

ANTIGUA AND BARBUDA



**THE STANDARDS BILL, 2017**

**2017, No.**



## **THE STANDARDS BILL, 2017**

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**ANTIGUA AND BARBUDA**  
**STANDARDS BILL 2017**

**AN ACT** to provide for the preparation, promotion, implementation and maintenance of standards and of technical regulations and conformity assessment related to quality infrastructure activities in relation to goods, services, processes and practices; to preserve and continue the Bureau of Standards, its powers and functions and for other incidental matters.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**PRELIMINARY**

**1. Short title and commencement**

(1) This Act may be cited as the Standards Act, 2017.

(2) This Act shall come into operation on a date to be notified by the Minister by Order published in the *Gazette*.

**2. Interpretation**

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

“Bureau” means the Antigua and Barbuda Bureau of Standards preserved and continued under section 3 of this Act;

“CARICOM” means the Caribbean Community established by Article 2 of the Revised 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*;

“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;

“conformity assessment” refers to —

- (a) any activity concerned with determining directly or indirectly that the quality, ecology, safety, economy, reliability, compatibility, interoperability, efficiency, effectiveness and other features of a product or service meets the requirements of the standards, regulations and other specifications set or approved by the Bureau for that product or service; 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 or 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;

“Council” means the Antigua and Barbuda Standards Council established under section 9;

“Council Member” means a member of the Council;

“CSME” means the CARICOM Single Market and Economy established by the provisions of the Revised Treaty that replaced Chapters three through seven of the Annex to the Treaty Establishing the Caribbean Community and Common Market and signed at Chaguaramas on 4 July 1973;

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

“inspection” means the examination of goods or other items, services, processes and practices on the basis of professional judgement and established standards and technical regulations to determine whether the goods or other items, services, processes or practices conform with specific requirements,

“laboratory” means a facility engaged in testing, investigations or research, whether or not for reward and using specific 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 with responsibility for the Bureau;

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

“practice” includes advertising, labelling and packaging;

“Protocol Member State” means a Member State of the Organisation of Eastern Caribbean States that is a party to the Protocol of the Eastern Caribbean Economic Union and that is listed in the Schedule;

“quality infrastructure” refers to the institutional framework that establishes and implements standardization, including conformity assessment services, metrology, and accreditation.

“release for free circulation”, 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 Antigua and Barbuda and any other Protocol Member State;

“Revised Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy opened for signature in Nassau, The Bahamas on the 5<sup>th</sup> day of July, 2001 and which entered into force on the 1<sup>st</sup> January 2006;

“specification” means a description of any goods, service, 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 test 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 Antigua and Barbuda Standards Mark prescribed under section 29;

“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” mean 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 which makes it possible to describe that piece of work, material, product or 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;

“test equipment” includes—

- (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” includes the related activities of calibration and measurement; not necessary;

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

“website” means the website of the Bureau.

(2) In this Act, references to “regional bodies in the field of standardization” include references to the CARICOM Regional Organisation for Standards and Quality, the Pan American Standards Commission (COPANT), The Inter-American Metrology System (SIM) and the African Regional Standards Organisation (ARSO).

(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 judicial decisions relevant to the international norms and standards referred to in paragraph (a).

## **PART I**

### **CONTINUATION AND FUNCTIONS OF THE BUREAU**

#### **3. Continuation of the Bureau**

(1) The Bureau established under Section 3 of the former Act as the Antigua and Barbuda Bureau of Standards is preserved and continued as a body corporate for the purposes of this Act so that its corporate identity and, subject to the provisions of this Act, its rights and obligations are not affected by the repeal of the former Act.

