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1965, No. 59

An Act to make provision for the preparation and promotion of standards in relation to commodities, processes, and practices, and for that purpose to provide for the establishment of a Standards Council and a Standards Association and to define the powers and functions of the Council

[*22 October 1965*

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Standards Act 1965.

(2) Sections 14 to 47 of this Act shall come into force on the first day of April, nineteen hundred and sixty-six.

(3) All the other provisions of this Act shall come into force on the date of its passing.

2. Interpretation—In this Act, unless the context otherwise requires,—

"Bylaw" means a bylaw made by a local authority pursuant to any Act:

"Commodity" means any article, product, or thing which is the subject of trade or commerce:

"Council" means the Standards Council established under this Act:

"Local authority" means a Borough Council, County Council, Road Board, Town Council, or Harbour Board; and includes any other person or body of persons authorised by any Act to make bylaws:

"Mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof:

"Minister" means the Minister of Industries and Commerce:

"Sale" includes barter, and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, advertised, or exposed for sale; and "to sell" has a corresponding meaning:

"Specification" means a description of any commodity, process, or practice, by reference to its nature, quality, strength, purity, composition, quantity,

dimensions, weight, grade, durability, origin, age, or other characteristics or by reference to any mark or label on any commodity; and includes a model form of bylaws, a glossary of terms, definitions, or symbols, and a recommended practice:

"Standard mark" means a mark registered as a certification trade mark pursuant to section 24 of this Act:

"Standard specification" means a specification which has been declared to be a standard specification pursuant to section 23 of this Act.

Cf. 1941, No. 13, s. 2; 1950, No. 12, s. 2

Standards Council

3. Establishment of Standards Council and Standards Association—(1) There is hereby established for the purposes of this Act a Council, to be known as the Standards Council.

(2) The Standards Council shall be a body corporate with perpetual succession and a common seal, and may hold real and personal property, and sue and be sued, and do and suffer all that bodies corporate may do and suffer.

(3) There shall also be for the purposes of this Act an Association which shall be called the Standards Association of New Zealand.

(4) The Association shall consist of the Standards Council established under this section and every committee of the Council appointed by the Council under this Act and every local authority, organisation, or person admitted to membership of the Association under paragraph (j) of subsection (2) of section 17 of this Act.

Cf. 1941, No. 13, s. 3

4. Membership of Council—(1) The Standards Council shall consist of:

(a) Twenty-four members to be appointed by the Minister as representatives of the following organisations, each such organisation nominating two persons:

(i) The New Zealand Institution of Engineers Incorporated:

(ii) The New Zealand Institute of Architects Incorporated:

(iii) The New Zealand Institute of Chemistry Incorporated:

(iv) The New Zealand Master Builders' Federation Incorporated:

(v) The Associated Chambers of Commerce of New Zealand Incorporated:

(vi) The New Zealand Manufacturers' Federation Incorporated:

(vii) The Municipal Association of New Zealand Incorporated:

(viii) The New Zealand Counties Association Incorporated:

(ix) The Federated Farmers of New Zealand Incorporated:

(x) The Consumers' Institute:

(xi) The National Council of Women of New Zealand Incorporated:

(xii) The New Zealand Federation of Labour:

(b) Five members to be appointed by the Minister as representatives of the following organisations:

(i) The Vice-Chancellors' Committee established under section 46 of the Universities Act 1961, which may nominate one person:

(ii) The Dominion Federation of Country Women's Institutes Incorporated and the Women's Division of Federated Farmers of New Zealand Incorporated, which may together nominate one person:

(iii) The New Zealand Retailers' Federation Incorporated, which may nominate one person:

(iv) The Electrical Supply Authorities Association of New Zealand, which may nominate one person:

(v) The Technical Education Association, which may nominate one person:

(c) Six members to be appointed by the Minister:

(d) The Secretary of Industries and Commerce:

(e) The Secretary to the Treasury:

(f) The Commissioner of Works:

(g) The General Manager of Railways:

(h) The Director-General of the Post Office:

(i) The General Manager of the New Zealand Electricity Department:

(j) The Director-General of the Department of Scientific and Industrial Research:

(k) The Government Statistician.

