

No. 19 of 2021.

*Bureau of Standards and Quality  
Act, 2021.*

Saint Christopher  
and Nevis.

I assent,



SAMUEL WEYMOUTH TAPLEY SEATON  
*Governor-General*

2<sup>nd</sup> December, 2021.

## **SAINT CHRISTOPHER AND NEVIS**

### **No. 19 of 2021**

**AN ACT** to provide for the preparation, promotion and implementation of standards and standard related activities in relation to commodities, goods, services, processes and practices and to ensure quality through compliance with technical regulations where relevant, by the establishment and operation of a Bureau of Standards to define the powers and functions of the Bureau of Standards; to provide for transitional provisions and for incidental matters.

*[Published 30<sup>th</sup> December 2021, Official Gazette No. 81 of 2021.]*

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same, as follows:

#### **PART I PRELIMINARY**

##### **1. Short title and commencement.**

This Act may be cited as the Bureau of Standards and Quality Act, 2021 and shall come into operation on such date as the Minister may by order, appoint.

##### **2. Interpretation.**

(1) In this Act, unless the context otherwise requires

“accreditation” means the formal recognition by an independent body, generally known as an accreditation body that a certification body operates according to international standards;

“Bureau” means the Saint Christopher and Nevis Bureau of Standards;

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“CARICOM” means the Caribbean Community established by Article 2 of the Revised Treaty and includes the CSME established by the provisions of that Treaty;

“CARICOM Standards Mark” means the mark or design approved by the COTED to be licensed for use on goods or in connection with the processes, practices or services that conform to the requirements of the CARICOM Standards and so declared by the Minister by Order published in the *Gazette*;

“Certification” means the provision by an independent body of written assurance, a certificate, that the product, service or system in question meets specific requirements;

“code of practice” means

- (a) a description of the method of production of any goods, or of the execution of any service, process or practice by which in the opinion of the Bureau a person adhering to it is able to produce goods or offer services which are likely to comply with a specification or standard; or
- (b) 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;

“Comptroller” means the Comptroller of Customs;

“conformity assessment” means

- (a) any activity concerned with determining directly or indirectly that demonstrating that quality, ecology, safety, economy, reliability, compatibility, interoperability, efficiency, effectiveness and other features of products and services meets the requirements of standards, regulations and other specifications; or
- (b) a demonstration that specified requirements relating to a product, process, system, person, or body are fulfilled;

“conformity assessment procedure” means any procedure used, directly and indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled, including, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity, registration, accreditation and approval;

“COTED” means the organ of CARICOM named as the Council for Trade and Economic Development in paragraph 2(c) of Article 10 of the Revised Treaty;

“CSME” means the regime established by the provisions of the Revised Treaty

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replacing Chapters Three through Seven of the Annex to the Treaty establishing the Caribbean Community and Common Market signed at Chaguaramas on 4 July 1973;

“Director” means the Director of the Bureau appointed under section 5;

“goods” means commodities, services, processes or practices that are the subject of trade or commerce;

“home use”, in relation to imports, means that goods

- (a) have completed the required customs clearance formalities and other import formalities;
- (b) are no longer subject to customs control; and
- (c) are available for free circulation in Saint Christopher and Nevis and any other Protocol Member State;

“inspector” means a person appointed by the Minister pursuant to section 24(1);

“inspection”, in relation to goods, services, processes, practices or other items, means the examination of an item and the determination of conformity of the item with specific requirements or, on the basis of professional judgement, with general requirements;

“item” means any product design, goods, commodities, product, service, process, practice or installation;

“laboratory” means an undertaking engaged in tests, investigations or research, whether or not for reward and using specification tests, which is managed, directed or operated by persons qualified and trained in science, engineering or technology;

“licensee” means a person who holds a valid licence to use the Standards Mark in connection with any good, service, process or practice;

“Minister” means the Minister charged with the responsibility for Bureau of Standard matters;

“National Quality Infrastructure” means a national policy that provides a framework for addressing matters of conformity assessment, metrology, standards and accreditation;

“owner”, in relation to any premises, includes the person in charge of the premises;

“practice” includes advertising, labelling and packaging;

“Protocol Member State” means a Member State of the Organisation of Eastern Caribbean States listed in the Schedule;

“Revised Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and

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Economy signed in Nassau, The Bahamas on the 5<sup>th</sup> day of July, 2001;

“specification” means a description of any goods, services, process or practice by reference to its nature, quality, strength, purity, safety, composition, quantity, dimensions, weight, grade, durability, origin, age, or other characteristics, and includes guidelines for a process or practice, tables of data and a code of practice;

“specification test” means a method of testing that is

- (a) included in or referred to in a specification;
- (b) published by the Bureau or by an organisation recognised by the Bureau as competent in designing methods of test of a type useful in applying specifications; or
- (c) recognised by the Bureau as applicable to any specified goods, service, process or practice;

“standard” means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory and includes or deals exclusively with terminology, symbols, packaging, marking or labelling requirements as the terminology, symbols, packaging, marking and labelling apply to a product, process or production method;

“Standards Mark” means the Saint Christopher and Nevis Standards Mark prescribed under section 16;

