

# **STATUTORY INSTRUMENTS**

**2021 No....**

## **The Uganda National Bureau of Standards (Certification Mark)**

### **Regulations, 2021**

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

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2021 No ....

## **The Uganda National Bureau of Standards (Certification Mark)**

### **Regulations, 2021**

**(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 ..... 2021

#### PART 1 - PRELIMINARY

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

These Regulations may be cited as the Uganda National Bureau of Standards (Certification Mark) Regulations, 2021

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

These regulations apply to manufacturers whose commodities are covered by compulsory standard specifications and those who may voluntarily wish to have commodities not covered by compulsory standard specifications certified.

##### **3. Interpretation.**

In these Regulations, unless the context otherwise requires-

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

"applicant" means a client applying for a permit to use the certification Mark

"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"

"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

"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;

“certification agreement” means an undertaking by an applicant that they will comply with certification requirements.

“certification Mark” means a Standards Mark and Distinctive Mark

“certification requirements” means specified requirement, including product requirements, which are fulfilled by the applicant as a condition of establishing or maintaining certification;

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

“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;

“council” means the National Standards Council established under section 4;

"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;

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

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

“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.

“technical expert” person who provides specific knowledge or expertise to the audit team

“testing laboratory” means a laboratory which measures, examines, calibrates or otherwise determines the characteristics or performance of commodities;

“unit” means a markable package, bottle, sachet, container or similar material used for packing prescribed goods

## PART II - CERTIFICATION PROCESS

### **4. Application for a Permit to Use Certification Mark**

(1) 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.

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

(3) The application shall be made separately for each product 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 it shall be specified in the application.

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

(5) Once the application for permit to use a Certification mark is accepted, the applicant shall be required to pay the fees specified in Schedule 2.

(6) 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.

## **5. Payment of Certification fees**

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

## **6. Audit**

(1) The audit process shall proceed in a manner prescribed by the Bureau.

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

(3) The auditor(s) or authorised officer(s) shall evaluate the product and manufacturing facility to ascertain conformity to the certification requirements.

## **7. Product Sampling and Sample testing**

(1) 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 in the presence of the applicant, or a person authorised by the applicant.

- (2) Product sampling, evaluation and/or testing may be done at the applicant's manufacturing facility, warehouse or storage, market or other location where the sample is available.
- (3) The sampling, evaluation 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.
- (4) 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.
- (5) Product testing shall be undertaken by the Bureau or in such other testing laboratory recognised by the Bureau as a testing laboratory.
- (6) Where UNBS has no capacity for testing, the samples may be tested at the applicant's facility using the applicant's testing equipment by or under the supervision of the Bureau. The testing shall be carried out using the relevant standard test methods for the product.
- (7) The requirements against which the commodities of an applicant are evaluated shall be those contained in the specified standards and other normative documents as determined by the Bureau.
- (8) The results of product testing shall be communicated to the applicant.

## **8. Certification Review**

- (1) The auditor(s) or authorised officer(s) shall make a detailed audit report of the findings of the audit and test results.
- (2) The report shall be subject to a review by person(s) different from those that conducted the audit and product testing and make recommendation to grant or not to grant the permit.

## **9. Decision to Grant the permit to use certification Mark**

The Council or person acting under the authority of the Council, shall make a decision to grant permit to use certification Mark or not.

## **10. Issuance of the Permit to use Certification Mark**

- (1) A permit shall be issued for each brand of the product for which certification has been applied for and granted.

(2) The permit shall be valid for a period of twelve months from the date of issue.

### **11. Terms for use of the permit**

(1) A permit holder shall ;

(a) establish and maintain to the satisfaction of the Bureau a system of control, including inspection and testing;

(b) ensure that the commodity in respect of which a permit has been granted conforms to the standard requirements all the time.

(c) 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 Certification mark.

(2) A permit holder shall in addition to sub-regulation (1)

(a) ensure that any record maintained in relation to the manufacturing process is made available for evaluation 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

### **12. Permit not transferable**

(1) The permit is non-transferable;

(2) A permit holder shall apply for a new permit;

(a) In the case of relocation of plant site, the manufacturer shall give notice of the relocation to the Bureau, at least 21 working days before the transfer;

(b) Where there is a change in legal status of the company including names and ownership of the company

(c) Where there has been any modification in the commodity or manufacturing process that affects the inherent properties of the commodity.

(d) The permit holder shall notify the Bureau of such modifications within 21 working days.



