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79 **A BILL** to provide for the preparation, promotion and implementation of standards and  
80 standard related activities in relation to commodities, goods, services, processes and practices  
81 by the establishment and operation of a Bureau of Standards; to define the powers and functions  
82 of the Bureau of Standards; to provide for transitional provisions; and for incidental matters.

83

84 **BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and  
85 consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same,  
86 as follows:

87

**PRELIMINARY**

88 **1. Short title and commencement.**

89 This Act may be cited as the Standards and Quality Act, 2021

90 **2. Interpretation.**

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

92 “Bureau” means the Saint Christopher and Nevis Bureau of Standards;

93 “CARICOM” means the Caribbean Community established by Article 2 of the  
94 Revised Treaty and includes the CSME established by the provisions of that  
95 Treaty;

96 “CARICOM Standards Mark” means the mark or design approved by the COTED  
97 to be licensed for use on goods or in connection with the processes, practices  
98 or services that conform to the requirements of the CARICOM Standards  
99 and so declared by the Minister by Order published in the *Gazette*;

100 “code of practice” means

101  
102 (a) a description of the method of production of any goods, or of the  
103 execution of any service, process or practice by which in the opinion  
104 of the Bureau a person adhering to it is able to produce goods or  
105 offer services which are likely to comply with a specification or  
106 standard; or

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108 (b) rules relating to the methods to be applied, or the procedure to be  
109 adopted, in connection with the construction, installation, testing,  
110 operation or use of any article, apparatus, instrument, device or  
111 process;

112 “conformity assessment” means  
113 (a) any activity concerned with determining directly or indirectly that  
114 demonstrating that quality, ecology, safety, economy, reliability,  
115 compatibility, interoperability, efficiency, effectiveness and other  
116 features of products and services meets the requirements of  
117 standards, regulations and other specifications; or  
118  
119 (b) a demonstration that specified requirements relating to a product,  
120 process, system, person, or body are fulfilled;

121 “conformity assessment procedure” means any procedure used, directly and indirectly, to  
122 determine that relevant requirements in technical regulations or standards are  
123 fulfilled, including, procedures for sampling, testing and inspection; evaluation,  
124 verification and assurance of conformity, registration, accreditation and approval;

125 “COTED” means the organ of CARICOM named as the Council for Trade and Economic  
126 Development in paragraph 2(c) of Article 10 of the Revised Treaty;

127 “CSME” means the regime established by the provisions of the Revised Treaty replacing  
128 Chapters Three through Seven of the Annex to the Treaty establishing the  
129 Caribbean Community and Common market signed at Chaguaramas on 4 July  
130 1973;

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

132 “goods” means commodities, services, processes or practices that are the subject of trade or  
133 commerce;

134 “home use”, in relation to imports, means that goods  
135  
136 (a) have completed the required customs clearance formalities and other import  
137 formalities;  
138 (b) are no longer subject to customs control; and  
139 (c) are available for free circulation in Saint Christopher and Nevis and any other  
140 Protocol Member State;

141 “inspection”, in relation to goods, services, processes, practices or other items, means the  
142 examination of an item and the determination of conformity of the item with  
143 specific requirements or, on the basis of professional judgement, with general  
144 requirements;

145 “item” means any product design, goods, commodities, product, service, process, practice  
146 or installation;

147 “laboratory” means an undertaking engaged in tests, investigations or research, whether or  
148 not for reward and using specification tests, which is managed, directed or operated  
149 by persons qualified and trained in science, engineering or technology;

150 “licensee” means a person who holds a valid licence to use the Standards Mark in connection  
151 with any good, service, process or practice;

152 “Minister” means the Minister charged with the responsibility for standard matters;

153 “National Quality Infrastructure” means a national policy that provides a framework for  
154 addressing matters of conformity assessment, metrology, standards and  
155 accreditation;

156 “owner”, in relation to any premises, includes the person in charge of the premises;

157 “practice” includes advertising, labelling and packaging;

158 “Protocol Member State” means a Member State of the Organisation of Eastern Caribbean  
159 States listed in the Schedule;

160 “Revised Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean  
161 Community including the CARICOM Single Market and Economy signed in  
162 Nassau, The Bahamas on the 5<sup>th</sup> day of July, 2001;

163 “specification” means a description of any goods, services, process or practice by reference  
164 to its nature, quality, strength, purity, safety, composition, quantity, dimensions,  
165 weight, grade, durability, origin, age, or other characteristics, and includes  
166 guidelines for a process or practice, tables of data and a code of practice;

167 “specification test” means a method of test that is

168 (a) included in or referred to in a specification;

169 (b) published by the Bureau or by an organisation recognised by the Bureau as  
170 competent in designing methods of test of a type useful in applying specifications;  
171 or

172 (c) recognised by the Bureau as applicable to any specified goods, service, process or  
173 practice;

174 “standard” means a document approved by a recognized body, that provides, for common  
175 and repeated use, rules, guidelines or characteristics for products or related  
176 processes and production methods, with which compliance is not mandatory and  
177 includes or deals exclusively with terminology, symbols, packaging, marking or

178 labelling requirements as the terminology, symbols, packaging, marking and labelling apply  
179 to a product, process or production method;

180 “Standards Mark” means the Saint Christopher and Nevis Standards Mark prescribed under section  
181 16;

182 “technical regulation” means a document that specifies product characteristics or their related  
183 processes and production methods, including the applicable administrative provisions, with  
184 which compliance is mandatory and includes or deals exclusively with terminology,  
185 symbols, packaging, marking or labelling requirements as the terminology, symbols,  
186 packaging, marking and labelling apply to a product, process or production method;

187 “technical specifications” means the technical requirements that are included, in particular, in the  
188 tender documents defining the characteristics of a piece of work, a material, a product or a  
189 supply, and make it possible to describe a piece of work, a material, a product or a supply  
190 objectively in a manner such that it fulfils the use for which it is intended by the contracting  
191 entity; and includes quality, performance, safety and dimensions, as well as requirements  
192 applicable to the material, product or supply as regards quality assurance, terminology,  
193 symbols, testing and test methods, packaging, marking and labelling;

194 “testing” includes the related activities of calibration and measurement;

195 “test equipment” includes

- 196 (a) materials, instruments, apparatus, tools and other articles needed to perform a test  
197 accurately and reliably whether by direct observation and measurement or by  
198 simulation techniques on any specific goods, process or practice; and  
199 (b) articles which represent, embody or reproduce a physical quantity, unit or any  
200 characteristic of any goods, service or practice, which can be used in assessing the  
201 goods, service or practice;

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

204 (2) In this Act, references to “regional bodies in the field of standardization” include  
205 references to the CARICOM Regional Organisation for Standards and Quality.

