

No. 21 of 1993.

*National Institute of Standards and Industrial Technology Act 1993.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

*National Institute of Standards and Industrial Technology Act 1993.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 1 of 1993.

AN ACT

entitled

***National Institute of Standards and Industrial Technology Act 1993.***

Being an Act to establish the National Institute of Standards and Industrial Technology, to provide for the establishment and use of uniform measurement and technical standards or integrated standardization for the promotion and undertaking of technology development, and to provide for matters incidental to or connected with those purposes and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice published in the National Gazette by the Head of State, acting on advice of the Minister.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

- (1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. of the *Constitution*, namely -
- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
  - (b) the freedom of expression conferred by Section 46 of the *Constitution*; and
  - (c) the freedom of employment conferred by Section 48 of the *Constitution*; and
  - (d) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 29 of the *Organic Law on Provincial Government*, it is hereby declared that this Act relates to a matter of national interest.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

- "Chairman" means the Chairman of the Council appointed under Section 10;
- "Certificate of Appointment" means a certificate issued under Section 54(2);
- "Certificate of Compliance" means a Certificate issued under Section 46;
- "certification body" means body that conducts certification of conformity;

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- "certification scheme" means a certification scheme as related to specified products, processes or services to which the same particular standards and rules, and the same procedure, apply;
- "Code of Practice" means a document describing recommended practices for the design, manufacturing, setting up, maintenance or utilization of equipment, installations, structures or products;
- "Committee" means a Committee established under Section 25;
- "commodity" means any article, product or thing which is subject of trade or commerce;
- "compulsory standard" means a standard which has been declared to be a compulsory standard under Section 48;
- "Council" means the National Institute of Standards and Industrial Technology Council established by Section 7;
- "Deputy Chairman" means the Deputy Chairman of the Council appointed under Section 10;
- "Director-General" means the Director-General of the Institute appointed under Section 20;
- "General Fund" means the General Fund established by Section 26;
- "Institute" means the National Institute of Standards and Industrial Technology of Papua New Guinea established by Section 3;
- "Inspector" means an inspector appointed under Section 54;
- "integrated standardization" means totality of activities relating to standardization and quality assurance;
- "laboratory accreditation" means a formal recognition by the Institute that a testing laboratory is competent to carry out specific tests or specific types of tests;
- "Laboratory Accreditation Scheme" means a scheme that has its own rules of procedure and management for carrying out laboratory accreditation;
- "metrology" means the science and art of measurement;
- "measurement standard" means a material measure, measuring instrument or system intended to define, realize, conserve, or reproduce a unit, or one or more values of a quantity in order to transmit them to other measuring instruments by comparison;
- "National Certification System of Conformity" means a system having its own rules of procedure and management for carrying out conformity certification;
- "National Technical Standard" means a National Technical Standard established under Section 41;
- "National Standards Body" means a body recognised by the Institute as a national standards body in Papua New Guinea;
- "nominal value", in respect of a standard of measurement, means a nominal value ascribed under Section 37;
- "Papua New Guinea legal unit of measurement" means a unit of measurement prescribed as a legal unit of measurement of a physical quantity under Section 34;
- "Papua New Guinea standard of measurement" means a standard by which measurements of physical quantity are prescribed as a standard of measurement under Section 37;
- "physical quantity" means mass, length, time, electric current, thermodynamic temperature, amount of substance or luminous intensity;
- "quality" means the totality of features and characteristics of a product or service that bear on the ability to satisfy stated or implied needs;
- "quality assurance" means all the things that are required to ensure that a product or service meets its requirements;

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- "qualify control" means the operational techniques and activities that are used to fulfill requirements for quality;
- "reference material" means a material or substance one or more properties of which are sufficiently well established to be used for the calibration of an apparatus or for the verification of a measurement method;
- "registration" means procedure by which a body indicates relevant characteristics of a product, process or service, or particulars of a body or person, in an appropriate, publicly available list;
- "standard" means a documented guide, rule, specification, code of practice, formulated by consensus of parties of immediate concern on product, service, process and physical unit of measurement;
- "standardization" means the activity of establishing, with regard to actual or potential problems, provisions for common and repeated use;
- "standard label" means a label that has been declared a standard label under Section 43;
- "standard mark" means a mark that has been declared a standard mark under Section 43;
- "technical specification" means a document which lays down characteristics of a product, process or a service;
- "technical standard" means a technical specification or other document based on the consolidated results of science technology and experience, and approved by the Institute as a technical standard;
- "this Act" includes the Regulations.

**PART II. - THE PAPUA NEW GUINEA INSTITUTE OF STANDARDS AND INDUSTRIAL TECHNOLOGY.**

**3. ESTABLISHMENT ETC., OF THE PAPUA NEW GUINEA NATIONAL INSTITUTE OF STANDARDS AND INDUSTRIAL TECHNOLOGY.**

(1) The Papua New Guinea National Institute of Standards and Industrial Technology is hereby established.

(2) The Institute -

- (a) is a corporation with perpetual succession; and
- (b) shall have a common seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the Institute shall not be affixed to any instrument except in pursuance of a resolution of the Council and the affixation of the common seal shall be attested by at least two members of the Council.

(4) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of the Institute affixed to a document and shall presume that it was duly affixed.

**4. OBJECTS OF THE INSTITUTE.**

The subject of the Institute are -

- (a) to carry out scientific and technological research and development for any of the following purposes -
  - (i) to develop a systematic comprehensive and effective National Standards System that will form the essential technological infrastructure to support industrial, trade and economic development in Papua New Guinea; and

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- (ii) to assist Papua New Guinea industries by improving and discovering new technical processes and methods, and encouraging the utilization of Papua New Guinea products for both domestic use and for export; and
  - (iii) to assist Papua New Guinea industries to ensure reliability and sustainability of quality production of Papua New Guinea made products and services; and
  - (iv) to apply the results of research and development to further the interests of the country; and
  - (v) to contribute to the achievement of Papua New Guinea national objectives; and
- (b) to establish, develop and maintain measurement standards of physical and chemical quantities and, in relation to those standards -
- (i) to promote and co-ordinate their use;
  - (ii) to promote the development of calibration with respect to them; and
- (c) to formulate, develop, and promote through dissemination and promulgation of, technical and measurement standards for commerce, community and industry and for goods produced in or imported into the country; and
- (d) to co-operate with international organizations of measurement and technical standards and other appropriate international organizations on matters relating to industrial technology; and
- (e) to promote and undertake industrial integrated standardization and quality assurance with the object of encouraging the utilization of Papua New Guinea products and services, promote industrial efficiency and productivity of Papua New Guinea industries.
- (f) to enter into any agreement both within and outside Papua New Guinea to further the objects and functions of the Institute.

