



Available online on 15 Mar. 2020 at <https://ijdra.com/index.php/journal>

International Journal of Drug Regulatory Affairs

Published by Diva Enterprises Pvt. Ltd., New Delhi
Associated with Delhi Pharmaceutical Sciences & Research University
Copyright© 2013-20 IJORA



Review Article

The Bureau of Indian Standards Act, 2016-An Overview

Bhairavi Bantu, Amina Fatima, Kavya Parelli, Pravalika Manda, Subba Rao Bayya*

RBVRR Women's College of Pharmacy, Barkatpura, Hyderabad-500 027, Telangana State, India 560066

Abstract

Currently every country's standards organization is representing International Organisation for Standardisation and with consultations and consensus are implementing specifications to products. Including a standard mark recognizes a company's product complying with standards established by national or international authority. Standard marks can be considered as collective marks which can be observed for same product from several companies. The current objective is to understand how a country's legislation establishes organizations through legislations and implement specifications to a good.

Keywords: Indian Standards Act, Bureau, Indian Standards Institution, ISI Mark, collective mark, BIS

Article Info: Received 01 Jan. 2020; Review Completed 21 Feb. 2020; Accepted 06 Mar. 2020



Cite this article as:

Bantu B, Fatima A, Parelli K, Manda P, Bayya SR. The Bureau of Indian Standards Act, 2016-An Overview. International Journal of Drug Regulatory Affairs [Internet]. 15 Mar 2020 [cited 15 Mar 2020]; 8(1):1-4. Available from:

<http://ijdra.com/index.php/journal/article/view/374>

DOI: [10.22270/ijdra.v8i1.374](https://doi.org/10.22270/ijdra.v8i1.374)

*Corresponding author Tel.: +91-9440763781;

E-mail address: drbayyasubbarao@yahoo.com (Subba Rao Bayya).

1. Introduction

The Bureau of Indian Standards Act, 2016 comprises of five chapters titled Preliminary, Bureau of Indian standards, Indian standards-certification and licence, Finance-Accounts and Audit, and Miscellaneous. The Act contains forty three sections. The preliminary chapter of any Act indicates that the said Act is to the territory of India from the date of gazette notification by the Central Government. The current article illustrates how legislation establishes an organization, and implements the various aspects said.

2. Details of the Act (1)

Every Act is initiated with a list of definitions for various terms used in the Act. The definitions help in understanding the Act to the context a parting the broad/several meanings of a dictionary. Some of the terms that are included in the preliminary chapter are article, assaying and hallmarking centre, bureau, certification officer, certified body, consumer, director general, executive committee, governing council, Hallmark, Indian Standard, Indian Standards Institution, licence, manufacturer, mark, specification, standards, standard mark, testing laboratory, trade mark etc.

Establishment of the Bureau of Indian Standards, Constitution of the Governing Council and its Members (1)

With the official gazette notification of the current Act, the Central government indicates for constitution of a Governing council and later the constitution of the members of the bureau. The Governing Council members, who later are the members of the bureau comprises of

- i. Minister in charge of the Ministry or Department of Central government having administrative control of the bureau, who shall be the ex-officio president of the bureau
- ii. Minister of State or the deputy minister, if any, in the Ministry or Department of the Central government having administrative control of the bureau, who shall be ex-officio vice-president of the bureau
- iii. Secretary to the Government of India of the Ministry or Department of the Central Government having administrative control of the bureau, ex-officio
- iv. Director General of the bureau, ex-officio
- v. Such other members and their number as suggested by Central government relating to industry, scientific and research institutions, consumers and other interests.

Constitution of Executive and other committees (1)

Upon gazette notification by the Central Government, through the suggestions of the Governing Council, an executive committee is constituted and it comprises of

- i. Director General of the bureau, who shall be the ex-officio Chairman
- ii. Such other members as prescribed

The general council, from time to time as when required upon approval shall constitute several other committees such as finance, conformity assessment, standards, testing and calibration advisory committees etc. Every committee shall be appointed with a chairman and other members necessary.

Section 7 of the Act indicates the appointment of the Director General by the Central Government and who shall be the chief executive authority of the bureau.

