

**BILLS SUPPLEMENT**

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*Uganda National Bureau of Standards*  
**Bill No. 10** (Amendment) Bill **2010**

**THE UGANDA NATIONAL BUREAU OF STANDARDS  
(AMENDMENT) BILL, 2010**

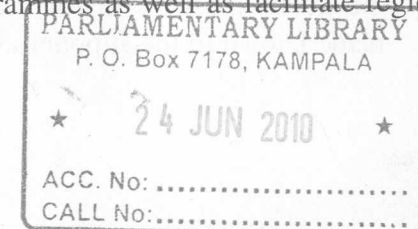
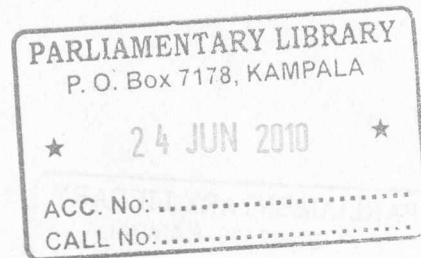
**MEMORANDUM**

**1. Policy and Principles**

The object of this Bill is to amend certain provisions of the Uganda National Bureau of Standards Act (Cap.327) which have been found to be inadequate and to incorporate new developments in standardisation in the East African Community for the better management of standards in Uganda.

**2. Harmonisation: The Uganda National Bureau of Standards Act.**

Uganda has signed and ratified a number of international and regional Instruments which have a bearing on the standards of products and process in Uganda. These include the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006 and World Trade Organisation (WTO) Technical Barriers to Trade (TBT) Agreement. This necessitates harmonisation with the Uganda National Bureau of Standards Act, (Cap.327). The harmonisation will increase opportunities for companies to participate in international technology transfer through standardisation, quality assurance, metrology and testing programmes as well as facilitate regional and international trade.



### 3. Number of members of the Council

For the purpose of easily raising quorum for Council meetings and ultimately quickening the decision making process of the Bureau, the membership of the Council has been reduced from 15 members to a manageable size of 9 members. (See amendment to sections 4 and 9 of Act i.e. clauses 4 and 5 of Bill)

### 4. Administration of the Weights and Measures Act by the Uganda National Bureau of Standards

The Bill seeks to empower the Bureau to administer the Weights and Measures Act, Cap.103. (See amendment to section 3 of Act i.e. clause 3 of Bill)

5. Clause 6 of the Bill seeks to replace section 11 of Cap.327 and to rationalize the mode of appointment of and vacation of office by the Director.

### 6. Immunity to officers of the Bureau for acts done in good faith

The Uganda National Bureau of Standards Act, Cap. 327 does not provide for the protection of the officers of the Bureau from personal liability for acts done bonafide during the course of their duty. This Bill therefore seeks to indemnify officers of the Bureau from personal liability for acts done in good faith in the course of their duty. This is done by clause 7 by inserting a new section 14A.

### 7. Standardisation of new products (fitness for purpose)

In the absence of national standards, it is important to have a framework for evaluation of performance of commodities, processes or systems. The Bill therefore introduces the concept of a fit-for-purpose criteria which the Bureau will use to evaluate the commodities, processes or systems.

The basis of assessment as provided are—

- (a) the goods must be fit for the purpose that the consumer made known to the supplier at the time of purchase;

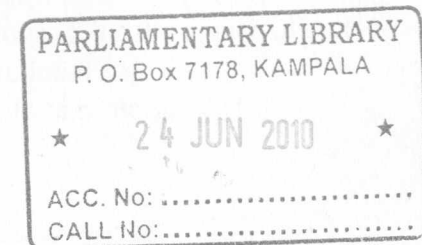
- (b) consumers are able to rely on the advice from sales staff; and
- (c) goods supplied are as described or match the sample given to the consumer.

(See amendment made by clause 11 to section 21 of the Act.)

