

N.P.R.C. Decree
No. 2



Sierra Leone

1996

The Standards Decree, 1996

Short title.

Being a Decree to provide for the standardization of commodities and products, to establish the Sierra Leone Standards Bureau and the National Standards Council and to provide for other related matters.

PURSUANT to paragraph 3 of the Proclamation entitled "The Administration of Sierra Leone (National Provisional Ruling Council) Proclamation, 1992", the National Provisional Ruling Council makes and issues the following Decree —

PART I—PRELIMINARY

Date of commencement. 1. This Decree shall come into operation on such date as the Secretary of State may by notice published in the *Gazette*, appoint.

Interpretation. 2: In this Decree unless the context otherwise requires —

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

“Secretary of State” means the Secretary of State for the time being charged with responsibility for matters relating to trade and industry;

“sell” includes barter, exchange and expose or offer for sale, and export for or in pursuance of sale, and have in possession for any purpose of sale, export, trade or manufacture;

“specification” means the description of any commodity by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics, or substance or material of or with which, or the manner in which, any commodity may be manufactured, produced, processed or treated;

“standards” means a technical specification or other document available to the public, drawn up with the co-operation and consensus or general approval of all interests affected by it, based on the consolidated results of science, technology and experience, and aimed at the promotion of optimum benefit to the community.

PART II—THE SIERRA LEONE STANDARDS BUREAU AND NATIONAL STANDARDS COUNCIL

Establishment of Sierra Leone Standards Bureau.

3. (1) There is hereby established a body to be known as the Sierra Leone Standards Bureau (hereafter referred to as “the Bureau”).

(2) The Bureau shall be a body corporate with perpetual succession, the power to acquire and dispose of property, to enter into contracts and to sue and be sued in its own name.

4. (1) The Bureau shall have the following functions —

Functions of
Bureau.

- (a) to conduct tests on materials or products with a view to ensuring compliance with standards designated and approved by the Council;
- (b) to undertake investigations where necessary, into the quality of facilities, materials and products in Sierra Leone;
- (c) to calibrate and verify weights, measures, weighing and measuring instruments;
- (d) to compile an inventory of products requiring standardization;
- (e) to prepare, issue and review Sierra Leone standards and to promote and enforce their use;
- (f) to educate people on the benefits to industry and the public of the maintenance of acceptable standards in the manufacture of products;
- (g) to prepare and distribute standards samples;
- (h) to establish and maintain such number of laboratories or other facilities as may be necessary for the performance of its functions;
- (i) to compile and publish general, scientific or other data —

(i) resulting from the performance of its functions;

(ii) from other sources;

when such data are of importance to scientific or manufacturing interests or to the general public and are not available elsewhere;

- (j) to advise government departments or local authorities on specific problems relating to standards;
- (k) to sponsor such national and international conferences as it may consider appropriate;
- (l) to co-ordinate all activities relating to its functions throughout Sierra Leone with relevant national or international organizations in such fields of activity as it considers necessary with a view to securing uniformity in standards;
- (m) to assist industry and other relevant institutions in establishing in-plant standards;
- (n) to elaborate standards and make recommendation for the approval of standards;
- (o) to train personnel who shall be needed in the performance of its functions;
- (p) to promote and ensure the implementation of standards in all sectors of the economy; and
- (q) to undertake any other activity likely to assist in the performance of its functions.

(2) The Bureau shall undertake such research as may be necessary for the performance of its functions and for that purpose it shall have power to make use of research facilities in any other institution whether public or private upon such terms and conditions as may be agreed between the Bureau and the institution concerned.

5. (1) There is hereby established the National Standards Council (referred to in this Decree as "the Council".)

Establishment
of the National
Standards
Council.

(2) The Council shall consist of the following members —

- (a) a chairman appointed by the Secretary of State with the prior approval of the Council of Secretaries of State;
- (b) the Director who shall be secretary to the Council;
- (c) not more than five persons appointed by the Secretary of State with the prior approval of the Council of Secretaries of State, who shall be public officers representing the Departments of Trade, Industry and State Enterprises, Development and Economic Planning, Agriculture and Forestry, Health and Lands, Housing and the Environment; and
- (d) not more than seven persons appointed by the Secretary of State with the prior approval of the Council of Secretaries of State, who shall represent private associations, the Chamber of Commerce, academic scientific and professional institutions.

(3) Members of the Council except the Director, shall hold office for a term of three years and shall be eligible for re-appointment.

(4) A member of the Council may at any time resign from office by notice in writing addressed to the Chairman of the Council.

(5) The Secretary of State may revoke the appointment of a member of the Council on grounds of that member's infirmity, incapacity, misconduct or absence from three consecutive meetings of the Council without leave of the Chairman of the Council.

