

## Nepal Standards (Certification Mark) Act, 2037 (1980)

### Amending Acts

### Authentication and Date of Publication

		2037-5-26 (Sept. 11, 1980)
1.	Nepal Standards (Certification Mark) (First Amendment) Act, 2045 (1988)	2045-7-10 (Oct. 26, 1988)
2.	Administration of Justice Act, 2048 (1991)	2048-2-16 (May 30, 1991)

Act Number 10 of the Year 2037 (1980)

### **An Act made for arrangements for determining the standard and Certification Mark**

**Preamble:** Whereas, it is expedient to make arrangements for determining the standard of any goods for the welfare of the public and for the use of the marks certifying the standard on such goods,

Now, therefore, be it enacted by His Majesty the King Birendra Bir Bikram Shahdev the advice with and consent of the *Rastriya Panchayat*

1. **Short Title and Commencement:** (1) This Act may be called the "Nepal Standards (Certification Mark) Act, 2037 (1980)".

(2) It shall come into force on such date as may be prescribed by Government of Nepal by a Notification in the Nepal Gazette.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act,-

(a) "Council" means the Nepal Standard Council formed under Section

3.

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Appointed to be commenced since 2038-8-1 (Nov. 16, 1981) Nepal Gazette dated 2038-8-1 (Nov. 16, 1981)

- (b) "Office" means the Nepal Standards Office established under Section 5.
  - (c) "Standard" means the Nepal standard prescribed or recognized by the Council.
  - (d) "Goods" means natural, semi-natural, synthetic, manufactured, processed, semi-processed or unprocessed goods.
  - (e) "Process" means any process used from manufacture or production to consumption of any goods,
  - (f) "Certification Mark" means the certification mark of the standard,
  - (g) "License" means a license for the use of the certification mark,
  - (h) "Inspector" means the Inspector appointed or designated under Section 12,
  - (i) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.
3. **Formation of Council**: For the purpose of making arrangements for determining standards <sup>•</sup>in relation to any goods, process or services and affixing marks thereon, Government of Nepal may form a Standards Council. The full name of the Council shall be the Nepal Council of Standards, and its acronyms shall be N.C.S.
4. **Functions, Duties and Powers of the Council**: (1) In addition to those provided for elsewhere in this Act, the functions, duties and powers of the Council shall be as follows:
- (a) To determine standards <sup>•</sup>in relation to any goods, process or services, amend or cancel standards which have been prescribed,

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<sup>•</sup> Amended by the First Amendment.

- (b) To recognize standards prescribed by any local or foreign institution,
- (c) To grant recognition to any governmental or non-governmental laboratory for the purpose of determination of standards or tests, or suspend or cancel recognition which has once been granted,
- (d) To prescribe the design and form of certificate of standard and of the certification mark.
- (e) To prescribe fees for certificate of standards and certification mark and for services.

(2) For performing its functions, the Council may form committees or sub-committees of its members or of other persons as per necessity.

5. **Establishment of the Nepal Bureau of Standards:** (1) For the purpose of implementing the objectives of this Act, Government of Nepal shall establish an office, the full English name of which shall be the Nepal Bureau of Standards. Its acronyms shall be N.B.S.

(2) In addition to those mentioned elsewhere in this Act, the functions, duties and powers of the Nepal Bureau of Standards shall be as follows:

- (a) To issue licenses for the use of certification marks or certificates of standards after standards have been prescribed by the Council,
- (b) To inspect or arrange for inspection in connection with promotion of the standard of any goods, process, or service, and provide technical advice and directives.
- (c) To appoint or designate inspectors,

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• Amended by the First Amendment.

- (d) To renew, suspend or cancel licenses,
  - (e) To conclude agreements prescribing necessary conditions before issuing licenses,
  - (f) To perform the administrative functions of the Council.
6. **Power to Delegate Authority:** The Council may delegate any or all of its functions, duties and powers to any of its members, or to any committee formed by it, or to the office or any officer thereof.
7. **Right to use Certification Mark:** Any producer, manufacturer or distributor, or any individual who provides services, must obtain a license under this Act if he/she wants to use a certification mark in respect to any goods or process.
- +7A. **Publicity may be made after obtaining approval:** (1) A person who is desirous of publicising any goods up to the Nepal Standard shall obtain the approval of the office.
- (2) A person who is desirous of obtaining approval under Sub-Section (1) shall submit an application to the office.
  - (3) In case any application is received under Sub-Section (2), the office shall conduct necessary investigations and then grant approval for such publicity.
- +7B. **Certification of Standard of any goods of any specific quantity:** (1) A person who is desirous of having the standard of any goods of any specific quantity shall submit an application to the office.
- (2) In case any application is received under Sub-Section (1), the office shall conduct necessary investigations and may then certify whether or not the goods with such specific quantity is of standard quality.

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<sup>+</sup> Inserted by the First Amendment.