### 8. Deterrent penalties in enforcement of standards

The Bill seeks to provide for deterrent penalties by increasing the fines and other penalties under the Act, and introducing suspension or seizure of premises for production and outright ban of production and payment of compensation. All these measures are aimed to safeguard the health and safety of consumers. (See clauses 13, 15, 16 and 18)

KAHINDA OTAFIIRE (MAJ GEN),  
*Minister of Trade, Tourism and Industry.*

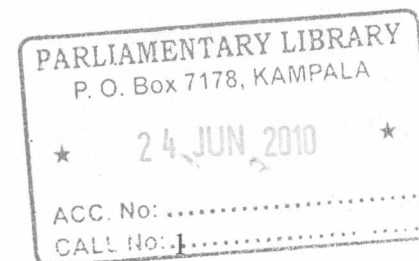


THE UGANDA NATIONAL BUREAU OF STANDARDS  
(AMENDMENT) BILL, 2010

ARRANGEMENT OF CLAUSES

*Clause*

1. Commencement
2. Amendment of section 1 of Cap. 327
3. Amendment of section 3 of the principal Act
4. Amendment of section 4 of the principal Act
5. Amendment of section 9 of the principal Act
6. Replacement of section 11 of the principal Act
7. Insertion of new section 14A
8. Inserting of section 15A of the principal Act
9. Amendment of section 18 of the principal Act
10. Amendment of section 19 of the principal Act
11. Amendment of section 21 of the principal Act
12. Insertion of new section 21A
13. Insertion of new section 24A, 24B and 24C
14. Amendment of section 25 of the principal Act
15. Amendment of section 26 of the principal Act
16. Amendment of section 27 of the principal Act
17. Insertion of new section 42A
18. Insertion of Schedule to principal Act



A BILL for an Act

ENTITLED

**THE UGANDA NATIONAL BUREAU OF STANDARDS  
(AMENDMENT) ACT, 2010**

An Act to amend the Uganda National Bureau of Standards Act to reduce the number of members of the Council, to provide for the term of service for members; to provide for deterrent penalties for offences under the Act; to empower the Bureau to administer the Weights and Measures Act; to provide immunity to officers of the Bureau for acts done in good faith; to empower the director to suspend or seize premises for non compliance with national standards or to destroy perishable goods not in compliance with national standards and detrimental to health and safety of consumers; to empower the Minister to ban commodities, products and process detrimental to the health and safety of consumers and regulations and for related matters.

BE IT ENACTED by Parliament as follows:

**1. Commencement**

This Act shall come into force on a date fixed by the Minister by statutory instrument.

**2. Amendment of section 1 of Cap. 327**

The Uganda National Bureau of Standards Act, in this Act referred to as "the principal Act", is amended, in section 1, as follows—

- (a) by inserting immediately after the definition of "code of practice" the following—
  - "(da) "Committee" means the East African Standards Committee established under section 4 of the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006;"
- (b) by inserting immediately after the definition of "council" the following—
  - "(ha) "Council of Ministers" means the Council of Ministers of the East African Community established by Article 9 of the Treaty establishing the Community;
  - (hb) "currency point" has the value assigned to it in the Schedule to this Act;" and
- (c) by inserting immediately after the definition of "distinctive mark" the following—
  - "(ja) "East African Standard" means a standard approved by the East African Standards Committee and declared as such by the Council;"

**3. Amendment of section 3 of the principal Act**

Section 3 of the principal Act is amended—

- (a) in subsection (1) (j) by substituting for "devices" the word "national measurement standards";
- (b) by substituting for subsection (1) (o) the following—
  - "(o) seek membership of relevant international and regional organisations with objectives similar to those of the bureau;"

- (c) by inserting immediately after subsection (1) (p) the following—

“(q) develop and publish national standards in accordance with internationally recognised procedure;

(r) give effect to the decisions and recommendations of the Council of Ministers and the Committee with regard to metrology;

(s) give effect to the decisions and recommendations of the Council and the Committee with regard to an East African Standard;

(t) give effect to the decisions and recommendations of the Council and the Committee with regard to legal metrology; and

(u) to administer the Weights and Measurers Act”; and

- (d) by inserting immediately after subsection(1) the following—

“(1A) For the purposes of carrying out the functions of the bureau under subsection (1)(u) the Council of the bureau may give directives to any officer or person operating under the Weights and Measures Act, and that officer or person is obliged to give effect to any such directive.”