(2) The Bureau –

- (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; and

(3) The Bureau shall—

- (a) consist of a Chief Executive Officer who shall be the Director appointed under section 5 and a Standards Council appointed by the Minister in accordance with section 9;
- (b) be the national standards body; and

(4) Without prejudice to subsection (3) and section 4, the Antigua and Barbuda Bureau of Standards—

- (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 fulfilment 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, health and safety and for safeguarding the environment, the Bureau shall—

- (a) promote and encourage the maintenance and implementation of standards—
  - (i) for goods and services produced, provided or used in Antigua and Barbuda; and
  - (ii) in relation to processes and practices used in the production or provision of goods or services in Antigua and Barbuda;
- (b) promote the adoption and application of all aspects of metrology as a necessary adjunct to standardization; and
- (c) render conformity assessment services and matters connected with the rendering of conformity assessment services.

(2) For the purpose of discharging its functions under subsection (1) the Bureau may —

- (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 production and trade in services, the manufacture or trade of 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 by any international treaty entered into by Antigua and Barbuda 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;
- (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) advise the Minister on the establishment and declaration of standards and technical regulations for the improvement of goods produced in Antigua and Barbuda and keep the standards 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; and
  - (ii) assessing quality systems and administering the certification of systems assessed;
- (n) certify 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;
- (q) co-operate with and advise manufacturers and suppliers of goods and services in setting up quality control systems and preparing standards;
- (r) establish and maintain an information and documentation centre on standards and standards related matters and quality infrastructure activities; and

- (s) 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.
- (h) may certify goods, services, processes and practices
- (i) may recommend technical regulations

(4) The Bureau may charge fees for services rendered under this section and may offer these services inside or outside Antigua and Barbuda.

(5) For the purpose of subsection (2)(c), the reference to the term “supporting related services” shall be construed to include 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, after consultation with the Council –

- (a) appoint a Director of the Bureau, and
- (b) publish the name of the Director by notice in the **Gazette**.

(2) The Director shall—

- (a) be the Chief Executive Officer of the Bureau;
- (b) have full responsibility for the day-to-day management of the business of the Bureau; and

- (c) have such powers and carry out such duties as the Council may from time to time assign to him or her.

(3) Where the Chief Executive Officer is for any reason unable to perform the functions of the office, the Minister may appoint a person to perform the functions of the Chief Executive Officer until the Chief Executive Officer resumes the functions of the office

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

(1) The Council shall, after consultation with the Director, appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such members and staff of the Bureau as the Council may deem necessary for the proper performance of the functions of the Bureau under this Act.

(2) The Council shall first obtain the approval of the Minister in respect of the remuneration for any post having an annual salary of a sum in excess of thirty thousand dollars.

(3) The Bureau may make such arrangements for the training of its staff as it considers expedient for the efficient conduct of its business.

## **7. Secondment**

(1) Subject to subsection (2), a public officer or an officer in the service of the Bureau may, with the approval of the Public Service Commission and the approval of the Bureau, consent to be seconded to the service of the Bureau or from the service of the Bureau to the Public Service, as the case may be.

(2) Where a secondment contemplated by subsection (1) is effected, the rights of the public officer or the officer in the service of the Bureau to any pension, gratuity or other benefit for which the officer would have been eligible had the officer remained in his or her substantive post shall be preserved.

(3) A period of secondment shall be for three years.

(4) The period of secondment may be renewed from time to time but shall not in the aggregate exceed seven years.

(5) A public officer who is seconded to the service of the Bureau shall not become a member of any pension scheme established by the Bureau.

## **8. Transfer of officers**

(1) A public officer may, with the approval of the Public Service Commission and the Consent of the Council, be transferred to the service of the Bureau.

(2) An officer in the service of the Bureau may with the approval of the Bureau and the Public Service Commission consent to be transferred to the Public Service.

(3) Where a public officer is transferred to the service of the Bureau under subsection (1), the officer shall become a member of any pension scheme established by the Bureau.

(4) An officer transferred under subsection (1) or (2) shall be transferred on terms which are acceptable to the Government, the Bureau and the officer concerned; but in no case shall the transfer be on terms that are less favourable than those enjoyed by the officer prior to his or her transfer.