“technical regulation” means a document that specifies product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory and includes or deals exclusively with terminology, symbols, packaging, marking or labelling requirements as the terminology, symbols, packaging, marking and labelling apply to a product, process or production method;

“technical specifications” means the technical requirements that are included, in particular, in the tender documents defining the characteristics of a piece of work, a material, a product or a supply, and make it possible to describe a piece of work, a material, a product or a supply objectively in a manner such that it fulfils the use for which it is intended by the contracting entity; and includes quality, performance, safety and dimensions, as well as requirements applicable to the material, product or supply as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling;

“testing” includes the related activities of calibration and measurement;

“test equipment” includes

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- (a) materials, instruments, apparatus, tools and other articles needed to perform a test accurately and reliably whether by direct observation and measurement or by simulation techniques on any specific goods, process or practice; and
- (b) articles which represent, embody or reproduce a physical quantity, unit or any characteristic of any goods, service or practice, which can be used in assessing the goods, service or practice;

“testing facility” includes the equipment and personnel necessary for carrying out a specification test.

- (2) In this Act, references to “regional bodies in the field of standardization” include references to the CARICOM Regional Organisation for Standards and Quality (CROSQ).
- (3) When interpreting this Act, a court or an administrative body shall consider
  - (a) the international norms and standards enshrined in the World Trade Organization Technical Barriers to Trade Agreement;
  - (b) the principles of international law; and
  - (c) regional and international law and decisions relevant to the international norms and standards referred to in paragraph (a).

**PART II  
FUNCTIONS OF BUREAU**

**3. Continuation of the Bureau of Standards.**

- (1) Subject to sub-sections (2) and (3), the Saint Christopher and Nevis Bureau of Standards, shall continue to operate and
  - (a) shall have perpetual succession and a common seal;
  - (b) may acquire, hold and dispose of land and other property; and
  - (c) may enter into contracts.
- (2) The Bureau shall
  - (a) consist of a Director appointed under section 5;
  - (b) be the national standards body; and
  - (c) be the national quality certifying body.
- (3) Without prejudice to the generality of subsections (1) and (2) of this section, the Bureau
  - (a) shall exercise and perform the functions assigned to it by this Act or by any other enactment; and
  - (b) may do all things necessary for the purpose of its functions.

**4. Functions of the Bureau.**

(1) For the purposes of facilitating trade, including industrial efficiency and development, and promoting public and industrial welfare and health and safety for safeguarding the environment, the Bureau shall

- (a) promote and encourage the maintenance and implementation of industry standards
  - (i) for goods or services produced, provided or used in Saint Christopher and Nevis; and
  - (ii) in relation to processes and practices used in the production or provision of goods or services in Saint Christopher and Nevis;
- (b) promote the adoption and application of all aspects of metrology as a necessary adjunct to standardization;
- (c) render conformity assessment services and matters connected with the rendering of conformity assessment services;
- (d) be the focal point for accreditation in accordance with the provisions of this Act; and
- (e) be the national authority responsible for metrology in St. Christopher and Nevis.

(2) Without prejudice to the generality of subsection (1) of this section, the Bureau shall, for the purpose of discharging its functions under that subsection

- (a) develop, adopt, prepare, adapt, amend, reaffirm, revise and publish standards, technical regulations and conformity assessment procedures, in relation to any class, category or type of products or services;
- (b) promote the adoption and implementation of standards relating to structures, goods, materials, processes, practices, operations and other matters, on a national and international level;
- (c) co-ordinate, monitor and promote standardization and related activities at the various corporate, national, regional and international levels and to supply or ensure the existence of adequate supporting related services;
- (d) cooperate with national, regional or other international bodies in the field of standardization and exchange information with such bodies generally, and in particular to such extent as may be provided for in any international obligation entered into by Saint Christopher and Nevis or as may be prescribed;
- (e) promote research, conformity assessment and market surveillance as the Bureau considers appropriate in relation to standards, technical specifications or technical regulations;

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- (f) provide for the inspection and testing of goods, services, processes and practices;
- (g) certify goods, services, processes and practices that conform to national, regional or international standards;
- (h) establish and declare standards and technical regulations for the improvement of goods produced in Saint Christopher and Nevis and keep the standards and technical regulations under review;
- (i) collect and publish for public information and guidance, data relating to specifications and standards;
- (j) encourage and undertake educational programmes relating to standards;
- (k) inspect or cause to be inspected
  - (i) any operations carried out and any books or records, in connection with the production, manufacture, processing or treatment of any goods, and
  - (ii) the execution of any services, processes or practice for which a technical regulation has been declared or for which application has been made to use the standard mark.
- (l) make arrangements or provide facilities for the verification, inspection, testing and calibration of instruments, appliances, apparatus and devices used in trade;
- (m) institute a National Quality Infrastructure and establish, administer and operate schemes of standardisation and certification of goods including
  - (i) administering the certification of such goods;
  - (ii) assessing quality systems and administering the certification of systems thus assessed; and
  - (iii) assessing the competence of quality practitioners offering consultancy, training and other services;
- (n) establish and designate laboratories and testing facilities;
- (o) control, in accordance with the provisions of this Act, the use of standards marks and distinctive marks;
- (p) promote the carrying out of activities, not inconsistent with the purposes of this Act, by other bodies and for that purpose establish or expand, or promote the establishment or expansion of, other bodies to carry out any such activities either under the control or partial control of the Bureau or independently, and to give assistance to such bodies or to other bodies appearing to the Bureau to have facilities for the carrying out of any such activities;