#### 4. Amendment of section 4 of the principal Act

Section 4 of the principal Act is amended—

- (a) in subsection (2) (c) by substituting for “six ex-officio members” the words “two ex officio members”;
- (b) in subsection (2)(d) by substituting for “seven persons” the words “five persons”.

#### 5. Amendment of section 9 of the principal Act

Section 9 of the principal Act is amended in subsection (3) by substituting for “seven members” the words “five members”.

#### 6. Replacement of section 11 of the principal Act

(1) For section 11 of the principal Act there is substituted the following—

##### “11. Director

(1) The Minister shall appoint a director to be the chief executive officer of the bureau.

(2) The director shall be a person of high moral character and proven integrity, with the relevant qualifications and experience relating to the functions of the bureau.

(3) The director shall hold office for five years and is eligible for re-appointment.

(4) The director shall cease to hold office if—

- (a) he or she resigns;
- (b) he or she has been adjudged or declared bankrupt under any law in force in Uganda and has not been discharged;
- (c) he or she is convicted of a criminal offence, in Uganda or elsewhere, in respect of which the maximum penalty exceeds six months imprisonment without the option of a fine.

(5) The director may be removed from office by the Minister on the recommendation of the Council for—

- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) misbehaviour or misconduct; or



(c) incompetence.

(6) Subject to this section the director shall hold office on such terms and conditions as the Minister may determine and specify in his or her instrument of appointment”.

(2) The amendment made by this section shall take effect after the expiry of the term of the director holding office at the commencement of this Act.

#### 7. Insertion of new section 14A

The principal Act is amended by inserting immediately after section 14 the following—

##### “14A Immunity of officials

A suit, prosecution or other legal proceeding shall not be brought against the director, a member of the Council, a member of staff or an inspector and any other official in their capacity for anything done in good faith under this Act.”

#### 8. Insertion of section 15A of principal Act

The principal Act is amended by inserting immediately after section 15 the following—

##### “15A Adoption of East African standards

(1) Within six months after the declaration of an East African Standard, the bureau shall adopt without deviation the East African Standard as the national standard of Uganda and withdraw the relevant national standard.

(2) The bureau shall publish the text of the adopted East African Standard as a national standard in accordance with ISO and IEC Directives.

(3) In this section—

“IEC” means the International Electro-technical Commission;

“ISO” means the International Organisation for Standardisation.”

#### 9. Amendment of section 18 of the principal Act

Section 18 of the principal Act is amended by substituting for subsection (2) the following—

“(2) The council shall not recommend any standard for being declared a compulsory standard, unless it is satisfied that—

- (a) it is not practicable to achieve the purposes of the standard specification except by means of making it compulsory;
- (b) the problem to be solved is precisely stated;
- (c) the intervention is based on clear evidence that government action is justified; and
- (d) appropriate notification under the WTO TBT Agreement has been forwarded to the WTO Secretariat.

(3) In this section—

““WTO TBT Agreement” means the Agreement on Technical Barriers to Trade of the World Trade Organisation.”

#### 10. Amendment of section 19 of the principal Act

Section 19 of the principal Act is amended by substituting for subsection (1) the following—

“(1) The council shall, at least two months before making recommendations for the purposes of section 18, publish in the *Gazette* and in a newspaper of wide circulation a preliminary notice containing full particulars of the relevant standard specification and shall call upon all persons interested or likely to be affected by the recommendations to lodge objections in writing within such time as the council may prescribe.”

**11. Amendment of section 21 of the principal Act**

Section 21 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(4) Where no compulsory standard specification has been declared by the Minister, a person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity which is not fit for purpose.

(5) In this section “fit for purpose” means that—

- (a) the goods must be fit for the purpose that the consumer made known to the supplier at the time of purchase or requirement that is technologically and generally acceptable to the population or society for that kind of product;
- (b) consumers are able to rely on the advice from sales staff;
- (c) goods supplied are as described or match the sample given to the consumer.”

**12. Insertion of new section 21A**

The principal Act is amended by inserting immediately after section 21 the following—

**“Copyright and publication of East African Standards**

**21A** Subject to the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, but not withstanding any other law—

- (a) the copyright in any East African Standard or other normative documents shall vest in the bureau; and
- (b) the bureau shall not be deprived of a copyright in paragraph (a) where a standard or a provision of the standard is incorporated in a law.”

