

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 379.

National Technical Standards.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was not vested specifically in any Minister at the date of its preparation for inclusion, therefore, under Section 148(2) of the Constitution, it seems that political responsibility was vested in the Prime Minister.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

TABLE OF CONTENTS.

	<i>Page.</i>
<i>National Technical Standards Act</i>	3
Regulation	—
Appendix— Source of Act.	

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 379.

National Technical Standards Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Compliance with Constitutional requirements.
2. Interpretation—
 - “the Council”
 - “National Technical Standard”
 - “pre-shipment inspection”
 - “quality control”
 - “standard mark”
 - “standard label”.
3. Application to the State.

PART II.—NATIONAL TECHNICAL STANDARDS.

4. Establishment of National Technical Standards.
5. Contracts, etc., to comply with National Technical Standards.

PART III.—STANDARD MARKS AND LABELS.

6. Standard marks and labels.
7. Licence to use marks and labels.
8. Offences relating to use of mark or label.
9. Use of certain words.

PART IV.—PRE-SHIPMENT QUALITY CONTROL.

10. Certificate of compliance.
11. Pre-shipment inspection and quality control.

PART V.—MISCELLANEOUS.

12. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 379.

National Technical Standards Act.

Being an Act to provide for the preparation, promulgation and use of National Technical Standards, and for related purposes.

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 (*qualified rights*) of the Constitution, namely—

- (a) the freedom of employment conferred by Section 48 of the Constitution; and
- (b) the right to privacy conferred by Section 49 of the Constitution,

is a law that is made for that purpose.

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

2. Interpretation.

In this Act, unless the contrary intention appears—

“the Council” means the National Standards Council established under the *National Standards Act*;

“National Technical Standard” means a specification or description of any commodity, practice, process or product by reference to its nature, quality, safety, strength, purity, composition, dimensions, mass, grade, durability, origin, age or other characteristics and codes of practice, test methods, glossaries, symbols and other forms of recommended practices;

“pre-shipment inspection” in relation to a consignment of a commodity means a process of determining whether the batch of goods in that consignment complies with the National Technical Standard or any other standard applicable to it, or the specifications stipulated in an export contract, by inspecting either the whole, or a select sample or samples which purport to represent the whole batch;

“quality control” means any activity having for its object the determination and rectification, if necessary, of the quality of a commodity during production, in order to ascertain and ensure that it conforms to the National Technical Standard or any other standard applicable to it or the specifications stipulated in an export contract;

“standard mark” means a standard certification mark specified by or with the authority of the Council to represent a particular National Technical Standard, intended to be used in relation to goods to which it relates to distinguish, in the course of trade, those goods that conform to that Standard from those that do not so conform;

“standard label” means a label to be used on or in conjunction with a product or an article of commerce as a standard information label, the shape, size, colour or contents of which have been specified by or with the authority of the

Council to represent a particular National Technical Standard, and which carries information of such product or article in respect of its composition, properties, method of use, manner of installation, care or maintenance or other details about that product or article.

3. Application to the State.

This Act binds the State.

PART II.—NATIONAL TECHNICAL STANDARDS.

4. 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, a standard 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 must satisfy himself by whatever means he thinks fit (including discussions with other Ministers, statutory boards or authorities and relevant industrial bodies) 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.

5. 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 or contract, dealing or transaction relating to a particular commodity, practice, process or product—by notice in the National Gazette,

after having received and considered the advice of the Council, exempt that contract, dealing or transaction or that particular class of contract, dealing or transaction or contract, dealing or transaction relating to a particular commodity, practice, process or product, as the case may be, from the application of this section.

PART III.—STANDARD MARKS AND LABELS.

6. Standard marks and labels.

The Council may, by notice in the National Gazette, specify standard marks and standard labels that may be used in respect of the commodities, practices, processes or products specified in the notice.

7. Licence to use marks and labels.

(1) The Council may, on the payment to it of the prescribed fee, issue to any producer of, or dealer in, a commodity or product, or any person adopting a process or practice, in respect of which a standard mark or standard label has been specified under Section 6, 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 to a person under Subsection (1) may be subject to such conditions as to the use of the mark or label to which it relates as the Council thinks fit.

8. Offences relating to use of mark or label.

(1) A person who marks or affixes to, or displays 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, is guilty of an offence.

(2) A person who marks or affixes to or displays 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,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

9. Use of certain words.

Except as prescribed or with the written approval of the Council, a person who uses the words "National Standards Council", "National Standard", "National Technical Standard" or any words or marks that are reasonably likely to imply that a commodity, practice, process or product in respect of which they are or it is used has been approved by the Council or conforms to a National Technical Standard, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

PART IV.—PRE-SHIPMENT QUALITY CONTROL.

10. Certificate of compliance.

(1) A person may apply to the Council, in a form approved by the Council, for the issue of a certificate of compliance with a National Technical Standard in respect of any commodity, practice, process or product.

(2) The Council may 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 Council, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

11. 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 of the Council, by notice in the National Gazette—

- (a) specify commodities or products 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—
 - (i) it is accompanied by—
 - (A) a certificate of compliance; or
 - (B) a certificate issued by the Minister, certifying that the commodity or product satisfies the prescribed conditions relating to quality control or pre-shipment inspection, or both; or
 - (ii) 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.

(2) If requested by the Minister—

- (a) a person engaged in the manufacture, processing or exporting of goods specified in a notice under Subsection (1)(a); or
- (b) any prescribed person,

who fails to furnish to the Minister a copy of any information, return, report or document that the Minister may consider necessary for carrying out the provisions of this Part is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) 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 V.—MISCELLANEOUS.

12. 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—

- (a) prescribing the conditions under which standard marks or standard labels may be used; and
- (b) prescribing the fees to be charged by the Council for inspection, tests or services; and

- (c) the appointment of inspectors for the purposes of pre-shipment inspection and quality control; and
 - (d) the procedures and practices to be adopted in pre-shipment inspection and quality control; and
 - (e) prescribing penalties of fines not exceeding K500.00 for offences against the regulations.
-

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 379.

National Technical Standards Act.

APPENDIX 1.

SOURCE OF THE NATIONAL TECHNICAL STANDARDS ACT.

Part A.—Previous Legislation.

National Technical Standards Act 1978 (No. 50 of 1978).

Part B.—Cross References.

Sections etc., Revised Edition.	Previous Reference ¹ .
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12

¹Unless otherwise indicated, references are to the Act as set out in Part A.

