

THE MAURITIUS STANDARDS BUREAU (AMENDMENT) BILL
(No. XVI of 2022)

Explanatory Memorandum

The main object of this Bill is to amend the Mauritius Standards Bureau Act with a view to aligning it with international norms. Over the years, the standardisation and conformity assessment environments have evolved, and there is a need for the Mauritius Standards Bureau to move forward with a new strategic orientation in consonance with the rapidly evolving socio-economic development of Mauritius.

2. Accordingly, the Bill will, inter alia –

- (a) provide for the Bureau to act, pursuant to Article 10 of the World Trade Organisation’s Technical Barriers to Trade Agreement, as the Enquiry Point for Mauritius with the objective of answering reasonable enquiries from other Member States to the Agreement, including on any adopted or proposed technical regulations, standards and conformity assessment procedures;
- (b) provide for the formalisation of activities already undertaken by the Mauritius Standards Bureau, such as the formulation of Mauritian Standards, metrology and calibration;
- (c) empower the Mauritius Standards Bureau to conduct other activities such as testing, certification and inspection.

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*Minister of Industrial Development, SMEs
and Cooperatives*

04 November 2022

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ARRANGEMENT OF CLAUSES

Clause

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| 2. Interpretation | 17. Section 21 of principal Act amended |
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| 9. Section 8 of principal Act amended | 24. Section 27 of principal Act amended |
| 10. Section 16 of principal Act repealed and replaced | 25. Section 28 of principal Act amended |
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| 12. Section 17 of principal Act amended | 27. Section 31 of principal Act repealed and replaced |
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A BILL

To amend the Mauritius Standards Bureau Act with a view to aligning it with international norms

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act as may be cited as the Mauritius Standards Bureau (Amendment) Act 2022.

2. Interpretation

In this Act –

“principal Act” means the Mauritius Standards Bureau Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

(a) in the definition of “applicant”, by deleting the words “a licence” and replacing them by the words “an MSB certification mark”;

(b) by deleting the definition of “code of practice” and replacing it by the following definition –

“code of practice” means the practices and procedures to be applied for the design, manufacture, installation, maintenance or utilisation of equipment, structures or products;

(c) by deleting the definition of “licence”;

(d) by deleting the definition of “standard” and replacing it by the following definition –

“standard” –

(a) means a document, duly approved by the Council, which contains technical specifications or other precise criteria to be used consistently as rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory; and

- (b) includes, or deals exclusively with, terminology, symbols, packaging, marking or labelling requirements as they apply to the products, processes or production methods;
- (e) by inserting, in the appropriate alphabetical order, the following new definitions –

“conformity assessment” means any procedure such as testing, verification, inspection and certification to determine that relevant requirements in technical regulations and standards are fulfilled;

“Mauritian standard” means a document which has been declared as such under section 18 and may include a specification or a code of practice;

“*Système International d’Unités (SI Units)*” means the system of measurements as maintained by the *Bureau International des Poids et Mesures*;

“technical investigation” means the process of collecting objective evidences for the purpose of confirmation of a statement or compliance to procedures against set of requirements or regulatory and statutory requirements through testing, verification, witnessing, investigation or document review.

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended by adding the following new subsections –

(3) Subject to any other enactment, the Bureau shall, for the purposes of this Act, be the national standards body and the Government agency for conformity assessment services.

(4) The Bureau shall, pursuant to Article 10 of the World Trade Organisation’s Technical Barriers to Trade Agreement, be the Enquiry Point for Mauritius with the objective of answering reasonable enquiries from other Member States to the Agreement, including on any adopted or proposed technical regulations, standards and conformity assessment procedures.

5. Section 4 of principal Act repealed and replaced

Section 4 of the principal Act is repealed and replaced by the following section –

4. Objects of Bureau

The objects of the Bureau shall be to –

- (a) promote and encourage standardisation and conformity assessment in industry and trade;
- (b) promote Mauritian Standards in relation to any goods, article, process, system or service;
- (c) promote technological development in industry through applied research.