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- (q) co-operate with and advise manufacturers and suppliers of goods and services in setting up quality control systems and preparing standards; and
  - (r) do such other things as may be expedient or necessary to secure the proper execution of the purposes of this Act.
- (3) In the performance of its functions under the provisions of this Act or of any other enactment, the Bureau
- (a) shall publish lists of standardization bodies that are recognised by the Bureau for the purposes of this Act;
  - (b) shall consider all applications for licences to use a conformity mark and to grant licences for such purpose;
  - (c) shall inform the public of new subjects included in its standards programme and of the preparation or amendment of standards and technical regulations;
  - (d) shall, in accordance with Part IV of this Act, on its own initiative or at the request of any person, carry out such investigations in relation to the conduct of business or any complaint by a consumer under this Act;
  - (e) shall determine whether any person is supplying goods or services in contravention of this Act or is otherwise engaged in any practice that is in contravention of this Act;
  - (f) may provide advisory services for manufacturers as to the type and methods of quality control applicable to their products; and
  - (g) may undertake the training of manufacturing staff in quality control.
- (4) The Bureau may charge fees for services rendered under this section and may offer these services inside or outside Saint Christopher and Nevis.
- (5) For the purpose of subsection (2)(c) of this section, the reference to the term “supporting related services” includes a reference to
- (a) the availability or ensuring the availability of testing services;
  - (b) offering technological advice and consultancy services to the Government, the Government agencies and the private sector; and
  - (c) any other services related to standardization as may be required.

**5. Appointment of Director of the Bureau.**

- (1) The Minister shall, by notice published in the *Gazette*, appoint a Director of the Bureau.
- (2) The Director shall
  - (a) be the chief executive officer of the Bureau; and
  - (b) have full responsibility and oversight for the day-to-day management of the business of the Bureau including administration of the affairs of the Bureau;



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and approval of standards, technical regulations and conformity assessment procedures.

**6. Appointment and training of staff of the Bureau.**

The Minister shall, after consultation with the Director, appoint and employ at such remuneration and on such terms and conditions as he or she thinks fit, such members and staff of the Bureau as the Minister may deem necessary for the proper performance of the functions of the Bureau under this Act.

**PART III  
ADMINISTRATION OF THE BUREAU**

**7. Financing of the Bureau.**

- (1) The Bureau shall be financed by
  - (a) moneys appropriated by the National Assembly for the purpose;
  - (b) fees charged for services by the Bureau
    - (i) in respect of inspection, testing, certification, use of the Standards Mark or any other service required to be provided under this Act, and
    - (ii) to industry, service providers and manufacturers; and
  - (c) Government grants.

**8. Application of Finance Administration Act.**

The provisions of the Finance Administration Act, Cap 20.13, with the necessary modifications and adaptations, apply to

- (a) the accounts and other records relating to the business of the Bureau; and
- (b) the returns, accounts and other information relating to the activities of the Bureau.

**PART IV  
LICENCES FOR USE OF THE STANDARDS MARK**

**9. Duty to act in a fair manner.**

- (1) Where the Bureau is required to make a decision respecting
  - (a) the refusal of an application for a grant of a licence; or
  - (b) the revocation of a licence under this Part,
 the Bureau shall make the decision in a fair manner.
- (2) Without limiting the generality of subsection (1), before the Bureau refuses to grant a licence or revokes a licence under this Act, the Bureau shall

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- (a) provide a written notice to the applicant or licensee of the intention of the Bureau to refuse to grant the licence or to revoke the licence;
- (b) where applicable, give the applicant or licensee a reasonable opportunity to make representation; and
- (c) where representation is made under paragraph (b), take the representation into consideration in making the decision.

(3) Where the Bureau refuses to grant a licence to an applicant or revokes the licence, the Bureau shall, in writing, promptly notify the applicant or, as the case may be, the licensee of

- (a) the refusal or revocation and the reasons for the refusal or the revocation; and
- (b) the right of appeal of the applicant or licensee under section 45.

**10. Application for licences to use Standards Mark, etc.**

Any person may apply to the Bureau, in such form and in such manner as may be prescribed, for a licence to use the Standards Mark or the CARICOM Certification Mark.

**11. Grant of licence.**

(1) Subject to this Act, the Bureau may grant a licence to the applicant to use the Standards Mark or the CARICOM Certification Mark, upon such terms and conditions, including the payment of the prescribed fee, if the Bureau is satisfied that the subject matter of the application conforms to a standard or technical regulation.

(2) In any licence granted in relation to any goods, services, processes or practices, the Bureau shall

- (a) describe the goods, services, processes or practices;
- (b) specify the name the person to whom the licence is granted and the country where the relevant goods are produced, manufactured or processed; and
- (c) specify the standards or technical regulations applicable to the goods, services, processes or practices;

but where there have been no changes in the other circumstances which justified the grant of a licence, the Bureau shall in regard to any such licence, authorise, on an application, the substitution of the person named in the application as shall be proved to be necessary.

