The Uganda National Bureau of Standards (Certification) Regulations, 2020

(Under section 43 of the Uganda National Bureau of Standards Act, Cap 327)

IN EXERCISE of the powers conferred upon the Minister responsible for commerce by section 43 of the Uganda National Bureau of Standards Act, and on the recommendation of the National Standards Council, these Regulations are made this ............... day of ...................... 2020

1. Title.

These Regulations may be cited as the Uganda National Bureau of Standards (Certification) Regulations, 2020.

2. Interpretation.

In these Regulations, unless the context otherwise requires-

"Act" means the Uganda National Bureau of Standards Act, Cap 327;

“authorised officer” means a person who has been appointed by the Council or the Executive Director, with the approval of the Council, for the efficient performance of the functions of the Bureau under this Act”

"applicant” means a client applying for a permit to use the distinctive mark or standards mark;

“audit” means systematic, independent and documented process for obtaining objective evidence and evaluating it objectively to determine the extent to which the audit criteria are fulfilled.

“auditor” means person who conducts an audit
“technical expert” person who provides specific knowledge or expertise to the audit team

"Bureau" means the Uganda National Bureau of Standards established under section 2 of the Act;

“certification” means a system that has its own rules of procedure and management for carrying out certification of conformity;

“conformity” means fulfilment of specified requirements;

"commodity" means any article, product or thing which is or will ultimately be the subject of trade or use;

"compulsory standard specification" means the standard specification declared under Section 18 of the Act;

"currency point" has the value assigned to it in Schedule 1;

"director" means the director of the Bureau appointed under Section 11 of the Act;

“manufacture” means to make, produce, process, treat, assemble, alter, modify, adapt, convert, process or treat;

"manufacturer" means any natural or legal person engaged in making, production, processing, treatment, assembling, altering, modifying, adapting, converting or any other operation in relation to commodities subject to standard specifications;

“non conformity” means the non-fulfilment of specified requirements;

“standard” means a document, established by consensus and approved by a body that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context and which is based on the consolidated results of science, technology and experience, and aimed at the promotion of optimum community benefits;

"surveillance audits" means periodic evaluation of a quality control system or commodity of a permit holder to determine conformity with a relevant standard and the terms and conditions of the permit.

“testing laboratory” means a laboratory which measures, examines, calibrates or otherwise determines the characteristics or performance of materials or products;
“Certification requirements” means specified requirement, including product requirements, that are fulfilled by the applicant as a condition of establishing or maintaining certification;

“Product requirement” means a requirement that relate directly to a product, specified in standards or in other normative documents identified by the certification scheme.

“Certification scheme” means certification system related to specified products, to which the same specified requirements, specific rules and procedures apply.

CERTIFICATION PROCESS

Application for a permit

A person who intends to manufacture any commodity in respect of which a standard specification is declared under Section 15 of the Act shall apply to the Council or person acting under the authority of the council for a permit to use the standards mark as declared under Section 16 or the distinctive mark as declared under Section 18 of the Act.

An application for a permit shall be in a manner determined by the Council or person acting under the authority of the council for grant, renewal or extension of certification scope. The applicant shall comply with the terms and conditions of the certification scheme as stated in the certification agreement.

The application shall be made separately for each product covered by a particular standard and for each manufacturing facility/site. For a company with several commodities differentiated by type, trademark/brands, variants and any other characteristics for which certification is being sought shall be specified in the application.

The application shall be accompanied with appropriate information regarding the legal status of the applicant.

An authorised officer may, in writing, return to the applicant the application submitted requesting the applicant to carry out such alterations in, or additions to, the information provided.

Once the application for permit to use a standards mark and distinctive mark is accepted, the applicant shall be required to pay the fees specified in Schedule 2.

An application for permit shall be valid for the period as determined under the certification scheme defined by the Bureau beyond which, if a permit has not been granted, a new application shall have to be submitted.
Audit

The audit process shall be proceed in a manner prescribed by the Bureau.

The applicant shall allow unhindered access at all reasonable times by the auditor(s) or authorised officer(s) of the Bureau to the manufacturing facility of the product(s) specified in the application, including access to relevant documentation related to production and quality and quantities of products to be certified in order to carry out duties under the Act and this regulation.

The auditor(s) or authorised officer(s) shall evaluate the product and manufacturing facility to ascertain conformity of the production, quality assurance processes and commodities conform to the product requirements and certification requirements.

The evaluation may include results of previous audits conducted for purposes such as systems certification and product certification in case of scope extension and renewal of permit.

The auditor(s) or authorised officer(s) shall make a detailed report of the findings in the prescribed format to the Director and applicant for the audit conducted.

Product Sampling and Sample testing

Where samples are required for product evaluation, the applicant shall provide all reasonable facilities and assistance to the auditor(s) or authorised officer(s) to draw and get samples of the commodity.

Where during the audit, an auditor wishes to take any samples of any product or material, they shall do so in the presence of the applicant, or a person authorised by the applicant.

The cost of obtaining, transporting and testing of samples or any other expense incurred in connection with the product evaluation shall be borne by the applicant.