**5. FUNCTIONS OF THE INSTITUTE.**

- (1) The functions of the Institute are -
- (a) to safeguard Papua New Guinea against the dumping and supply of unsafe, unhealthy and inferior or substandard products and to assure Papua New Guinea of quality products and services; and
  - (b) to establish and co-ordinate the National Standardization system for Papua New Guinea; and
  - (c) to provide education, training and industrial extension and consultative services to assist industries in meeting standards and to improve production, processes, techniques and procurement; and
  - (d) to promote public and industrial welfare, health and safety; and
  - (e) to recognise as testing authorities, bodies and institutions having adequate facilities and capacity to carry out testing functions in relation to standards of measurements and technical standards; and
  - (f) to establish a National Certification System of Conformity and create under the system various certification and accreditation schemes which shall require a supplier to ensure its customers of quality and sustainable products and services; and
  - (g) to assist Papua New Guinea industries overcome technical barriers on its products and services to international trade; and
  - (h) to assist Papua New Guinea industries produce quality products and services that are more competitive in the world market and thereby increase Papua New Guinea share in that market; and



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- (i) to provide a fundamental and legal metrology service; and
- (j) to undertake pre-shipment inspection and quality control; and
- (k) to develop and maintain technical information and publication services, collect and disseminate by any convenient means scientific, technical and other information concerning matters pertaining to this Act; and
- (l) to develop, verify, calibrate, repair and service instruments and equipment and issue certificates, to the effect that an instrument or equipment complies with the specifications applicable to it; and
- (m) to conduct tests and provide such other engineering and technical services as may be required by any industry; and
- (n) to undertake the training of personnel of the Institute and other bodies or organizations for the fields covered by this Act and to arrange for the training of personnel of the Institute with other local or overseas bodies or organizations; and
- (o) to promote standardization in industry and trade with a view to improving the quality of commodities and services as well as industrial efficiency and productivity; and
- (p) to advise the State and industrial, commercial and trading organizations on scientific and technical matters; and
- (q) to assist the State, provincial governments, local authorities, and other public bodies in the preparation of any measurement and technical standards required by them; and
- (r) to co-operate with the industrial sector, the State, provincial governments, local authorities and other public bodies or authorities with a view to furthering the effective performance of the functions of the Institute; and
- (s) to co-operate with any person, association, or organization outside Papua New Guinea having similar functions as those of the Institute, with a view to furthering the effective performance of the functions of the Institute; and
- (t) to adopt or adapt technology developed in other countries and apply the results of such research for use in the country; and
- (u) to maintain facilities and the capacity to carry out testing functions in relation to standards of measurement and technical standards; and
- (v) to hold custody of Papua New Guinea National Physical Measurement Standards as it considers necessary to enable the verification of means of measurement; and
- (w) to examine and approve patterns of instruments for use in trade; and
- (x) to make provision for the registration of standard and quality marks and regulate their use; and
- (y) to collect and disseminate by any convenient means, including the publication of reports, pamphlets, booklets, journals, and other matters, information concerning standards, technology and related matters; and
- (z) to co-operate with Departments, universities, technical or scientific societies and other bodies in order to promote industrial development and the training of technical officers, craftsmen and others; and
- (za) to solicit and accept for the purposes of the Institute any money, land, or other property, and to extend to a body, person or organization such concessions or benefits as it thinks fit; and

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- (ab) to make recommendations to the Minister in respect of the formulation of specifications and the promulgation and application of standard specifications and compulsory standard specifications; and
- (ac) to promote research and development in relation to specifications and to provide for the examination and testing of commodities, processes and practices; and
- (ad) to initiate and undertake or enter into contractual research projects with other persons or bodies in pursuance of its functions under the Act; and
- (ae) to provide for the examination, testing and calibration of instruments, appliances and apparatus in relation to their accuracy; and
- (af) to encourage or undertake educational work in connection with standardization, metrology and quality assurance; and
- (ag) to advise on questions of a scientific, technological, or techno-economic nature affecting the utilization of Papua New Guinea natural resources and the development of productive enterprises and related services; and
- (ah) to make arrangements for the inspection of any operation which is being carried out in or upon any premises in connection with the manufacture, production, processing or treatment of any commodity, process or practice for which a standard specification or a compulsory standard specification has been declared; and
- (ai) to establish, accept or adopt a standard and code of practice in relation to an article or a process; and
- (aj) to specify Certification Marks and to grant and renew licences for their use; and
- (ak) to inspect and take samples of any material or substance for the purposes of this Act; and
- (al) to inspect, examine or test materials, commodities, articles, processes and practices with a view to evaluating their quality, serviceability and other characteristics; and
- (am) to act as consultants and provide assistance in industrial research to any industry; and
- (an) to prescribe and levy fees for the grant and renewal of licences under this Act; and
- (ao) to prescribe and levy fees and charges for any of the purposes of this Act and any regulations made thereunder and recover any costs and expenses incurred as provided in such regulations; and
- (ap) to exercise all functions and powers and perform all duties which, under any other written law, are or may be or become vested in the Institute or are delegated to the Institute; and
- (aq) to do all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

(2) The functions of the Institute may be performed within or outside Papua New Guinea.

**6. POWERS OF THE INSTITUTE.**

The Institute has, in addition to the powers otherwise conferred on it by this Act and any other law, full powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

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**PART III. - THE NATIONAL INSTITUTE OF STANDARDS AND INDUSTRIAL TECHNOLOGY COUNCIL.**

**7. NATIONAL INSTITUTE OF STANDARDS AND INDUSTRIAL TECHNOLOGY COUNCIL.**

There shall be a National Institute of Standards and Industrial Technology Council which shall carry out the functions and objectives, manage the affairs and exercise the powers of the Institute.

**8. MEMBERSHIP OF THE COUNCIL**

(1) The Council shall consist of -

- (a) the Departmental Head of the Department responsible for trade and industrial matters *ex officio*, or his nominee; and
- (b) the Director-General *ex officio*; and
- (c) one representative of the Papua New Guinea Chamber of Commerce and Industry nominated by that Chamber of Commerce and Industry; and
- (d) one representative of the University of Papua New Guinea nominated by that University; and
- (e) one representative of the Papua New Guinea University of Technology nominated by that University; and
- (f) six other members representing government regulatory authorities, the manufacturing sector, the mining sector and consumer protection organizations appointed on the nomination of the Minister.

(2) A nominee referred to in Subsection (1)(a) shall be an officer of a level not less than that of a First Assistant Secretary.

(3) Subject to Subsection (4), a person appointed under Subsection (1)(c), (d), (e) and (f) shall -

- (a) be appointed by the Head of State, acting on advice; and
- (b) hold office for a period of three years; and
- (c) be eligible for re-appointment.

(4) A person appointed under Subsection (1)(c), (d), (e) and (f) shall be appointed on the basis of his competence and extensive relevant knowledge and experience in commerce, industry, education, consumer affairs, research and development.