**12. Refusal of licence.**

The Bureau shall not grant a licence unless it is furnished with such proof and it is given such opportunities and facilities as may be reasonably necessary in order that the Bureau may satisfy itself that the goods, services, processes or practices in relation to which the application has been made qualify for such licence.

**13. Cancellation of licence.**

The Bureau may cancel any licence granted under this section if the Bureau has reasons to believe that the licensee is misusing the licence or using the licence in a manner that amounts to an abuse of the privilege associated with the licence.

**PART V  
BUSINESS OF THE BUREAU**

**14. Declaration, publication of standards.**

(1) Subject to this section, the Bureau may formulate or develop a technical specification and declare it to be a standard of Saint Christopher and Nevis.

(2) Where it is impracticable for the Bureau to formulate a technical specification in respect of any goods, the Bureau may, in respect of those goods, adopt or adapt an international standard or technical specification formulated outside Saint Christopher and Nevis to be a standard, if the Bureau considers that the interests of Saint Christopher and Nevis are served.

(3) The Bureau shall

- (a) keep available for public inspection, a copy of every standard; and
- (b) cause every declaration of the adoption of a standard to be published in the *Gazette*, on the website of the Bureau and in such other publication as the Minister may direct.

(4) The power conferred on the Bureau to prepare, develop, adopt, adapt, declare or publish standards shall be construed as including the power, exercisable in like manner, to vary, substitute or revoke any such standards.

(5) The Bureau shall not declare, substitute, vary or revoke a standard unless the Bureau is satisfied that any person who may be affected thereby has had an opportunity to consider the intended decision to declare, substitute, vary or revoke the standard and comment on the standard.

(6) Where the Bureau intends to vary or revoke a standard formulated under subsection (1), the Bureau

- (a) shall publish in the *Gazette* a notice of its intention to vary or revoke the standard requesting persons to consider the standard to be varied or revoked and to submit comment on the standard; and
- (b) may vary or revoke the standard at any time after 60 days from the date of publication of the notice in the *Gazette*.

(7) Without prejudice to subsection (5) the Bureau may publish the notice on the website of the Bureau and by such other means so as to bring the notice to the attention of persons who may be affected by the variation or revocation.

#### **15. Declaration and publication of technical regulations.**

(1) Subject to subsections (2) and (3), the Minister may, by Order, declare and publish technical regulations intended primarily

- (a) to protect consumers or users against danger to health or safety;
- (b) to prevent fraud, misrepresentation or deception arising from misleading advertising or labelling;
- (c) to ensure acceptable quality in goods whether produced for home use or export;
- (d) to require adequate information to be given to the consumer or user;
- (e) to ensure acceptable quality in any case where the choice of source of supply is restricted;
- (f) to protect the environment; or
- (g) to generally protect public or industrial health, welfare or safety.

(2) The Minister shall not declare any technical regulations under this Part without the recommendation of the Bureau and a statement regarding the purpose of the technical regulations.

- (3) Where the Minister intends to issue any technical regulation, the Minister shall
- (a) by Notice published in the Gazette, give not less than 60 days notice of his or her intention to declare the technical regulations; and
  - (b) in the Notice, indicate the date on which the technical regulations shall come into effect.

(4) The Bureau shall keep a copy of every technical regulation declared under this section available for public inspection.

(5) The Minister may adopt or adapt any technical regulations formulated outside Saint Christopher and Nevis in respect of any goods or commodity where appropriate and where the interests of Saint Christopher and Nevis are served.

(6) The power conferred on the Minister to adopt or adapt technical regulations shall be construed as including the power, exercisable in like manner, to repeal or amend any such technical regulations.

(7) A Saint Christopher and Nevis Standard may be incorporated by reference in any law.

(8) The reference under sub-section (1) shall refer at least to the title and the number of the relevant Saint Christopher and Nevis Standard.

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(9) If the referenced Saint Christopher and Nevis Standard or any provision under sub-section (1) is amended or revised, such amendment or revision is deemed to be incorporated as well.

(10) Where the Minister declares a technical regulation, every person concerned at any stage of the manufacture, production, processing, treatment or distribution of the commodity in respect of which the declaration is made shall ensure compliance with that technical regulation.

**16. Saint Christopher and Nevis Standards Mark.**

(1) The Minister may, on the recommendation of the Bureau, prescribe a mark which shall be called the Saint Christopher and Nevis Standards Mark, the property of which vests in the Bureau.

(2) The Standards Mark may be used in relation to goods, services, processes or practices to signify conformity to a standard.

**17. Use of CARICOM Standards Mark.**

(1) The Bureau may, in relation to goods, services, processes or practices which conform to the CARICOM Standards Mark, use the CARICOM Standards Mark.

(2) Subject to the approval of the Minister, the Bureau may adopt the regional Certification Scheme and Mark.

**18. Restriction on the use of the word “Standards”.**

(1) A person shall not, without the written consent of the Bureau, carry on a business or perform any function under a name which contains the word “Standards” or “Standard”.