(5) An officer transferred under subsection (1) or (2) shall be transferred without any loss of benefits or rights that may have accrued to the officer prior to his or her being transferred. The Bureau and the Public Service Commission shall make such arrangements as are necessary to preserve the rights of an officer to any pension, gratuity or other benefits to which the officer would have been entitled at the date of transfer.

## **PART II**

### **ADMINISTRATION OF THE BUREAU**

#### **9. Standards Council**

The general administration of the affairs of the Bureau, including the approval of standards, technical regulations and conformity assessment procedures, shall be carried out by the Standards Council consisting of fifteen members appointed in accordance with section 10.

#### **10. Appointment of Council members**

(1) The Council shall comprise the following—

- (a) two persons nominated by the Minister in his or her discretion, one of whom shall be appointed Chairperson, and the other Vice Chairperson of the Council;
- (b) the Director as an ex officio member and who shall be the Secretary to the Council;
- (c) the Manager of the Antigua and Barbuda Investment Authority or his or her nominee as an ex officio member;
- (d) the Director of the Government Analytical Services, Chemistry and Food Technology as an ex officio member
- (e) a senior officer employed in the Ministry of Finance as an ex officio member;
- (f) three persons nominated by the Minister from the public sector, each of whom is employed in a senior capacity in the Government Service in matters relating to consumer protection, public health, fisheries, environment or tourism;
- (g) two persons nominated from the private sector, one each to be nominated by the Chambers of Commerce, and the Consumer's Association; and
- (h) four persons with knowledge of industrial or commercial standards or other matters pertaining to the work of the Bureau nominated by the Minister on the recommendations of the Director.

V (2) The Members of the Council shall be paid a stipend in an amount approved by cabinet.

## **11. Chairing of Council Meetings**

Where—

- (a) the Chairperson is absent or unable to act, the Vice Chairperson shall preside at meetings of the Council; and
- (b) both the Chairperson and Vice Chairperson are absent or unable to act, the Council members present at the meeting of the Council shall elect one of the members present to preside at the meeting of the Council.

## **12. Tenure of office of Council Members**

(1) The Minister shall appoint persons to the Council by instrument in writing for a period not exceeding three years and a person so appointed is eligible for reappointment on the expiration of his or her term of office.

(2) The Minister may terminate the appointment of any member of the Council who—

- (a) becomes of unsound mind or incapable of carrying out his or her duties;
- (b) becomes bankrupt or compounds with, or suspends payments to his or her creditors;
- (c) is convicted and sentenced to a term of imprisonment of 12 months or more;
- (d) is convicted of any offence involving dishonesty;
- (e) is guilty of misconduct in relation to his or her duties;
- (f) is absent, except on leave granted by the Chairperson, from 3 consecutive meetings of the Council; or
- (g) fails to carry out any of the functions conferred or imposed on him or her under this Act.

## **13. Resignation of Council members**

(1) A Council member, other than an ex officio member, may resign his or her office at any time by letter addressed to the Minister, and conveyed through the Chairperson.

(2) A resignation under subsection (1) takes effect from the date the letter referred to in that subsection is received by the Minister.

## **14. Publication of membership of Council**

The names of the Council members shall be published in the *Gazette*, and any subsequent change in the Council members shall be similarly published in the *Gazette*.

## **15. Meetings and quorum of Council**

(1) The Council shall meet at least once in every month and at such other times as may be necessary or expedient for transacting the business of the Bureau.

(2) The quorum at meetings of the Council is seven members.

(3) The decision of the Council shall be taken by a simple majority of Council members present and voting

(4) When every Council member signs a resolution—

- (a) a meeting of the Council relating to the resolution is deemed to have been held; and
- (b) a record of the resolution shall be made in the minutes of the meeting of the Council.

(5) The Council may hold a meeting of the Council using a method of communication which permits all the Council members participating to communicate with each other simultaneously, if all the Council members consent to holding the meeting in that way.