(5) The members appointed under Subsection (1) shall, subject to this Act, be appointed upon such terms and conditions as are determined by the Minister.

**9. ALTERNATE MEMBERS.**

(1) For each of the members appointed under Section 8(d), (e) and (f), an alternate member shall be appointed in the same way and subject to the same conditions as the person for whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities, and this Act applies accordingly.

(3) An alternate member may, unless the Council otherwise directs, attend all meeting of the Council but shall not, except where he is attending in the absence of a member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

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**10. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister may, by notice in the National Gazette, appoint a member of the Council (other than the Director General) to be the Chairman of the Council for a period of four (4) years, and another member to be the Deputy Chairman for a period of three (3) years.

(2) The Chairman and Deputy Chairman shall hold office until the expiration of the period of their respective appointments as such or until they cease to be members, whichever first occurs.

**11. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member of the Council on such terms and conditions as the Minister determines.

**12. VACATION OF OFFICE.**

(1) A member, other than a member appointed under Section 8(1)(a), or the Chairman or Deputy Chairman may resign his office by writing signed by him and addressed to the Minister.

(2) If a member or the Chairman or Deputy Chairman -

(a) dies; or

(b) resigns his office in accordance with Subsection (1); or

(c) becomes permanently incapable of performing his duties; or

(d) is absent, except with the written consent of the Chairman, from three consecutive meetings of the Council; or

(e) fails to comply with Section 17; or

(f) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(g) is convicted of an offence punishable under law by imprisonment for one year or longer, or by death, and as a result of the conviction, is sentenced to imprisonment or death,

the Minister shall terminate his appointment.

(3) Where a body, which has nominated a member appointed under Section 8, requests the Minister to terminate the appointment of that member, the Minister shall terminate the appointment.

(4) The Minister may, at any time, by written notice, advise a member, or the Chairman or Deputy Chairman, that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(5) Within fourteen (14) days of the receipt of a notice under Subsection (4), the member, Chairman or Deputy Chairman, as the case may be, may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(6) Where the member, or the Chairman or Deputy Chairman, as the case may be, does not reply in accordance with Subsection (5), his appointment is terminated.

**13. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.**

The exercise of a power or the performance of a function of the Council is not invalidated by reason of a vacancy in the membership of the Council.

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**14. CALLING OF MEETINGS.**

(1) The Council shall meet as often as the business of the Council requires, and at such times and places as the Council determines, or as the Chairman, or in his absence, the Deputy Chairman, directs, but in any event shall meet not less frequently than once every three (3) months.

(2) Where he receives a request to do so by the Minister, or by not less than two (2) members, the Chairman, or in his absence, the Deputy Chairman, shall convene a meeting of the Council within fourteen (14) days.

(3) For the purposes of Subsection (2), the Chairman, or the Deputy Chairman, as the case may be, shall give to every member at least fourteen (14) days notice of the meeting.

(4) The Minister may, from time to time, request the Council to meet and consider and advise him on any matter he may put to the Board.

**15. MEETINGS OF THE COUNCIL.**

(1) At a meeting of the Council -

(a) six (6) members constitute a quorum; and

(b) the Chairman, or in his absence, the Deputy Chairman, shall preside, but if both the Chairman and Deputy Chairman are absent, the members present shall appoint a Chairman for the meeting from amongst their own number; and

(c) matters arising shall be decided by a majority of the votes of the members present and voting; and

(d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(2) The Council shall cause minutes of its meetings to be recorded and kept.

(3) Subject to this Act, the procedures of the Council are as determined by the Council.

**16. POWERS OF MINISTER TO GIVE DIRECTIONS.**

(1) Subject to this Act, the Minister may give directions to the Council as to the exercise of the powers and functions of the Council and the Council shall give effect to those directions.

(2) The Council shall furnish the Minister with such information relating to its activities as the Minister may from time to time require.

**17. DISCLOSURE OF INTEREST BY MEMBER.**

(1) At any meeting of the Council, where a member has a direct or indirect personal interest in a matter being considered or about to be considered by the Council, he shall, as soon as possible after the relevant facts have come to this knowledge, disclose the nature of the interest.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Council, and the member -

(a) shall not take part, after the disclosure, in any deliberation or decision of the Council in relation to the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

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**18. DELEGATION.**

The Minister may, after consultation with the Council, by instrument, delegate all or any powers and functions of the Council under this Act (except this power of delegation).

**19. REPORTS.**

(1) The Council shall, by 31 March in each year, furnish the Minister with a report on the progress and performance of the Council in relation to its functions during the year ended 31 December previously.

(2) As soon as practicable after he has received the report referred to in Subsection (1), the Minister shall forward the report to the Speaker for presentation to Parliament.

**PART IV. - ADMINISTRATION.**

**Division 1. - Director-General and Officers.**

**20. DIRECTOR-GENERAL.**

- (1) There shall be a Director-General of the Institute who -
- (a) shall be appointed by the Minister by a notice in the National Gazette after consultation with the Council; and
  - (b) shall be appointed for a period of four (4) years; and
  - (c) is eligible for re-appointment.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of appointment of the Director-General are as determined by the Council in consultation with the Minister.

- (3) The Director-General shall be the Chief Executive of the Institute.

**21. FUNCTIONS OF THE DIRECTOR-GENERAL.**

- (1) The Director-General shall -
- (a) manage and direct the affairs of the Institute, and, in relation to the management of the Institute and the direction of its affairs, shall act in accordance with the policy and directives of the Council; and
  - (b) advise the Council on any matter referred to him by the Council.

(2) The Director-General has such other functions as the Council may, from time to time, determine.

**22. TERMINATION OF APPOINTMENT.**

- (1) If the Director-General -
- (a) becomes permanently incapable of performing his duties; or
  - (b) resigns his office by writing under his hand to the Minister; or
  - (c) occupies or holds any other paid office or employment or engages in the practice of any profession or business without the written consent of the Minister; or
  - (d) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt and insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
  - (e) is convicted of an offence punishable under law by imprisonment for one year or longer, or by death, and as a result of the conviction, is sentenced to imprisonment or death,

the Minister shall terminate his appointment.

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(2) Subject to Subsection (1), the Minister may, at any time, by written notice, advise the Director-General that he intends to terminate his appointment on the grounds of inability, incapacity or misbehaviour.

(3) Within fourteen (14) days of the receipt of a notice under Subsection (2), the Director-General may reply in writing to the Minister who shall consider the reply, and where appropriate, terminate the appointment.

(4) Where the Director-General does not reply in accordance with Subsection (3), his appointment is terminated.

**23. APPOINTMENT OF OFFICERS.**

The Council may appoint to be officers of the Institute such persons as it considers fit and necessary for the purposes of the Institute.