(2) Where a written law provides for the registration of an association of persons, the registering authority shall refuse registration if in its opinion the use of the name by which the association desires to be registered is prohibited by subsection (1).

(3) A person who contravenes subsection (1) or subsection (2) of this section commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for two years.

(4) This section does not apply to a name that was in use in Saint Christopher and Nevis before the 26<sup>th</sup> day of February, 1987.

**19. Labelling of goods.**

(1) A person shall not label any goods contrary to any technical regulation declared in respect of the labelling of the goods.

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(2) Notwithstanding the generality of subsection (1), a person shall not sell, import or advertise any pre-packaged goods or other products unless the goods or other product has applied to it a label conforming to the technical regulation declared in respect of the labelling of the goods.

(3) A person who contravenes subsection (1) or (2) of this section commits an offence and is liable, on summary conviction, to a fine of \$10,000 or to imprisonment for 2 years.

**20. Inspection of imported goods.**

(1) Notwithstanding the provisions of any other law, the Bureau may authorise a member of its staff to examine goods manufactured outside Saint Christopher and Nevis and any custom entries relating to such goods, where a technical regulation is declared for the goods.

(2) The Minister may, in writing

(a) authorise a public officer; or

(b) retain, at a fee to be prescribed, a suitable qualified consultant,

to assist the staff of the Bureau in the conduct of an inspection carried out under subsection (1).

(3) A person who inspects goods under this section may take and submit samples of the goods for testing and analysis.

(4) Where goods imported into Saint Christopher and Nevis bear a mark

(a) so closely resembling the Standards Mark as to be misleading; or

(b) which falsely represents a mark of compliance with a specification formulated or adopted outside Saint Christopher and Nevis,

the imported goods shall not be entered for home use unless the mark is removed or substantially changed.

(5) Where a technical regulation is declared for any goods, the Director shall advise the Comptroller of Customs to permit goods produced or manufactured outside Saint Christopher and Nevis to be entered for home use if

(a) upon any test or inspection of samples, the goods are found to comply with the technical regulations; or

(b) the goods are accompanied by a certificate of inspection and compliance with the technical regulations, issued by a laboratory or other similar institution recognised by the Bureau.

**21. Power to designate test equipment.**

(1) The Bureau may designate test equipment for the purpose of measuring, comparing or testing the characteristics of any goods or process.

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(2) The Bureau may designate and develop appropriate facilities, equipment, personnel and procedures to support quality management systems and the National Quality System referred to in section 4(2)(m).

(3) The Bureau shall publish in the *Gazette* a notice of designation of test equipment and of any designation or development undertaken under subsection (2) of this section.

**22. Test and inspection of quality.**

(1) The Minister may

- (a) direct the Bureau; or
- (b) by letter, authorise the Bureau to obtain the service of a public officer or any other person having such qualifications as may be prescribed,

to test or inspect the quality of any goods in respect of which a technical regulation has been declared.

(2) Where

- (a) any manufacturer of goods in Saint Christopher and Nevis has a licence to use the Standards Mark in respect of the manufactured goods; and
- (b) a technical regulation has been issued in respect of the manufactured goods,

the Bureau or the public officer or other person as mentioned in subsection (1)(b) of this section may require the manufacturer to submit samples of the manufactured goods for testing or inspection.

(3) Where a technical regulation or, as the case may be, a standard exists with respect to any goods, the Bureau may

- (a) certify that such goods comply with; or
- (b) report that the goods do not comply with,

the technical regulation or, as the case may be, the standard.

**23. Prohibition of production, sale, export of deficient goods.**

(1) For the purpose of protecting the reputation of Saint Christopher and Nevis in the export market, the Minister may, by Order, declare that any specified goods shall be exported only if the specified good conforms to the technical regulations.

(2) Where

- (a) the Minister makes an order under sub-section (1) or declares any technical regulations in respect of any goods; and
- (b) the goods fail to conform to the technical regulations,

a person shall not sell, import, export or use the goods or carry out any process or work involved in the production of the goods, unless the goods, process or work conforms to the requirements of the technical regulations.

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## (3) Where

- (a) the Minister declares any technical regulations in respect of any goods for the protection of consumers or users against dangers to health or safety; and
- (b) it is found that the goods, on being examined or tested under section 20 or 22, fail to conform to the technical regulations,

the Director shall advise the Comptroller not to release the goods for home use or permit the goods to be exported, unless the goods are clearly stamped or marked with the words “rejects” or “seconds” or “imperfect” or other similar words as may be prescribed.

## (4) Without prejudice to subsection (3), where

- (a) any technical regulations are declared in respect of any goods in order to protect consumers or users against danger to health or safety; and
- (b) the goods fail to conform to the technical regulations,

the Director shall advise the Comptroller not to release the goods for home use or permit the goods to be exported; but the Director shall cause the goods to be disposed of as the Bureau may reasonably decide.

## (5) Where

- (a) any technical regulations are declared in respect of any goods; and
- (b) the goods which are in circulation in Saint Christopher and Nevis fail to conform to the technical regulations,

the Director shall, at the expense of the manufacturer or supplier, recall the goods by such means as the Bureau may reasonably decide.

