

SRI LANKA STANDARDS INSTITUTION ACT

Arrangement of Sections

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6 of 1984.

AN ACT to provide for the establishment of the Sri Lanka Standards Institution, to repeal the Bureau of Ceylon standards Act, No. 38 of 1964, and to provide for matters connected therewith or incidental thereto.

[Date of Commencement: 27th January, 1984]

1. Short title.

This Act may be cited as the Sri Lanka Standards Institution Act.

PART I

ESTABLISHMENT, OBJECTS AND POWERS OF THE SRI LANKA STANDARDS INSTITUTION

2. Establishment of the Sri Lanka Standards Institution.

(1) There shall be established an Institution which shall be called the Sri Lanka Standards Institution (hereinafter referred to as "the Institution").

(2) The Institution shall by the name assigned to it by subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

3. Objects of the Institution.

The general objects of the Institution shall be—

(a) to prepare standards on national and international basis relating to structures, commodities, products, materials practices, and operations and from time to time revise, alter and amend the same and promote the general adoption of such standards;

(b) to promote standardisation and quality control in industry and commerce;

(c) to establish and maintain laboratories, libraries and provide relevant facilities for the purpose of furthering the practice of standardisation and quality control;

(d) to make arrangements or provide facilities for the examination and testing of products, commodities and materials, including food and drugs, locally manufactured or imported, in order to determine whether they comply with the Code of Intellectual Property Act, No. 52 of 1979, or any other written law dealing with standards of quality or otherwise, as well as the examination of processes and practices used in the manufacture of locally produced products, commodities and materials;

(e) to make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, and for the issue of certificates in regard thereto so as to comply with the required standards;

(f) to provide or arrange facilities for undertaking research in connection with standardisation and quality control;

(g) to operate a certification marks scheme in accordance with the relevant provisions of this Act;

(h) to certify the quality of commodities, materials, produce products and other things whether for local consumption or export;

(i) to encourage and promote standardisation and quality control by educational, consultancy and other means;

(j) to provide for co-operation with any person, association or organisation outside Sri Lanka, having objects similar to those for which the Institution is established;

(k) to co-ordinate the efforts of producers and users for the improvement of commodities, materials, products, appliances, processes and methods.

4. Powers of the Institution.

The Institution shall have and may exercise all or any of the following powers—

(a) to acquire in any manner whatsoever and to hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;

(b) to apply for, purchase, receive by assignment or otherwise acquire in accordance with the laws for the time being applicable in that behalf any patents, brevets, inventions, concessions, licences and the like, conferring exclusive, non-exclusive, or limited rights to use information as to any invention or discovery, and to develop, use, exercise, assign, transfer, sell, grant licences in respect of, or otherwise turn to account, the property, rights and information so acquired;

(c) to undertake to execute any trusts, or any agency business which may seem to the Institution conducive to the attainment of its objects;

(d) with the permission of the owners to utilise the services of laboratories other than those maintained by the Institution and approve such laboratories, for the purpose of the Institution;

(e) to invest any moneys of the Institution not immediately required for any of its objects in such manner as may, from time to time be determined by the Council;

(f) to charge such fees for any services rendered, as may be determined by the Council; and

(g) to do all such things as are necessary for, or incidental, or conducive to, the attainment of the objects of the Institution or, necessary for or incidental to the performance of any functions or the exercise of any powers of the Institution or which are calculated directly or indirectly to enhance the value of, or render profitable, any of the property or rights of the Institution.

5. General or special directions from the Minister.

(1) In the exercise of its powers and the carrying out of its duties, the Council shall be subject to and act in accordance with such general or special directions as the Minister may, from time to time issue in that behalf.

(2) The Minister may from time to time, order all or any of the activities of the Institution to be investigated and reported upon by such person or persons as he may specify, and upon any such order being made, the Council shall afford all facilities, and shall furnish the information, as may be necessary to carry out such order.