8. **Prohibition to make improper use of Certification Mark:** (1) No one shall use certification marks in relation to any goods or process without obtaining a license. No one shall use symbol which may create confusion regarding the design of the certification mark.
- (2) A persons who has obtained license shall also not use a certification mark in relation to any article which does not conform to the prescribed standards, or any symbol likely to create confusion regarding the design thereof.
9. **Prohibition to use Names Similar to those of the Council or the Office:** No one shall use any name which may create confusion regarding the full name or acronyms of the Council or the office.
10. **Power to Prescribe Standard of Goods Concerning Public Health and Public Security:** (1) In the case of goods or processes other than pharmaceuticals and foodstuffs whose standards are prescribed under the Drug Act, 2035 (1978) and the Food Act, 2023 (1966), Government of Nepal may, by a Notification in the Nepal Gazette, make it compulsory for the producer, manufacturer, distributor or person providing services to follow the standards determined by the Council in the interest of public health and public security, so as to be applicable from the date specified in such Notification.
- (2) In the case of goods or processes specified under Sub-Section (1), the concerned producer, manufacturer, distributor or person providing services shall obtain a license or certificate of standard under this Act.
11. **Power to Prescribe Standards of Goods Meant for Export or Import:** (1) In the case of goods to be imported into Nepal, other than drug whose standards are specified under the Drug Act, 2035 (1978), Government of Nepal may, in the interest of public health or public

security, publish a Notification in the Nepal Gazette stipulating that such goods shall conform to the standard prescribed by the Council.

(2) In the case of any goods to be exported from Nepal, Government of Nepal may, if it so deems necessary for the promotion of international trade, publish a Notification in the Nepal Gazette stipulating that such goods shall conform to the standard prescribed by the Council.

12. **Inspectors**: (1) For the purpose of inspection of the standard of any goods or process, the office may appoint or designate inspectors in required numbers.

(2) The functions, duties and powers of the inspector appointed or designated under Sub-Section (1) shall be as follows:

- (a) To examine whether or not a license has been obtained in respect to any goods or process on which a certification mark is used, and whether or not the conditions stipulated in such license are being complied with,
- (b) To examine whether or not the conditions stipulated in the certificate of standard in respect to any goods or process in which it is used are being complied with,
- (c) To inspect the production of any goods on which the certification mark or the certificate of standard is used or any process relating to such goods,
- (d) To receive samples of any goods on which the certification mark or the certificate of standard is used, or of any raw or processed goods relating to such commodity, for the purpose of inspection or examination at any time.

13. **Penalties**: (1) A person who violates the provisions of Section 8 shall be punished with a fine up to Three Thousand Rupees or an imprisonment of up to Six Months, or both.

(2) A person who violates the provisions of Section 9 shall be punished with a fine up to One Thousand Five Hundred Rupees or an imprisonment of up to Three Months, or both.

(3) In case, the goods or process referred under Section 10 is not up to the prescribed standard, or in case a person brings into use such goods or process without using the certification mark, such a person shall be punished with a fine up to Five Thousand Rupees or an imprisonment of up to One Year, or both.

(4) In case, a person exports, or attempts to export, or abets the export of goods specified in Section 11, which are not of the prescribed standard, he/she shall be punished with a fine up to Three Thousand Rupees or an imprisonment of up to Six Months, or both.

(5) A persons who violates other provisions of this Act shall be punished with a fine up to One Thousand Rupees or an imprisonment of up to One Month, or both.

(6) Goods on which certificate of standard or certification mark is used, or which are exported or imported in violation of this Act, shall be confiscated.

14. **Government to be Plaintiff:** Government of Nepal shall be the plaintiff in a case filed under this Act.
15. **Adjudicating Authority:** The original jurisdiction in respect to a case filed under this Act shall lie on the Chief District Officer.
16. **Investigation and Filing of a Case:** (1) Investigation into a case relating to offense punishable under this Act shall be conducted by the inspector, and such a case shall be filed by him/her with the Adjudicating Authority on completion of such investigation.

(2) The inspector may consult a Government Attorney while conducting an investigation into and filing of a case under Sub-Section (1).

17. **Appeal**: An appeal may be filed before the <sup>→</sup>Court of Appeal against the decision made by the authority mentioned in Section 15.

18. **Directives**: Government of Nepal may issue directives to the Council or the office as and when necessary. The Council or the office shall comply with such directives if so issued.

19. **Power to Frame Rules**: (1) Government of Nepal may frame Rules to implement the objectives of this act.

(2) Without prejudice to the generality of the power conferred by Sub-Section (1), such Rules may provide for the following matters in particular:

- (a) Determination and publication of standards,
- (b) Issue of a license or certificate of standard, and renewal of such a license,
- (c) Appointment or designation of inspector, and provisions relating to the procedure to be followed by the inspector,
- (d) Provisions regarding agreements to be executed by the recipient of license or certificate of standards,
- (e) Provisions regarding meetings of the Council and the procedure to be followed by it,
- (f) Appropriate arrangements relating to administrative and financial matters.

20. **Validity of Saving**: The standards prescribed by the Nepal Standard Determination Committee formed under the Nepal Standards

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<sup>→</sup> Amended by the Administration of Justice Act, 2048



Determination Committee (Formation) Order, 2034 (1977) before the commencement of this Act, and the license or certificate of standard issued by that committee, shall be deemed to have been determined or issued under this Act.

NEPAL LAW COMMISSION