**24. Appointment and powers of inspectors.**

(1) The Minister may, on the advice of the Bureau, designate employees of the Bureau or public officers as inspectors for

- (a) monitoring compliance with technical regulations;
- (b) eliminating any process or practice the effect of which adversely affects the environment; and
- (c) generally, carrying out the purposes of this Act.

(2) The Minister shall provide every inspector with documentary evidence of his or her designation.

(3) An inspector may, at any time with or without a warrant issued by a Magistrate, enter a place where the inspector has reasonable grounds to believe that

- (a) an article to which this section applies is manufactured, prepared, stored or offered for sale, to examine and take samples of the article; or



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- (b) an activity to which this section applies is carried out, to inspect or investigate the activity and take samples of any article, material or substance relating to the activity.
- (4) Where an inspector enters a place under this section
- (a) the owner of the place and any employee or agent of the owner present at the time of entry shall
    - (i) give to the inspector all reasonable assistance, and
    - (ii) furnish the inspector with such information as the inspector may reasonably require to carry out his or her functions under this Act; and
  - (b) the inspector may
    - (i) open and examine any receptacle or package that the inspector has reasonable grounds to believe contains an article to which this section applies,
    - (ii) examine and make copies of or transcribe extracts from any book, document or other record found in the place which the inspector has reasonable grounds to believe contains information relevant to the enforcement of this Act, and
    - (iii) seize and detain, for such time as may be necessary, any article by means of which or in relation to which the inspector has reasonable grounds to believe any provision of this Act has been contravened.
- (5) A Magistrate shall not issue a warrant under this section unless the Magistrate is satisfied by information in writing that
- (a) admission to the premises has been refused;
  - (b) refusal to enter the premises is apprehended; or
  - (c) a request for admission to the premises would defeat the purpose of the entry.
- (6) An inspector
- (a) may, in his or her discretion, leave any article seized under subsection (4)(b)(iii) of this section in the place where it was seized or remove it to be stored in a place other than the place where it was seized; and
  - (b) upon being satisfied that this section has been complied with, shall release any seized article not destroyed by testing.
- (7) Where
- (a) an article is seized under subsection (4)(b)(iii) of this section; and
  - (b) the owner or person from whom the article is seized consents to its destruction,
- the article forfeits to Saint Christopher and Nevis and may be destroyed or otherwise disposed of as the Bureau may direct.

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(8) An inspector may prosecute in courts of summary jurisdiction in cases arising from any contravention of this Act.

(9) In this section

“article to which this section applies” means

- (a) any goods for which a technical regulation is declared;
- (b) anything used in the manufacture, testing, preparation, processing, packaging, storage or sale of any goods referred to in paragraph (a); and
- (c) any labelling or advertising material referring to the goods referred to in paragraph (a), whether or not bearing the Standards Mark;

“activity to which this section applies” includes any process or practice for which a technical regulation has been issued and anything used in the performance of the process or practice.

**25. Power to order cessation of manufacture of prescribed goods.**

(1) Where an owner of any establishment fails to comply with the directions of an inspector, the Bureau may direct that the owner of the establishment cease immediately the manufacture, preparation or processing of any prescribed goods, for such period as the Bureau considers necessary.

(2) Where the Bureau issues to an owner of any establishment any directions under subsection (1), the owner of the establishment shall comply with the directions.

(3) An owner of any establishment who contravenes sub-section (1) or sub-section (2) commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**26. Complaints.**

(1) The Bureau

- (a) shall investigate complaints regarding goods, services, processes or practices referred to it by consumers and users; and
- (b) may institute legal proceedings against the manufacturer or other person—
  - (i) supplying any defective goods or service; or
  - (ii) engaged in any defective process or practice.

(2) Where, upon representation made by the Bureau, the court is of the opinion that any goods, service, process or practice is dangerous to members of the public, the court may order the manufacturer of the goods or the person supplying the service or engaged in the process or practice to cease the manufacture of the goods or the operations of that service, process or practice, as the case may be.

**PART VI**  
**QUALITY CERTIFICATION**

**27. Bureau quality certifying body.**

The Bureau is the national quality certifying body and shall operate in compliance with the relevant national, regional and international standards, guides and other requirements.

**28. Bureau to issue certificate of conformity.**

The Bureau shall

- (a) certify against national, regional and international technical regulations, standards, guides and other requirements; and
- (b) issue certificates of conformity according to the related technical regulations and standards.

**29. Bureau to maintain integrity and impartiality.**

The Bureau shall maintain integrity and impartiality in applying, implementing or administering the relevant standards, guides and other requirements.

**30. Quality practitioners.**

(1) The Bureau shall establish a register for all national, regional and international persons offering consultancy, training and other related services in quality management.

(2) a person who desires to be registered as a quality practitioner by the Bureau shall—

- (a) submit his or her qualifications to the Bureau or to a qualified registrar determined by the Bureau; and
- (b) undergo an assessment by the Bureau on his or her competence as a quality practitioner.

(3) Where after an assessment the Bureau decides to enter the quality practitioner's name in the register, a licence shall be issued to the quality practitioner upon payment of the requisite fee as prescribed by the Bureau.

