate and monitor research and development activities of the nation and ensure maximum utilisation of research resources;

(e) to collect and collate information on research and development of relevance to Seychelles and evaluate and disseminate research findings;

(f) to maintain relationships with corresponding research and development organisations in other countries and where the national interest so requires, to control and coordinate research carried out in Seychelles;

(g) to undertake any other activities or measures likely to assist in the carrying out of its functions.

Director 5.(1) The Minister shall appoint a person to be the Director of the Bureau on terms and conditions applicable to employees of public bodies.

(2) The Director shall be a person who, in the opinion of the Minister, is suitably qualified in science and technology relevant to the functions of the Bureau.

(3) Subject to the directions of the Minister, the Director-

(a) shall have supervision over and direction of the day-to-day affairs of the Bureau and shall be its chief executive officer;

(b) shall perform the functions of the Bureau;

(c) shall have power to sign documents on behalf of the Bureau; and

(d) may delegate any of his powers to any other employee of the Bureau or to any public officer.

(4) Where the Director is for any reason unable to perform the functions of his office, the Minister may appoint a person to perform the functions of the Director until the Director assumes the functions of the office.

Staff of the 6.(1) The Bureau may employ such persons as are necessary to assist

Bureau the Director in the performance of his functions on terms and conditions and according to the procedures applicable to employees of public bodies.

(2) In exercise of the powers under subsection (1), the Bureau shall appoint inspectors and may appoint an inspector appointed

Cap 245 under section 7 of the Weight and Measures Act as an inspector under this Act.

Funds of the 7.(1) The funds of the Bureau shall consist of-

Bureau

(a) moneys appropriated by the Appropriation Act and paid to the Bureau;

(b) moneys lawfully charged by the Bureau.

(2) The funds of the Bureau may be applied by the Bureau-

(a) in payment of expenses incurred by the Bureau in the performance of its functions;

(b) in payment of remuneration, fees and allowances payable to its staff including that of the Director.

Estimates 8.(1) For each financial year of the Bureau, the Bureau shall prepare and submit to the Minister, the Minister responsible for finance and the Council the estimates of income and expenditure of the Bureau.

(2) The Minister may, acting after consultation with the Council and Minister responsible for finance, approve with or without modification the estimates submitted under subsection (1).

(3) After the Minister approves the estimates under subsection (2), the estimates so approved shall be the estimates of the Bureau for the financial year for which it is prepared.

(4) The financial year of the bureau shall be a period of 12 months ending on the 31st of December of any years:

Accounts 9.(1) The Bureau shall keep proper accounts and records in relation to the accounts and shall prepare in respect of each financial year of the Bureau a statement of accounts in such form as the Minister, acting after consultation with the Minister responsible for finance, may direct.

(2) The accounts and the statement of accounts shall be audited by an auditor appointed by the Minister acting after consultation with the Minister responsible for finance.

(3) As soon as the accounts and statement of accounts are audited pursuant to subsection (2), the Bureau shall send to the Minister, the Minister responsible for finance and the Council

a copy of the statement together with a copy of any report made by the auditor on the statement or the accounts of the Bureau.

Directions 10. The Minister may, in consultation with the Council, give to
of the the Bureau directions in writing on the policy to be followed by the
Minister Bureau in the performance of its functions and the Bureau shall comply with
those directions.

PART III- THE COUNCIL AND TECHNICAL COMMITTEES

National 11.(1) These shall be a National Standards Council which shall
Standards consist of such members as the Minister may, subject to subsection
Council (2), appoint.

(2) The Minister shall appoint to the Council as its members at least one person from each of the following categories of persons -

(a) a person who in his opinion represents the manufacturers, wholesalers and retailers of commodities in Seychelles;

(b) a person who in his opinion represents consumers in Seychelles; and

(c) a person who in his opinion represents the public service.

(3) The Director shall be an ex-officio member of the Council and shall be its secretary.

(4) The Minister shall appoint one of the members of the Council as its Chairman.

(5) A member of the Council, other than the Director, shall hold office for such term as the Minister may determine and shall, at the expiry of his term of office, be eligible for re-appointment.

Functions of the Council 12. The Council shall advise the Minister on matters relating to-

(a) the policy of the Bureau in relation to the administration and financial management of the Bureau;

(b) the preparation of draft specifications and codes of practice and the declaration of standard specifications and standard codes of practice;

(c) authorisation and use of standard marks.

(d) any other matters referred to the Council by the Minister for carrying out the provisions of this Act.

Meeting of the Council 13.(1) The Council may meet at such times as the Council may deem it necessary for carrying out its functions but shall meet not less than twice any year.

(2) The Chairman or in his absence any other member, other than the Director, nominated by the Minister shall preside at any meeting of the Council.

(3) Questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present at the meeting and in the event of an equality of votes the Chairman or the member presiding shall have a second or casting vote.

(4) The quorum of the Council shall be such number of members as the Minister may, at the time of appointment of the members, determine.

(5) Subject to the preceding provisions of this section, the Council shall regulate its own proceedings.

Technical 14.(1) Where the Council deems it desirable that the matter for committees determination by the Council shall be referred to a technical committee for the consideration of such committee, the Minister shall after consultation with the council, appoint a technical committee.

(2) The composition and functions of the technical committee and the terms and conditions of appointment of its members shall be determined by the Minister in consultation with the Council.

(3) A technical committee shall cease to function after it has considered the matter referred to it and tendered its advice to the Council.

(4) Subject to any directions of the Minister and the Council, a technical committee shall regulate its own proceedings.