Product testing shall be undertaken by the Bureau or in such other testing laboratory recognised or designated in writing by the Bureau as a testing laboratory.

Product sampling, assessment and/or testing may be done at the applicant’s manufacturing facility, warehouse or storage, market or other location where the sample is available.

Where UNBS has no capacity for testing, the samples may be tested at the manufacturer’s facility using the manufacturer’s testing equipment by or under
the supervision of a UNBS analyst. The testing shall be carried using calibrated equipment and the relevant standard test methods for the product.

The sampling, assessment and/or testing may be carried out by an auditor or authorised personnel using field testing equipment, in the presence of the applicant, or a person authorised by the applicant.

The requirements against which the products of an applicant are evaluated shall be those contained in the specified standards and other normative documents as determined by the Bureau.

The results of product testing shall be communicated to the applicant.

**Certification Review and Decision to Grant the permit**

The Council or person acting under the authority of the Council, shall make a decision to grant certification if there is sufficient evidence of conformity, or a decision not to grant certification if there is insufficient evidence of conformity.

The decision of the Bureau to grant a permit to the applicant to use the standards mark or distinctive mark shall be based on:

- an audit report with evidence of conformity to the applicable product requirements and scheme requirements;
- a test report or a series of test reports indicating that the product meets the requirements of the relevant standard(s) and
- a recommendation by a person(s) different from those that conducted the audit of the applicant’s facility and/or product testing.

**Issuance of the Permit**

The permit to use the standards mark or distinctive mark shall be issued for each brand of any product for which certification is applied for and granted.

The applicant shall pay the applicable fees specified in schedule 2 before the permit is issued.

The issued permit shall include information on at least the following:

- name and address of the Bureau
- the date certification is granted
- the name and address of the applicant
- the scope of certification
- the term or expiry date of certification
- unique identification of the permit

The permit shall be valid for a period of twelve months from the date on which it is issued.
**Terms for use of the permit**

(1) A manufacturer or permit holder shall be bound by the following terms and conditions of the permit.

(a) ensure that the commodity in respect of which a permit has been granted conforms to the standard specification and for this purpose shall establish and maintain to the satisfaction of the Bureau a system of control, including inspection and testing;

(b) in case of suspension, withdrawal or cancellation of a permit discontinue its use and immediately withdraw all promotional and advertising material containing any reference to that permit and the standards mark or distinctive mark.

(2) A manufacturer shall in addition to the terms for the use of a permit in sub-regulation (1)

(a) ensure that any record maintained in relation to the manufacturing process is made available for assessment and review by an auditor(s) or authorised officer(s) and shall, at the request of the auditor or authorised person, allow the removal of the record to the premises of the Bureau for further scrutiny;

(b) allow an auditor(s) or authorised officer(s) access to the premises where the commodity specified in the permit is manufactured or held for the purpose of evaluating materials, production processes, finished commodities, quality assurance facilities and records;

(c) ensure that any record maintained in relation to the manufacturing process for the purpose of evaluating materials, production processes, finished commodities, quality assurance facilities and records is readily available;

(3) The permit is non-transferable:

(a) In the case of transfer of plant site, the manufacturer shall give notice of the transfer to the Bureau, at least 21 working days before the transfer and apply for a new permit.

(b) where there has been any modification in the commodity or manufacturing process, reapply for a permit.

(c) changes in legal status of the company including names and ownership of the company

(4) The Council or person acting under the authority of the council may, at any time, vary the conditions of a permit granted under these Regulations.
(5) Failure to comply with any of the terms and conditions in sub-regulation (1) and (2) of this regulation is sufficient ground for commencing the procedure for suspension, withdrawal or cancellation of the permit by the Council or person acting under the authority of the council.

(6) The permit holder shall be responsible for the quality and safety of the product and liable for any damage or injury arising from normal use of the product.

Refusal to grant permit

(1) The Council or a person acting under the authority of the Council may refuse to issue a permit where-

(a) the commodity in respect of which an application has been made does not conform to the standard specification,

(b) the commodity in respect of which an application has been made has been banned by the Minister under Section 24C of the Act,

(c) the commodity in respect of which an application has been made is expired;

(d) any other requirement under these Regulations has not been complied with.

(2) The Council or a person acting under the authority of the Council, shall state the reasons for refusal in writing and notify the applicant of the refusal within 15 working days after making the decision.

Surveillance audits

The grant of permit to a manufacturer shall be followed by surveillance audits and/or product sampling and testing conducted at the manufacturing facility warehouse or storage, market or other location where the sample is available.

The frequency and extent of audits shall be determined by the Bureau.

The surveillance audits may be conducted without notice to the permit holder to ensure that the systems and procedures already evaluated are being maintained.

The permit holder shall allow unhindered access of the auditor(s) and/or authorised officer(s) of the Bureau to the manufacturing facility of the certified product(s), including access to relevant documentation related to production and quality and quantities of certified products.

Surveillance audits may be conducted where there are complaints, major changes to the product, production process, or key personnel in the organisation to assess the impact of such changes on the quality and safety of the products.
Renewal of permit

A permit holder shall apply to the Council or a person acting under the authority of the Council for the renewal of permit at least three months before the expiry of the permit.