**31. Registrar and other bodies.**

Every local, regional or international body performing certification and accreditation services in Saint Christopher and Nevis shall register with the Bureau subject to such terms, conditions and payment of fees that may be prescribed by the Bureau.

**32. Bureau to publish register of quality practitioners.**

The Bureau shall publish annually, by Notice in the *Gazette*, the register of quality practitioners.

**PART VII**  
**OFFENCES AND PENALTIES**

**33. Selling, manufacturing goods not in conformity with technical regulations.**

(1) A person who sells or offers for sale any goods, service, process or practice that does not conform to any technical regulation declared in respect of the goods, service, process or practice commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(2) A person who manufactures, prepares or processes any goods, service, process or practice in contravention of any technical regulation declared in respect of the goods, service, process or practice commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**34. Unlawful use of labels.**

A person who labels, packages or advertises goods or services, processes or practices otherwise than in compliance with a technical regulation commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**35. False representation.**

(1) A person who makes any statement or representation or uses a mark with reference to any goods, service, process or practice which—

- (a) conveys or is likely to convey the impression that a person who is not entitled to use the Standards Mark is so entitled; or
- (b) falsely represents that any goods, process or practice complies with a specification formulated, adopted or adapted by the Bureau,

commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(2) A person who makes any statement or representation whether in writing or not, or uses a mark which conveys or is likely to convey that any goods, service, process or practice complies with a standard or technical regulation when it does not, commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(3) A person who, without the authority of the Bureau and for the purpose of gain or profit, makes a statement or representation whether in writing or not comparing any goods, service, process or practice with a standard or technical regulation declared by the Bureau commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(4) It is a defence in any proceedings instituted under subsection (3) if the defendant proves to the satisfaction of the court that he or she acted without intention to defraud any other person.

### **36. Unlawful obliteration of stamp or mark.**

A person who, before offering or exposing for sale, goods which do not conform to a standard or technical regulation, obliterates or otherwise removes a stamp or mark which denotes the deficiency, commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

### **37. Obstructing persons in execution of duties.**

(1) A person who hinders, or obstructs or knowingly makes a false or misleading statement to any other person in the execution of his or her duty under this Act commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(2) A person who obstructs an inspector by not giving the inspector reasonable assistance or access to records, documents or information relevant to the performance of his or her functions under this Act commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

### **38. Attempt to defraud.**

A person who, with intent to defraud, represents that he or she is an inspector or a person authorised by the Bureau or the Minister to perform a function under this Act commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

### **39. Unlawful use of Standards Mark.**

(1) A person who being entitled to use the Standards Mark, uses the Standards Mark in contravention of the terms and conditions of the licence or after he or she is no longer entitled to use the mark commits an offence and is liable, on summary conviction, to a fine

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of \$10,000 and to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

(2) A person who uses the word “Standards” or “Standard” in a name contrary to section 18 commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**40. Copyright of St. Christopher and Nevis Standards.**

(1) The copyright of Saint Christopher and Nevis Standards shall be vested in the Bureau notwithstanding any other law, and the Bureau shall not be deprived of such copyright if a Saint Christopher and Nevis Standard is incorporated in another law in terms of the provisions of such a law.

(2) No person may publish, reproduce, record or transmit any Saint Christopher and Nevis Standard or any part of such a standard subject to copyright without the authorization of the Bureau, with the exception of its private use or for study purposes.

**41. Impersonation.**

A person who impersonates an inspector commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**42. Tampering with seized articles.**

A person who tampers with an article seized by an inspector in such a way as to change any of the characteristics of the article described in the technical regulation applicable to such article, commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

**43. Court may impose additional penalty.**

Where a person is convicted of an offence under this Act, the court may, in addition to any penalty imposed in respect of that offence

- (a) summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by the person in consequence of that offence; and
- (b) impose on that person a penalty equivalent to the amount so assessed and, in default of payment of that penalty, a term of imprisonment for a period of 12 months.

**44. Forfeiture of articles on conviction of offenders.**

Where a person is convicted of an offence under this Act, the court may order

- (a) the forfeiture of
  - (i) any article by means of or in relation to which the offence was committed; or
  - (ii) any similar item in the possession of that person or found with such article, whether or not the item is proved to be in contravention of section 42;
- (b) the disposal of the article or item referred to in paragraph (a) in a manner as the Minister may direct; or
- (c) the convicted person to cease and desist from performing any activity by means of or in relation to which the offence was committed until such time as the court may direct.

**PART VIII  
APPEALS**

**45. Appeals.**

(1) An applicant who is aggrieved by, or dissatisfied with, any decision of the Bureau respecting

- (a) the refusal of an application under this Act; or
- (b) the revocation of a licence,

may, within 10 days of being notified of the decision, apply in writing to the Bureau to review the decision.

(2) Subject to subsection (3), an appeal shall lie

- (a) from the decision of the Bureau to the Minister;
- (b) from the decision of the Minister, to the High Court; and
- (c) from the decision of the High Court to the Court of Appeal.

(3) Where a person lodges an appeal under subsection (2), the person lodging the appeal shall, within 24 hours of lodging the appeal give

- (a) in the case of an appeal to the High Court, a copy of the notice of the appeal to the Director and the Attorney General; and
- (b) in the case of an appeal to the Court of Appeal, a copy of the notice of the appeal to the Director, the Attorney General and the High Court.

