

STATUTORY INSTRUMENTS

2018 No....

THE UGANDA NATIONAL BUREAU OF STANDARDS (USE OF DISTINCTIVE MARK) REGULATIONS, 2018.

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STATUTORY INSTRUMENTS

2018 No....

The Uganda National Bureau of Standards (Use of Distinctive Mark) Regulations, 2018.

(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 2018.

1. Title.

These Regulations may be cited as the Uganda National Bureau of Standards (Use of Distinctive Mark) Regulations, 2018.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

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

“applicant” means an importer or manufacturer applying for use of a distinctive mark;

“assessment” means a systematic and independent examination to determine whether compulsory standard specifications requirements have been met;

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

“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;

“consignment” means an aggregation of commodities made under a common system of causes and presented for inspection;

“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;

“distinctive mark” means a mark declared as such under section 18 of the Act;

“domestic manufacturer” means a person manufacturing a commodity within Uganda;

“distributor” means a person in the supply chain other than the manufacturer or importer, who makes a commodity covered by a compulsory standard specification declared under Section 18 of the Act, available on the Ugandan market;

“importer” means a person who brings into Uganda a commodity covered by a compulsory standard specification declared under Section 18 of the Act;

“inspector” means a person appointed as an inspector under section 13 of the Act;

“inspection” means the examination of commodity design, commodity, process or its installation and determination of its conformity with specific requirements;

“inspection report” means a report compiled by an inspector detailing the findings of the inspection;

“manufacturer” means any natural or legal person who manufactures a commodity covered under compulsory standard specifications using their own or outsourced manufacturing facilities; and

“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.

PART II –DISTINCTIVE MARK ON A COMMODITY

3. Commodity to conform and bear distinctive mark.

- (1) A person shall not import, distribute, manufacture, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared unless the commodity conforms to the compulsory standard specification.
- (2) A person shall not import, distribute, sell or have in his or her possession or control for sale or distribution any commodity for which a compulsory standard specification has been declared unless the commodity bears the distinctive mark specified in Schedule 2.
- (3) Where difficulties arise in having a commodity marked with the distinctive mark prior to importation as required under subsection (2), the director may authorise in writing any intending importer of the commodity to have the commodity marked immediately on arrival in Uganda.

4. Permit for distinctive mark to complying commodities.

- (1) A person shall not apply a distinctive mark to any commodity except under a permit issued by the council or a person acting under the authority of the council and unless the commodity complies with or has been manufactured in accordance with the relevant standard specification.
- (2) An application for a permit under subsection (1) shall be made to the council or a person acting under the authority of the council in a manner prescribed in these Regulations.

PART III– APPLICATION FOR A DISTINCTIVE MARK

5. Application for a permit to use a distinctive mark.

- (1) An importer or manufacturer who intends to bring into Uganda or manufacture a commodity for which a compulsory standard specification

is declared under section 18 of the Act shall apply to the council or a person acting under the authority of the council for a permit to use a distinctive mark.

- (2) The council or a person acting under the authority of the council shall issue a permit to use a distinctive mark on a commodity for which a compulsory standard specification has been declared to a manufacturer or importer where all the requirements of these Regulations have been met.
- (3) The permit to use a distinctive mark shall be valid for a period of twelve months from the date on which it is issued.
- (4) The council may, at any time, vary the conditions of a permit granted under these Regulations.
- (5) The Bureau shall maintain and publish a register of manufacturers and importers permitted to use a distinctive mark.

6. Application procedure for a domestic manufacturer.

- (1) A domestic manufacturer of a commodity for which a compulsory standard specification is declared shall apply to the council or a person acting under the authority of the council for a permit to use a distinctive mark before commencement of production of the commodity or within 60 working days of the coming into force of these Regulations.
- (2) An application by a domestic manufacturer for a permit to use a distinctive mark shall be made in Form A, specified in Schedule 3.
- (3) The application for a permit to use a distinctive mark shall be accompanied by the fee specified in Schedule 4.
- (4) An inspector shall inspect and assess the manufacturing facility of a domestic manufacturer who has applied for a permit to use a distinctive mark and all commodities covered by the compulsory standard

specification to verify that the production, quality assurance processes and commodities conform to the requirements of the compulsory standard specification.