(6) The Chairperson shall, upon receipt in writing from four or more Council members requesting a special meeting, convene the special meeting within seven days of the date of receipt of the request for the purpose of considering the matters detailed in the request.

(7) Where the Chairperson refuses, fails or neglects to convene the special meeting as requested, the Council members making the request may convene the special meeting and section 11 shall apply accordingly.

(8) The Secretary to the Council shall keep minutes of the proceedings of the meetings of the Council in such manner as the Chairperson may determine.

(9) The Council may appoint a Recording Secretary, who shall not be a member of the Bureau's staff to assist in the recording or taking of the minutes of the meetings.

## **16. Conflict of interest**

(1) A Council member whose interest may directly or indirectly be affected by a decision of the Council on any matter shall disclose the nature of his or her interest at the first meeting of the Council at which the Council member is present after the relevant facts have come to his or her knowledge.

(2) Where a Council member makes a disclosure under subsection (1)—

- (a) the particulars of the disclosure shall be recorded in the minutes of the meeting of the Council;
- (b) the Council member shall not vote on the matter; and
- (c) unless otherwise directed by the Council, the Council member shall not be present at any meeting when the matter is being decided by the Council.

## **17. Bureau's seal and authentication of documents**

(1) The seal of the Bureau shall be kept in the custody of the Secretary of the Council and shall be authenticated—

- (a) by the Chairperson and the Secretary of the Council; or



(b) in absence of the Chairperson, by the Deputy Chairperson and the Secretary of the Council.

(2) All documents other than those required to be under seal and all decisions of the Council may be authenticated by the Chairperson or the Secretary to the Council.

### **18. Immunity of Council members**

(1) An action, suit, prosecution or other proceedings shall not be brought or instituted against a Council member in his or her personal capacity, in respect of any act done or omitted to be done by the Council member in good faith in the execution or purported execution of his or her duties under this Act.

(2) Where a Council member is exempt from liability by reason only 'of this section -the Bureau is liable for the acts of the Council member on the principles of agency.

### **19. Appointment of committees and co-opting of members**

(1) The Council may appoint committees for the better regulation and management of any matter with which the Council is concerned and may determine—

- (a) the number of members of a committee so appointed;
- (b) the terms of appointment of the members;
- (c) the quorum of the committee;
- (d) the functions of the committee as a whole and of individual members; and
- (e) the area and scope of the committee's authority.

(2) The Council may co-opt members to a committee appointed under subsection (1) and in such case section 16 applies to the co-opted member as it applies to a Council member.

### **20. Finance, accounts and records, annual reports and returns**

(1) The Bureau shall be financed by—

- (a) moneys appropriated by Parliament for the purpose;
- (b) fees charged for examination, testing, certification, use of the Standards Mark and for any service rendered to industry; and
- (c) Government grants and subsidies.

(2) The provisions of the Finance and Audit Act, Cap 168 apply, with the necessary modifications and adaptations with respect to —

- (a) the accounts and other records relating to the business of the Bureau;
- (b) the audited statement of accounts of the Bureau;
- (c) the annual statement of accounts and the auditor's report of the Bureau; and
- (d) the returns, accounts and other information relating to the activities of the Bureau.

## **21. Annual reports and returns**

(1) Within 3 months of the close of each financial year, the Bureau shall transmit to the Minister a copy of—

- (a) its annual accounts certified by the auditor; and
- (b) a report on its operations during the year.

(2) The Bureau shall—

- (a) make up a return of its assets and liabilities held as at the close of business on the last business day of each month; and
- (b) transmit to the Minister a copy of the return of its assets and liabilities.

(3) The Minister shall, on receipt of the return of annual report and audited accounts, lay a copy of the report and audited accounts before the Parliament and cause a copy of the same to be published in the **Gazette**.

## **PART III**

### **LICENCE FOR USE OF THE STANDARDS MARK**

## **22. Application for licences to use the 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 conformity mark or any CARICOM Certification Mark.

## **23. 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 or the CARICOM Standards 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 of 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.