6. Vesting of the powers, duties and functions of the Institution in the Council and constitution of the Council.

(1) The powers, duties and functions of the Institution shall be vested in the Council which shall consist of eleven members appointed by the Minister of whom—

(a) three members shall be from amongst persons each of whom has distinguished himself in science, trade, industry or administration or otherwise specially qualified in relation to some aspect of the work of the Institution;

(b) one member shall be a person from amongst the officers of the General Treasury in consultation with the Minister in charge of the subject of Finance;

(c) one member shall be a person from amongst the officers of the Natural Resources, Energy and Science, Authority of Sri Lanka established by the Natural Resources, Energy and Science Authority of Sri Lanka Act, No. 78 of 1981, in consultation with the Minister in charge of the subject of that Act;

(d) one member shall be a person from amongst the officers of the Ministry of the Minister, or a Department or a statutory body coming within the purview of such Ministry;

(e) one member shall be a person from amongst the officers of the Ministry of the Minister in charge of the subject of Trade or a Department or statutory body under the purview of such Ministry, in consultation with that Minister;

(f) one member shall be a person from a panel of three persons to be submitted by the Institution of Engineers, Sri Lanka;

(g) one member shall be a person from a panel of three persons to be submitted by the Sri Lanka Association for the Advancement of Science;

(h) one member shall be a person from a panel of three persons to be submitted by the Federation of Chamber of Commerce and Industry; and

(i) one shall be the person for the time being holding office of Director-General of the Institution.

(2) Where a member is, by reason of illness, absence from Sri Lanka, or for any other cause, temporarily unable to perform the duties of his office, for a period exceeding three months, the Minister may, on the recommendation of the Chairman appoint some other person to act in his place, during such period in accordance with subsection (1).

7. The Chairman of the Council.

(1) The Minister shall appoint one of the members of the Council, other than the Director-General as Chairman of the Council.

(2) The Director-General of the Institution shall be the Vice-Chairman of the Council. The Vice-Chairman shall perform the duties of the Chairman in his absence, or when there is a vacancy in the office of the Chairman.

8. Disqualification from being a Council member.

A person shall be disqualified from being appointed or continuing to be a member of the Council if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court, a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortune.

9. Term of council members.

Every member of the Council, other than the Vice- Chairman shall, unless he earlier resigns or vacates his office by death, resignation or removal, hold office for a period of three years:

Provided that a member of the Council appointed in' place of a member who dies, or resigns or is removed from membership, shall hold office for the unexpired part of the term of office of the member whom he succeeds.

10. Removal of member of Council other than the Vice Chairman.

(1) The Minister may if he thinks it expedient to do so, by Order published in the Gazette, remove any member from office other than the Vice-Chairman without assigning any reason therefor and such removal shall not be called in question in any court:

Provided however that where any member is appointed in consultation with any Minister or authority, such member shall not be removed under this section except in consultation with such Minister or authority.

11. Eligibility of re-appointment.

A member, other than the Vice-Chairman, who vacates office by effluxion of time shall be eligible for re-appointment.

12. Remuneration of members.

All members, other than the Vice-Chairman who shall be entitled to be remunerated as the Director-General, may be remunerated out of the funds of the Institution in such manner and at such rates as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

13. Meetings of the Council.

(1) Four members shall form a quorum at any meeting of the Council.

(2) If at least four members of the Council are present in Sri Lanka, any question may be decided by the circulation of the relevant papers to the members present in Sri Lanka and by such members recording in writing their views and their votes on that question, and in such use a report of such question, views and votes shall be made to the next meeting of the Council and shall be recorded in the minutes book, and, if there is an equality of such votes, such question shall be submitted for decision to a meeting of the Council.

(3) Subject to the provisions herein contained, the Council may regulate its own procedure in regard to its meetings and the transaction, of business at such meeting.

(4) No act or decision proceedings of the Council shall be invalidated by reason only of the existence of a vacancy amongst its members any defect in the appointment of a member thereof.

14. Seal.

(1) The affixing of the seal of the Institution to any instrument other than an instrument referred to in subsection (2) shall be in the presence of, and be attested by—

(a) the Chairman and Vice-Chairman of the Council; or

(b) the Chairman or the Vice-Chairman and any other member of the Council; or

(c) such one member of the Council and a member of the staff of the Institution as may have been authorised by the Council to act on its behalf on such an occasion.

(2) The affixing of the seal of the Council to an instrument containing an agreement for the rendering of any service by the Institution shall be in the presence of, and be attested by, the Director-General of the Institution or, in his absence, any member of the staff of the Institution who has been authorised by the Council to act on behalf of the Director-General on such an occasion.

