

## **STATUTORY INSTRUMENTS**

**2021 NO. ...**

### **THE UGANDA NATIONAL BUREAU OF STANDARDS (MARKET SURVEILLANCE AND ENFORCEMENT OF COMPULSORY STANDARD SPECIFICATION) REGULATIONS 2021**

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## STATUTORY INSTRUMENTS

2021 NO. ...

### **The Uganda National Bureau of Standards (Market Surveillance and Enforcement of Compulsory Standard Specification) Regulations, 2021**

*(Under Section 3(1) (e) & (f), 43 of the Uganda National Bureau of Standards Act, Cap 327 (as amended)*

In EXERCISE of the powers conferred upon the Minister by Section 43 of the Uganda National Bureau of Standards Act, Cap 327 (as amended 2013), these Regulations are made this .....day of .....2021

#### PART I –PRELIMINARY

##### **1. Title.**

These Regulations may be cited as the Uganda National Bureau of Standards (Market Surveillance and Enforcement of Compulsory Standard Specification) Regulations, 2021

##### **2. Application**

(1) These Regulations apply to \_

- (a) Commodities for which the Minister declares Compulsory Standard Specification under Section 18 of the Act.
- (b) Commodities that do not have a Standard specification
- (c) Establishments for which the Minister declares a Compulsory Standard Specification under Section 18 of the Act.

### **3. Interpretation**

In these Regulations, unless the context otherwise requires-

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

“Agency” means an organization providing a particular service on behalf of Government.

“Bureau” means the Uganda National Bureau of Standards Act, Cap. 327;

“Economic Operator” means a business or other organisation which supplies goods, works or services within the context of market operations.

“Establishments” means any building or area in which a commodity is handled and the surrounding under the control of the same management. It shall include manufacturing premises, points of sale, points of storage of a commodity, vehicles that transport a commodity.

“designated UNBS parking facility” means UNBS office premises, police stations, police posts and any other approved

“Point of Sale” means the time and place where a retail transaction is completed whether physical or electronic

“Sale” means the exchange of a commodity for money

“Shelf life” means the length of time that a commodity may be stored without becoming unfit for use, consumption, or sale

“UNBS Storage facility” means a building or structure used for storing products and is under the control and management of UNBS

“Re-working” means to improve, alter or revise a commodity to achieve compliance to a standard specification

“Major non-conformity” means is any identifiable deviation from the Standard specification that poses a serious threat to the health and safety to the public and the environment

“Recall” means to officially order the return of a non-conforming commodity

“Withdraw” means to remove or take away a commodity from a particular place or position and place it under the economic operator’s possession

## PART II – CONFORMANCE TO COMPULSORY STANDARD SPECIFICATION

### **4. Commodity to conform and bear distinctive Mark**

- (1) A person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared by Bureau, unless the commodity conforms to the compulsory standard specification.
- (2) A person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared by Bureau, unless the commodity bears a distinctive Mark in Schedule I issued in accordance with the Certification regulations in force.
  - (a) Where difficulties arise in having a commodity marked with the distinctive mark prior to importation, distribution, sell, the director may authorise in, writing any intending importer or distributor of the commodity to have the commodity marked immediately on arrival in Uganda or before such commodity is used or placed on the market.
  - (b) Where difficulties arise in having a commodity marked with the distinctive mark after manufacture the director may authorise in, writing any intending manufacturer of the commodity to have the commodity marked before such commodity is used or placed on the market.

**5. Establishment to conform to Compulsory Standard Specification**

A person operating an establishment shall ensure that such establishment conforms, in its operations, to the relevant compulsory standard specification.

PART 111 - NON-CONFORMANCE TO COMPULSORY STANDARD  
SPECIFICATION

**6. Commodity that does not conform to Compulsory Standard Specification**

Commodities that are found not to conform to Compulsory Standard Specification shall be subject to any or all of the following as may be applicable -

(1) Seizure

- (a) Where a commodity has been seized, the Bureau shall issue a notice of seizure to the importer, manufacturer, distributor, seller, transporter or person found in possession or control for sale .
- (b) Where a seized commodity can be re-worked, this shall be permitted by the Director and done under the supervision of an inspector.
- (c) Where a seized commodity is to be used as a police exhibit such commodity shall be handed over to the police for further management.
- (d) Where a seized commodity is not to be used as a police exhibit and cannot be re-worked in any way, such a commodity shall be destroyed in accordance with the Law

(2) recall or withdrawal of the commodity by the Importer, manufacturer, distributor, seller

- (a) The importer, manufacturer, distributor shall issue a notice of recall or withdrawal detailing the commodity, consignment or lot or batch of commodity being recalled or withdrawn and the major non-conformity that has been identified. Such notice shall be issued in print or other type of media.
- (b) The importer, manufacturer, distributor, seller shall furnish the Bureau with evidence and reports of his compliance to Sub regulation (a).
- (3) A recommendation to the Minister to ban the sale and distribution of any Non-conforming commodity
- (4) Confinement of the non-conforming commodity within facility for safe custody.
- (5) Sealing of the premises at which the non-conforming commodity was inspected.
- (6) Impounding of vehicle used in distribution to a designated UNBS parking facility
- (a) Commodities from an impounded vehicle may be sampled for analysis.
- (b) Where a commodity in an impounded vehicle does not conform to a Compulsory Standard Specification such a commodity and the vehicle shall be handled in accordance with 6 (1) and 6 (6) respectively.
- (c) Where the commodity in an impounded vehicle does not have a valid permit to use the Distinctive Mark, such commodity and the vehicle shall be released upon successful application for certification and where the commodity conforms to the compulsory Standard Specification.
- (7) Where a commodity is perishable, such commodity shall be ordered for destruction upon authorisation of the Director.