#### **24. 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.

#### **25. Cancellation of licence**

The Bureau may cancel any licence granted under section 23 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.

#### **26. 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—

- (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 Bureau refuses to grant a licence to an applicant or revokes a 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 58.

### **PART IV**

#### **BUSINESS OF THE BUREAU**

#### **27. Declaration, publication, etc. of standards**

- (1) Subject to this section, the Bureau may formulate, develop, adopt or adapt a standard and declare any technical specification to be an Antigua and Barbuda Standard.

(2) Where it is impracticable for the Bureau to formulate a technical specification in respect of any goods, practices, services and processes, the Bureau may, in respect of those goods, practices, services and processes, develop, adopt or adapt a standard or technical specification formulated outside Antigua and Barbuda to be a standard in Antigua and Barbuda, if the Bureau considers that the interests of Antigua and Barbuda are served.

(3) The Bureau shall—

- (a) keep, available for public inspection, a copy of every standard and any variation of a standard; and
- (b) cause every declaration of a standard to be published in the *Gazette* and on the website of the Bureau.

(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 shall—

- (a) publish in the *Gazette* and on its website 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* and on its website.

(7) Without prejudice to subsection (6) 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.

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

(1) Subject to subsections (2) and (3), the Minister may, by Order, declare and publish in the *Gazette* and on the website, technical regulations intended primarily to —

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

(g) generally protect public or industrial health, welfare or safety.

(2) The Minister shall not declare or publish any technical regulations under this section unless the Bureau has recommended the declaration and publication of the technical regulation.

(3) Where the Minister intends to issue any technical regulations, 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 regulations declared under this section available for public inspection.

(5) The Bureau may adopt or adapt any technical regulations formulated outside Antigua and Barbuda in respect of any goods practices, services, processes or commodity where appropriate and where the interests of Antigua and Barbuda are served.

(6) The power conferred on the Bureau to develop, adopt or adapt technical regulations shall be construed as including the power, exercisable in like manner, to vary, substitute or revoke any such technical regulations.

### **29. Antigua and Barbuda Standards Mark**

(1) The Minister may, on the recommendation of the Bureau, prescribe a mark which shall be called the Antigua and Barbuda Standards Mark (in this Act called the Standards Mark), the property of which vests in the Bureau.

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

### **30. Use of CARICOM Standards Mark**

(1) The Council 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 Council may adopt the regional Certification Scheme and Mark.

### **31. 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 to make such registration if in the opinion of the registering

authority the use of the name by which the association desires to be registered is prohibited by subsection (1).

(3) Where an association of persons has been registered under a name which contravenes subsection (2), the registering authority shall notify the association of the error in writing and then proceed to cancel the registration

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

### **32. 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.

(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 pre-packaged goods.

### **33. 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 Antigua and Barbuda 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 suitably 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 Antigua and Barbuda 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 outside Antigua and Barbuda and which has been adopted or adapted by the Bureau,

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 Antigua and Barbuda 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.

### **34. 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.

(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).

### **35. Testing or inspection of goods**

(1) The Minister may by writing direct or 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 any goods in respect of which a technical regulation has been declared.

(2) Where—

- (a) any manufacturer of goods in Antigua and Barbuda 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 a person appointed under subsection (1)(b) 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.

### **36. Prohibition of production, sale or export of deficient goods**

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

(2) Where—

- (a) the Minister makes an order under subsection (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, 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.

(3) Where—

- (a) in respect of any goods, the Minister declares any technical regulations for the protection of consumers or users against danger to health or safety; and
- (b) it is found that the goods, on being examined or tested under section 35 or 37, fail to conform to the technical regulations,

the Director shall advise the Comptroller of Customs 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), the Director shall cause the goods to be disposed of as the Bureau may reasonably decide.

(5) Where any goods in circulation in Antigua and Barbuda fail to conform to any technical regulations declared by the Minister, the Director shall, at the expense of the manufacturer or supplier, recall the goods by such means as the Bureau may reasonably decide.