15. Delegation of powers and duties of the Council.

(1) The Council may delegate any of its powers and duties, to the Director-General, any member of the Council or any committees established under this Act, or to any employee of the Institution.

(2) The Director-General, member, or the employee to whom any of the powers and duties of the Council have been delegated under subsection (1) shall exercise or perform such powers and duties so delegated, subject to the special or general directions of the Council.

16. Establishment of committees.

(1) The Council may establish committees to assist it in the performance of its functions and may appoint such persons (whether an employee of the Institution or not) as it may deem fit to be members of any such committee.

(2) The Council may assign to a committee so established such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee, the Council may amend or revoke any decision made by a committee.

(3) The members of any such committee may out of the funds of the Institution receive such remuneration and allowances as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

PART II

CERTIFICATION MARKS

17. Certification marks.

(1) Subject to the provisions of subsection (2), the Institution may, with the approval of the Minister, by notice published in the Gazette, declare any mark which has been accepted by the Institution in respect of a standard specification approved by it for any commodity or product, or for the manufacture, production, processing or treatment of any commodity or product, to be a certification mark in respect of that commodity or product or of the manufacture, production, processing or treatment of that commodity or product, and may in like manner abolish or amend any such mark.

(2) No mark which is identical with any trade mark registered in respect of any commodity or product under the Trade Marks Ordinance (repealed by Act No. 52 of 1979) and the Code of Intellectual Property Act, No. 52 of 1979, as the case may be or which so nearly resembles any such trade mark as to be, likely to be mistaken for it, shall under subsection (1) be declared a certification mark in respect of that commodity or product or any similar commodity or product or in respect of the manufacture, production, processing of treatment of that commodity or product or any similar commodity or product.

(3) A notice under subsection (1) shall contain such information in regard to the relevant standard specification or amendment thereof as the Institution may consider necessary.

18. Prohibition of registration of marks identical with certification marks as trademarks.

No person shall cause any trade mark which is identical with a mark which has been declared under subsection (1) of section 17 to be a certification mark, or which so nearly resembles a mark so declared as to be likely to be mistaken for a certification mark, to be registered as a trade mark under the Code of Intellectual Property Act, No. 52 of 1979.

19. Certification marks not to be applied to commodities or products unless authorised by permits, and otherwise than in accordance with this section.

(1) Whenever the Institution has published any notice under subsection (1) of section 17, no person shall apply the certification mark mentioned in that notice to any commodity or product—

(a) except under the authority of a permit issued by the Institution or a person authorised in that behalf by the Institution; and

(b) unless that commodity or product complies with the relevant standard specification or has been manufactured, produced, processed or treated in accordance with that standard specification.

(2) Any person who—

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

(b) places or encloses any commodity or product in a receptacle or covering to which any certification mark has been applied or in a receptacle or covering to which is attached a label to which any such mark has been applied; or

(c) makes, in connection with the sale of any commodity or product, any reference, directly or indirectly, to a certification mark in a manner or under circumstances calculated to convey the impression that the commodity or product complies with the standard specification to which the certification mark relates, or that it has been manufactured, produced, processed or treated in accordance with that standard specification,

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

(3) No person shall in connection with the sale of any commodity or product make any reference directly or indirectly to the Institution or to a standard specification approved, or purporting to have been approved, by the Institution unless—

(a) the Institution has declared any mark to be a certification mark in respect of the standard specification framed by the Institution for any commodity or product or for the manufacture, production, processing or treatment of that commodity or product; and

(b) such person is in possession of a permit issued by the Institution authorising him to apply such certification mark to that commodity or product.

20. Power of Minister by Order to declare compulsory certification marks.

(1) The Minister may, subject to the provisions of sections 17, 18, 19, subsection (2) of this section, and section 21, by Order published in the Gazette, on the recommendation of the Council, declare a certification mark which has been accepted in respect of a standard specification approved by it for any commodity or product or for the manufacture, production, processing or treatment of any commodity or product to be, with effect from a date specified in the Order, a compulsory certification mark in respect for that commodity or product or for the manufacture, production, processing or treatment of that commodity or product and may in like manner abolish or amend any such mark.

(2) If the Order proposed to be made under subsection (1) relates to any commodity or product, or the manufacture, production, processing or treatment of any commodity or product, which is the subject matter of any other written law, the Order shall be made by the Minister after consultation with the Minister to whom the subject or function of such other law has been assigned.