(2) The Council itself may from time to time appoint any person who, in the opinion of the Council, possesses such knowledge or experience as will be of advantage to the Council in the exercise of its functions:

Provided that not more than three persons shall hold office as members of the Council under this subsection at the same time.

(3) Every person appointed under subsection (2) of this section may be appointed for such a term and for such purposes and subject to such conditions and with such voting powers (if any) as the Council may determine.

Cf. 1941, No. 13, s. 3

5. Term of office of members—(1) Except as otherwise provided in this Act, each of the appointed members of the Council shall be appointed for a term not exceeding two years, and shall be eligible for reappointment from time to time.

(2) Notwithstanding anything to the contrary in this Act, every appointed member of the Council, except a member appointed under subsection (2) of section 4 of this Act, shall, unless he sooner vacates his office under section 7 of this Act, continue in office until his successor comes into office.

Cf. 1941, No. 13, s. 3

6. Transitional provisions—(1) Of the first six members to be appointed to the Council by the Minister under paragraph (c) of subsection (1) of section 4 of this Act, three shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-eight, and the other three shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-nine.

(2) Of the first twenty-four members to be appointed to the Council by the Minister under paragraph (a) of subsection (1) of section 4 of this Act, twelve shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-eight, and the other twelve shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-nine, but in no event shall both the members appointed on the nomination of any one of the organisations referred to in subparagraphs (i) to (xii) of the said paragraph (a) retire in the same year by virtue of this subsection.

(3) The members so to retire first in accordance with subsection (1) of this section shall be determined by the Minister and the members so to retire first in accordance with subsection (2) of this section shall (unless they otherwise agree among themselves) be determined by lot.

7. Extraordinary vacancies—(1) Any appointed member of the Council may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister.

(2) When the office of any appointed member of the Council, except a member appointed under subsection (2) of section 4 of this Act, becomes vacant by death, resignation, or removal from office, the vacancy so created shall as soon as practicable be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(3) The powers of the Council shall not be affected by any vacancy in its membership.

8. Temporary members—(1) If any appointed member of the Council, except a member appointed under subsection (2) of section 4 of this Act, is absent from New Zealand, or for sufficient reason is unable to act in his capacity as such a member, the Minister may appoint a suitable person in his stead as a temporary member for such a term, not exceeding the unexpired period of the term of office of the member so absent or unable to act, as the Minister directs.

(2) All the provisions of this Act shall apply to every such temporary member in all respects as if he were a member appointed or holding office under paragraph (a), paragraph (b), or paragraph (c) of subsection (1) of section 4 of this Act, as the case may be; but while any such temporary member continues in office no travelling allowances or expenses under section 38 of this Act shall be payable to the member in whose stead the temporary member was appointed.

9. Appointment of Chairman—(1) The Council shall, at its first meeting after the commencement of this section and from time to time thereafter, appoint one of its members to be the Chairman of the Council.

(2) The person so appointed shall hold that office for a period of two years; but, unless the Chairman dies or resigns that office or vacates his office as a member of the Council under subsection (1) of section 7 of this Act, he shall continue to hold the office of Chairman until his successor is appointed, and shall be eligible for reappointment.

(3) When the Chairman has completed his term of office as such or has died or resigned that office or has vacated his office as a member of the Council under subsection (1) of section 7 of this Act, his successor to the office of Chairman shall be appointed by the Council within two months of the date of completion of his term of office as Chairman or the date of his death or resignation from that office or the date of vacation of his office as a member of the Council.

Cf. 1941, No. 13, s. 4

10. Appointment of Deputy Chairman—(1) The Council shall at its first meeting after the commencement of this section and from time to time thereafter, appoint one of its members to be the Deputy Chairman of the Council.

(2) The person so appointed shall hold that office for a period of two years; but, unless the Deputy Chairman dies or resigns that office or vacates his office as a member of the Council under subsection (1) of section 7 of this Act, he shall continue to hold the office until his successor is appointed, and shall be eligible for reappointment.

Cf. 1941, No. 13, s. 4

11. Meetings of Council—(1) The first meeting of the Council shall be held at a time and place to be appointed by the Minister.