### **37. Appointment and powers of inspectors**

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

- (a) monitoring compliance with technical regulations;
- (b) eliminating or ordering the cessation of 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 a warrant issued by a Magistrate, enter a place where the inspector has reasonable grounds to believe that—

- (a) an article is being manufactured, prepared, stored or offered for sale, to examine and take samples of the article; or
- (b) an activity is being 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 any article,
  - (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 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) 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) ; and
- (b) the owner or person from whom the article is seized consents to its destruction,

the article may be destroyed or otherwise disposed of as the Bureau may direct.

(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.

### **38. Power of the Bureau to order cessation of manufacture, etc. 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 ceases immediately the manufacture, preparation or processing and packaging 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 subsection (2) commits an offence is liable, on conviction, to a fine of \$10,000 or to imprisonment for 2 years, and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues.

### **39. 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 presents a danger to the health and safety of consumers, users or other 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 V —QUALITY CERTIFICATION**

### **40. 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.

### **41. 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.

#### **42. Bureau to maintain integrity and impartiality**

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

#### **43. 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 designated 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.

#### **44. Registration of entities performing Certification and Accreditation services**

Every local, regional or international body performing certification and accreditation services in Antigua and Barbuda shall register with the Bureau subject to such terms, conditions and payment of fees prescribed by the Bureau.

#### **45. Bureau to publish register of quality practitioners**

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

### **PART VI**

### **OFFENCES AND PENALTIES**

#### **46. Selling, manufacturing goods, etc. 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 prescribed by the Minister in respect of the goods, service,

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

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

#### **47. Unlawful use of the word “Standard” or “Standards”**

Except as provided in section 31, a person who, without the written consent of the Bureau, carries on a business or perform a function under a name which contains the word ‘Standard’ or ‘Standards’ commits an offence and is liable on conviction to a fine of ten thousand (\$10,000.) dollars and in the case of a continuing offence, to an additional penalty of one thousand (\$1,000.) dollars for every day during which the offence continues or to imprisonment for 2 years.

#### **48. Unlawful use of labels, etc.**

A person who –

- (a) labels, packages; or
- (b) sells or advertises

goods, services, processes or practices that fail to comply with a technical regulation prescribed by the Minister commits an offence and is liable, on conviction, to a fine of \$10,000 or to imprisonment for 2 years, and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues.

#### **49. False representation, etc.**

(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, service, process or practice complies with a specification formulated outside of Antigua and Barbuda that has been, adopted or adapted by the Bureau,

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

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

(4) It is 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.

#### **50. Unlawful obliteration of stamp, mark, etc.**

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

#### **51. 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 conviction, to a fine of \$10,000 or to imprisonment for 2 years, and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues.

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

#### **52. 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 conviction, to a fine of \$10,000 or to imprisonment for 2 years, and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues.

### **53. Unlawful use of Standard Mark, etc.**

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

### **54. Impersonation**

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

### **55. 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 conviction, to a fine of \$10,000 or to imprisonment for 2 years, and, in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence continues.

### **56. 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.

### **57. 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 55;
- (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 VII**

### **APPEALS**

#### **58. Appeals**

(1) An owner of an establishment who is aggrieved by, or dissatisfied with, any decision of the Bureau respecting—

- (a) the refusal of an application; 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 or an inspector to the High Court; and
- (b) 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—

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

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

## **PART VIII**

### **MISCELLANEOUS**

#### **59. Evidence of standard**

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

## **60. Secrecy of information**

(1) All information obtained by the Minister, the Council, 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, 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, process or practice to the Minister, the Council, 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.

## **61. 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.

## **62. Conflicting specifications**

Where there is a conflict between the provisions of a technical specification declared to be an Antigua and Barbuda Standard under section 29 and a specification made or declared under any other written law, the Antigua and Barbuda Standard shall prevail.