Functions of
Council.

6. (1) The functions of the Council shall be —

- (a) to make policies on standardization, quality control and metrology for implementation by the Bureau;
- (b) to designate, establish and approve standards in respect of metrology, materials, products, practices and processes for the certification of products in trade and industry;
- (c) to establish necessary measures for quality control of raw materials and products in conformity with standards;
- (d) to make the general policy of the Bureau, in particular with regard to the financial, operational and administrative programmes of the Bureau and to ensure the implementation of the policy.

(2) Subject to the provisions of this Decree, the Secretary of State may give the Council directions of a general character or relating generally to particular matters, but not in any individual case, with regard to the exercise by the Council of its functions, and the Council shall comply with the directions.

Meetings of
Council.

7. (1) The Council shall meet for despatch of business at least three times in a year and the meeting shall be convened by the Chairman of the Council.

(2) Without prejudice to subsection (1) a special meeting of the Council shall be convened by the Chairman at the written request of not less than four members of the Council.

(3) The quorum for a meeting of the Council shall be half the total members of the Council.

(4) The Chairman of the Council shall preside at every meeting at which he is present and in his absence a member appointed by the members present shall preside.

(5) Decisions at meetings of the Council shall be taken by a majority of members present and voting and in the event of equality of votes the Chairman or other member presiding shall have a casting vote.

(6) The Council may co-opt any person to attend any of its meetings to advise it on any matter but such person shall not vote on any matter for decision by the Council.

8. (1) The Council shall appoint a person to be designated "the Director" who shall be the chief executive of the Bureau, upon such terms and conditions as it may determine.

Appointment of Director and other staff of Bureau.

(2) The Director shall, subject to this Decree and to the general directions of the Council, be responsible for the day-to-day administration of the Bureau.

(3) The Council shall appoint a Deputy Director who shall assist the Director in the performance of his functions, upon such terms and conditions as it may determine.

(4) The Director shall, subject to such directives as the Council may give, appoint such staff as may be necessary for the efficient performance of the functions of the Bureau, and upon such terms and conditions as he may determine.

9. The Bureau shall assemble and maintain a collection of books and publications and such other materials as it may consider appropriate for a standards 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 conditions as it may consider necessary.

Standards Library.

PART III — FINANCE

Funds of
Bureau.

10. The Funds of the Bureau shall be made up of —

- (a) monies collected by the Bureau in the performance of its functions;
- (b) monies received from the Government; and
- (c) gifts, donations or grants.

Bureau to
charge fees.

11. The Bureau shall charge fees for all comparisons, tests, investigations, verifications and markings and licences performed or granted by it in accordance with regulations made by the Secretary of State.

Accounts of
Bureau.

12. (1) The Director shall cause to be kept proper books of accounts and other books and records in relation to the funds of the Bureau and to all undertaking, activities and property of the Bureau and shall, within such period after the end of each financial year as the Secretary of State may specify, cause to be prepared —

- (a) a balance sheet showing in detail the assets and liabilities of the Bureau at the end of that year;
- (b) such other statement of accounts as may be necessary to indicate the financial status of the Bureau as at the end of that year.

(2) The accounts of the Bureau shall be examined, audited and reported upon annually by the Auditor-General and an auditor appointed by the Council.

Bureau to
submit
reports.

13. (1) The Bureau shall, at the request of the Secretary of State submit to him a report of the activities and financial position of the Bureau.

(2) Without prejudice to subsection (1) the Bureau shall, within three months after the end of each financial year submit to the

Secretary of State a report of the activities of the Bureau for that financial year which shall include a balance sheet and a statement of income and expenditure audited in accordance with section 12, and such other information as the Secretary of State may request.

PART IV — ESTABLISHMENT OF STANDARDS

14. (1) The Secretary of State may, upon the recommendation of the Council and subject to subsections (2) and (3) by notice published in the *Gazette* declare any mark which has been adopted by the Council in respect of any specification framed by the Bureau for any commodity, or for the manufacture, production, processing or treatment of any commodity, to be a certification mark in respect of the commodity, and may in like manner abolish or amend such mark.

Certification mark.

(2) Every notice shall contain such information in respect of specifications or amendments as the Council may consider necessary.

(3) No mark which is identical with any trade mark registered in respect of any commodity in accordance with the Trade Marks Act or so nearly resembling such a trade mark as to be likely to be mistaken for it, shall be declared to be a certification mark, or shall be registered as a trade mark under that Act in respect of any other commodity.

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15. (1) After publication of a notice under subsection (1) of section 14 no person shall apply any certification mark mentioned in such notice to any commodity except under a licence issued by the Bureau and unless that commodity complies with the relevant specification or has been manufactured, produced, processed or treated in accordance with such specification.