The permit renewal process shall be carried in the manner prescribed by the Bureau.

Register of certified products

The Bureau shall maintain and publish an up to date register of certified products and manufacturers to whom a permit has been issued.

The register of certified products shall contain at least the following:

- identification of the product
- the standard to which conformity has been certified
- identification of the applicant
- permit expiry date

Where a permit has been renewed, suspended, withdrawn or cancelled, the Register shall be accordingly updated.

Application of the standards and distinctive mark

The mark shall only be applied on products with a valid permit.

The mark shall not be applied on products manufactured in a facility other than that whose address is specified in permit.

13. WITHDRAWAL, SUSPENSION OR REVOCATION OF PERMIT

(1) The Council may, at any time, withdraw, suspend or revoke a permit for such period if it is satisfied that-

(a) the commodity marked with the permit does not conform to the standard specifications;

(b) the permit holder has used the permit in respect of a commodity which doesn’t conform with the standard;

(c) the permit holder has failed to provide reasonable facilities to the auditor or authorised person(s) to discharge the duties under these Regulations;

(d) the certified applicant does not comply with the conditions of the permit;

(e) Customer complaints related to product conformity and misuse of certification such as misrepresentation of the product and deceptive advertisement
(f) the Council establishes that the manufacturer obtained the permit through an improper manner such as bribery or fraud.

(g) the permit holder has been convicted of an offence under the Act or these regulations

(h) has contravened any of the provisions of these regulations.

(2) Before a decision to withdraw, suspend or revoke a permit is taken, the Council shall serve the permit holder with a written notice of fourteen days stating the grounds to the intended action. The permit shall be given an opportunity to provide written explanation with fourteen days.

(3) Where the explanation is submitted by the permit holder, the Council shall consider the explanation and if the permit holder so wishes give him an opportunity to be heard as soon as possible.

(4) where no explanation is submitted by the permit holder, or in the opinion of the Council the explanation submitted is unsatisfactory, the Council may, on the expiry of the notice, withdraw, suspend or revoke the permit.

(5) If in the opinion of the Council, the explanation submitted is satisfactory, the Council shall not withdraw, suspend or revoke the permit.

(6) where the Council withdraws, suspends, or revokes a permit under sub-regulation 4 of this regulation, it shall immediately, in writing, inform the permit holder of the withdrawal, suspension or revocation.

(7) where a permit has been withdrawn, suspended or revoked or has not been renewed on the expiry of the period of its validity, the permit holder shall immediately discontinue the use of the permit.

(8) Suspension and/or withdrawal of a permit shall be lifted when the permit holder has fulfilled all the conditions for which the suspension/withdrawal was made.

(9) a person who contravenes the provisions of sub regulation (1) shall be guilty of an offence and is liable on conviction to any of the penalties prescribed under the Act.

14. Cancellation of permit

The Council or person acting under the authority of the council may cancel or terminate a permit by request of the applicant, where -

(a) the production of the commodity has been terminated by the manufacturer or any lawful authority;

(b) the manufacturer applies to cancel the permit;
PART xxx - MISCELLANEOUS

15. APPEALS.

(1) A person aggrieved by-
   (a) the refusal to issue a permit
   (b) Conditions to a permit;
   (c) the withdrawal, suspension, revocation or cancellation of a permit or authorization; or
   (d) the variation of any conditions on a permit or authorization,

may within fourteen days of his or her being informed of that action, appeal in writing to the Minister through the Director.

(2) The Director shall within fourteen days forward the appeal to the Minister with such comments as he or she may think fit.

16. REPEAL

These regulations repeal the THE UGANDA NATIONAL BUREAU OF STANDARDS (CERTIFICATION) REGULATIONS, 1995.
SCHEDULE 1

STANDARDS MARK / DISTINCTIVE MARK
### SCHEDULE 2 – Certification Fees

<table>
<thead>
<tr>
<th>Type of Fee</th>
<th>Category of Enterprises</th>
<th>Amount (UGX)</th>
<th>Fees billed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Certification Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Micro &amp; Small Enterprises</td>
<td></td>
<td>500,000</td>
<td>Per permit issued to a commodity / product and per brand</td>
</tr>
<tr>
<td>Medium &amp; Large Enterprises</td>
<td></td>
<td>1,000,000</td>
<td></td>
</tr>
<tr>
<td>Enterprises manufacturing Bottled Water, Alcoholic Beverages (excluding wine) &amp; Carbonated &amp; Non-Carbonated Soft Drinks</td>
<td></td>
<td>1,000,000</td>
<td></td>
</tr>
<tr>
<td>2. Laboratory Testing Fees</td>
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<tr>
<td>For 2 samples, that is, the initial / renewal audit sample and the surveillance sample</td>
<td></td>
<td>As billed by UNBS lab or UNBS recognized laboratory</td>
<td>Per product / commodity sample to be tested</td>
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*The fees above are exclusive of calibration and pre-package verification costs, and such other incidental costs that may be associated with the certification process.*