**24. PUBLIC SERVICE RIGHTS.**

If a person appointed under Sections 20 or 23 was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Institute shall be counted as service in the Public Service for the purpose of determining his existing and accruing rights under the *Public Service Management Act 1986*.

*Division 2. - Committees of the Council.*

**25. POWER TO ESTABLISH COMMITTEES.**

(1) The Council may, from time to time, establish such Committees as it considers necessary for the purposes of the Institute.

- (2) In establishing a Committee under Subsection (1), the Council shall -
- (a) appoint such persons as it thinks fit to be members of the Committee; and
  - (b) specify the functions, powers and procedures of the Committee.

(3) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, a member of a Committee established under Subsection (1) is, except where he is an officer of the Institute, subject to such terms and conditions as are determined by the Council.

**PART V. - FINANCE.**

**26. THE GENERAL FUND.**

(1) For the purposes of this Act, there is hereby established a fund to be known as the General Fund to be administered and controlled by the Institute.

- (2) There shall be paid into the Fund -
- (a) all moneys appropriated from time to time by Parliament for the purposes of the Institute; and
  - (b) all moneys paid to or received by the Institute as fees imposed under this Act or the regulations; and
  - (c) all monies paid to or received by the Institute on the sale of its publications; and
  - (d) all moneys received by the Institute by way of grant, contribution, endowment, subsidy, gift, bequest, donation, subscription, rent, interest or royalty; and
  - (e) all other moneys lawfully paid to or received by the Institute; and
  - (f) all accumulations of income derived from moneys paid into the General Fund.

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- (3) There shall be paid out of the General Fund -
- (a) expenditure relating to the performance of the functions and the exercise of the powers by the Institute under this Act; and
  - (b) such payment for remuneration and allowances as is payable under this Act; and
  - (c) such other expenditure as may be paid in accordance with the provisions of this Act.

**27. INVESTMENT.**

Subject to the terms of any trust or endowment, moneys belonging to the Institute and available for investment may be invested in accordance with the law regulating investment of trust funds.

**28. POWER TO BORROW.**

- (1) In this section -

"approved bank" means the Central Bank or any other bank approved by the Minister for the purposes of this section;  
"approved institution" means any institution or other body approved by the Minister for the purposes of this section.

(2) Subject to this Act, the Institute may borrow money from an approved bank or approved institution, by way of mortgage, bank overdraft or otherwise for the purposes of the Institute under this Act, within such limits and on such conditions as the Minister approves.

**29. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT.***

(1) The Institute is a public authority to which Part VIII of the *Public Finances (Management) Act 1986* applies.

(2) For the purposes of Section 58 of the *Public Finances (Management) Act 1986*, tenders shall be publicly invited and contracts for all works, services and supplies the estimated cost of which exceeds K20,000.00 or such other figure as may be declared by the Minister responsible for finance matters.

**30. INSTITUTE LIABLE FOR TAXATION.**

The income, property and operation of the Institute are subject to the provisions of the *Income Tax Act* (Chapter 110).

**31. ACCOUNTS AND AUDIT.**

(1) The Institute shall keep proper accounts and other records in respect of its operations, and shall prepare statements of account in respect of each financial year.

(2) The Institute shall submit to the Minister its closing of accounts statement of revenue and expenditure for each financial year as audited by an Auditor appointed by the Minister for this purpose.

(3) At the end of each financial year, as soon as the accounts of the Institute have been audited, the Institute shall forward a copy of the statement of account to the Minister together with a copy of any observations made by the Auditor on any statement of account or on the account of the Institute.

(4) The Minister shall, as soon as practicable after receipt of the Auditor's report, present the report to the National Parliament.

**32. ANNUAL REPORT.**

The Institute shall, as soon as practicable between 1 January and 28 March of each year, prepare and forward a report to the National Parliament of its work and activities for the preceding twelve (12) months.



**PART VI. - UNITS AND STANDARDS OF MEASUREMENT.**

**33. APPLICATION OF THIS PART.**

In any law in force in the country, whether made before or after the commencement of this Act, a reference to a measurement in units, or multiples or fractions of units, for which there is

(a) a Papua New Guinea legal unit of measurement; or  
(b) a Papua New Guinea standard of measurement,  
shall, unless the contrary intention appears in that law, be a reference to -  
(c) a Papua New Guinea legal unit of measurement; or  
(d) a Papua New Guinea standard of measurement,  
as the case may be.

**34. PAPUA NEW GUINEA LEGAL UNITS OF MEASUREMENT.**

The Minister may, by notice in the National Gazette, fix a date on and from which a Papua New Guinea legal unit of measurement is the sole legal unit of measurement of a particular physical quantity.

**35. CONTRACTS, ETC., TO BE EXPRESSED IN PAPUA NEW GUINEA LEGAL UNITS OF MEASUREMENT.**

(1) Subject to Subsection (3), on and after the date specified in a notice under Section 34, a contract, dealing or transaction made or entered into for any goods or services relating to a measurement of physical quantity shall be made or entered into by reference to the Papua New Guinea legal unit of measurement of that physical quantity.

(2) Where in a contract, dealing or transaction to which Subsection (1) applies, a reference is made to a unit of measurement of a physical quantity and there is a Papua New Guinea legal unit of measurement of that physical quantity of the same name, the reference shall, unless the contrary intention appears, be deemed to be a reference to the Papua New Guinea legal unit of measurement of that physical quantity.

(3) The Minister may -  
(a) in the case of a particular contract, dealing or transaction - by written notice to the party applying to him; or  
(b) in the case of a particular class of contract, dealing or transaction or contracts, dealings or transactions relating to a particular commodity - by notice in the National Gazette, on the recommendation and advice of the Council, exempt that contract, dealing or transaction, particular class of contract, dealing or transaction or those contracts, dealings or transactions relating to a particular commodity, as the case may be, from the application of this section.

(4) Subject to Subsection (3), where in a contract, dealing or transaction, measurements of physical quantity are expressed in units other than the Papua New Guinea legal units of measurement, that contract, dealing or transaction is voidable at the option of any party to it.

**36. CONVERSION FACTORS.**

Where, for any purpose, it is necessary to convert -

(a) a measurement of a physical quantity expressed in terms of a legal unit of measurement applicable in the country immediately before the publication of a notice under Section 34 relating to that physical quantity; or

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(b) a measurement of a physical quantity expressed in terms of one of the Papua New Guinea legal units of measurement to one expressed in terms of another Papua New Guinea legal unit of measurement,  
the prescribed conversion factor shall be used.

**37. STANDARDS OF MEASUREMENT.**

(1) Subject to Subsection (3), the Institute shall maintain, or cause to be maintained, such standards of measurement as it considers necessary or desirable to provide means by which measurement of physical quantities for which there are Papua New Guinea legal units of measurement may be made in terms of those units.