Restriction on the use of certification mark.

(2) Any person who —

(a) applies a certification mark to the receptacle or covering of any commodity or to a label attached to any commodity;

(b) places or encloses any commodity in a receptacle or covering to which a certification mark has been applied,

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

(3) The issue of a licence under subsection (1) shall be at the discretion of the Bureau and such licence may be issued subject to conditions to be specified therein and to the payment of such fees as the Council may, with the approval of the Secretary of State, determine.

(4) Any person who contravenes subsection (1) or any of the conditions which may be specified in a licence issued commits an offence.

Mandatory
standards.

16. (1) The Secretary of State shall on the recommendation of the Council and subject to the provisions of this section, by notice published in the *Gazette* —

- (a) declare a standard for any commodity, manufacture, production, processing or treatment of a commodity to be a mandatory standard in relation to the commodity with effect from a date to be specified in such notice, it being a date not later than two months after the date of the publication;
- (b) amend any mandatory standard;
- (c) prescribe a certification mark for any commodity which complies with a mandatory standard or which has been manufactured, produced, processed or treated in accordance with the standard and may abolish or amend such mark.

(2) No mandatory standard shall be recommended by the Council or declared suitable for the manufacture, production, processing or treatment of a commodity unless the Council is satisfied that it will be practicable to achieve the purposes of such a mandatory standard for the commodity in question.

(3) The Council shall, at least two months before making any recommendation for the purposes of subsection (1) publish in the *Gazette* a preliminary notice setting forth the precise purpose of the

recommendation proposed and shall call upon all interested persons to lodge any objections in writing with the Council in such manner and within such time as may be prescribed.

(4) Any person who has lodged an objection in accordance with subsection (3) shall be entitled to appear before the Council and be heard, either personally or through a representative, at such time and place as the Council shall determine; and publication of the relevant notice under paragraph (a) of subsection (1) shall not be made if such objection is upheld or until after every objection has been heard and the reasons for the rejection of the objection have been furnished in writing to the objector or his representative.

(5) Every notice published by virtue of this section shall contain full particulars of the relevant standards or the amendment thereof.

(6) Whenever the Secretary of State has, under subsection (1) declared a standard to be a mandatory standard, no person shall sell any commodity to which that standard relates after the date specified in the notice unless that commodity complies with the standard or has been manufactured, produced, processed or treated in accordance with the standard.

(7) After a certification mark has been prescribed no person shall apply that mark to any commodity except under and by virtue of a licence issued to him under this Decree and unless that commodity or its manufacture, production, processing or treatment complies with the mandatory standard relative to the commodity.

(8) Any person who contravenes subsections (6) and (7) commits an offence.

(9) The provisions of subsections (2) and (3) of section 15 shall apply to the issue of licences under this section.

(10) Where a person is charged with contravening subsection (6) it shall be a defence for that person to prove to the satisfaction of the Court that he lacked knowledge or any reasonable means of ascertaining, whether before or at the time of sale, the commodity specified in the charge did not comply with the standard relating to the commodity.

Appeals.

17. (1) Any person who is aggrieved by —

- (a) the refusal of the Bureau to issue any licence;
- (b) the attachment of any condition to a licence; or
- (c) the variation, cancellation or suspension of any licence,

may, within fourteen days of the notification of the decision appeal in writing to the Secretary of State.

(2) Any person who is aggrieved by a decision of the Secretary of State may appeal to the High Court.

PART V — ENFORCEMENT

Power to enter premises and obtain samples and information.

18. (1) For the purpose of carrying out the functions of the Bureau any officer of the Bureau authorised by the Director in writing —

(a) shall have access at all times to any place whether a building or in the open air, where he has any reasonable cause to believe that an industrial or commercial undertaking is being carried on; and

(b) 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) A person required to furnish information pursuant to subsection (1) shall within fourteen days of the notice comply with that notice.

(3) Any person who fails to comply with paragraph (b) of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million leones or to a term of imprisonment not exceeding six months or to both the fine and imprisonment.

(4) Any person who in purported compliance with a requirement to furnish information, knowingly or recklessly makes any

statement in the returns which is false in a material particular commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand leones or to a term of imprisonment not exceeding three months or to both the fine and imprisonment.

19. (1) The Director, subject to directives to be given by the Council shall by notice published in the *Gazette* appoint as an inspector for the purposes of this Decree any person who is suitably qualified. Appointment of inspectors.

(2) Every person so appointed shall be furnished with a certificate of appointment signed by the Director that such person is authorised by the Bureau to act as an inspector for the purposes of this Decree.