206 (3) When interpreting this Act, a court or an administrative body shall consider

- 207  
208 (a) the international norms and standards enshrined in the World Trade  
209 Organization Technical Barriers to Trade Agreement;  
210 (b) the principles of international law; and  
211 (c) regional and international law and decisions relevant to the international  
212 norms and standards referred to in paragraph (a).

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**PART I - FUNCTIONS OF BUREAU**

**3. Continuation of the Bureau of Standards.**

(1) Subject to subsection (2) and (3), the Saint Christopher and Nevis Bureau of Standards, hereafter referred to as “the Bureau”, shall continue to operate and

- (a) shall have perpetual succession and a common seal;
- (b) may acquire, hold and dispose of land and other property; and
- (c) may enter into contracts.

(2) The Bureau shall

- (a) consist of a Director appointed under section 5;
- (b) be the national standards body; and
- (c) be the national quality certifying body.

(3) Without prejudice to the generality of subsections (1) and (2) of this section, the Bureau

- (a) shall exercise and perform the functions assigned to it by this Act or by any other enactment; and
- (b) may do all things necessary for the purpose of its functions.

**4. Functions of the Bureau**

(1) For the purposes of facilitating trade, including industrial efficiency and development, and promoting public and industrial welfare and health and safety for safeguarding the environment, the Bureau shall

- (a) promote and encourage the maintenance and implementation of industry standards
  - (i) for goods or services produced, provided or used in Saint Christopher and Nevis; and
  - (ii) in relation to processes and practices used in the production or provision of goods or services in Saint Christopher and Nevis;

- (b) promote the adoption and application of all aspects of metrology as a necessary adjunct to standardization;
- (c) render conformity assessment services and matters connected with the rendering of conformity assessment services;
- (d) be the focal point for accreditation; and
- (e) be the national authority responsible for metrology in St. Christopher and Nevis.

(2) Without prejudice to the generality of subsection (1) of this section, the Bureau shall, for the purpose of discharging its functions under that subsection

- 248 (a) develop, adopt, prepare, adapt, amend, reaffirm, revise and publish standards,  
249 technical regulations and conformity assessment procedures, in relation to any class,  
250 category or type of products or services;
- 251 (b) promote the adoption and implementation of standards relating to structures, goods,  
252 materials, processes, practices, operations and other matters, on a national and  
253 international level;
- 254 (c) co-ordinate, monitor and promote standardization and related activities at the  
255 various corporate, national, regional and international levels and to supply or ensure  
256 the existence of adequate supporting related services;
- 257 (d) cooperate with national, regional or other international bodies in the field of  
258 standardization and exchange information with such bodies generally, and in  
259 particular to such extent as may be provided for in any international obligation  
260 entered into by Saint Christopher and Nevis or as may be prescribed;
- 261 (e) promote research, conformity assessment and market surveillance as the Bureau  
262 considers appropriate in relation to standards, technical specifications or technical  
263 regulations;
- 264 (f) provide for the inspection and testing of goods, services, processes and practices;
- 265 (g) certify goods, services, processes and practices that conform to national, regional  
266 or international standards;
- 267 (h) establish and declare standards and technical regulations for the improvement of  
268 goods produced in Saint Christopher and Nevis and keep the standards and  
269 technical regulations under review;
- 270 (i) collect and publish for public information and guidance, data relating to  
271 specifications and standards;
- 272 (j) encourage and undertake educational programmes relating to standards;
- 273 (k) inspect or cause to be inspected
- 274 (i) any operations carried out and any books or records, in connection with the  
275 production, manufacture, processing or treatment of any goods, and
- 276 (ii) the execution of any services, processes or practice for which a technical  
277 regulation has been declared or for which application has been made to use the  
278 standard mark.
- 279 (l) make arrangements or provide facilities for the verification, inspection, testing and  
280 calibration of instruments, appliances, apparatus and devices used in trade;
- 281 (m) institute a National Quality Infrastructure and establish, administer and operate  
282 schemes of standardisation and certification of goods including
- 283 (i) administering the certification of such goods;
- 284 (ii) assessing quality systems and administering the certification of systems thus  
285 assessed; and
- 286 (iii) assessing the competence of quality practitioners offering consultancy, training  
287 and other services;
- 288 (n) establish and designate laboratories and testing facilities;



- 289 (o) control, in accordance with the provisions of this Act, the use of standards marks and  
290 distinctive marks;
- 291 (p) promote the carrying out of activities, not inconsistent with the purposes of this Act,  
292 by other bodies and for that purpose establish or expand, or promote the establishment  
293 or expansion of, other bodies to carry out any such activities either under the control or  
294 partial control of the Bureau or independently, and to give assistance to such bodies or  
295 to other bodies appearing to the Bureau to have facilities for the carrying out of any  
296 such activities;
- 297 (q) co-operate with and advise manufacturers and suppliers of goods and services in setting  
298 up quality control systems and preparing standards; and
- 299 (r) do such other things as may be expedient or necessary to secure the proper execution  
300 of the purposes of this Act.