(2) Subsequent meetings of the Council shall be held at such times and places as the Council may from time to time appoint:

Provided that the Council shall meet at least once in every year.

(3) At any meeting of the Council twenty members shall form a quorum.

(4) The Chairman shall preside at every meeting of the Council at which he is present. If at any meeting of the Council the Chairman is not present, the Deputy Chairman shall preside at the meeting; and if the Deputy Chairman also is not present or there is no Deputy Chairman, the members present shall appoint one of their number to preside at that meeting. The Deputy Chairman or person so appointed shall have and may exercise in any such case all the powers and functions of the Chairman for the purposes of the meeting.

(5) At any meeting of the Council the person presiding at the meeting shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(6) Every question before any meeting of the Council shall be determined by a majority of the votes of the members present and voting thereon.

(7) A resolution in writing signed by all the members of the Council for the time being present in New Zealand and not incapacitated by disability from attending a meeting shall be as valid and effectual as if it had been passed at a duly constituted meeting of the Council:

Provided that the Chairman shall report to the Council every resolution so signed since the previous meeting of the Council, and lay before the Council a copy of every such resolution.

(8) In the absence from any meeting of any member of the Council, other than an appointed member, he may authorise any other officer of his Department to attend the meeting in his stead. While any such officer is attending a meeting under this subsection he shall be deemed for all purposes to be a member of the Council. The fact that any person attends and acts as such a member at any meeting shall be sufficient evidence of his authority to do so in the absence of proof to the contrary.

(9) The Chairman may at any time call a special meeting of the Council; and it shall be the duty of the Chairman to call a special meeting of the Council at any time when requested to do so by a requisition in writing signed by seven members of the Council:

Provided that no special meeting shall be held unless at least seven days' notice in writing thereof and of the business to be transacted at the meeting has been given to members of the Council, and no business shall be transacted at such a meeting unless notice thereof has been so given.

(10) Subject to the provisions of this Act and subject to the rules of the Council made under section 15 of this Act, the Council may regulate its own procedure.

Cf. 1941, No. 13, s. 5

12. Executive Committee—(1) The Council may from time to time, by resolution, appoint or discharge or alter or continue or reconstitute an Executive Committee, which shall consist of:

(a) The Chairman of the Council who shall be the Chairman of the Executive Committee:

(b) Two members of the Council, other than appointed members, to be chosen by the Minister:

(c) Two members of the Council to be chosen by the representatives on the Council of the organisations referred to in subparagraphs (i), (ii), and (iii) of paragraph (a), and subparagraphs (i) and (v) of paragraph (b) of subsection (1) of section 4 of this Act:

(d) Two members of the Council to be chosen by the representatives on the Council of the organisations referred to in subparagraphs (iv), (vi), and (ix) of the said paragraph (a):

(e) Two members of the Council to be chosen by the representatives on the Council of the organisations referred to in subparagraphs (vii) and (viii) of the said paragraph (a), and subparagraph (iv) of the said paragraph (b):

(f) Two members of the Council to be chosen by the representatives on the Council of the organisations referred to in subparagraphs (x), (xi), and (xii) of the said paragraph (a), and subparagraph (ii) of the said paragraph (b):

(g) One member of the Council to be chosen by the representatives on the Council of the organisations referred to in subparagraph (v) of the said paragraph (a), and subparagraph (iii) of the said paragraph (b):

(h) One member of the Council who was appointed under paragraph (c) of the said subsection (1), to be chosen by the Minister.

(2) If the Chairman has been appointed as a member of the Council on the nomination of an organisation referred to in any of the following paragraphs, namely, paragraphs (c) to (g) of subsection (1) of this section, the number of members of the Executive Committee appointed under that paragraph shall be reduced by one.

(3) Every member of the Executive Committee who vacates his office as a member of the Council by reason of death, resignation, or removal from office shall at the same time vacate his office as a member of the Executive Committee, and the vacancy so created shall as soon as practicable be filled in the manner in which the appointment to the vacant office on the Committee was originally made.

(4) Subject to the rules of the Council, and to any directions given by the Council, the Executive Committee may regulate its own procedure.