PART IV-SPECIFICATIONS, CODES OF PRACTICE

AND MARKS

Standard 15.(1) Where the Bureau deems it desirable to declare a standard specifications specifications or standard code of practice, it shall prepare a draft and codes of specification or a draft code of practice. practice

(2) Where a commodity, process or practice in respect of which a draft specification or draft code of practice is prepared is under the control or supervision of any Ministry or Government department, the Bureau shall consult that Ministry or Department.

(3) The Bureau shall by a notice published in a local newspaper and by such other means determined by the Bureau, give wide publicity to the draft specification or draft code of practice prepared pursuant to subsection (1), and specify in such notice a place for the inspection of the draft specification or code.

(4) Any person may within 30 days of the publication of the notice under subsection (3) lodge with the Director a written objection or representation in respect of the draft specification or draft code of practice.

(5) The Bureau may, having regard to the objections or representation (if any) lodged under subsection (4), confirm with or without modification, the draft specification or code of practice and declare by notice published in a local newspaper a standard specification or a standard code of practice.

Mandatory standard specification 16.(1)The Minister may by notice published in a local newspaper and the Gazette declare a standard specification to be mandatory standard specification with effect from a date specified in the notice.

(2) Where the Minister declares a mandatory standard specification, every person concerned at any stage of the manufacture, production, processing, treatment or distribution of the commodity in respect of which the declaration is made shall ensure compliance with that specification.

Standard marks 17.(1) The Minister may on the recommendation of the Bureau authorise standard marks.

(2) A standard mark shall distinguish a commodity, process or practice which conforms to a standard specification from those that do not conform to that specification.

(3) The Bureau may, subject to such conditions as it may impose, permit a person to use a standard mark authorised under subsection (1) where the commodity, process or practice in respect of which it is used conforms to a standard specification.

(4) An application for a permit under subsection (3) shall be made in writing to the Director and the Director may require the applicant to furnish such particulars as he may require.

PART V-MISCHELLANEOUS

Entry of 18.(1) An inspector or any person authorised by the Director may-
premises,

etc. (a) at all reasonable times enter any premises in which any commodity, process or practice is or is reasonably suspected of being manufactured, produced, processed, treated or kept for the purpose of any trade or business;

(b) inspect or take samples of the commodity or of any material used or suspected to be intended for use in the manufacture, production, processing or treatment of the commodity;

(c) inspect the process or practice and make any notes in relation to the process or practice;

(d) inspect any operation carried out in the premises in connection with the commodity;

(e) require any person to produce any document which is in his possession, custody or control and which relates to the commodity, process or practice;

(f) examine and make copies or take extracts from the document; and

(g) require any person to appear before him and answer any questions relating to the commodity, process or practice.

(2) An inspector or any person authorised under subsection (1) shall, if so required, produce his authority to exercise the powers under this section.

Secrecy 19. Except for the purposes of this Act or any other Act or when required by any court, no person shall disclose any information in relation to any commodity, process or practice which he has acquired in the exercise of his functions under this Act.

Restrictions on use of certain words 20.(1) No person, other than the Bureau, shall, except with the consent of the Minister in writing, use a name which contains any combination of the words "Seychelles Bureau of Standards" or "Seychelles Standards."

(2) Subsection (1) shall not apply to a person using a name described in that subsection prior to the commencement of this Act or to any name so used prior to such commencement.

Protection against claims 21. The fact that a commodity, process or practice conforms or is alleged to conform to a standard specification or a standard code of practice or the fact that a standard mark is used in connection with any commodity, process or practice shall not give rise to any claim against the Bureau.

Disclosure of information by worker 22. Notwithstanding anything in any other law or in any undertaking in respect of disclosure of information, a worker shall not be liable to any penalty for disclosure of information to an inspector or any person when required to do so under section 18 and the employer of that worker shall not do anything to the prejudice of the worker on the ground of such disclosure.

offences 23.(1) Any person who-

(a) prevents, hinders or obstructs any inspector or any person authorised under section 18 in the exercise of the inspector's or that person's functions under this Act;

(b) fails to produce any document or to appear or answer any questions when required to do so under section 18;

(c) contravenes section 19 or 20;

(d) being a person concerned at any stage of the manufacture, production, processing, treatment or distribution of a commodity in respect of which a mandatory standard specification has been declared, contravenes section 16(2);

(e) being an employer, contravenes section 22,

is guilty of an offence and liable on conviction to a fine of R.10.000.

(2) Any person who -

(a) uses a standard mark without a permit granted by the Bureau or contravenes any conditions of the permit;

(b) makes any statement or representation, whether in writing or not, or uses a standard mark which conveys or is likely to convey the impression that a commodity, process or practice conforms to a standard specification or a standard code of practice, as the case may be, when it does not do so;

(c) without the consent of the Bureau in writing or fraudulently makes any statement or representation, whether in writing or not, whereby comparison is made in respect of any commodity, process or practice with any standard specification,

is guilty of an offence and liable on conviction to a fine of R.20,000 and to imprisonment for one year and is liable to a further fine of R.5,000 for each day he continues to commit that offence after conviction.

Regulations 24.(1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1) regulations may provide for-

(a) matters relating to packaging, labelling, description and advertising of any commodity for which a standard specification has been declared;

(b) matters relating to inspection, taking samples and testing of commodities;

(c) matters which by this Act are required to be prescribed or which are necessary or convenient to be prescribed;

(d) offences and penalties not exceeding R.10,000 by way of fine.