### **13. Liability of Permit holder**

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

### **14. Refusal to grant permit**

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

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

(b) Other certification requirements under these Regulations have not been complied with.

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

(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.

### **15. Surveillance audits**

(1) 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.

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

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

(4) 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), related ancillary services including access to relevant documentation related to production and quality and quantities of certified commodities.

(5) Surveillance audits may be conducted where there are complaints, modifications 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 commodities.

## **16. Renewal of permit**

- (1) A permit holder shall apply to the Council or a person acting under the authority of the Council for the renewal of a permit at least three months before the expiry of the permit.
- (2) The process of permit renewal shall be carried out in the manner prescribed by the Bureau.

## **17. Register of certified Commodities**

- (1) The Bureau shall maintain and publish an up to date register of permit holders which shall include:
  - identification of the product
  - the standard to which conformity has been certified
  - identification of the applicant
  - permit expiry date
  - permit number
  - any other information so required by the Bureau
- (2) When a permit has been renewed, suspended, withdrawn or cancelled, the Register shall accordingly be updated.

## **18. Application of the Certification Mark**

- (1) A certification mark shall only be applied on commodities covered by a valid permit.
- (2) The Certification mark shall not be applied on commodities manufactured in a facility other than that whose address is specified in a permit.
- ( 3) The Bureau may issue guidelines for the application of the Certification Mark on commodities.

## **19. 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 Certification Mark permit does not conform to the standard specifications;

- (b) the permit holder does not comply with the conditions of the permit
  - (c) the permit holder has not provided reasonable facilities to the auditor or authorised person(s) to discharge the duties under these Regulations;
  - (e) Complaints related to product conformity
  - ( f) misrepresentation of the product
  - ( g) Deceptive advertisement
  - (h) manufacturer obtained the permit in an improper manner such as bribery or fraud.
  - (i) the permit holder has been convicted of an offence under the Act.
  - (j) the permit holder 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 holder 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, withdrawal of a permit shall be lifted when the permit holder has fulfilled all the conditions for which the suspension, withdrawal was made.

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

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

(b) the manufacturer applies to cancel the permit;

## **20. Offences and Penalties**

Any person who—

(1) makes any statement or representation, whether in writing or not, or applies any mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the standards mark of that commodity or is otherwise entitled to apply that standards mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that standards mark;

(2) makes any statement or representation, whether in writing or not, or applies any mark to any commodity which conveys or is likely to convey the impression that he or she holds a permit for the distinctive mark of that commodity or is otherwise entitled to apply that distinctive mark when in fact he or she neither holds a permit for, nor is otherwise entitled to apply, that distinctive mark;

(3) makes any statement or representation, whether in writing or not, or applies any mark which conveys or is likely to convey the impression that a commodity complies with a standard specification or a compulsory standard specification when in fact it does not do so;

(4) having been granted a permit for a standards mark or a distinctive mark applies that mark after the permit has expired or has been withdrawn, suspended, revoked or cancelled;

(5) applies a standards or distinctive mark otherwise than in accordance with the conditions of his or her permit;

commits an offence under S. 26 (1) of the Principal Act and is liable on conviction in the case of a first offence to a fine not less than five hundred currency points and not exceeding two thousand currency points or imprisonment not less than 2 years and not exceeding 5 years or both.

In the case of a second offence to a fine of not less than two thousand five Hundred currency points and not more than ten thousand currency points or imprisonment not less than 3 years and not exceeding six years or both

### PART III - MISCELLANEOUS

#### **21. 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

(d) the variation of any conditions on a permit,

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.

#### **22. REPEAL**

These regulations repeal the **THE UGANDA NATIONAL BUREAU OF STANDARDS (Certification) REGULATIONS, 1995** and **THE UGANDA NATIONAL BUREAU OF STANDARDS (Use of Distinctive Mark) Regulations 2018.**

**SCHEDULE 1**  
**Certification Mark**



## SCHEDULE 2

### Certification Mark permit Fees

	Type of Fee	Category of Enterprises	Amount (UGX)	Fees billed
1.	Certification Fees	Micro & Small Enterprises	500,000	Per permit issued to a commodity / product and per brand  <i>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.</i>
		Medium & Large Enterprises	1,000,000	
		Commodities with Compulsory Standard Specifications	18 per Unit	Fees computed on the basis of annual production per Unit  <b>This fee covers conformity assessment fees</b>
2.	Laboratory Testing Fees	For 2 samples, that is, the initial / renewal audit sample and the surveillance sample	As billed by UNBS lab or UNBS recognized laboratory	Per product / commodity sample to be tested