Powers and Duties of the Bureau (1)

The governing council shall frame the powers and duties of the bureau. The various issues that are taken into consideration are establishment of branches, offices, agencies within or outside India; recognize or reciprocate with international bodies with respect to specifications and grant of standard mark in view of goods, services, articles, processes or system; seek recognition of the bureau at the other national and international levels; enter, search, premises or vehicles as part of inspection of goods, documents, or articles and seize; providing services to manufacturers and consumers of goods as services so as to meet to the specifications; provide training for quality management, standards, conformity assessment, laboratory testing and calibration; publish standards and sell such standards of both national and international; authorize agencies both within India and outside India to carry out the activities of the bureau; obtain membership at the regional, international and foreign bodies so as to establish international standard setting process; undertake testing of samples; undertake activities relating to legal metrology (the scientific study of measurement); to promote, monitor and manage quality goods, articles, processes, systems and services; to conduct surveys and publish the findings; promote quality aspects to consumers and industry for safety reasons; promoting the use of Indian Standard; identification of goods, process, article, system or service of testing laboratories for which specifications are to be established to comply as Indian Standard; recognizing or accrediting institutions within or outside India.

Indian Standards, Certification and Licence (1)

Chapter III of the Act clearly indicates that the standards established by the bureau are said to be Indian Standards. The validity of the Indian Standards persists until unless withdrawn by the bureau. No individual in any manner shall reproduce; publish in any form until authorized indicating the copyright is with the bureau. The bureau establishes specifications and issues certification for an individual upon application along with fee and fulfilling the specification of his product. (2, 3) Issuing a certification, involves a process (4),

indicates usage of the standard mark on the product label for a designated period of time. Subsequently, a renewal fulfilling the standards is necessary.

The chapter clearly indicates that the Central Government upon consultation with the bureau approves the issue of Hallmark or Standard Mark especially for precious metals. Such goods can only be sold through certified retail counters after verification. Contravening to the provisions of the Act may lead the bureau to suspend or cancel the registration. It is only the recognized testing and marking centre or assaying and hallmarking centre (5), with respect to goods and services can use, affix, emboss, engrave, print or apply in any manner the standard mark, hallmark and the colour imitation including advertisements, sales promotion leaflets, price lists or the like. It is only upon approval by the bureau; goods that are imported (6) can be included with the standard mark and can be exhibited, advertised and sold.

Central government upon consultation with the bureau on the grounds of public interest may make compulsory (7) to release goods, article, process, system or service with standard mark with an objective of protecting human, plant or animal health, environment, prevention of unfair trade. The central government has the authority to authorize not only the bureau but also other agency having necessary accreditation with valid approval to certify. Hence, individual importing goods should seek a standard mark and upon approval can use the mark on the imported product and sell. It will be a violation if an individual without valid standard mark perform an act of manufacture, selling, advertising, promoting etc. a good with a standard mark that actually not approved. It is the responsibility of the license holder, distributor and the seller to periodically ensure the goods confirm to the standards set by the bureau.

Upon inspection by the bureau the products may be asked to stop manufacture, supply and sale and asks for alterations to meet the specification, which may later be approved. If by chance, a product sold and later found not confirming to the standards, the bureau may ask to replace, repair or repay along with compensation.

Finance, Accounts and Audit (1)

The Central government through parliament grants funds and loans to the bureau. Such funds allocated are called Bureau of Indian Standards Fund. Funds received from Central government and other sources, application fees, fines shall be utilized for the remuneration of the authority, personnel and activities conducted as per the provisions of the Act. The bureau has a provision to borrow money upon approval by the central government. Intern, the central government may guarantee for the borrowings. The Comptroller and Audit-General of India establishes the documentation procedures and later may designate a person to audit the books, accounts, vouchers and other papers and the final audit report is duly certified by the Comptroller and shall be put forward to the Central Government which intern is placed in order in the House of Parliament, along with the annual budget and the annual report.

Miscellaneous Provisions (1)

Just like any Act, the Central Government has the powers in giving directions for the implementation of the Act across the country. No person has the authority to deceive the public in selling the products with a standard mark that actually not approved by the bureau. The Act restricts the using of standard mark as a company name, product name, trademark, design and use as a patent document title. The bureau can appoint certification officers and it is mandatory for the seekers of the mark to facilitate the officers to execute their duties. The findings of the officer during inspection shall be treated confidential except for the purpose of prosecution. During the inspection, if the applicant is found contravening to the provisions of the Act, the officer has the authority to seize the goods, articles and the documents and carry with him for further prosecution. Where the seized goods are not practically carried, the officer may issue an order to the applicant not to remove.

The Chapter also discusses about the penalty aspects. Any person contravening to the provisions of the Act may lead to imprisonment or fine or both. The term of imprisonment may be up to one year and a fine of not less than rupees one lakh, which may extend to five times the price of goods, sold or offered to be sold. Where the value of the goods or articles sold cannot be determined, it shall be considered based on one year's production or annual turnover of the previous financial year.