(3) The date specified in any Order under subsection (1) shall be a date not earlier than three months from the date of the Order.

(4) An Order made under subsection (1) may, by a subsequent Order published in the Gazette, be revoked or amended.

21. Notice of intention to make an Order under section 20.

(1) No Order under subsection (1) of section 20 shall be made by the Minister unless a notification declaring his intention to make such Order indicating such certification mark and the title and number of the standard specification in respect of which such mark has been accepted is published in the Gazette and in one Sinhala, Tamil and English newspaper, specifying a date on or before which objections to the proposed Order will be received by the Director-General.

(2) Every objection so preferred shall be made in writing to the Director-General and shall contain a statement of the grounds upon which objection is taken to the proposed Order.

(3) The Director-General shall transmit all objections received by him to the Chairman of the Council.

(4) The Council shall consider every objection transmitted under subsection (3) and for the purpose of investigating such objection hold such inquiries as it considers necessary.

(5) Notice in writing of the date on which, and the time and place at which, an inquiry under subsection (4) shall be held, shall be given to the person preferring the objection. The person preferring the objection, or a person duly authorised by him in writing, shall be entitled to be present at such inquiry and to be heard on such objection.

(6) The decision of the Council on an objection considered by it under subsection (4) shall be communicated to the Director-General who shall notify such decision in writing to the person preferring such objection.

22. Appeals.

A person who is aggrieved by a decision of the Council on any objection considered by it under subsection (4) of section 21 may, within fifteen days after the date of the notification to him of such decision appeal in writing against such decision to the Secretary to the Ministry of the Minister. The decision of the Secretary on any such appeal shall be final and conclusive.

23. Sale of a commodity or product to which section 20 applies prohibited except under a permit and unless the commodity or product complies with the specification.

Where the Minister has by Order under section 20, declared a certification mark to be a compulsory certification mark for any commodity or product, or for the manufacture, production, processing or treatment of any commodity or product no person shall, with effect from the date specified in that Order sell that commodity or product—

(a) except under a permit issued by the Director-General or other officer authorised in that behalf by the Director-General; and

(b) unless that commodity or product—

(i) complies with that relevant standard specification; or

(ii) has been manufactured, produced, processed or treated in accordance with that relevant standard specification.

24. Issue of permits.

(1) Every application for a permit for the purposes of this Act shall be made in writing to the Director-General or the officer authorised in that behalf by such Director-General.

(2) No permit shall be issued under this section, unless—

(a) testing facilities are proved to be available with the applicant's firm and samples drawn and tested are found to conform to the relevant Sri Lanka standard.

(b) the applicant agrees to accept the general conditions attached to the holding of a permit;

(c) the applicant agrees to accept the specific conditions laid down relating to the particular commodity or product in respect of which the permit is issued; and

(d) the applicant pays such fee as the Council may, with the approval of the Minister determines, and complies with the regulations made under this Act.

(3) Every permit issued under subsection (2) shall subject to the provisions of this Act be valid for such period and be subject to such terms and conditions as may be prescribed for that purpose.

(4) A permit issued under this section may at any time be cancelled for non-compliance with the provisions of this Act or any regulations made thereunder after notice in writing thereof has been given to the person to whom it has been issued.

(5) Where an application for a permit under this section is refused, notice of such refusal shall be given by the Director-General or the officer authorised in that behalf by such Directors General to the person making such application.

(6) Any person who is aggrieved by the refusal of the Director-General or other officer authorised in that behalf by such Director-General to issue a permit, or by the cancellation of a permit may, within fifteen days after the date of the receipt of such notice of refusal or cancellation, appeal in writing to the Secretary to the Ministry of the Minister against such refusal or cancellation. The decision of the Secretary on any such appeal shall be final and conclusive.

PART III

STAFF OF THE INSTITUTION

25. Appointment of Director-General of the Institution.

(1) The Minister shall appoint a person who is suitably qualified, scientifically or technically, to be the Director-General of the Institution (in this Act referred to as the "Director-General")

(2) The terms and conditions of employment of the Director-General shall be determined by the Minister.

(3) The remuneration of the Director-General shall be determined by the Minister in concurrence with the Minister in charge of the subject of Finance.

(4) Whenever the Director-General is by reason of illness or absence from Sri Lanka or for any other cause unable to perform the duties of his office, the Minister may appoint some other person to act in his place, during such absence.