301 (3) In the performance of its functions under the provisions of this Act or of any other  
302 enactment, the Bureau

- 303 (a) shall publish lists of standardization bodies that are recognised by the Bureau for the  
304 purposes of this Act;
- 305 (b) shall consider all applications for licences to use a conformity mark and to grant  
306 licences for such purpose;
- 307 (c) shall inform the public of new subjects included in its standards programme and of the  
308 preparation or amendment of standards and technical regulations;
- 309 (d) shall, in accordance with Part IV of this Act, on its own initiative or at the request of  
310 any person, carry out such investigations in relation to the conduct of business or any  
311 complaint by a consumer under this Act;
- 312 (e) shall determine whether any person is supplying goods or services in contravention of  
313 this Act or is otherwise engaged in any practice that is in contravention of this Act;
- 314 (f) may provide advisory services for manufacturers as to the type and methods of quality  
315 control applicable to their products; and
- 316 (g) may undertake the training of manufacturing staff in quality control.

317 (4) The Bureau may charge fees for services rendered under this section and may offer these  
318 services inside or outside Saint Christopher and Nevis.

319 (5) For the purpose of subsection (2)(c) of this section, the reference to the term “supporting  
320 related services” includes a reference to

- 321 (a) the availability or ensuring the availability of testing services;
- 322 (b) offering technological advice and consultancy services to the Government, the  
323 Government agencies and the private sector; and
- 324 (c) any other services related to standardization as may be required.

## 325 **5. Appointment of Director of the Bureau.**

326 (1) The Minister shall, by notice published in the *Gazette*, appoint a Director of the Bureau.

327 (2) The Director shall

- 328 (a) be the chief executive officer of the Bureau; and

329 (b) have full responsibility and oversight for the day-to-day management of the business  
330 of the Bureau including

- 331  
332 (i) administration of the affairs of the Bureau; and  
333 (ii) approval of standards, technical regulations and conformity assessment  
334 procedures.

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

336 The Minister shall, after consultation with the Director, appoint and employ at such  
337 remuneration and on such terms and conditions as he or she thinks fit, such members and staff of  
338 the Bureau as the Minister may deem necessary for the proper performance of the functions of the  
339 Bureau under this Act.

340 **PART II - ADMINISTRATION OF THE BUREAU**

341 **7. Finance, accounts and records.**

- 342 (1) The Bureau shall be financed by  
343 (a) moneys appropriated by the National Assembly for the purpose;  
344 (b) fees charged for services by the Bureau  
  
345 (i) in respect of inspection, testing, certification, use of the Standards Mark or any  
346 other service required to be provided under this Act, and  
  
347 (ii) to industry, service providers and manufacturers; and  
348 (c) Government grants.  
  
349 (2) The provisions of the Finance Administration Act, Cap 20.13, with the necessary  
350 modifications and adaptations, apply to  
351 (a) the accounts and other records relating to the business of the Bureau;  
352 (b) the statement of accounts, as audited, of the Bureau;  
353 (c) the annual statement of accounts and the auditor's report of the Bureau; and  
354 (d) the returns, accounts and other information relating to the activities of the Bureau.

355 **8. Annual reports and returns.**

- 356 (1) Within 3 months of the close of each financial year, the Bureau shall transmit to the  
357 Minister a copy of  
358 (a) its annual accounts certified by the auditor and such annual accounts; and  
359 (b) a report on its operations during the year.  
  
360 (2) The Bureau shall  
361 (a) as soon as may be, make up a return of its assets and liabilities as at the close of business  
362 on the last business day of each month; and  
363 (b) transmit to the Minister a copy of the return of its assets and liabilities.

364 (3) The Minister shall, on receipt of the return of assets, lay a copy of the return of assets  
365 and liabilities of the Bureau in the National Assembly and cause the return to be published in the  
366 Gazette.

367 **PART III – LICENCES FOR USE OF THE STANDARDS MARK**

368 **9. Duty to act in a fair manner.**

369 (1) Where the Bureau is required to make a decision respecting

370 (a) the refusal of an application for a grant of a licence; or

371 (b) the revocation of a licence under this Part,

372 the Bureau shall make the decision in a fair manner.

373 (2) Without limiting the generality of subsection (1), before the Bureau refuses to grant a  
374 licence or revokes a licence under this Act, the Bureau shall

375 (a) provide a written notice to the applicant or licensee of the intention of the Bureau to  
376 refuse to grant the licence or to revoke the licence;

377 (b) where applicable, give the applicant or licensee a reasonable opportunity to make  
378 representation; and

379 (c) where representation is made under paragraph (b), take the representation into  
380 consideration in making the decision.

381 (3) Where the Bureau refuses to grant a licence to an applicant or revokes the licence, the  
382 Bureau shall, in writing, promptly notify the applicant or, as the case may be, the licensee of

383 (a) the refusal or revocation and the reasons for the refusal or the revocation; and

384 (b) the right of appeal of the applicant or licensee under section 45.

385 **10. Application for licences to use Standards Mark, etc.**

386 (1) Any person may apply to the Bureau, in such form and in such manner as may be  
387 prescribed, for a licence to use the Standards Mark or the CARICOM Certification Mark.

388 **11. Grant of licence.**

389 (1) Subject to this Act, the Bureau may grant a licence to the applicant to use the Standards  
390 Mark or the CARICOM Certification Mark, upon such terms and conditions, including the  
391 payment of the prescribed fee, if the Bureau is satisfied that the subject matter of the application  
392 conforms to a standard or technical regulation.

393 (2) In any licence granted in relation to any goods, services, processes or practices, the  
394 Bureau shall—

395 (a) describe the goods, services, processes or practices;

396 (b) specify the name the person to whom the licence is granted and the country where the  
397 relevant goods are produced, manufactured or processed; and

398 (c) specify the standards or technical regulations applicable to the goods, services,  
399 processes or practices;

400 but where there have been no changes in the other circumstances which justified the grant of a  
401 licence, the Bureau shall in regard to any such licence, authorise, on an application, the substitution  
402 of the person named in the application as shall be proved to be necessary.