(2) The Institute may, by notice in the National Gazette, determine that magnitudes of physical quantities, under conditions specified in that determination, shall be special standards of measurement for the purpose of providing additional means, by which measurements of physical quantities for which there are Papua New Guinea legal units of measurement, may be made in terms of those units.

(3) The Institute may, by notice in the National Gazette, approve such standards of measurement maintained within or outside of the country as it considers desirable to provide means, by which measurements of physical quantities for which there are Papua New Guinea legal units of measurement, may be made in terms of those units.

- (4) The Institute shall, by notice in the National Gazette -
- (a) ascribe a nominal value to particular standard of measurement; and
  - (b) where it considers it desirable, specify values higher or lower than that nominal value within the limits of which the actual value of that standard of measurement is deemed to equal the nominal value.

**38. VERIFICATION OF STANDARDS OF MEASUREMENT.**

(1) A standard of measurement referred to in Section 37(1) shall be verified and from time to time re-verified by, or with the written authority of, the Institute.

(2) The verification or re-verification referred to in Subsection (1) shall be carried out in such manner as the Institute considers appropriate having regard to the nature of the standard of measurement.

(3) A standard of measurement shall be deemed to comply with the nominal value ascribed to that standard of measurement under Section 37(4) if the value ascribed to it on verification or re-verification, as the case may be, falls within the limits of variation from the nominal value specified for that standard of measurement under that section.

- (4) The Institute, or a person or body authorized by the Institute to verify or re-verify a standard of measurement, may issue a certificate in respect of that verification or re-verification that shall -
- (a) identify the standard of measurement concerned; and
  - (b) report the result of the verification or re-verification; and
  - (c) specify the period within which the standard of measurement is to be re-verified or again re-verified, as the case may be.

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(5) A document purporting to be a certificate issued under Subsection (4) and signed by or on behalf of the Institute or a person or body authorized by the Institute, as the case may be, shall be admitted in evidence, and be *prima facie* evidence of the facts stated therein in proceedings before any court.

**39. MEASUREMENTS TO BE ASCERTAINED IN ACCORDANCE WITH APPROPRIATE STANDARDS OF MEASUREMENT.**

Where, for any purpose, it is necessary to ascertain whether a measurement of a physical quantity for which there is a Papua New Guinea legal unit of measurement has been, or is being, made in terms of those units, that fact shall be ascertained by means of, by reference to, by comparison with or by derivation from one or more standards of measurement referred to in Section 38.

**40. VERIFICATION OF MEANS OF MEASUREMENT.**

A means of measurement of a physical quantity for which there is a Papua New Guinea legal unit of measurement, being a means of measurement that is required by a law of the country or of a province to be verified or re-verified for any purpose, shall be verified or re-verified in terms of one or more of those units.

**PART VII. - NATIONAL TECHNICAL STANDARDS.**

**41. ESTABLISHMENT OF NATIONAL TECHNICAL STANDARDS.**

(1) Subject to Subsection (3), the Minister, acting with, and in accordance with, the advice of the Council, may, by notice in the National Gazette, establish as a National Technical Standard in respect of a commodity, practice, process or product described in that notice.

(2) A notice referred to in Subsection (1) may adopt as a National Technical Standard a standard laid down by any body, whether or not within the country, with such modifications as are specified in the notice.

(3) Before the Minister establishes or adopts a National Technical Standard in respect of a commodity, practice, process or product, he shall satisfy himself that the industry or industries most concerned with the commodity, practice, process or product, in respect of which the proposed National Technical Standard is to be established or adopted, agrees or agree that it is appropriate to establish or adopt a National Technical Standard in respect of that commodity, practice, process or product.

**42. CONTRACTS, ETC., TO COMPLY WITH NATIONAL TECHNICAL STANDARDS.**

(1) Subject to Subsection (2), where there has been established a National Technical Standard in respect of a commodity, practice, process or product, any contract, dealing or other transaction entered into after the establishment of that Standard in respect of the commodity, practice, process or product, is voidable at the option of any party to it if the commodity, practice, process or product, as the case may be, does not comply with the National Technical Standard.

(2) The Minister may -

- (a) in the case of a particular contract, dealing or transaction - by written notice to the party applying to him; or
- (b) in the case of a particular class of contract, dealing or transaction relating to a particular commodity, practice, process or product - by notice in the National Gazette,

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on the recommendation and advice of the Council, exempt that contract, dealing or transaction or that particular class of contract, dealing or transaction or contracts, dealings or transactions relating to a particular commodity, practice, process or product, as the case may be, from the application of this section.

**PART VIII. - STANDARD MARKS AND LABELS.**

**43. STANDARD MARKS AND LABELS.**

(1) Subject to Subsections (2) and (3), the Council may, with the approval of the Minister, by notice in the National Gazette, declare any mark or label which has been adopted by the Institute in respect of any specification framed by the Institute for any commodity, or for the manufacture, production, processing or treatment of any commodity, to be a standard mark or label in respect thereof, and may in like manner abolish or amend any such mark or label.

(2) A notice under Subsection (1) shall contain such information in regard to the relevant specification or amendment thereof as the Institute considers necessary.

(3) No mark or label which is identical with any trade mark or label registered in respect of any commodity in accordance with the *Trade Marks Act* (Chapter 385), or so nearly resembles such mark or label as to be likely to be mistaken for it, shall be declared to be a standard mark or label in respect of that or any similar commodity or in respect of the manufacture, production, processing or treatment of that or any similar commodity.

(4) No mark or label identical with a mark or label which has been duly declared to be a standard mark or label, or so nearly resembling such a mark or label as to be likely to be mistaken for it, shall be registered as a trade mark or label under the *Trade Marks Act* (Chapter 385) in respect of any commodity.

(5) Upon the publication of a notice under Subsection (1), no person shall apply any standard mark or label mentioned in such notice to any commodity -

- (a) except under a permit issued by the Institute or a person acting under its authority; and
- (b) unless that commodity complies with the relevant specification or has been manufactured, produced, processed or treated in accordance therewith.

(6) A permit issued under Subsection (5)(a) -

- (a) may be issued at the discretion of the Institute or a person acting under its authority; and
- (b) may be issued subject to such conditions as may be determined by the Institute and specified in the permit; and
- (c) is subject to the payment of such fees as the Council may, with the approval of the Minister, determine from time to time; and
- (d) is as prescribed.

(7) A person who -

- (a) applies a standard mark to any receptacle or covering of any commodity or to any standard label attached to any commodity or any receptacle or covering of any commodity or to any label attached to any commodity or any receptacle or covering thereof; or

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(b) places or encloses any commodity in a receptacle or covering to which a standard mark has been applied, or in a receptacle or covering to which is attached a label to which any such mark has been applied,  
shall, for the purpose of Subsection (4), be deemed to have applied that standard mark or label to that commodity.

(8) A person who contravenes any of the provisions of this section is guilty of an offence.

Penalty: A fine not exceeding K500.00.