(5) The functions of the Director-General shall be to organise, carryout, and direct the work of the Institution in accordance with the policies adopted by the Council in terms of section 3.

26. Appointment of other officers and servants of the Institution.

(1) The Council may appoint such other officers and servants as it considers necessary for carrying out the objects for which the Institution is established.

(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Council.

(3) At the request of the Council, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Institution for such period as may be determined by the Council with like consent or be permanently appointed to such staff with like consent.

(4) Where any officer in the public service is temporarily appointed to the staff of the Institution, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Institution, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to and in relation to him.

(6) Where the Institution employs any person who has agreed to serve the Government for a specified period, any period of service to the Institution by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

27. Power of the Council to exercise disciplinary control over officers and servants of the Institution.

The Council shall have the power to exercise disciplinary control including dismissal, over the officers and servants of the Institution, other than the Director-General.

28. Delegation of powers of the Council.

(1) The Council may delegate to the Director-General all or any of its powers relating to the appointment and, subject to the provisions of subsection (3), the dismissal of other officers or servants of the staff of the Institution. The conditions of employment, including remuneration, of any such officer or servant appointed by the Director-General under the powers delegated to him shall be determined by him with the concurrence of the Council.

(2) The Director-General shall not, except with the prior approval of the Council, request the services of, make agreements for obtaining or appoint, any person who is not a citizen of Sri Lanka, as an officer or servant of the Institution.

(3) The dismissal by the Director-General of any officer or servant shall be with the prior approval of the Council.

29. Appointment of Inspectors.

(1) The Council may appoint any member of the staff of the Institution or any other person who, in the opinion of the Council is suitably qualified as an inspector for the purpose of this Act.

(2) Every inspector shall be provided with a certificate by the Council to the effect that he has been appointed as an inspector for the purpose of this Act.

(3) A person who is not a member of the staff of the Institution and who has been appointed as an inspector under subsection (1), may, out of the Fund of the Institution receive such remuneration or allowance as the Council may determine.

30. Powers of inspectors.

(1) For the purposes of this Act, any inspector may, if generally or specifically instructed in that behalf by the Director-General or any other person authorised in writing to act on behalf of the Director-General—

(a) without previous notice, at any time during business hours, by day or night enter upon any premises in or upon which any commodity or product specified in such instructions, for which, or for the manufacture, production, processing or treatment of which there is a standard specification or a certification mark, is or is reasonably suspected to be manufactured, produced, processed or treated or in or upon which any such commodity or product is or is reasonably suspected to be kept for the purpose of trade;

(b) inspect and examine or take samples of such commodity or product or any material or substance used or suspected to be intended for use in the manufacture, production, processing or treatment thereof, and open any package or container which contains or is suspected to contain any quantity of any such commodity or product or material or substance;

(c) inspect any operations carried out in or upon any such premises in connection with the manufacture, production, processing or treatment of any commodity or product for the manufacture, production, processing or treatment of which there is a standard specification or a certification mark;

(d) at any time, require from any person the production then and there, or at a time and place fixed by the inspector, of such book, notice, record, list or other document pertaining to the manufacture, production, processing or treatment of any commodity or product, which is in the possession, custody or under the control of that person or of any other person on his behalf;

(e) examine any such book, notice, record, list or other document, make copies of or take extracts from any such book, notice, record, list or other document which relates to any commodity or product referred to in paragraph (a) or to any permit issued or to be issued under this Act, require from any person an explanation of any entries contained therein, and seize any such book, notice, record, list or other document as in his opinion may afford evidence of any offence under this Act;

(f) question either alone or in the presence of any other person, as he thinks fit, with respect to any matter which is being investigated by him, every person whom, he finds on the premises entered

by him by virtue of the aforesaid powers or whom he has reasonable grounds for believing to be or to have been employed on any such premises or to be in possession, custody or control of anything referred to in this subsection;

(g) require any person referred to in paragraphs (d), (e) or (f) to appear before him at a time and place fixed by him, and question that person concerning any matter which is being investigated by him:

(h) obtain the services of one or more police officers to assist him if he has reasonable cause to apprehend any serious obstruction in the execution of his duties; and

(i) exercise such other powers as may be connected with or incidental to the exercise of the powers conferred by the preceding paragraphs of this subsection.