## **7. Establishment that does not Conform to Compulsory Standard Specification**

(1) Where an establishment does not conform to the requirements of the Compulsory Standard Specification;

(a) An inspector may;

- i. Require a corrective action to be undertaken
- ii. Seal such establishment until satisfactory corrective action has been undertaken to ensure compliance..
- iii. Make recommendation to the Director to suspend production of a commodity
- iv. Require the manufacturer or person found in possession of the non-conforming commodity to report to the Bureau

## **PART IV – MARKET SURVEILLANCE INSPECTIONS**

### **8. Conducting Enforcement Inspections**

(1) The Bureau may, at its own instance or following information by any person, carry out inspection on -

- (a) a commodity, or consignment or lot or batch of a commodity,
- (b) an establishment
- (c) any other relevant area that might affect the quality of the commodity.

(2) An inspector shall issue an inspection report in respect of the inspection carried out to importer, manufacturer, distributor or seller.

### **9. Inspector to verify the shelf life of commodity**

Where a commodity requires a definite shelf life, the inspector shall verify that the commodity has a defined and marked shelf life.



- (1) Where a commodity has exceeded the declared shelf life, the inspector shall issue a notice of seizure and the goods shall be sealed at the inspected premises or carried away to a designated storage facility and handled in accordance with Regulation 6 (1)(d)
- (2) Where a commodity does not bear the marked shelf life, the inspector shall issue a notice of seizure and the commodity shall be sealed at the inspected premises or carried away to a designated storage facility and handled in accordance with Regulation 6 (1)
- (3) Where inspection reveals that shelf life may have been tampered with, the inspector shall issue a notice of seizure and report the case to police for further management.

#### **10. Commodity not covered by Standard Specification**

- (1) An Inspector may inspect a commodity, for safety and health where there is no Standard Specification.
- (2) A person importing, manufacturing or distributing a commodity, or using an establishment that is not covered by a Standard Specification shall be required to obtain premarket approval from the Director before importing, manufacturing or distributing such commodity or using such commodity or establishment if such commodity impacts on the health and safety of Consumers.
- (4) Where a ban on a commodity is notified by other regulatory or related agencies, locally or internationally, such a commodity shall be seized from the market in accordance with Section 6(1). A ban shall be reviewed for relevance before seizure of the commodity.

### **11. Appointment of inspectors**

In order to ensure compliance with the Act and these regulations, Standards Inspectors shall be appointed in accordance with Section 13 of the Principal Act.

### **12. Powers of Inspectors.**

A Standards Inspector so appointed shall exercise such powers as are on conferred under them under section 14 of the Principal Act

## **PART V - MISCELLANEOUS**

### **13. Samples and Information**

(1) Notwithstanding anything to the contrary, any person who imports, manufacturers, distributes or sells any commodity for which a compulsory specification is in force, shall at the request of an inspector and at that person's own cost:

- (a) submit, or make available, to the inspector a representative sample as may be specified in the request, for examination, testing or analysis; or
- (b) furnish to the inspector such information as may be specified with regard to the Commodity concerned or its manufacture and
- (c) comply with the sampling requirements of the Compulsory Standard Specification that is in force.

(2) The inspector may examine a representative sample obtained in terms of this regulation, or have it tested or analysed, in order to determine whether the commodity concerned complies with or has been manufactured in accordance with the requirements of the Compulsory Standard Specification referred to in R. 13 (1) ( C )

- (3) If such sample obtained is damaged or destroyed during the process of examining, testing or analysing the sample, the Bureau is not liable for the damage to or destruction of that sample.
- (4) The result of any examination, test or analysis of a representative sample, with reference to S. 13 (1) ( C ), of a commodity manufactured in respect of which a compulsory standard specification is in force, is regarded to be valid for the whole consignment or lot or batch from which the sample was obtained or to the similar services by the supplier, until the contrary is proved, or unless otherwise specified in the compulsory standard specification that is in force.

#### **14. Enforcement Collaboration**

The Bureau may collaborate with any person or agency in the work of enforcement of standard specification with a view to promote compliance, health and safety of a commodity

#### **15. A Commodity manufactured within the Partner States of the East African Community**

(1) An imported commodity manufactured within the Partner States of the East African Community shall be required to bear a Certification Mark notified by the respective Partner State and where they do not bear a notified Certification Mark, they shall be required to bear the Distinctive Mark in Schedule 1 if such commodity is covered by Compulsory Standard Specification.

(2) Where a commodity is placed on the market and is manufactured from within the Partner States of the East African Community but does not bear a Certification Mark notified by the Partner State, such commodity shall be subject to the provisions in Reg 6 (1), (4), (5) and (6) where applicable.

## **16. Guidelines**

The Director may issue such guidelines, as he or she considers necessary under the circumstances, to ensure compliance with Compulsory Standard specification, compliance with the Principal Act and compliance with health, safety concerns pertaining to any commodity and the protection of consumers.

Schedule I

Distinctive mark