6. New sections 4A and 4B inserted in principal Act

The principal Act is amended by inserting, after section 4, the following new sections –

4A. Functions of Bureau

- (1) The Bureau shall, in attaining its objects –
 - (a) establish, publish, amend and revise Mauritian Standards in relation to any goods, article, process, system or service;
 - (b) adopt as Mauritian Standard, any standard or any other publication or research work, established by any other institution in Mauritius or abroad, in relation to any goods, article, process, system or service;
 - (c) undertake, support and promote such research as may be necessary or required for the formulation of Mauritian Standards;
 - (d) monitor the certification marks;
 - (e) assess and monitor management systems;

- (f) inspect, examine, test or analyse materials, documents, products and services and issue an inspection, an examination or a test report or a conformity report, as may be applicable;
- (g) develop, hold and maintain the national measurement standards through traceability to the *Système International d'Unités* (SI Units);
- (h) calibrate the secondary measurement standards;
- (i) verify measuring apparatus and instruments so as to determine their degree of accuracy and calibrate them;
- (j) provide technical information on standardisation and related subjects;
- (k) organise training sessions on standardisation, conformity assessment and related subjects;
- (l) conduct technical investigations in the field of conformity assessment;
- (m) advise the Minister on the formulation of policy for the purposes of this Act;
- (n) generally do such acts and things as may be necessary for the purposes of this Act.

(2) The Bureau may, for the purposes of this Act, provide consultancy and other services.

4B. Powers of Bureau

The Bureau shall have such powers as may be necessary to discharge its functions most effectively and may, with the approval of the Council –

- (a) enter into any contract or other agreement;
- (b) set up any committee; and
- (c) charge or receive any fee or other sum which may lawfully accrue to it.

7. Section 5 of principal Act amended

Section 5 of the principal Act is amended –

- (a) in subsection (2) –
 - (i) by inserting, after paragraph (c), the following new paragraphs –
 - (ca) a representative of the Ministry responsible for the subject of international trade;
 - (cb) a representative of the Ministry responsible for the subject of health;
 - (ii) by repealing paragraph (e);
 - (iii) by repealing paragraph (g) and replacing it by the following paragraph –
 - (g) 2 members, to be appointed by the Minister, from the private sector; and
 - (iv) in paragraph (h), by deleting the words “of a consumer organisation” and replacing them by the words “representing the interests of consumers”;
- (b) by repealing subsection (4) and replacing it by the following subsection –
 - (4) Every member shall be paid such fees or allowances as the Minister may determine.

8. Section 6 of principal Act amended

Section 6 of the principal Act is amended, in subsection (2), by deleting the word “Six” and replacing them by the word “Seven”.

9. Section 8 of principal Act amended

Section 8 of the principal Act is amended, in subsection (3), by deleting the words “20,000 rupees” and replacing them by the words “50,000 rupees”.

10. Section 16 of principal Act repealed and replaced

Section 16 of the principal Act is repealed and replaced by the following section –

16. Annual report

(1) The Bureau shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and submit it to the Minister, together with an audited statement of accounts on the operations of the Bureau, in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Bureau before the Assembly.

11. Part III of principal Act amended

The principal Act is amended, in Part III, by deleting the heading and replacing it by the following heading –

PART III – STANDARDISATION AND CONFORMITY ASSESSMENT

12. Section 17 of principal Act amended

Section 17 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “quality assurance” and replacing them by the words “conformity assessment”;
- (b) in subsection (2)(b), by deleting the words “persons” and “quality assurance” and replacing them by the words “stakeholders” and “conformity assessment”, respectively.

13. New section 17A inserted in principal Act

The principal Act is amended by inserting, after section 17, the following new section –

17A. Establishment of Mauritian Standards

(1) Any standard established by the Bureau shall be a Mauritian Standard.

(2) A Mauritian Standard shall be published in the Gazette and remain valid until and unless it is withdrawn by the Bureau.

14. Section 18 of principal Act amended

Section 18 of the principal Act is amended –

(a) by deleting the heading and replacing it by the following heading –

18. Declaration of Mauritian Standards

(b) in subsection (1), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(c) in subsection (2), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(d) in subsection (3), by deleting the words “inspect” and “standard” and replacing them by the words “examine” and “Mauritian Standard”, respectively;

(e) in subsection (4), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(f) by repealing subsection (6).

15. Section 19 of principal Act amended

Section 19 of the principal Act is amended –

(a) in subsection (1), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(b) in subsection (2), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(c) in subsection (3), by deleting the words “inspect” and “standard” and replacing them by the words “examine” and “Mauritian Standard”, respectively;

(d) in subsection (4), by deleting the word “standard” and replacing it by the words “Mauritian Standard”;

(e) by repealing subsection (6).

16. New section 19A inserted in principal Act

The principal Act is amended by inserting, after section 19, the following new section –

19A. Copyright of Mauritian Standards

(1) Notwithstanding any other enactment, the copyright in a Mauritian Standard or any other publication of the Bureau shall vest in the Bureau.

(2) No person shall, without the written authorisation of the Bureau, in any manner or form, publish, reproduce or record any Mauritian Standard or part thereof, or any other publication of the Bureau.