**44. LICENCE TO USE STANDARD MARKS AND LABELS.**

(1) The Institute may, on the payment to it of the prescribed fee, issue to -

- (a) a producer of, or dealer in, a commodity or product; or
- (b) any person adopting a process or practice, in respect of which a standard mark or standard label has been specified under Section 43,

a licence to use that mark or label in respect of such items of that commodity or product or such processes or practices, as the case may be, that conform to the National Technical Standard applying to them.

(2) A licence issued under Subsection (1) -

- (a) is subject to such conditions as to the use of the standard mark or label to which it relates as the Institute thinks fit; and
- (b) is as prescribed.

**45. OFFENCES RELATING TO USE OF MARKS ON LABELS.**

(1) No person shall mark or affix to, or display in any manner in connexion with, a commodity, practice, process or product, a standard mark or label unless he is licensed to use that mark or label and it is used in accordance with the conditions of that licence.

(2) No person shall mark or affix to or display in any manner in connexion with a commodity, practice, process or product, a standard mark or label, unless that commodity, practice, process or product, as the case may be -

- (a) has a National Technical Standard established in respect of it; and
- (b) conforms with that National Technical Standard.

(3) No person shall -

- (a) having been licensed to use a standard mark or label, use the standard mark or label after the revocation of the licence; or
- (b) after being granted a licence, use the licence otherwise than in accordance with the terms and conditions of the licence; or
- (c) make any statement or representation, whether in writing or orally, or use any mark or label with reference to any commodity, process or practice which conveys or is likely to convey the impression that a person who is not licensed to use a standard mark or label in respect of that commodity, process or practice is so licensed or is otherwise entitled to use the standard mark or label; or

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- (d) make a statement or representation, whether in writing or orally, or use any mark or licence which conveys or is likely to convey the impression that a commodity, process or practice complies with a standard specification unless that commodity, process or practice so complies with a standard specification; or
- (e) without the authority of the Institute, make a statement or representation, whether in writing or orally, whereby a comparison is made in respect of any commodity, process or practice with a standard provided for by any standard specification, unless he proves that he acted without intent to defraud.

(4) A person who contravenes the provisions of this section is guilty of an offence.

Penalty: A fine not exceeding K500.00.

**PART IX. - PRE-SHIPMENT QUALITY CONTROL.**

**46. CERTIFICATE OF COMPLIANCE.**

(1) A person who wishes to export a commodity, practice, process or product, shall apply to the Institute in the prescribed form for the issue of a Certificate of Compliance with a National Technical Standard in respect of the commodity, practice, process or product.

(2) The Institute may in its absolute discretion issue or refuse to issue a Certificate of Compliance under Subsection (1).

(3) The fee for the issue of a Certificate of Compliance is as prescribed.

(4) A person who uses or affixes, in relation to any commodity, practice, process or product, a certificate purporting to be a Certificate of Compliance, other than a Certificate of Compliance issued by the Institute, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

**47. PRE-SHIPMENT INSPECTION AND QUALITY CONTROL.**

(1) Where the Minister considers that it is necessary or expedient to do so for the development and promotion of the export trade of the country, he may, on the recommendation and advice of the Council, by notice in the National Gazette -

- (a) specify a commodity or product that shall be subject to quality control or inspection, or both, prior to export; and
- (b) establish or adopt a National Technical Standard in respect of that commodity or product; and
- (c) prohibit the export of that commodity or product unless, it is accompanied by -
  - (i) a certificate of compliance; or
  - (ii) a certificate issued by the Minister.

(2) A certificate issued under Subsection (1)(c)(i) or (ii) shall certify that the commodity or product satisfies the prescribed conditions relating to quality control or pre-shipment inspection, or both, or it has affixed or applied to it a standard mark or standard label, or other mark or seal approved by the Minister, as a token for compliance with that quality control or pre-shipment inspection.

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(3) The Minister may require -  
(a) a person engaged in the manufacturing, processing or exporting of goods specified in a notice under Subsection (1)(a); or  
(b) any prescribed person,  
to furnish the Minister with a copy of any information, return, report or document that the Minister may consider necessary for carrying out the provisions of this Part.

(4) A person who refuses or neglects to furnish the Minister with any information, return, report or document as required by the Minister under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(5) This section does not apply in respect of a commodity or product for which a pre-shipment inspection procedure is provided by or under any other law.

**PART X. - GENERAL PROVISIONS.**

**48. COMPULSORY STANDARD SPECIFICATION.**

(1) The Minister may, on the recommendation of the Council, by notice in the National Gazette -

- (a) declare a standard specification for any commodity or for the manufacture, production, processing or treatment of any commodity to be a compulsory standard specification in relation to that commodity with effect from a date specified in the notice being a date not less than two (2) months after the date of publication of the notice; or
- (b) amend any compulsory standard specification in the manner prescribed in Paragraph (a); or
- (c) prescribe a distinctive mark for any commodity which complies with a compulsory standard specification or which has been manufactured, produced, processed or treated, and may abolish or amend any such mark.

(2) A notice published under Subsection (1) shall contain full particulars of the relevant standard specification or amendment thereof.

(3) The Council shall not recommend, and the Minister shall not declare, a compulsory standard specification for the manufacture, production, processing or treatment of a commodity unless the Council or the Minister, as the case may be, is satisfied that it is not practicable to achieve the purpose of such a compulsory standard specification unless by a compulsory standard specification for that commodity.

**49. NOTICE TO MAKE RECOMMENDATION.**

(1) The Council shall, at least two (2) months before making a recommendation to the Minister under Subsection 48(1), publish a notice in the National Gazette -

- (a) intimating its intention to make such a recommendation to the Minister; and
- (b) setting out the precise purport of the recommendation; and
- (c) inviting interested persons to lodge any objections in writing with the Council in such manner and within such time as specified in the notice.

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(2) Where an objection has been made under Subsection (1), the Council shall inform, in writing, the person making the objection that he is entitled to appear before the Council either personally or through a representative, and at such time and place as directed by the Council for that purpose, and shall be heard in respect of his objection.

**50. DETERMINATION OF OBJECTION.**

(1) Where the Council receives an objection under Section 49, it shall -  
(a) meet at the place and time fixed for the purpose of hearing the objection; and  
(b) hear the objection; and  
(c) determine the objection.

(2) Where the Council has determined an objection under Subsection (1), it shall make a recommendation to the Minister under Subsection (1) except -  
(a) where the objection is upheld; or  
(b) where the objection is rejected, and the person making the objection has been notified in writing of the decision and the reasons for rejecting the objection.

**51. OFFENCES RELATING TO COMPULSORY STANDARD SPECIFICATION.**

(1) Where the Minister has declared a standard specification to be a compulsory standard specification under Section 48, no person shall sell the commodity to which the standard specification relates after the date of publication of the notice unless it complies with that standard specification or has been manufactured, produced, processed or treated in accordance with the compulsory standard specification.