403 **12. Refusal of licence.**

404 The Bureau shall not grant a licence unless it is furnished with such proof and it is given  
405 such opportunities and facilities as may be reasonably necessary in order that the Bureau may  
406 satisfy itself that the goods, services, processes or practices in relation to which the application has  
407 been made qualify for such licence.

408 **13. Cancellation of licence.**

409 The Bureau may cancel any licence granted under this section if the Bureau has reasons to  
410 believe that the licensee is misusing the licence or using the licence in a manner that amounts to  
411 an abuse of the privilege associated with the licence.

412 **PART IV - BUSINESS OF THE BUREAU**

413 **14. Declaration, publication of standards**

414 (1) Subject to this section, the Bureau may formulate or develop a technical specification  
415 and declare it to be a standard of Saint Christopher and Nevis Standard.

416 (2) Where it is impracticable for the Bureau to formulate a technical specification in respect  
417 of any goods, the Bureau may, in respect of those goods, adopt or adapt an international standard  
418 or technical specification formulated outside Saint Christopher and Nevis to be a standard, if the  
419 Bureau considers that the interests of Saint Christopher and Nevis are served.

420 (3) The Bureau shall

421 (a) keep available for public inspection, a copy of every standard; and

422 (b) cause every declaration of a standard to be published in the *Gazette*, on the website of  
423 the Bureau and in such other publication as the Minister may direct.

424 (4) The power conferred on the Bureau to prepare, develop, adopt, adapt, declare or publish  
425 standards shall be construed as including the power, exercisable in like manner, to vary, substitute  
426 or revoke any such standards.

427 (5) The Bureau shall not declare, substitute, vary or revoke a standard unless the Bureau is  
428 satisfied that any person who may be affected thereby has had an opportunity to consider the  
429 intended decision to declare, substitute, vary or revoke the standard and comment on the standard.

430 (6) Where the Bureau intends to vary or revoke a standard formulated under subsection (1),  
431 the Bureau shall

432 (a) publish in the *Gazette* a notice of its intention to vary or revoke the standard requesting  
433 persons to consider the standard to be varied or revoked and to submit comment on the  
434 standard; and

435 (b) may vary or revoke the standard at any time after 60 days from the date of publication  
436 of the notice in the *Gazette*.

437 (7) Without prejudice to subsection (5) the Bureau may publish the notice on the website of  
438 the Bureau and by such other means so as to bring the notice to the attention of persons who may  
439 be affected by the variation or revocation.

440 **15. Declaration and publication of technical regulations.**

441 (1) Subject to subsections (2) and (3), the Minister may, by Order, declare and publish  
442 technical regulations intended primarily

443 (a) to protect consumers or users against danger to health or safety;

444 (b) to prevent fraud, misrepresentation or deception arising from misleading advertising or  
445 labelling;

446 (c) to ensure acceptable quality in goods whether produced for home use or export;

447 (d) to require adequate information to be given to the consumer or user;

448 (e) to ensure acceptable quality in any case where the choice of source of supply is  
449 restricted;

450 (f) to protect the environment; or

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

452 (2) The Minister shall not declare any technical regulations under this Part without the  
453 recommendation of the Bureau and a statement regarding the purpose of the technical regulations.

454 (3) Where the Minister intends to issue any technical regulations, the Minister shall

455 (a) by Notice published in the *Gazette*, give not less than 60 days notice of his or her  
456 intention to declare the technical regulations; and

457 (b) in the Notice, indicate the date on which the technical regulations shall come into effect.  
458

459 (4) The Bureau shall keep a copy of every technical regulations declared under this section  
460 available for public inspection.

461 (5) The Minister may adopt or adapt any technical regulations formulated outside Saint  
462 Christopher and Nevis in respect of any goods or commodity where appropriate and where the  
463 interests of Saint Christopher and Nevis are served.

464 (6) The power conferred on the Minister to adopt or adapt technical regulations shall be  
465 construed as including the power, exercisable in like manner, to repeal or amend any such technical  
466 regulations.

467 (7) A Saint Christopher and Nevis Standard may be incorporated by reference in any law.

468 (8) The reference under section (1) shall refer at least to the title and the number of the relevant  
469 Saint Christopher and Nevis Standard.

470

471 (9) If the referenced Saint Christopher and Nevis Standard or any provision under section  
472 (1) is amended or revised such amendment or revision is deemed to be incorporated as well.

473

474 (10) Where the Minister declares a technical regulation, every person concerned at any stage  
475 of the manufacture, production, processing, treatment or distribution of the commodity in respect  
476 of which the declaration is made shall ensure compliance with that technical regulation.

477 **16. Saint Christopher and Nevis Standards Mark.**

478 (1) The Minister may, on the recommendation of the Bureau, prescribe a mark which shall  
479 be called the Saint Christopher and Nevis Standards Mark, the property of which vests in the  
480 Bureau.

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

483 **17. Use of CARICOM Mark**

484 (1) The Board may, in relation to goods, services, processes or practices which conform to  
485 the CARICOM Standards Mark, use the CARICOM Standards Mark.

486 (2) Subject to the approval of the Minister, the Board may adopt the regional Certification  
487 Scheme and Mark.

488 **18. Restriction on the use of the word “Standards”**

489 (1) A person shall not, without the written consent of the Bureau, carry on a business or  
490 perform any function under a name which contains the word “Standards” or “Standard”.

491 (2) Where a written law provides for the registration of an association of persons, the  
492 registering authority shall refuse registration if in its opinion the use of the name by which the  
493 association desires to be registered is prohibited by subsection (1).

494 (3) A person who contravenes subsection (1) or subsection (2) of this section commits an  
495 offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing  
496 offence, to an additional penalty of \$1,000 for every day during which the offence continues or to  
497 imprisonment for 2 years.

498 (4) This section does not apply to a name that was in use in Saint Christopher and Nevis  
499 before the 26<sup>th</sup> day of February, 1987.