**13. Insertion of new section 24A, 24B and 24C**

The principal Act is amended by inserting immediately after section 24 the following—

**“24A. Power of director to suspend production or seize premises pending determination by court**

The director may on the recommendation of an inspector, suspend production of a commodity or seize premises where national standards have been compromised, to ensure compliance pending determination by the court that the commodities or process pose a health risk and safety concerns for the consumers.

**24B Destruction of offending and perishable goods**

(1) The director may on the recommendation of an inspector, and after giving notice to the offender, destroy any goods which are perishable where national standards have been compromised to the detriment of the health and safety of consumers.

(2) Where any goods have been seized under this Act, the goods may be destroyed or otherwise disposed of by court order at the cost of the importer of the goods or the person found trading in the goods and from whom goods were seized.

(3) Where goods seized under this Act are perishable, they may be destroyed without a court order at the cost of the importer of the goods or the person found trading in the goods or commodities.

(4) In this section “perishable” means liable to spoil or decay having regard to the standards prescribed in relation to the goods under this Act.

**24C Power of the Minister to ban commodities, products and processes**

The Minister may on the recommendation of the Council ban the sale and distribution of any commodity or product or process where the commodity or product or process is found to be detrimental to the health and safety of consumers.”

**14. Amendment of section 25 of the principal Act**

Section 25 of the principal Act is amended—

- (a) in subsection (1), by inserting after paragraph (d) the following—

“(e) a decision of the director to suspend production of a commodity or close premises under section 24A;

(f) a decision of the director to destroy any goods under section 24B.”

- (b) by substituting for subsection (3) the following—

“(3) The Minister shall within thirty days, make a decision affirming, varying or setting aside the action appealed against.”

**15. Amendment of section 26 of the principal Act**

Section 26 of the principal Act is amended in subsection (2), by substituting for “21(1) or (2)” the words “21 (1), (2) or (4)”.

**16. Amendment of section 27 of the principal Act**

Section 27 of the principal Act is amended as follows—

- (a) by substituting for subsections (1) and (2) the following—

“(1) A person who commits an offence under section 26 (1) is liable—

- (a) in the case of a first offence to a fine not less than five hundred currency points and not exceeding two thousand five hundred currency points or imprisonment not less than two years and not exceeding five years or both;

- (b) in the case of a second or subsequent 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 three years and not exceeding six years or both.

(2) A person who commits an offence under section 26(2) is liable—

- (a) in the case of a first offence to a fine not less than one thousand currency points and not exceeding five thousand currency points or imprisonment not less than three years and not exceeding six years or both;

- (b) in the case of a second or subsequent offence to a fine not less than two thousand currency points and not exceeding ten thousand currency points or imprisonment not less than six years and not exceeding ten years or both; and

- (b) by inserting immediately after subsection (4) the following—

“(5) In addition to any penalty imposed upon conviction of the offender under this section, the court may order the offender to pay compensation to the victim of the offence of such amount as the court may decide.

(6) In assessing the compensation under this section, the court may take into account any financial, physical or psychological damage caused to the victim of the offence as a result of the offence.”



**17. Insertion of new section 42A**

The principal Act is amended by inserting immediately after section 42 the following—

**“42A Power of Minister to amend Schedule**

The Minister may, with the approval of Cabinet, by statutory instrument amend the Schedule to this Act.”

**18. Amendment of section 43 of the principal Act**

Section 43 of the principal Act is amended in subsection (2), by inserting immediately after paragraph (c) the following—

“(d) penalties in respect of the contravention of any regulation a fine not exceeding fifty currency points or imprisonment not exceeding twelve months or both in the case of a first offence and in the case of a second or subsequent offence, a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both;

(e) a requirement for the court to order the destruction of any thing used in the commission of an offence or the forfeiture of any such thing to the State.”

**19. Insertion of Schedule to principal Act**

The principal Act is amended by inserting at the end of the Act the following Schedule—

“SCHEDULE

*Section 1, 42A*

Currency Point

A currency point is equivalent to twenty thousand shillings.”

**Cross reference**

1. East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006.
2. Weights and Measures Act, Cap.103.