(2) Where a distinctive mark has been prescribed in accordance with Section 48(1)(c), no person shall apply that mark to any commodity except under and by virtue of a permit issued to him under this Act and unless that commodity or its manufacture, production, processing or treatment complies with the compulsory standard specification.

(3) A person who contravenes Subsections (1) and (2) is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(4) Where a person is charged with contravening Subsection (1), it shall be a defence for him to prove to the satisfaction of the court that he had no knowledge nor any reasonable means of ascertaining, whether before or at the time of sale, that the commodity specified in the charge did not comply with the standard specification relating thereto.

**52. APPEALS.**

(1) A person aggrieved by -  
(a) the refusal of the Institute to issue a permit;  
(b) the attaching of any condition to a permit; or  
(c) the variation, cancellation or suspension of a permit,  
may, within fourteen (14) days of the notification of the act complained of being received by him, appeal in writing to the Minister.

(2) The Minister shall, as soon as reasonably practicable after receiving the appeal, confirm, set aside or vary the decision against which the appeal was made.



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(3) The person lodging the appeal may, upon being notified of the Minister's decision on his appeal, request the Minister to give the reasons for the decision made, and the Minister shall act accordingly in writing.

**53. ENFORCEMENT.**

(1) A person to whom a permit has been issued under this Act shall, if so requested by the Council in writing, furnish within such period as may be specified, such samples of any commodity to which the permit relates and all such information in regard to such commodity or its manufacture, production, processing or treatment as may be specified in the request.

(2) A person who contravenes this section is guilty of an offence.

Penalty: A fine not exceeding K600.00 or imprisonment for a period not exceeding 6 months, or both.

**54. APPOINTMENT OF INSPECTORS.**

(1) The Minister may, at the request of the Institute, by notice in the National Gazette, appoint as an inspector for the purposes of this Act any person who, in his opinion, is suitably qualified.

(2) A person appointed under Subsection (1) shall be either a public officer or a member of the staff of the Institute and shall be furnished with a Certificate of Appointment signed by the Director-General stating that the person is authorized by the Minister to act as an inspector for the purposes of this Act.

**55. POWERS OF INSPECTORS.**

(1) An inspector may, for the purposes of this Act, at all reasonable times -

- (a) subject to the *Search Act* (Chapter 341), enter upon any premises at which there is, or is suspected to be, a commodity in relation to which any standard specification or standard mark or label exists; and
- (b) inspect and take samples of any commodity or any material or substance used, or likely to be used, or capable of being used, in the manufacture, production, processing or treatment thereof, and cause any container within which there is or is suspected to be any quantity of any such commodity, material or substance, to be opened; and
- (c) inspect any process of other operation which is carried out, or appears likely to be carried out, in the said premises in connexion with the manufacture, production, processing or treatment of any commodity in relation to which a standard specification or a standard mark or label exists; and
- (d) require from any person the production of any book, notice, record, list or other document which is in the possession or custody or under the control of such person or of any other person on his behalf; and
- (e) examine and copy any, or any part of, such book, notice, record, list or other document which appears to him to have relevance to his inspection or inquiry, and may require any person to give an explanation of any entry therein, and take possession of any such book, notice, record, list or other document as he believes may afford evidence of an offence under this Act; and
- (f) require information relevant to his inquiry from any person whom he has reasonable grounds to believe is employed or has been employed at any premises being entered under this section, or to have in such person's possession or custody or control any article referred to under this section.

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(2) An inspector entering any premises under Subsection (1) may be accompanied, if necessary, by an interpreter and shall, if so required, produce the certificate issued to whom under Section 54(2).

**56. OBSTRUCTION OF INSPECTORS.**

A person who -

- (a) obstructs an inspector in the performance of his powers under Section 55; or
- (b) knowingly misleads or deceives an inspector; or
- (c) refuses or neglects to comply with any direction or requirement of an inspector,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

**57. PROHIBITION OF IMPROPER USE OF STANDARD MARK.**

(1) Except under a licence granted under this Act, no person shall use, in respect of or in relation to an article or in the title of a patent or in a trade mark or design, the standard mark or an imitation of it.

(2) No person shall, notwithstanding that there has been granted a licence, use in respect of or in relation to an article the standard mark or an imitation of it unless such article conforms to the relevant Papua New Guinea Standard or other prescribed standard.

(3) A person who contravenes Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 2 years, or both.

**58. ONLY THE INSTITUTE MAY PUBLISH AND DECLARE PAPUA NEW GUINEA NATIONAL STANDARDS.**

Except as provided in this Act, no person shall establish, accept, adopt or publish, in relation to an article or a process, any standard which purports expressly or impliedly to be a Papua New Guinea Standard or any other standard within the meaning of this Act.

**59. FALSE STATEMENT AS TO CONFORMITY WITH PAPUA NEW GUINEA STANDARDS.**

No person shall make any statement or representation, whether orally or in writing, or use any mark which conveys, or is likely to convey, a false impression that an article or a process conforms to a Papua New Guinea Standard or any other standard.

**60. PROHIBITION OF REGISTRATION IN CERTAIN CASES.**

Notwithstanding anything in any written law, no registering authority shall -

- (a) register any company, firm or other body of persons which bears any name; or
- (b) register a trade mark or design which bears any name or mark; or
- (c) register a patent in respect of an invention which bears a title containing any name or mark,

if the use of the name or mark is in contravention of Section 45(1) or (2) or if the name or mark contains or consists of the words "Papua New Guinea Standard" or other prescribed standard or the expression "NISIT" or the name of the Institute in any form, or if the name or mark so nearly resembles any of the same as to deceive or be likely to deceive the public.

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**61. POWER TO OBTAIN INFORMATION.**

Every applicant for a licence under this Act and every holder of a licence shall, at the request of the Institute, furnish it with such information and samples of any material of substance used in relation to an article or a process in respect of which the licence is applied for or granted.

**PART XI. - MISCELLANEOUS.**

**62. PROPERTY IN DISCOVERIES, INVENTIONS AND IMPROVEMENTS.**

(1) The property in every discovery, invention, or improvement in any process, apparatus and machine made by a staff member of the Institute in the course of his official duties or during the period when the staff member is under the employment or in the service of the Institute shall be vested in the Institute.

(2) The Institute may, on the approval of the Council, pay to a staff member to whom Subsection (1) applies a bonus for the discovery, invention or improvement.

(3) The Institute may make available any discovery, invention or improvement vested in the Institute by virtue of Subsection (1) to any person subject to such fees or royalties and to such conditions as the Institute may determine.

**63. SECRECY.**

- (1) Except -
- (a) for the purposes of this Act; or
  - (b) for the purposes of any proceedings under this Act; or
  - (c) where information has been published in accordance with this Act,

a person employed by the Institute shall not disclose any information under this Act that has been obtained by him in the course of his duties.