(2) A person who is in charge of any premises referred to in paragraph (a) of subsection (1) shall at all times furnish such facilities as are required by an inspector for the purpose of exercising his powers under subsection (1) of this sub section.

(3) Any inspector exercising any powers conferred upon him by this section shall, on demand, produce the certificate provided to him under subsection (2) of section 29 and the written instructions referred to in subsection (1) of this section.

31. Pension scheme for the staff of the Institution.

The Council may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities, allowances, and such other schemes as are of benefit to the members of the staff of the Institution, and a widows' and orphans' pension fund or scheme for providing pensions to the widows' and orphans' of deceased members of the staff, and may require contributions to be made to such scheme or fund by members of the staff of the Institution and may deduct such contributions from the salaries or wages of the members of the staff and may make contributions to any such scheme or fund from the revenues of the Institution.

PART IV

FINANCE AND ACCOUNTS OF THE INSTITUTION

32. Accumulated Fund.

(1) The Institution shall have a Fund, called the Accumulated Fund.

(2) There shall be paid into the Accumulated Fund—

(a) all such sums of money as may be vested by Parliament as capital expenditure of the Institution; and

(b) all such sums of money lying to the credit of the Capital Fund established by section 31 of the Bureau of Ceylon Standards Act, No. 38 of 1964.

(3) The moneys credited to the Accumulated Fund shall be utilised for expenditure of a capital nature and for such other purposes to be determined by the Council.

33. Revenue and the running expenses of the Institution.

(1) The revenue of the Institution shall consist of—

(a) moneys appropriated by Parliament under subsection (2);

(b) any moneys received and accrued in the sale of its products and services;

(c) any subsidies received from the Government as a result of a decision of the Government to prevent the Council from determining, during any particular period pricing policy for the Institution in respect of the sale of its products, services and publications; and

(d) other sundry income including profits from the sale of capital assets.

(2) The Minister may, out of the sums of money appropriated by Parliament for the purpose, and subject to such conditions as the Minister in charge of the subject of Finance may impose, contribute annually for the purposes referred to in subsection (3) such an amount as the Minister, in consultation with the Minister in charge of the subject of Finance may determine.

(3) The moneys received under subsections (1) and (2) shall be utilised by the Institution to defray its annual running expenses, including the allowances of the members of the Council, and of any committee established under section 16, and of the Director-General and other members of staff of the Institution and any balance of those moneys remaining unexpended at the end of the financial year of the Institution may, subject to the directions of the Council be used for defraying the running expenses of the next financial year of the Institution or utilised for such other objects for which the Institution is established.

34. Budget of the Institution.

The Institution shall prepare a budget in respect of every financial year and such budget shall be approved by the Council not later than three months prior to the commencement of the financial year to which the budget relates.

35. Charging fees for services rendered and disposal of income derived therefrom.

Subject to the provisions of any regulations made under section 48, the Institution may, in respect of any services rendered by it under this Act, charge such fees or make such financial arrangements as it may deem fit, and may deal with any moneys derived from such fees or in respect of such arrangement in the same manner as it specified in subsection (3) of section 33 in respect of moneys appropriated by Parliament.

36. Donations and contributions made to the Institution.

The Institution may receive donations or contributions from any person and shall use any moneys so received for the purpose designated by the person making the donation or contribution, and in accordance with the conditions imposed by the donor or contributor, or, if no purpose has been so designated or no conditions have been so imposed, utilise such moneys in the same manner as is specified in subsection (3) of section 33 or in such other manner as the Minister may direct.

37. Financial year and the audit of accounts.

(1) The financial year of the Institution shall be the calendar year.

(2) The Council shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Institution.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Institution.

PART V

GENERAL

38. Protection of Council and members thereof.

The fact that any commodity or product complies, or is alleged to comply, with a standard specification or has been or is alleged to have been manufactured, produced, processed or treated in accordance with any such standard specification, or that a certification mark or a compulsory certification mark is used in connection with any commodity or product, shall not give rise to any suit or prosecution against the Council or any member thereof, or any member of the staff of the Institution.

39. Secrecy.

(1) Every member of the Council or of a committee thereof, or an officer or servant of the Institution or an inspector, shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy in the performance of his duties or discharge of his functions, and shall by such declaration pledge himself not to reveal any information, except—

(a) when required so to do by the Minister or before a court of law;

(b) in order to comply with any provisions of this Act, or any other written law; or

(c) in the performance of his duties or the exercise of his functions.