- (5) For the purposes of sub regulation (4), the applicant shall provide all reasonable facilities to the inspector to assess the commodity, the manufacturing facility or other premises of the applicant for the purposes of verifying documents submitted by the applicant and of obtaining any other information relevant to the application.
- (6) The council or a person acting under the authority of the council on application for a permit to use the distinctive mark under this regulation, shall grant a permit where it is satisfied that-
 - (a) the commodity in respect of which an application is being made conforms to the compulsory standard specification;
 - (b) the applicant has a functional system of commodity recall; and
 - (c) the applicant has an up-to-date record of the quality control system, including inspection and testing which adequately ensures that the commodity conforms to the relevant standard.

7. Application procedure for an importer.

- (1) An importer of a commodity for which a compulsory standard specification is declared shall, in respect of each consignment, apply to the council or a person acting under the authority of the council for a permit to use a distinctive mark before importing the commodity into Uganda.
- (2) An application by an importer for a permit to use a distinctive mark shall be made in the in Form B, specified in Schedule 3.
- (3) The application for a permit to use a distinctive mark shall be accompanied by the fee specified in Schedule 4.
- (4) The council or a person acting under the authority of the council may, on application for a permit to use the distinctive mark under this regulation,

grant a permit that shall be valid for a period of twelve months on being satisfied that -

- (a) the commodity in respect of which an application is being made conforms to the compulsory standard specification; and
 - (b) the applicant has an up-to-date record of the quality control system, including inspection and testing which adequately ensures that the commodity conforms to the relevant standard.
- (5) The council or a person acting under the authority of the council shall in accordance with Section 22 of the Act, require the importer to whom a permit has been issued to submit for examination or testing, a sample of the commodity in respect of which the permit has been granted to ensure that the commodity meets the declared compulsory standard specification, before issuing the distinctive mark stickers.

8. Refusal to grant permit.

- (1) The council or a person acting under the authority of the council may refuse to issue a permit to use a distinctive mark where-
- (a) the commodity in respect of which an application has been made does not conform to the compulsory standard specification,
 - (b) the commodity in respect of which an application has been made has been banned by the Minister under Section 24C of the Act,
 - (c) the commodity in respect of which an application has been made is expired, or
 - (d) any other requirement under these Regulations has not been complied with.
- (2) Where the council or a person acting under the authority of the council refuses to grant a permit to use a distinctive mark, the council or a person acting under the authority of the council shall state the reasons for the refusal in writing and notify the applicant of the refusal within 15 working days after making the decision.

9. Renewal of permit.

A manufacturer or importer shall apply to the council or a person acting under the authority of the council for the renewal of permit to use a distinctive mark at least three months before the expiry of the permit.

10. Sample testing.

- (1) Where a sample is required to make an assessment under these Regulations, an applicant shall provide all reasonable facilities and assistance to the inspectors to draw and get samples of the commodity for testing by the Bureau or other testing laboratory designated by the Bureau in writing as a testing laboratory.
- (2) The cost of transporting a sample, instrument, equipment, apparatus, material or any other expense incurred in connection with the assessment under these Regulations shall be incurred by the applicant.

PART IV- TERMS OF USE OF A DISTINCTIVE MARK

11. Use of a distinctive mark on a commodity.

- (1) A distinctive mark shall be applied in a visible, legible and indelible manner before a commodity is placed on the market, and shall be in the form specified in Schedule 2.
- (2) The distinctive mark may be enlarged or reduced to an appropriate size depending on the size of the commodity on which it is intended to be used.

12. Terms of use of a permit to use a distinctive mark.

- (1) A manufacturer or importer shall-
 - (a) ensure that the commodity in respect of which a permit to use a distinctive mark has been granted conforms to the compulsory standard specification;

- (b) use a distinctive mark in accordance with the terms and conditions of the permit;
- (c) apply the distinctive mark on a commodity covered by a valid permit; and
- (d) in case of suspension, withdrawal or cancellation of a permit to use the distinctive mark, discontinue its use and immediately withdraw all promotional and advertising material containing any reference to that permit.