500 **19. Labelling of goods.**

501 (1) A person shall not label any goods contrary to any technical regulation declared in  
502 respect of the labelling of the goods.

503 (2) Notwithstanding the generality of subsection (1), a person shall not sell, import or  
504 advertise any pre-packaged goods or other products unless the goods or other product has applied  
505 to it a label conforming to the technical regulation declared in respect of the labelling of the goods.

506 (3) A person who contravenes subsection (1) or (2) of this section commits an offence and  
507 is liable, on summary conviction, to a fine of \$10,000 or to imprisonment for 2 years.

508 **20. Inspection of imported goods.**

509 (1) Notwithstanding the provisions of any other law, the Bureau may authorise a member  
510 of its staff to examine goods manufactured outside Saint Christopher and Nevis and any custom  
511 entries relating to such goods, where a technical regulation is declared for the goods.

512 (2) The Minister may, in writing

513 (a) authorise a public officer; or

514 (b) retain, at a fee to be prescribed, a suitable qualified consultant,

515 to assist the staff of the Bureau in the conduct of an inspection carried out under subsection (1).

516 (3) A person who inspects goods under this section may take and submit samples of the  
517 goods for testing and analysis.

518 (4) Where goods imported into Saint Christopher and Nevis bear a mark

519 (a) so closely resembling the Standards Mark as to be misleading; or

520 (b) which falsely represents a mark of compliance with a specification formulated or  
521 adopted outside Saint Christopher and Nevis,

522 the imported goods shall not be entered for home use unless the mark is removed or substantially  
523 changed.

524 (5) Where a technical regulation is declared for any goods, the Director shall advise the  
525 Comptroller of Comptroller to permit goods produced or manufactured outside Saint Christopher  
526 and Nevis to be entered for home use if

527 (a) upon any test or inspection of samples, the goods are found to comply with the technical  
528 regulations; or

529 (b) the goods are accompanied by a certificate of inspection and compliance with the  
530 technical regulations, issued by a laboratory or other similar institution recognised by  
531 the Bureau.

532 **21. Power to designate test equipment.**

533 (1) The Bureau may designate test equipment for the purpose of measuring, comparing or  
534 testing the characteristics of any goods or process.

535 (2) The Bureau may designate and develop appropriate facilities, equipment, personnel and  
536 procedures to support quality management systems and the National Quality System referred to in  
537 section 4(2)(m).

538 (3) The Bureau shall publish in the *Gazette* a notice of designation of test equipment and of  
539 any designation or development undertaken under subsection (2) of this section.

540 **22. Test and inspection of quality.**

541 (1) The Minister may

542 (a) direct the Bureau; or

543 (b) by letter, authorise the Bureau to obtain the service of a public officer or any other  
544 person having such qualifications as may be prescribed,

545 to test or inspect the quality of any goods in respect of which a technical regulation has been  
546 declared.

547 (2) Where

548 (a) any manufacturer of goods in Saint Christopher and Nevis has a licence to use the  
549 Standards Mark in respect of the manufactured goods; and

550 (b) a technical regulation has been issued in respect of the manufactured goods,

551 the Bureau or the public officer or other person as mentioned in subsection (1)(b) of this section  
552 may require the manufacturer to submit samples of the manufactured goods for testing or  
553 inspection.

554 (3) Where a technical regulation or, as the case may be, a standard exists with respect to  
555 any goods, the Bureau may

556 (a) certify that such goods comply with; or

557 (b) report that the goods do not comply with,

558 the technical regulation or, as the case may be, the standard.

559 **23. Prohibition of production, sale, export of deficient goods**

560 (1) For the purpose of protecting the reputation of Saint Christopher and Nevis in the export  
561 market, the Minister may, by Order, declare that any specified goods shall be exported only if the  
562 specified good conforms to the technical regulations.

563 (2) Where

564 (a) the Minister makes an order under subsection (1) of this section or declares any  
565 technical regulations in respect of any goods; and

566 (b) the goods fail to conform to the technical regulations,

567 a person shall not sell, import, export or use the goods or carry out any process or work involved  
568 in the production of the goods, unless the goods, process or work conforms to the requirements of  
569 the technical regulations.

570 (3) Where

571 (a) the Minister declares any technical regulations in respect of any goods for the  
572 protection of consumers or users against dangers to health or safety; and

573 (b) it is found that the goods, on being examined or tested under section 20 or 22, fail to  
574 conform to the technical regulations,



575 the Director shall advise the Comptroller not to release the goods for home use or permit the goods  
576 to be exported, unless the goods are clearly stamped or marked with the words “rejects” or  
577 “seconds” or “imperfect” or other similar words as may be prescribed.

- 578 (4) Without prejudice to subsection (3), where  
579 (a) any technical regulations are declared in respect of any goods in order to protect  
580 consumers or users against danger to health or safety; and  
581 (b) the goods fail to conform to the technical regulations,

582 the Director shall advise the Comptroller not to release the goods for home use or permit the goods  
583 to be exported; but the Director shall cause the goods to be disposed of as the Bureau may  
584 reasonably decide.

- 585 (5) Where  
586 (a) any technical regulations are declared in respect of any goods; and  
587 (b) the goods which are in circulation in Saint Christopher and Nevis fail to conform to the  
588 technical regulations,

589 the Director shall, at the expense of the manufacturer or supplier, recall the goods by such means  
590 as the Bureau may reasonably decide.

591 **24. Appointment and powers of inspectors.**

- 592 (1) The Minister may, on the advice of the Bureau, designate employees of the Bureau or  
593 public officers as inspectors for  
594 (a) monitoring compliance with technical regulations;  
595 (b) eliminating any process or practice the effect of which adversely affects the  
596 environment; and  
597 (c) generally, carrying out the purposes of this Act.

598 (2) The Minister shall provide every inspector with documentary evidence of his or her  
599 designation.