Where an offence is in a company which is administered by several directors, manager, secretary and other officers, the responsible in-charge during the period of offence may be liable. Where a good or article has been sold that is not conforming to the specifications for the standard mark, the company is liable to compensate the consumer. Any act that is contravening to the provisions of the Act is put forward at the court of metropolitan magistrate or judicial magistrate of the first class. An issue can be initiated through the authority of the bureau, any police not below the rank of deputy superintendent of police or equivalent, officer empowered, any consumer or any association. The Act clearly indicates that any police officer not below the rank of deputy superintendent of police may visit, search and seize without warrant. Where an offence is repeated within three years of first offence, the court may compound the maximum limit of fine upon discussion with the director general of the bureau or the assigned officer. If a second offence is committed after three years of first offence, the court may deem as first time. Compounding of offences by a single is to be documented in the prescribed manner and produced to the court.

The Act provides a provision for appeal along with prescribed fee within specified time. However, a provision is available to appeal after the specified time, if the director general is convinced with the valid reason. No prosecution is entertained for the authority for an act conducted on good faith. The authentications of the orders issued are confirmed by authority signatures. The rules with respect to the Act are put forward in both the

Houses of the Parliament for approval. The Act clearly indicates the current Act does not affect other Acts such as Agricultural Produce (Grading and Marking) Act, 1937 or the Drugs and Cosmetics Act, 1940 with respect to standardization or quality control. At last, the current Act clearly indicates The Bureau of Indian Standards Act, 1986 is repealed.

3. Conclusion

In general vesting of an Act is a process of putting forward an issue by the authority with necessary bill drafting. Such drafting upon gazette notifications for comments and changes, put forward in the Houses of the Parliament for debate and majority approval and later conversion to an Act. Such Act comes into the force in the territory of India from the date of official gazette notification. Every authority appointed based on Act, work and function based on the rules made with respect to the Act. Established in 1947, initially, Indian Standard Institution was the organization that was issuing certification and use of 'ISI Mark for goods, articles etc. since 1952. The name of the institution was changed in the year 1986. Indian Standard mark helps a company to have more business and to establish products to the latest accepted standards. A trademark represents a company's product and its quality where as a collective mark such as 'ISI Mark' indicates several companies having same product type complying with a standard set by the government. The bureau also certifies and grant environmental friendly products and such products are labeled with 'ECO Mark'. ISI Mark can be planned for various commodity products.

Acknowledgements

The author is thankful to the management, principal and colleagues for their co-operation in bringing out this article.

Financial Disclosure statement: The author received no specific funding for this work.

Conflict of Interest

The authors declare that there is no conflict of interest regarding the publication of this article.

References

1. India. Legislative Department. Ministry of Law and Justice. The Gazette of India. The Bureau of Indian Standards Act, 2016 [Internet]. 2016 [cited 2019 Dec 29]. Available from: <https://indiacode.nic.in/bitstream/123456789/2157/3/A2016-11.pdf>
2. The National Standards Body of India. Bureau of Indian Standards. Published standards, New Delhi [Internet]. [cited 2020 Jan 05]. Available from: <https://www.services.bis.gov.in:8071/php/BIS/PublishStandards/published>
3. The National Standards Body of India. Bureau of Indian Standards. Standards List [Internet]. [cited 2020 Jan 05]. Available from: <https://www.services.bis.gov.in:8071/php/BIS/PublishStandards/published/standards?commtid=Mjc3>
4. The National Standards Body of India. Bureau of Indian Standards. Product Certification Process. New Delhi [Internet]. [cited 2020 Jan 05]. Available from: <https://bis.gov.in/index.php/product-certification/product-certification-process/>

5. The National Standards Body of India. Bureau of Indian Standards. List of Hallmarking Centres. New Delhi [Internet]. [cited 2020 Jan 05]. Available from: <https://bis.gov.in/index.php/hallmarking-overview/hallmarking-centre/list-of-hallmarking-centres/>
6. The National Standards Body of India. Bureau of Indian Standards. Foreign Manufacturers Certification. New Delhi [Internet]. [cited 2020 Jan 05]. Available from: <https://bis.gov.in/index.php/fmcs/foreign-manufacturers-certification/>
7. The National Standards Body of India. Bureau of Indian Standards. Products under compulsory certification. New Delhi [Internet]. [cited 2020 Jan 05]. Available from: <https://bis.gov.in/index.php/product-certification/products-under-compulsory-certification/>