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

- (a) ensure that any record maintained in relation to the manufacturing process is made available for inspection by an inspector and shall, at the request of the inspector, allow the removal of the record to the premises of the Bureau for further scrutiny;
- (b) allow an inspector access to the premises where the commodity specified in the permit is manufactured for the purpose of evaluating materials, production processes, finished commodities, quality assurance facilities and records;
- (c) in the case of transfer of plant site, give notice of the transfer to the Bureau, at least 21 working days before the transfer; and
- (d) where there has been any modification in the commodity or manufacturing process, reapply to the council or a person acting under the authority of the council for a permit.

13. Withdrawal, suspension or revocation of permit to use a distinctive mark.

The council may, at any time, withdraw, suspend or revoke a permit to use a distinctive mark where-

- (1) the commodity does not conform to the compulsory standard specifications;
- (2) the importer or manufacturer does not take corrective action as required by the council;
- (3) the importer or manufacturer uses the distinctive mark or registration number in violation of the permit;
- (4) the commodity has caused damage to a consumer; or
- (5) the importer or manufacturer applies for temporary withdrawal.

14. Cancellation of permit to use a distinctive mark.

The Council may cancel a permit to use a distinctive mark where -

- (1) the importer or manufacturer does not comply with the conditions of the permit;
- (2) the commodity is non-compliant with compulsory standard specifications;
- (3) the production of the commodity has been terminated by the manufacturer or any lawful authority;
- (4) the importer or manufacturer applies to cancel the permit;
- (5) the commodity is not identical to the sample commodity provided by the applicant;
- (6) the importer or manufacturer does not abide by the rules of suspension in the case of a suspension; or
- (7) the council establishes that the importer or manufacturer obtained the permit through an improper manner such as bribery or fraud.

PART V - MISCELLANEOUS

15. Surveillance audits.

- (1) The grant of permit to use a distinctive mark shall be followed by surveillance audits.
- (2) The surveillance audits may be conducted without notice.
- (3) The council or a person acting under the authority of the council may make a special surveillance audit where the permit holder fails to observe the conditions of the permit or where there have been significant changes in the organisation of the importer or manufacturer.

16. Offences.

- (1) A person who –
 - (a) uses a distinctive mark without a permit from the council or a person acting under the authority of the council;
 - (b) falsely represents a commodity to be a commodity that complies with the provisions of these Regulations;
 - (c) having been granted a permit for a distinctive mark applies that mark after the permit has expired or has been withdrawn, suspended, revoked or cancelled;
 - (d) applies a distinctive mark otherwise than in accordance with the conditions of his or her permit;
 - (e) refuses to produce before an inspector any document, commodity, material, ingredient, component or substance which has is required under these Regulations;
 - (f) obstructs, assaults or insults an inspector or person assisting the inspector in the performance of his or her duty;
 - (g) fails to comply with any reasonable requirement made of him or her by an inspector to enable the inspector to perform his or her duties under these Regulations;

- (h) fails to give an inspector any information or assistance under this
these Regulations; or
- (i) wilfully removes, destroys or renders illegible or undecipherable or
incapable of identification any document, mark or writing with a
view to preventing it from being used as evidence in any
investigations under these Regulations,

commits an offence and shall on conviction be liable to a fine not exceeding
five hundred currency points or imprisonment not exceeding five years or
both and in the case of a second or subsequent offence, a fine not exceeding
five hundred currency points or imprisonment not exceeding three years or
both.

17. 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.

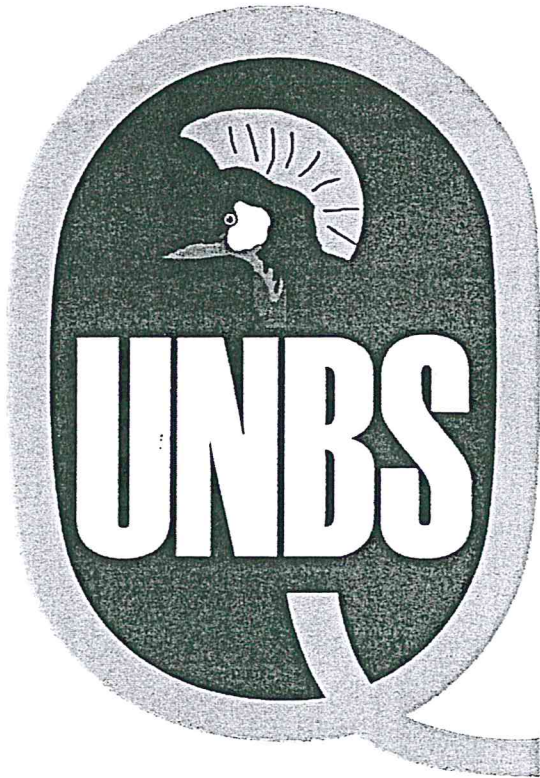
SCHEDULE 1

Regulation 2,17.