## **63. Expenses**

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

## **64. 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 generally of subsection (1), the Minister may make Regulations—

- (a) regarding the declaration of standards and technical regulations;
- (b) 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;
- (c) regarding packaging, labelling and advertising of any goods;
- (d) regarding the inspection and testing of goods, processes and practices and entry upon premises for that purpose;



- (e) respecting the sale or disposal of goods found to be deleterious to the welfare of the consumer;
- (f) respecting the exemption from any requirements of this Act, as the Minister thinks fit;
- (g) respecting the inspection of specified commodities that are to be exported;
- (h) respecting the manufacture, sale, importation or exportation of goods for which a technical regulation has been declared;
- (i) respecting the conduct of inspection of commodities and the taking of samples;
- (j) respecting the forms to be used under this Act;
- (k) 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;
- (l) 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;
- (m) prescribing penalties for the breach of any regulation not exceeding a fine of \$10,000 or imprisonment for 2 years; and
- (n) prescribing the qualifications, powers and duties of persons—
  - (i) authorised under section 35 to test or inspect goods upon the goods being landed in Antigua and Barbuda ; and
  - (ii) designated as 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.

## **65. Repeal**

The Standards Act, **Cap. 411** is hereby repealed.

## **66. Savings and transitional provisions**

(1) For the purposes of this section—

"effective date" means the date on which this Act comes into effect;

“former Act” means the Standards Act repealed under section 64

(2) Notwithstanding the repeal of the former Act, as from the effective date —

- (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) all regulations made under the former Act in respect of any matter dealt with in that Act are deemed to have been made under this Act and shall remain in force until revoked or replaced by Regulations made under this Act;
- (c) the Bureau established under the former Act shall continue in being as the Bureau under this Act;

- (d) the employees of the Bureau established under the former Act who were employees immediately before the effective date remain employees of the Bureau;
- (e) the members of the Council appointed under the former Act—
  - (i) remain in office for the unexpired term of their office, and
  - (ii) are deemed to be members of the Council established under this Act; and
- (f) all assets, liabilities, rights and obligations of the Bureau remain the assets, liabilities, rights and obligations of the Bureau; and
- (g) 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 an Antigua and Barbuda Standard which has been set and issued under this Act.

(3) Any action taken by the Bureau before the effective date under the former Act is deemed to have been taken under this Act.

## SCHEDULE

*(section 2)*

### OECS PROTOCOL MEMBER STATES

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

Passed by the House of Representatives  
 on the      day of                      2017.

Passed by the Senate on the  
 day of                                      2017.

Speaker

President

Clerk to the House of Representative

Clerk to the Senate

## EXPLANATORY MEMORANDUM

This Bill seeks primarily to provide for the preparation, promotion and implementation of standards and standard related activities in relation to commodities, goods, services, processes and practices by the establishment and operation of a Bureau of Standards. In general this Bill seeks to make the laws respecting standards compliant with several trade-related international agreements, in particular, the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy, the World Trade Organization Agreement on Technical Barriers to Trade and the CARIFORUM-EU Economic Partnership Agreement (EPA) between the CARIFORUM States and the European Union.

In that regard, this Bill provides for the continuation of the Bureau of Standards and also seeks to define the powers and functions of the Bureau of Standards and to provide for the repeal of the Standards Act, [Cap. 411]. The functions of the Bureau of Standards includes, among other things, (a) declaring and issuing technical regulations, standards and protocols; (b) monitoring compliance with the technical regulations, standards and protocols; and (c) conducting conformity assessment activities.

A related purpose of this Bill is to provide for free circulation of goods within the OECS Economic Union. In that regard the term “home use” is broadly defined to capture the concept of goods being available to mean being available for free circulation in Antigua and Barbuda and any other Protocol Member State after the import formalities respecting the goods have been completed and the goods have been released from customs control.

*Honourable E. P. Chet Greene*  
*Minister of Trade, Commerce & Industry,*  
*Sports, Culture & National Festivals*