(4) The commencement of an appeal under this section does not stay the effect of the decision of the Bureau appealed against, unless a judge of the High Court or the Court of Appeal orders otherwise.

## **PART IX MISCELLANEOUS**

### **46. Evidence of standard.**

A copy of a standard authenticated by the Bureau together with a copy of the *Gazette* notice declaring or amending the standard is *prima facie* evidence of that standard in any legal proceedings.

### **47. Secrecy of information.**

(1) All information obtained by the Minister, the Bureau or any member of the staff of the Bureau or by any other person in the course of the administration of this Act, as to any formula, trade secrets, process or practice shall be treated as confidential, except for any purpose connected with the administration of this Act.

(2) The disclosure of any information relating to any formula, trade secrets, process or practice to the Minister, the Bureau or any member of its staff or to any other person for purposes connected with the administration of this Act, shall not prejudice a subsequent application for the patent of the formula, process or practice.

### **48. Protection against claims.**

A person does not have a claim against the Crown or against the Bureau by reason only of the fact that

- (a) the Standards Mark is used in connection with any goods; or
- (b) any goods, service, process or practice conforms or is alleged to conform to a standard or a technical regulation.

### **49. Conflicting specifications.**

Where there is a conflict between the provisions of a technical specification declared to be a Saint Christopher and Nevis Standard under section 14 and a specification made or declared under any other written law, the Saint Christopher and Nevis Standard shall prevail.

### **50. Expenses.**

The expenses required for the purposes of this Act shall, unless specifically provided for, be paid from such sums allocated by the National Assembly.



**51. Regulations.**

(1) The Minister may make regulations generally for giving effect to the purposes of this Act, and for prescribing all things required to be prescribed.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations

- (a) regarding the operation of the WTO TBT Enquiry Point;
- (b) regarding the market surveillance activities of the Bureau;
- (c) regarding the declaration of standards and technical regulations;
- (d) concerning the use of the Standards Mark and the terms and conditions subject to which the Standards Mark may be used and the fees to be paid in respect of such use;
- (e) regarding packaging, labelling and advertising of any goods;
- (f) regarding the inspection and testing of goods, processes and practices and entry upon premises for that purpose;
- (g) respecting the sale or disposal of goods found to be deleterious to the welfare of the consumer;
- (h) respecting the exemption from any requirements of this Act, as the Minister thinks fit;
- (i) respecting the inspection of specified commodities that are to be exported;
- (j) respecting the manufacture, sale, importation or exportation of goods for which a technical regulation has been declared;
- (k) respecting the conduct of inspection of commodities and the taking of samples;
- (l) respecting the forms to be used under this Act;
- (m) requiring any person to keep and produce in relation to any goods, services, process or practice, such records as the Bureau may consider necessary for the purposes of this Act;
- (n) prescribing matters in respect of which fees are to be paid, the amount of the fees and the persons by whom the fees are to be paid and authorising the refund or remission of fees in such circumstances as may be prescribed;
- (o) prescribing penalties for the breach of any regulation not exceeding a fine of \$10,000 or imprisonment for 2 years; and
- (p) prescribing the qualifications, powers and duties of persons
  - (i) authorised under section 22 to test or inspect goods upon the goods being landed in Saint Christopher and Nevis; and
  - (ii) designated inspectors under this Act.

(3) Regulations made under this Act may create offences punishable by fines not exceeding \$10,000 or imprisonment for a term not exceeding 2 years.

**52. Repeal, savings and transitional provisions.**

(1) The National Bureau of Standards Act, Cap. 23:15 is hereby repealed.

*Bureau of Standards and Quality Act, 2021 - 19.*

(2) Notwithstanding the repeal of the National Bureau of Standards Act under subsection (1) of this section, as from the date on which this Act comes into force

- (a) all notices, designations and certificates issued under the former Act, in respect of any matter dealt with in that Act are deemed to have been issued under this Act;
- (b) the Bureau established under the former Act shall continue in being as the Bureau established under this Act;
- (c) the employees of the Bureau established under the former Act who were employees immediately before the effective date remain employees of the Bureau;
- (d) all assets, liabilities, rights and obligations of the Bureau remain the assets, liabilities, rights and obligations of the Bureau; and
- (e) a specification, code of practice, standard or document referred to in the former Act, which is in force immediately before the effective date shall continue in force and is deemed to be a Saint Christopher and Nevis Standard which has been set and issued under this Act.

(3) Any action taken, before the date on which this Act comes into force, by the Bureau under the former Act is deemed to have been taken under this Act.

(4) For purposes of this section, “former Act” means the National Bureau of Standards Act repealed under this section.

**SCHEDULE**

**PROTOCOL MEMBER STATES**

Antigua and Barbuda  
Commonwealth of Dominica  
Grenada  
Montserrat  
St. Christopher and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines

ANTHONY MICHAEL PERKINS  
*Speaker*

Passed by the National Assembly this 10<sup>th</sup> day of November, 2021.

SONIA BODDIE-THOMPSON  
*Clerk of the National Assembly*