CURRENCY POINT

One currency point is equivalent to twenty thousand shillings

SCHEDULE 2
DISTINCTIVE MARK.



SCHEDULE 3

FORMS.

Form A

Regulation 6(2)

THE REPUBLIC OF UGANDA
THE UGANDA NATIONAL BUREAU OF STANDARDS ACT, CAP. 327
APPLICATION FOR PERMIT TO USE A DISTINCTIVE MARK BY A
DOMESTIC MANUFACTURER.

☐

New Applicant

☐

Renewal

A. APPLICANT'S INFORMATION (MANUFACTURER)		
1. NAME AND ADDRESS OF APPLICANT		
Company Name		
Company Tax Identification Number (TIN)		
Business Registration	<i>Please attach certificate of registration of business</i>	
COMPANY ADDRESS	Office Address	Factory/Manufacturing facility Address
		<i>Name of production facility (if different)</i>
District		
Physical address		
Postal address		
Email address		
Tel. contact(s)/fax		

Website			
Personnel details	<i>More information in Annex 5</i>		
	Chief Executive	Quality Control In-charge	
Name			
Designation			
Mobile number			
Email address			
Number of staff			
production capacity			
Installed capacity	Actual capacity	Annual Turnover	
B: COMMODITY INFORMATION			
<i>Information on commodity intended for certification is mandatory.</i> <i>Where applicable, name of commodity, its type(s) and/or mode(s) shall follow as specified in the standard.</i> <i>The applicant is required to declare proof of ownership of the trademark /brand name or provide a letter of consent from the owner of the trademark/ brand name.</i>	Commodity Name		
	Trademark/ Brand Name(s)		
	Commodity Description		
	Commodity Standard		
	For Equipment/ Electric/ Electronic products	Type(s)	
		Model(s)	
		Rating(s)	
		Size(s)	
FOR OFFICIAL USE ONLY			
Sector Code:		UNBS RECEIVED STAMP	
Lead Auditor Allocation:			

C: TECHNICAL & ADDITIONAL INFORMATION		
Raw materials	List all components and/or raw materials used to assemble or manufacture the commodity.	
Process flow & Description	Draw the process flow chart and identify the quality check points; provide a brief process description.	
Quality control	Prepare a quality control check points schedule.	
Test equipment	Prepare test and inspection equipment list and calibration/ verification schedule.	
Additional information	• Company organization chart& names and qualifications of production & QC personnel. • Documented procedures describing how non-conforming purchased raw materials and finished products are identified, recorded and handled. • Documented procedure describing how customer complaints are recorded and handled. • production flow/process layout. • Commodity analysis reports. • Commodity Labels and Markings. • Any other sector specific requirements.	
D: DECLARATION AND UNDERTAKING		
In connection with this application, I/We- a) undertake to ensure the commodity manufactured and the manufacturing processes comply with the relevant standard and the commodity certification requirements respectively; b) undertake to supply all information required by UNBS for the purpose of evaluation of the commodity(ies) to be certified; c) undertake to make samples of commodity(ies) and materials available to UNBS for evaluation and testing; d) agree to give the auditors reasonable access during normal working hours to the premises where the commodity specified in the application is manufactured for the purpose of evaluating materials, production processes, finished commodity,		

quality assurance facilities, records;

e) undertake to pay UNBS all fees of processing this application and maintenance of certification;

f) agree that UNBS may release information obtained in the course of processing the application to the public or government so far as is prudent in the opinion of UNBS. The client shall be informed accordingly prior to release of any information; and

g) undertake to sign the UNBS Commodity Certification Agreement before grant/renewal of the certification permit.

I, hereby, declare that all information given in this application form is correct to my knowledge.