(3) An inspector may, for the purposes of this Decree at all reasonable times —

- (a) enter any premises on which there is, or is suspected to be a commodity in relation to which any certification mark exists;
- (b) inspect and take samples of any commodity or any material or substance used, or likely to be used or capable of being used in the manufacture, production, processing or treatment of such commodity and shall cause any container in which there is or is suspected to be any quantity of the commodity, material or substance to be opened;
- (c) inspect any process or other operation which is or appears likely to be carried out on the said premises in connection with the manufacture, production, processing or treatment of any commodity in relation to which a mandatory standard or certification mark exists;
- (d) stop the production or treatment of the commodity if found faulty or sub-standard;

- (e) require from any person the production of any book, notice, record, list, or other document which is in possession or custody or under the control of such a person or of any other person on his behalf;
- (f) examine and copy any part of such book, notice, record, list or other document which appears to him to be relevant to his inspection or inquiry, and require any person to give an explanation of any entry therein, and take possession of any such book, notice, record, list or document which he believes may afford evidence of the commission of an offence under this Decree;
- (g) require information relevant to his inquiry from any person whom he has reasonable grounds to believe is or has been employed on such premises and is in possession or custody or control of any article referred to in this subsection.

Obstruction.

20. Any person who wilfully obstructs, interferes with, assaults or resists any officer of the Bureau in the execution of his duty under this Decree or who aids, invites, induces, or abets any other person to obstruct, interfere with, assault or resist any such officer commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand leones or to a term of imprisonment not exceeding three months or to both the fine and imprisonment.

General provisions.

21. (1) Any person who commits an offence under this Decree for which no penalty is specifically provided shall be liable on conviction to a fine not exceeding two million leones or a term of imprisonment not exceeding twelve months or to both the fine and imprisonment.

(2) On conviction of any person for an offence under this Decree, the Court may, in addition to any other penalty which may be imposed, order the confiscation of all or any part of any goods in respect of which the offence was committed, and all goods so confiscated shall be disposed of in such manner as the Court may direct.

(3) Any person who employs an agent, clerk or other person shall be liable for any degree of commission of such agent, clerk or other person which is an offence under this Decree, or which would be an offence if committed or made by such employer, and such employer and agent, clerk or other person shall jointly and severally be liable for any offence committed under this Decree.

PART VI—MISCELLANEOUS

22. No claim shall be made against the Government, the Council, the Bureau or any of its employees in respect of any commodity which complies or is alleged to comply with a standard or has been or is alleged to have been manufactured, produced, processed or treated in accordance with any such standard or that a certification mark is or has been used in connection with such commodity.

Protection of
Government,
Bureau,
Council and
employees.

23. (1) Any information obtained by the Secretary of State, the Council, the Bureau or any officer thereof or by any other person in the course of the administration of this Decree, as to the formula, manufacture, production, process or treatment of a commodity shall be treated with the utmost secrecy except for the purpose of carrying into effect the provisions of this Decree,

Secrecy.

(2) Any information relating to the formula, manufacture, production, process or treatment of any commodity, given to the Secretary of State, the Council, the Bureau or any officer thereof or to any other person for purposes connected with the administration of this Decree, shall not prejudice any application subsequently made for the patent of such commodity.

24. (1) Except with the consent of the Secretary of State in writing, no association of persons whether a body corporate or not, shall exercise the functions for which it is formed under a name which contains the word "Standards", or the words "Sierra Leone Standards" or any abbreviation of those words.

Restriction of
the use of the
word "Standards".

(2) Where any law provides for the registration of any association of persons, the registering authority may refuse registration if in its opinion the use of the name by which the association desires to be registered is prohibited by this section.

(3) Except with the consent of the Secretary of State in writing, no trade mark which contains the word "Standards" shall be registered under the Trade Marks Act.

Cap. 244.

(4) The provisions of this section shall, *mutatis mutandis*, apply to an individual carrying on business under any name or style other than the individual's own name.

(5) Any person or body of persons who contravenes this section commits an offence and shall be liable on conviction to a fine not exceeding one million leones or to a term of imprisonment not exceeding six months or to both the fine and imprisonment.

(6) Where the offence is committed by a body of persons —

- (a) in the case of partnership every partner shall be guilty of the offence; and
- (b) in the case of a company every director, secretary or officer of the company shall be guilty of the offence.

(7) Nothing in this section shall apply to —

- (a) the use by any person or body of persons of any name that was in use in Sierra Leone by that person or body of persons, or any predecessors in business of that person or body of persons at the commencement of this Decree; or
- (b) any trade mark registered at the commencement of this Decree.

Regulations.

25. The Secretary of State may, on the recommendation of the Council, make regulations for the implementation of this Decree.

MADE AND ISSUED this 12th day of January, 1996.

CAPTAIN VALENTINE E. M. STRASSER
Chairman,
National Provisional Ruling Council.