(3) No person shall issue a document that creates, or may create the impression that it is or contains a Mauritian Standard.

17. Section 21 of principal Act amended

Section 21 of the principal Act is amended –

(a) by deleting the heading and replacing it by the following heading –

21. Issue, suspension and revocation of MSB certification mark

(b) in subsection (1), by deleting the words “a licence” and replacing them by the words “an MSB certification mark”;

(c) in subsection (2), by deleting the words “standard, grant a licence” and replacing them by the words “Mauritian standard, issue an MSB certification mark”;

(d) in subsection (3), by deleting the words “a licence” wherever they appear and replacing them by the words “an MSB certification mark”;

(e) in subsection (4) –

(i) in paragraph (a), by deleting the word “licensee” and replacing it by the words “holder of an MSB certification mark”;

- (ii) in paragraph (b), by deleting the word “licence” and replacing it by the words “MSB certification mark”;
- (f) in subsection (5), in paragraph (a), by deleting the words “a licence” and replacing them by the words “an MSB certification mark”;
- (g) in subsection (6), by deleting the word “standard” wherever it appears and replacing them by the words “Mauritian Standard”;
- (h) in subsection (7), by deleting the word “standard” and replacing it by the words “Mauritian Standard”.

18. Section 22 of principal Act amended

Section 22 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “, in the prescribed form,”;
- (b) in subsection (4) –
 - (i) in paragraph (a), by deleting the word “licensee” and replacing it by the words “holder of the certificate of registration”;
 - (ii) in paragraph (b), by deleting the word “licence” and replacing it by the word “certificate”.

19. Section 24 of principal Act amended

Section 24 of the principal Act is amended –

- (a) by inserting, after the words “relating to the”, the words “issue,”;
- (b) by deleting the word “licences” and replacing it by the words “MSB certification marks”.

20. Section 25 of principal Act amended

Section 25 of the principal Act is amended by deleting the words “a licence” wherever they appear and replacing them by the words “an MSB certification mark”.

21. New section 25A inserted in principal Act

The principal Act is amended by inserting, after section 25, the following new section –

25A. Notification by Minister

The Minister may, in the public interest or for the protection of human, animal or plant health, safety of the environment, or prevention of unfair trade practices, or national security, by an order published in the Gazette, notify –

- (a) the goods or article of any scheduled industry, process, system or service; or
- (b) the essential requirements to which such goods, article, process, system or service, which shall conform to a Mauritian standard and direct the use of the certification mark under a certificate of conformity as is compulsory on such goods, article, process, system or service.

22. Section 26 of principal Act repealed

Section 26 of the principal Act is repealed.

23. New sections 26A, 26B and 26C inserted in principal Act

The principal Act is amended by inserting, after section 26, the following new sections –

26A. Conformity assessment

(1) For the purposes of this Act, the Bureau shall provide conformity assessment services which shall include, but not be limited to, visual inspection, testing, verification of certificates of conformity or test reports.

(2) The Bureau shall issue a conformity report in respect any conformity assessment service provided under this section.

26B. Inspection

(1) The Bureau may establish, maintain and provide inspection services to the public and private sectors.

(2) There shall be an appropriate MSB registered firm symbol for inspection services.

(3) The Bureau shall, for the purpose of ensuring the integrity of its inspection services –

(a) establish suitable infrastructure to enable it to perform the required tests; and

(b) operate an appropriate management system in accordance with the relevant international standards.

26C. Metrology and calibration

(1) The Bureau shall be the custodian of national measurement standards.

(2) The Bureau shall calibrate measuring instruments and provide measurement traceability through the *Système International d'Unités* (SI Units).

24. Section 27 of principal Act amended

Section 27 of the principal Act is amended, in paragraph (b), by deleting the words “a certificate of registration” and replacing them by the words “an MSB certification mark”.

25. Section 28 of principal Act amended

Section 28 of the principal Act is amended by deleting the words “a firm” and replacing them by the words “the holder of a certificate”.

26. Section 29 of principal Act amended

Section 29 of the principal Act is amended by deleting the word “licence” wherever it appears and replacing it by the words “MSB certification mark”.

27. Section 31 of principal Act repealed and replaced

The principal Act is amended by repealing section 31 and replacing it by the following section –

31. Confidentiality

(1) No member or employee shall, during or after his term of office with the Council or Bureau, use or disclose any matter which comes to his knowledge in the discharge of his functions or use any material of the Bureau, except for the purpose of administering this Act.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding one year.

28. Section 33 of principal Act amended

Section 33 of the principal Act is amended by repealing subsection (3).

29. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