<i>An authorized representative of the applicant shall put his signature in this section</i>	Signature		<i>Applicant's stamp</i>
	Name		
	Designation		
	Date		

Please return form duly completed to:

Certification Department,

Uganda National Bureau of Standards,

Bypass Link Bweyogerere Industrial Area & Business Park, Kyaliwajala

Road, Bweyogerere, Buto,

P.O. Box 6329, Kampala, Uganda.

Tel. 041-7333250/041-7333251/041-7333252

Form B

Regulation 7(2)

THE REPUBLIC OF UGANDA
THE UGANDA NATIONAL BUREAU OF STANDARDS ACT, CAP. 327
APPLICATION FOR PERMIT TO USE A DISTINCTIVE MARK BY AN
IMPORTER.

The Chairperson,
National standards council,
P.O. Box 6329,
KAMPALA.

☐

New Applicant

☐

Renewal

CUSTOMS ENTRY NUMBER <i>(Not applicable to licensed goods)</i>	
IDF NUMBER <i>(Not applicable for licensed goods)</i>	
LICENCE CERTIFICATE NO. <i>(For licensed commodities - route C of the PVOC program)</i>	
APPLICANT'S TIN NUMBER.	

S/ N	Description of the commodity upon and in respect of which the distinctive mark is to be used	Trade mark or brand which is in use in respect of the commodity	Quan tity

1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Name of Importer _____

Email address _____

Physical address.....

Tel.....

DECLARATION AND UNDERTAKING

In connection with this application, I/We:

- a) undertake to ensure the commodity manufactured and the manufacturing processes comply with the relevant standard and the commodity certification requirements respectively.
- b) undertake to supply all information required by UNBS for the purpose of evaluation of the commodity(ies) to be certified.
- c) undertake to make samples of commodity(ies) and materials available to UNBS for evaluation and testing.
- d) agree to give the auditors reasonable access during normal working hours to the premises wherein the commodity specified in the application is manufactured for the purpose of evaluating materials, production processes, finished commodity, quality assurance facilities, records.
- e) undertake to pay UNBS all fees of processing this application and maintenance of certification.
- f) agree that UNBS may release information obtained in the course of processing the application to the public or government authorities so far as is prudent to warn in the opinion of UNBS. The client shall be informed accordingly prior to release of any information.
- g) undertake to sign the UNBS Commodity Certification Agreement before grant/renewal of the permit.

Signature.....Date.....
.....

Attachments (Tick as appropriate)	FOR UNBS USE ONLY
☐ Packing list. ☐ Customs Entry ☐ Import ☐ Declaration Form (IDF)	Application Received and Checked by.....
☐ Certificate of Conformity (CoC) ☐ Test Report	No. of ISM stickers Printed
☐ PVoC ☐ License	
☐ Copy ☐ of receipt of payment for ISM Stickers Amount	paid..... Receipt No...

☐ Copy ☐ of receipt of PVoC penalty (where applicable)

Distinctive mark Stickers checked and rel
by.....

NOTE:

- Payment shall be made at the time of filing the application.
- Fill each consignment on a separate form.

TERMS AND CONDITIONS

- (1) The importer shall establish and maintain a system of commodity recall, and addressing complaints filed by its clients or consumers concerning its certified commodities and shall maintain records thereof.
- (2) The importer shall ensure that its certified commodity conforms at all times to a specified standard and shall be liable for any damage caused by the said commodity to its consumers.
- (3) The importer shall pay the applicable fees and charges as billed by UNBS.

Please return form duly completed to:

Imports Inspection and Clearance Department,
Uganda National Bureau of Standards,
Bypass Link Bweyogerere Industrial Area & Business Park, Kyaliwajala
Road, Bweyogerere, Buto,
P.O. Box 6329, Kampala, Uganda.
Tel. 041-7333250/041-7333251/041-7333252

SCHEDULE 4

Regulation 6,7

FEES.

NO.	ACTIVITY	FEE
1.	Application fee	Local Company - 100,000/=
		Small Medium Enterprises - nil
2.	Audit fees	Within Kampala - 1,000,000/=
		Up-country - 1,500,000/=
3.	Annual permit fees	SMEs - 350,000/= per commodity.
		Large company - 800,000/= per commodity.
		Importers - nil



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Hon. AMELIA KYAMBADDE(MP)

Minister of Trade, Industry and Cooperatives.