(2) Except or provided under this Act, every person employed by the Institute shall treat as confidential all information obtained by the Institute in the course of the administration of this Act as to any formula, process or practice.

(3) A person who contravenes Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 1 year or both.

**64. PROCEEDINGS UNDER THIS ACT.**

Proceedings in respect of an offence under this Act may be conducted by an officer of the Institute.

**65. OFFENCES BY BODY CORPORATE.**

Where an offence under this Act is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to an act or default on the part of a director, manager, secretary or other person purporting to act in any such capacity of that body corporate, such person and the body corporate are jointly guilty of the offence.

**66. PROTECTION FROM PERSONAL LIABILITY.**

A member of the Council or an officer or employee or agent of the Institute is not personally liable for any act or default of himself or the Institute done or omitted to be done in good faith in the course of operations of the Institute or for the purposes of the Institute.

**67. GENERAL PENALTIES.**

(1) A person found guilty of an offence under this Act for which no specific penalty is provided shall be liable upon conviction to a fine not exceeding K1,000.00 or imprisonment for a term not exceeding 6 months, or both.

(2) On a second or subsequent conviction of any person for any offence under this Act, he shall be liable to a fine not exceeding K1,000.00 or imprisonment for a term not exceeding 1 year, or both.

(3) On the conviction of any person for an offence under this Act, the court may, in addition to any other penalty which may be imposed, order the confiscation of all or any part of any goods in respect of which the offence was committed, and all goods the subject of such an order shall be disposed of and dealt with under the *Public Finances (Management) Act 1986*.

(4) Subject to Subsection (5), the employer of an employee, agent, clerk, servant or other such employee shall be answerable for any act or omission of such employee, agent, clerk, servant or other person which is an offence under this Act or which would be an offence if committed or made by such employer, and every such employer and his employee, agent, clerk, servant or other such employee shall be jointly guilty of the offence and liable to the penalties provided by this Act.

(5) It is a defence under Subsection (4) that the employer did not know and could not reasonably be expected to know that the act or omission was taking place or was to take place and that he took all reasonable steps to ensure that the relevant provisions of this Act were being complied with.

(6) Where an employer is convicted of an offence under Subsection (4), and the employee's remuneration, conditions of employment or position are reduced or altered by the employer, or the employee is dismissed, whether before or after the conviction, the court may, in addition to any penalty which it may impose, order the employer -

- (a) to restore the rate of remuneration, conditions of employment or the position of the employee to that which existed immediately before, and with effect from, the date of the reduction or alteration; or
- (b) to pay to the employee a sum estimated by the court to be equal to his total remuneration for any period not exceeding twelve (12) months calculated according to the rate at which he was being remunerated at the time of his dismissal.

(7) An order made under Subsection (6)(b) may be enforced as if it were a judgment debt in a civil proceedings.

**68. REGULATIONS.**

The Head of State, acting on advice, may make regulations not inconsistent with this Act prescribing all matters that are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out and giving effect to this Act, and in particular for prescribing -

- (a) the forms to be used for the purposes of this Act, the manner in which they shall be signed, prepared or completed, and generally regulating the signing, preparation and completion of those forms; and
- (b) the fees to be charged for any matter or thing under this Act; and

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- (c) the issue of licences and the granting of approval by the Council or the Institute for any matter or thing under this Act; and
- (d) the form of, and the particulars to be contained in, notices to be served under this Act; and
- (e) the promulgation of standard specifications and compulsory standard specifications; and
- (f) conditions for the sale of any commodity or class of commodity or the use in any trade or business of any commodity, process or practice, in respect of which a compulsory standard specification has been declared; and
- (g) the requirements for packaging, labelling, describing and advertising of any commodity for which a standard specification has been declared; and
- (h) the provision for inspection and testing commodities, processes and practices; and
- (i) the requirements for keeping and maintaining books and records for commodities, processes and practices; and
- (j) penalties of fines not exceeding K1,000.00 for the breach of any of the provisions of the regulations.

**PART XII. - REPEAL.**

**69. REPEAL.**

The *National Standards Act* (Chapter 378) and the *National Technical Standards Act* (Chapter 379) are repealed.

**PART XIII. - TRANSITIONAL AND SAVINGS.**

**70. INTERPRETATION.**

For the purposes of this Part, the "repealed Acts" means the Acts repealed by Section 70.

**71. ACTIONS ETC., NOT TO ABATE.**

Where, immediately before the commencement of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body under the repealed Acts, it does not, on the commencement of this Act, abate or discontinue or in any way be affected by a provision of this Act but it may be prosecuted, continued and enforced by against or in favour of the person or body as if this Act had not been made.

**72. TRANSFER OF FUNDS.**

All monies standing to the credit of and on accounts opened by or under the authority of the repealed Acts immediately before the commencement of this Act are, on the commencement of this Act, transferred to and stand to the credit of accounts opened under the authority of this Act.

**73. TRANSFER OF ASSETS AND LIABILITIES.**

All assets and liabilities which, immediately before the commencement of this Act, were owned or held by a body established under the repealed Acts are, on the commencement of this Act transferred to and become assets and liabilities of the Institute.

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**74. CONTRACTS.**

All contracts and agreements entered into, made with or addressed to a body established under the repealed Acts are, to the extent that they were immediately before the commencement of this Act binding on and of full force and effect against or in favour of such body are, on the commencement of this Act, binding on and of full force and effect or in favour of the Institute as fully and effectually as if the Institute has been a party to them or bound by them or entitled to the benefit of them.

**75. TRANSFER OF STAFF.**

A person who, immediately before the commencement of this Act, was a staff member of a body established under the repealed Act shall, on the commencement of this Act, become a staff member of the Institute upon terms and conditions of service no less favourable than those obtaining prior to the commencement of this Act.

**76. STANDARDS, MARKS AND LICENCES.**

(1) In this Section, the "repealed Act" means the *National Standards Act* (Chapter 378).

(2) A specification declared to be a technical standard under the repealed Act and subsisting as a standard immediately before the commencement of this Act shall, on the commencement of this Act, continue to subsist as a technical standard until amended, varied, withdrawn or revoked under this Act.

(3) A mark registered as a certification trade mark under the repealed Act and remaining registered immediately before the commencement of this Act shall, on the commencement of this Act, continue to remain registered and be deemed to have been registered under this Act.

(4) A licence to use a standard mark label granted under the repealed Act and subsisting immediately before the commencement of this Act shall, on the commencement of this Act, remain as a licence and shall be deemed to have been granted under this Act until it expires or revoked, as the case may be, under this Act.

I hereby certify that the above is a fair print of the *National Institute of Standards and Industrial Technology Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *National Institute of Standards and Industrial Technology Act 1993* was made by the National Parliament on 5 May 1993 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.