(2) The disclosure by any person of any information to the Minister, or to the Council, or any committee or representative thereof, or to an inspector, or any other person for purposes connected

with the administration of this Act, shall not prejudice any application subsequently made for a patent.

40. Rights in discoveries, inventions and improvements made by any member of the staff of the Institution to vest in the Institution.

(1) The rights in all discoveries and inventions and all improvements in respect of processes, apparatuses, and machines made by an officer of the Institution shall vest in and be the property of the Institution and shall be made available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Institution may determine.

(2) The Institution may, out of the Fund of the Institution, pay to any officer of the Institution, who has made any discovery, invention or improvement referred to in subsection (1), such bonus, or make provision for such officer to share in the profits derived from that discovery, invention or improvement, as the Council may determine.

(3) The Institution may apply for letters patent in respect of any inventions made by any officer of the Institution and shall for the purposes of the Code of Intellectual Property Act, No. 52 of 1979, be regarded as the assign of the inventor.

41. State property to be made available to the Institution.

(1) Where any immovable property of the State is required for the purposes of the Institution, any such purposes shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Institution.

(2) Where any movable property of the State is required for the purposes of the Institution, the Minister may, with the consent of the Minister of the Ministry to which such property belongs or which was in possession of such property, by Order published in the Gazette, transfer to and vest in the Institution the possession and use of such movable property.

42. Exemption from taxes and duties.

(1) The institution shall be exempted from the payment of—

(a) any tax on the income or profits of the Institution; and

(b) any stamp duty on any instrument executed by, or on behalf of, or in favour of, the Institution.

(2) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, exempt the Institution from the payment of any custom duty on any goods imported or purchased by the Institution.

43. The use by any person carrying on any activity, business, trade or occupation of certain words.

(1) Except with the written approval of the Minister and subject to the provisions of subsections (3) and (4), no person shall carry on any activity, business, trade or occupation under any name which contains the words "Institution of Standards", "Standards Institution" or such other words the use of which would imply that such person was the Sri Lanka Standards Institution or is associated or connected with the Institution.

(2) Except with the written approval of the Minister and subject to the provisions of subsections (3) and (4)—

(a) no trade mark which contains the word "Standards" shall be registered under the Code of Intellectual Property Act, No. 52 of 1979;

(b) no person shall, unless authorised in that behalf by a permit, sell any commodity or product under a mark which contains the word 'Standard' or under a description in which the said word is used in a manner which may create the impression that the commodity or product complies with a standard specification approved therefor by the Institution.

(3) Any person who, at the commencement of this Act carries on any activity, business, trade or occupation or is registered under any such name as is referred to in subsection (1) may, notwithstanding the provisions of subsection (1), continue to carry on such activity, business, trade or occupation, or to be registered, as the case may be, under such name.

(4) The provisions of subsection (2) shall not affect any trade mark registered at the commencement of this Act, or the sale of any commodity or product under any such trade mark.

(5) The Minister may at any time withdraw any approval given by him under subsection (1) or subsection (2) if, in his opinion, it is necessary to do so in order to avoid confusion or abuse.

44. Duty of persons to whom permits have been issued to transmit samples of commodities or products or furnish information relating to commodities or products whenever required to do so.

Any person to whom a permit has been issued under this Act shall, upon a request in writing made to him by the Institution—

(a) transmit to the Council or any person authorised by the Institution, within such time as may be specified in such request, such samples as may be so specified of any commodity or product in respect of which that permit has been issued; or

(b) furnish to the Council or any person authorised by the Institution, within such time as may be specified in such request, such information as may be so specified in regard to such commodity or product or the manufacture, production, processing or treatment thereof,

and such person shall comply with the requirements of such request.

45. Offences.

(1) Any person who—

(a) contravenes, or fails to comply with the provisions of subsection (1) or subsection (3) of section 19 or section 23; or

(b) contravenes, or fails to comply with, the conditions of any permit issued under this Act; or

(c) contravenes the provisions of section 39, or subsection or subsection (2) of section 43; or

(d) falsely holds himself out to be an inspector; or

(e) makes any relevant statement to an inspector which is false in any material particular and which he knows to be false; or

(f) refuses or fails to answer any relevant question which an inspector in the exercise of his powers has put to him; or

(g) refuses or fails to comply with any lawful direction made by an inspector; or

(h) hinders or obstructs an inspector in the exercise of his powers or duties; or

(i) fails to comply with any request under section 44,

shall be guilty of an offence under this Act.