- 600 (3) An inspector may, at any time with or without a warrant issued by a Magistrate, enter a  
601 place where the inspector has reasonable grounds to believe that  
602 (a) an article to which this section applies is manufactured, prepared, stored or offered for  
603 sale, to examine and take samples of the article; or  
604 (b) an activity to which this section applies is carried out, to inspect or investigate the  
605 activity and take samples of any article, material or substance relating to the activity.

606 (4) Where an inspector enters a place under this section  
607 (a) the owner of the place and any employee or agent of the owner present at the time of  
608 entry shall

- 609 (i) give to the inspector all reasonable assistance, and  
610 (ii) furnish the inspector with such information as the inspector may reasonably  
611 require to carry out his or her functions under this Act; and

- 612 (b) the inspector may
- 613 (i) open and examine any receptacle or package that the inspector has reasonable  
614 grounds to believe contains an article to which this section applies,
- 615 (ii) examine and make copies of or transcribe extracts from any book, document or  
616 other record found in the place which the inspector has reasonable grounds to  
617 believe contains information relevant to the enforcement of this Act, and
- 618 (iii) seize and detain, for such time as may be necessary, any article by means of  
619 which or in relation to which the inspector has reasonable grounds to believe  
620 any provision of this Act has been contravened.

621 (5) A Magistrate shall not issue a warrant under this section unless the Magistrate is satisfied  
622 by information in writing that

- 623 (a) admission to the premises has been refused;  
624 (b) refusal to enter the premises is apprehended; or  
625 (c) a request for admission to the premises would defeat the purpose of the entry.

626 (6) An inspector

- 627 (a) may, in his or her discretion, leave any article seized under subsection (4)(b)(iii) of this  
628 section in the place where it was seized or remove it to be stored in a place other than  
629 the place where it was seized; and  
630 (b) upon being satisfied that this section has been complied with, shall release any seized  
631 article not destroyed by testing.

632 (7) Where

- 633 (a) an article is seized under subsection (4)(b)(iii) of this section; and  
634 (b) the owner or person from whom the article is seized consents to its destruction,

635 the article forfeits to Saint Christopher and Nevis and may be destroyed or otherwise disposed of  
636 as the Bureau may direct.

637 (8) An inspector may prosecute in courts of summary jurisdiction in cases arising from any  
638 contravention of this Act.

639 (9) In this section

640 “article to which this section applies” means

- 641 (a) any goods for which a technical regulation is declared;  
642 (b) anything used in the manufacture, testing, preparation, processing, packaging, storage  
643 or sale of any goods referred to in paragraph (a); and  
644 (c) any labelling or advertising material referring to the goods referred to in paragraph (a),  
645 whether or not bearing the Standards Mark;

646 “activity to which this section applies” includes any process or practice for which a technical  
647 regulation has been issued and anything used in the performance of the process or practice.

648 **25. Power to order cessation of manufacture of prescribed goods**

649 (1) Where an owner of any establishment fails to comply with the directions of an inspector,  
650 the Bureau may direct that the owner of the establishment cease immediately the manufacture,  
651 preparation or processing of any prescribed goods, for such period as the Bureau considers  
652 necessary.

653 (2) Where the Bureau issues to an owner of any establishment any directions under  
654 subsection (1), the owner of the establishment shall comply with the directions.

655 (3) An owner of any establishment who contravenes subsection (2) commits an offence and  
656 is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to  
657 an additional penalty of \$1,000 for every day during which the offence continues or to  
658 imprisonment for 2 years.

659 **26. Complaints**

660 (1) The Bureau

661 (a) shall investigate complaints regarding goods, services, processes or practices referred  
662 to it by consumers and users; and

663 (b) may institute legal proceedings against the manufacturer or other person—

664 (i) supplying any defective goods or service; or

665 (ii) engaged in any defective process or practice.

666 (2) Where, upon representation made by the Bureau, the court is of the opinion that any  
667 goods, service, process or practice is dangerous to members of the public, the court may order the  
668 manufacturer of the goods or the person supplying the service or engaged in the process or practice  
669 to cease the manufacture of the goods or the operations of that service, process or practice, as the  
670 case may be.

671 **PART V —QUALITY CERTIFICATION**

672 **27. Bureau quality certifying body.**

673 The Bureau is the national quality certifying body and shall operate in compliance with the  
674 relevant national, regional and international standards, guides and other requirements.

675 **28. Bureau to issue certificate of conformity.**

676 The Bureau shall

677 (a) certify against national, regional and international technical regulations, standards,  
678 guides and other requirements; and

679 (b) issue certificates of conformity according to the related technical regulations and  
680 standards.

681 **29. Bureau to maintain integrity and impartiality.**

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

684 **30. Quality practitioners.**

685 (1) The Bureau shall establish a register for all national, regional and international persons  
686 offering consultancy, training and other related services in quality management.

687 (2) a person who desires to be registered as a quality practitioner by the Bureau shall—

688 (a) submit his or her qualifications to the Bureau or to a qualified registrar determined by  
689 the Bureau; and

690 (b) undergo an assessment by the Bureau on his or her competence as a quality practitioner.

691 (3) Where after an assessment the Bureau decides to enter the quality practitioner's name  
692 in the register, a licence shall be issued to the quality practitioner upon payment of the requisite  
693 fee as prescribed by the Bureau.

694 **31. Registrar and other bodies.**

695 Every local, regional or international body performing certification and accreditation  
696 services in Saint Christopher and Nevis shall register with the Bureau subject to such terms,  
697 conditions and payment of fees prescribed by the Bureau.

698 **32. Bureau to publish register of quality practitioners.**

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

701 **PART VI – OFFENCES AND PENALTIES**

702 **33. Selling, manufacturing goods not in conformity with technical regulations.**

703 (1) A person who sells or offers for sale any goods, service, process or practice that does  
704 not conform to any technical regulation declared in respect of the goods, service, process or  
705 practice commits an offence is liable, on summary conviction, to a fine of \$10,000 and, in the case  
706 of a continuing offence, to an additional penalty of \$1,000 for every day during which the offence  
707 continues or to imprisonment for 2 years.

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

713 **34. Unlawful use of labels.**

714 A person who labels, packages or advertises goods or services, processes or practices  
715 otherwise than in compliance with a technical regulation commits an offence and is liable, on

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

718 **35. False representation.**

719 (1) A person who makes any statement or representation or uses a mark with reference to  
720 any goods, service, process or practice which—

721 (a) conveys or is likely to convey the impression that a person who is not entitled to use  
722 the Standards Mark is so entitled; or

723 (b) falsely represents that any goods, process or practice complies with a specification  
724 formulated, adopted or adapted by the Bureau,

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

728 (2) A person who makes any statement or representation whether in writing or not, or uses  
729 a mark which conveys or is likely to convey that any goods, service, process or practice complies  
730 with a standard or technical regulation when it does not commits an offence and is liable, on  
731 summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an additional  
732 penalty of \$1,000 for every day during which the offence continues or to imprisonment for 2 years.

733 (3) A person who, without the authority of the Bureau and for the purpose of gain or profit,  
734 makes a statement or representation whether in writing or not comparing any goods, service,  
735 process or practice with a standard or technical regulation declared by the Bureau commits an  
736 offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing  
737 offence, to an additional penalty of \$1,000 for every day during which the offence continues or to  
738 imprisonment for 2 years.

739 (4) It is a defence in any proceedings instituted under subsection (3) if the defendant proves  
740 to the satisfaction of the court that he or she acted without intention to defraud any other person.

741 **36. Unlawful obliteration of stamp or mark.**

742 A person who, before offering or exposing for sale, goods which do not conform to a  
743 standard or technical regulation, obliterates or otherwise removes a stamp or mark which denotes  
744 the deficiency commits an offence and is liable, on summary conviction, to a fine of \$10,000 and,  
745 in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which  
746 the offence continues or to imprisonment for 2 years.

747 **37. Obstructing persons in execution of duties.**

748 (1) A person who hinders, or obstructs or knowingly makes a false or misleading statement  
749 to any other person in the execution of his or her duty under this Act commits an offence and is  
750 liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence, to an  
751 additional penalty of \$1,000 for every day during which the offence continues or to imprisonment  
752 for 2 years.

753 (2) A person who obstructs an inspector by not giving the inspector reasonable assistance  
754 or access to records, documents or information relevant to the performance of his or her functions  
755 under this Act commits an offence and is liable, on summary conviction, to a fine of \$10,000 and,  
756 in the case of a continuing offence, to an additional penalty of \$1,000 for every day during which  
757 the offence continues or to imprisonment for 2 years.

758 **38. Attempt to defraud.**

759 A person who, with intent to defraud, represents that he or she is an inspector or a person  
760 authorised by the Bureau or the Minister to perform a function under this Act commits an offence  
761 and is liable, on summary conviction, to a fine of \$10,000 and, in the case of a continuing offence,  
762 to an additional penalty of \$1,000 for every day during which the offence continues or to  
763 imprisonment for 2 years.

764 **39. Unlawful use of Standards Mark.**

765 (1) A person who being entitled to use the Standards Mark, uses the Standards Mark in  
766 contravention of the terms and conditions of the licence or after he or she is no longer entitled to  
767 use the mark commits an offence and is liable, on summary conviction, to a fine of \$10,000 and to  
768 an additional penalty of \$1,000 for every day during which the offence continues or to  
769 imprisonment for 2 years.

770 (2) A person who uses the word “Standards” or “Standard” in a name contrary to section  
771 18 commits an offence is liable, on summary conviction, to a fine of \$10,000 and, in the case of a  
772 continuing offence, to an additional penalty of \$1,000 for every day during which the offence  
773 continues or to imprisonment for 2 years.

774

775 **40. Copyright of St. Christopher and Nevis Standards**

776 (1) The copyright of Saint Christopher and Nevis Standards shall be vested in the Bureau  
777 notwithstanding any other law, and the Bureau shall not be deprived of such copyright if a  
778 [Country] Standard is incorporated in another law in terms of the provisions of such a law;

779 (2) No person may publish, reproduce, record or transmit any Saint Christopher and Nevis  
780 Standard or any part of such a standard subject to copyright without the authorization of the  
781 Bureau, with the exception of its private use or for study purposes.

782 **41. Impersonation.**

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

786 **42. Tampering with seized articles.**

787 A person who tampers with an article seized by an inspector in such a way as to change any  
788 of the characteristics of the article described in the technical regulation applicable to such article,  
789 commits an offence and is liable, on summary conviction, to a fine of \$10,000 and, in the case of

790 a continuing offence, to an additional penalty of \$1,000 for every day during which the offence  
791 continues or to imprisonment for 2 years.

792 **43. Court may impose additional penalty.**

793 Where a person is convicted of an offence under this Act, the court may, in addition to any  
794 penalty imposed in respect of that offence

- 795 (a) summarily enquire into and assess the monetary value of any advantage gained or likely  
796 to be gained by the person in consequence of that offence; and  
797 (b) impose on that person a penalty equivalent to the amount so assessed and, in default of  
798 payment of that penalty, a term of imprisonment for a period of 12 months.

799 **44. Forfeiture of articles on conviction of offenders.**

800 Where a person is convicted of an offence under this Act, the court may order

- 801 (a) the forfeiture of
- 802 (i) any article by means of or in relation to which the offence was committed; or
- 803 (ii) any similar item in the possession of that person or found with such article,  
804 whether or not the item is proved to be in contravention of section 42;
- 805 (b) the disposal of the article or item referred to in paragraph (a) in a manner as the Minister  
806 may direct; or
- 807 (c) the convicted person to cease and desist from performing any activity by means of or  
808 in relation to which the offence was committed until such time as the court may direct.