(2) If any person is charged with an offence referred to in paragraph (a) of subsection (1), he shall be deemed to be not guilty of that offence if he proves that

(a) he took all reasonable precautions against committing the offence; and

(b) on demand by the Council or an inspector, he furnished all information which was or should reasonably have been available to him as to the person from whom he acquired the commodity or product to which the charge under section 23 relates.

46. Penalties.

(1) Notwithstanding anything contained in any provisions of any other law, every person guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable—

(i) in the case of an offence referred to in paragraph (a) or paragraph (b) of subsection (1) of section 45 to a fine not exceeding four thousand rupees or to imprisonment of either description for a period not exceeding two years, or to both such fine and imprisonment; and

(ii) in the case of an offence referred to in each of the paragraphs (c) to (h) of subsection (1) of section 45 to a fine not exceeding two thousand rupees or to imprisonment of either description for a period not exceeding one year, or to both such fine and imprisonment; and

(iii) in the case of an offence referred to in paragraph (i) of subsection (1) of section 45 to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

(2) Whenever any person is convicted of an offence referred to in paragraph (a) or paragraph (6) of subsection (1) of section 45, or of a contravention of subsection (2) of section 43, the court may, in addition to any other penalty which it may impose, order that all or any part of the goods in respect of which the offence was committed be forfeited to the State and the goods so ordered to be forfeited shall be disposed of in such manner as the Minister may direct.

47. Offences by bodies of persons.

Where an offence under this Act is committed by a body of persons, then—

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence; and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all diligence to prevent the commission of the offence.

48. Regulations.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in respect of all matters for which regulations are authorised or required by this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to the validity of anything done thereunder.

49. Repeal and savings.

(1) The Bureau of Ceylon Standards Act, No. 38 of 1964, is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Act—

(a) all officers and servants in the service of the Bureau shall be deemed to be officers and servants of the Institution and shall hold their offices with as nearly as may be the same status and on the same terms and conditions as they had enjoyed in the service of the Bureau;

(b) all debts, obligations and liabilities incurred and all contracts and agreements executed or entered into, and all matters and things engaged to be done by, with or for the Bureau shall be deemed to have been incurred, executed, entered into or engaged to be done by, with or for the Institution, subject to the provisions of paragraph (a) of this subsection;

(c) all suits, prosecutions, or other legal proceedings, instituted or which might have been instituted by or against the Bureau, subject to the provisions of this Act and of any other written law shall be continued or instituted by or against the Institution;

(d) all decrees or orders made by a competent court in favour of, or against the Bureau, shall be deemed to have been made in favour of or against the Institution;

(e) all property, movable or immovable which has been vested in or legally purchased or acquired by or leased to, or placed at the disposal, of, or in any other manner transferred to the Bureau or is in possession of or control shall be held by or in trust, for the Institution subject to the trusts, charges, liabilities, reservations, servitudes or other encumbrances and on the terms and conditions appertaining, attaching or applicable thereto;

(f) all regulations made by the Minister under the repealed Act, and in force on the date of commencement of this Act, and which is not inconsistent with provisions of this Act, shall be deemed to be regulations made under this Act and may accordingly be amended, added to or rescinded by regulations made under this Act; and

(g) the fund of the Bureau established under section 31 of the repealed Act shall be deemed to form part of the fund of the Institution established under this Act.

50. Interpretation.

In this Act, unless the context otherwise requires—

"certification mark" means a mark which has under subsection (1) of section 17 been declared to be a certification mark;

"code of practice" means a set of rules relating to the methods to be applied or the procedure to be adopted in connection with the construction, installation, testing, operation or use of any article, apparatus, instrument, device or process;

"Director-General" means the Director-General of the Institution;

"Inspector" means an inspector appointed under section 29;

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

"sell" includes expose or offer for a sale, or export for the purpose of sale, or have in possession for the purpose of sale or export or for any purpose of trade or manufacture;

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

"standard specification" means a specification, which has been approved by the Council of the Institution.