809 **PART VII - APPEALS**

810 **45. Appeals**

811 (1) An applicant who is aggrieved by, or dissatisfied with, any decision of the Bureau  
812 respecting

- 813 (a) the refusal of an application under this Act; or  
814 (b) the revocation of a licence,

815 may, within 10 days of being notified of the decision, apply in writing to the Bureau to review the  
816 decision.

817 (2) Subject to subsection (3), an appeal shall lie

- 818 (a) from the decision of the Bureau or an inspector, to the High Court; and  
819 (b) from the decision of the High Court to the Court of Appeal.

820 (3) Where a person lodges an appeal under subsection (2), the person lodging the appeal  
821 shall, within 24 hours of lodging the appeal give

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

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

829 **PART IX - MISCELLANEOUS**

830 **46. Evidence of standard.**

831 A copy of a standard authenticated by the Bureau together with a copy of the *Gazette* notice  
832 declaring or amending the standard is *prima facie* evidence of that standard in any legal  
833 proceedings.

834 **47. Secrecy of information.**

835 (1) All information obtained by the Minister, the Council, the Bureau or any member of the  
836 staff of the Bureau or by any other person in the course of the administration of this Act, as to any  
837 formula, process or practice shall be treated as confidential, except for any purpose connected with  
838 the administration of this Act.

839 (2) The disclosure of any information relating to any formula, process or practice to the  
840 Minister, the Council, the Bureau or any member of its staff or to any other person for purposes  
841 connected with the administration of this Act, shall not prejudice a subsequent application for the  
842 patent of the formula, process or practice.

843 **48. Protection against claims.**

844 A person does not have a claim against the Crown or against the Bureau by reason only of  
845 the fact that

- 846 (a) the Standards Mark is used in connection with any goods; or
- 847 (b) any goods, service, process or practice conforms or is alleged to conform to a standard  
848 or a technical regulation.

849 **49. Conflicting specifications.**

850 Where there is a conflict between the provisions of a technical specification declared to be  
851 a Saint Christopher and Nevis Standard under section 14 and a specification made or declared  
852 under any other written law, the Saint Christopher and Nevis Standard shall prevail.

853 **50. Expenses.**

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

856 **51. Regulations.**

857 (1) The Minister may make regulations generally for giving effect to the purposes of this  
858 Act, and for prescribing all things required to be prescribed.

859 (2) Without prejudice to the generality of subsection (1), the Minister may make  
860 Regulations



- 861 (a) regarding the operation of the WTO TBT Enquiry Point;
- 862 (b) regarding the market surveillance activities of the Bureau;
- 863 (c) regarding the declaration of standards and technical regulations;
- 864 (d) concerning the use of the Standards Mark and the terms and conditions subject to which
- 865 the Standards Mark may be used and the fees to be paid in respect of such use;
- 866 (e) regarding packaging, labelling and advertising of any goods;
- 867 (f) regarding the inspection and testing of goods, processes and practices and entry upon
- 868 premises for that purpose;
- 869 (g) respecting the sale or disposal of goods found to be deleterious to the welfare of the
- 870 consumer;
- 871 (h) respecting the exemption from any requirements of this Act, as the Minister thinks fit;
- 872 (i) respecting the inspection of specified commodities that are to be exported;
- 873 (j) respecting the manufacture, sale, importation or exportation of goods for which a
- 874 technical regulation has been declared;
- 875 (k) respecting the conduct of inspection of commodities and the taking of samples;
- 876 (l) respecting the forms to be used under this Act;
- 877 (m) requiring any person to keep and produce in relation to any goods, services, process or
- 878 practice, such records as the Bureau may consider necessary for the purposes of this
- 879 Act;
- 880 (n) prescribing matters in respect of which fees are to be paid, the amount of the fees and
- 881 the persons by whom the fees are to be paid and authorising the refund or remission of
- 882 fees in such circumstances as may be prescribed;
- 883 (o) prescribing penalties for the breach of any regulation not exceeding a fine of \$10,000
- 884 or imprisonment for 2 years; and
- 885 (p) prescribing the qualifications, powers and duties of persons

886 (i) authorised under section 22 to test or inspect goods upon the goods being landed

887 in Saint Christopher and Nevis; and

888 (ii) designated inspectors under this Act.

889 (3) Regulations made under this Act may create offences punishable by fines not exceeding

890 \$10,000 or imprisonment for a term not exceeding 2 years.

891 **52. Repeal, savings and transitional provisions.**

892 (1) The National Bureau of Standards Act, Cap. 23.15 is hereby repealed.

893 (2) Notwithstanding the repeal of the National Bureau of Standards Act under

894 subsection (1) of this section, as from the date on which this Act comes into force

895 (a) all notices, designations and certificates issued under the former Act, in

896 respect of any matter dealt with in that Act are deemed to have been issued

897 under this Act;

898

899 (b) the Bureau established under the former Act shall continue in being as the

900 Bureau established under this Act;

- 901 (c) the employees of the Bureau established under the former Act who were  
902 employees immediately before the effective date remain employees of the  
903 Bureau;  
904 (d) all assets, liabilities, rights and obligations of the Bureau remain the assets,  
905 liabilities, rights and obligations of the Bureau; and  
906 (e) a specification, code of practice, standard or document referred to in the  
907 former Act, which is in force immediately before the effective date shall  
908 continue in force and is deemed to be a Saint Christopher and Nevis  
909 Standard which has been set and issued under this Act.

910 (3) Any action taken, before the date on which this Act comes into force, by the Bureau  
911 under the former Act is deemed to have been taken under this Act.

912 (4) For purposes of this section, “former Act” means the Standards Act repealed under  
913 this section.  
914

915

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## SCHEDULE

918

### PROTOCOL MEMBER STATES

919

Antigua and Barbuda

920

Commonwealth of Dominica

921

Grenada

922

Montserrat

923

St. Christopher and Nevis

924

Saint Lucia

925

Saint Vincent and the Grenadines

926

*Speaker*

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Passed by the National Assembly this day of , 2021.

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*Clerk of the National Assembly*

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