Cf. 1941, No. 13, s. 6

13. Committees—(1) The Council may from time to time, by resolution, appoint or discharge or alter or continue or reconstitute such committees as it thinks fit to advise the Council on such matters concerning the Council's functions as are referred to them by the Council.

(2) Any person may be appointed to be a member of a committee under this section notwithstanding that he is not a member of the Council.

(3) Subject to the rules of the Council, and to any directions given by the Council, every committee may regulate its own procedure.

Cf. 1941, No. 13, s. 6

Functions and Powers

14. Delegation of functions and powers—(1) The Council may from time to time delegate any of its functions and powers (except this power of delegation) to the Executive Committee appointed under section 12 of this Act or to any committee appointed under section 13 of this Act.

(2) Subject to any general or special directions given or conditions imposed by the Council, the Executive Committee or any other committee to which any such delegation is made, may, without confirmation by the Council, exercise or perform the delegated functions or powers in like manner and with the same effect as the Council could itself have exercised or performed them.

(3) Where the Executive Committee or any other committee purports to act pursuant to any such delegation, it shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any function or power by the Council.

(5) Unless and until any such delegation is revoked, it shall continue in force according to its tenor.

15. Power to make rules—(1) The Council may from time to time, by resolution, make, alter, and rescind rules not inconsistent with this Act for all or any of the following purposes:

(a) Prescribing the manner in which specifications may be declared to be standard specifications:

(b) Regulating the promulgation of standard specifications:

(c) Providing for the amendment or revocation of any standard specification and regulating the procedure in relation thereto:

(d) Regulating the issue of licences to use standard marks, prescribing terms and conditions upon or subject to which such licences may be issued, and providing for and regulating the renewal, suspension, or revocation of licences:

(e) Prescribing methods of proving the existence or non-existence or the terms and conditions of any licence or consent under this Act:

(f) Prescribing the forms required for the purposes of this Act:

(g) Prescribing the sale price or methods of fixing the sale price of copies of standard specifications or any other publications:

(h) Prescribing matters in respect of which fees are to be payable under this Act or under rules made under this section, the amount of the fees, and the persons liable to pay them:

(i) Authorising the refund or remission, in such circumstances as may be prescribed, of any fees payable under this Act or under rules made under this section:

(j) Prescribing the procedure to be followed at any meeting of the Council, or at any meeting of the Executive Committee or any other committee:

(k) Prescribing the duties of its officers and employees:

(l) Providing for the custody of the property of the Council, and the custody and use of the common seal of the Council:

(m) Providing for such matters as may be necessary or expedient for the administration of the affairs of the Council.

(2) Where it is proposed to submit to any meeting of the Council a motion for the making, alteration, or rescission of any such rules, written notice of the motion shall be given to every member of the Council for the time being in New Zealand at least fourteen days before the date of the meeting.

Cf. 1941, No. 13, s. 18

16. Functions of the Council—The functions of the Council shall be to promote standardisation in industry and commerce and to promulgate standards with the object of

improving the quality of goods produced in New Zealand, whether for consumption in New Zealand or for export, promoting industrial efficiency and development, and promoting public and industrial welfare, health, and safety.

Cf. 1941, No. 13, s. 7

17. Powers of the Council—(1) The Council shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of the powers of the Council under subsection (1) of this section, it may—

(a) Prepare, frame, modify, or amend specifications and promulgate standard specifications:

(b) Promote research in relation to specifications, and provide for the examination and testing of commodities, processes, and practices, and for those purposes may establish such laboratories and other facilities as it thinks fit:

(c) Make provision for the registration, and regulate the use, of standard marks:

(d) Encourage or undertake educational work in connection with standardisation:

(e) Collect and disseminate information relating to standardisation and related matters, including the publication of reports, pamphlets, booklets, journals, and any other publications:

(f) Develop and maintain a collection of library material and a museum collection relating to standardisation and related matters:

(g) Assist Departments of State, local authorities, and other public bodies in the preparation of any specifications required by them:

(h) Cooperate with representatives of any industry, or with any Departments of State, local authorities, or other public bodies or persons with a view to securing the adoption of standards:

(i) Cooperate with any persons, associations, or organisations outside New Zealand having similar functions with a view to furthering the functions of the Council:

(j) Solicit and accept for the purposes of the Council any money, land, or other property from any local authority, organisation, or person by way of grant, subsidy, donation, gift, subscription, or otherwise; and extend

to any local authority, organisation, or person from which or from whom it accepts any money, land, or other property as aforesaid, such concessions or benefits as it thinks fit, and may grant to any such local authority, organisation, or person membership, on such terms and conditions as it thinks fit, of the Standards Association of New Zealand established under subsection (3) of section 3 of this Act:

(k) Become a member of or affiliate to any international body concerned with standardisation or any related matter:

(l) Endorse any international or other overseas specification as suitable for use in New Zealand:

Provided that any such endorsement shall not have the effect of making the specification a standard specification under this Act:

(m) Appoint agents of the Council in New Zealand or in any other country for such purposes as it determines:

(n) Establish branch offices of the Council in New Zealand.

Cf. 1941, No. 13, s. 7

18. Power to appoint officers and employees—(1) The Council may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient exercise of its functions and powers under this Act, and may at any time remove any officer or employee from his office or employment.

(2) Officers and employees of the Council shall be paid such salaries and allowances (within scales fixed by the Council in agreement with the State Services Commission) as the Council from time to time determines.

(3) Officers and employees of the Council shall be employed on terms and conditions of employment from time to time determined by the Council in agreement with the State Services Commission.

(4) The Council shall out of its funds subsidise or contribute to the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees.

(5) Any person who immediately before the date of the commencement of this section was employed in the Department of Industries and Commerce and was a contributor to

the Government Superannuation Fund shall, if he is employed by the Council within one year of that date and has continued to be employed in the Government service until he commences to be employed by the Council, be deemed, for the purposes of the Superannuation Act 1956, to have remained in the Government service, and the provisions of that Act shall apply to any such person employed as aforesaid in all respects as if his service in the employment of the Council were Government service. For the purposes of the Superannuation Act 1956, the controlling authority in relation to any such person shall be the Council.

(6) Any person who immediately before the date of the commencement of this section was an officer of the Public Service employed in the Department of Industries and Commerce and who is employed by the Council within one year of that date may, at any time within one year after the date of his appointment as an officer or employee of the Council, elect to resume employment in the Public Service and, in any such case, notwithstanding the provisions of any enactment to the contrary, his employment in the Public Service shall be deemed to have continued without interruption:

Provided that no person shall be entitled to receive any salary as a member of the Public Service in respect of any period during which he was employed by the Council.

(7) Until such time as its terms and conditions of employment are determined by the Council and notified to its officers and employees, those officers and employees who immediately before the date of their appointment as officers or employees of the Council were employed in the Public Service in the Department of Industries and Commerce shall remain subject to the same terms and conditions of employment (including those applicable to scales of salaries and allowances) as applied to them immediately before that date.

(8) Before any officer or employee entrusted by the Council with the custody or control of money by virtue of his office or employment enters on the duties of his office or employment, the Council shall take sufficient security for the faithful execution of his office or employment.

19. Power to acquire land and buildings—With the approval of the Minister, the Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such land, or buildings, or parts of buildings as in the opinion of the Council are necessary for the performance of its functions.

20. Power to sell or exchange land—(1) With the approval of the Minister, the Council may sell or exchange any land vested in the Council other than land held in trust for any special purpose, and may pay or receive any money by way of equality of exchange.

(2) Nothing in this section shall authorise the sale or exchange of any land granted by the Crown or by any Act as an endowment to the Council.

(3) The powers of selling or exchanging land which are conferred upon the Council by this section shall, with the consent of the Minister, extend to land held in trust for any special purpose, notwithstanding the terms of that trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be, as the land so disposed of.

21. Power to grant leases—The Council may grant leases of any land vested in the Council for such period or periods at such rent and generally upon such terms and conditions as the Council considers advisable or expedient:

Provided that no lease shall be granted for a term exceeding ten years unless the consent in writing of the Minister has been previously given.

22. Power to acquire plant, etc.—The Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such plant, machinery, and equipment as in the opinion of the Council are necessary for the performance of its functions.

Standard Specifications

23. Standard specifications—(1) The Council may declare any specification, including any international or other overseas specification, to be a standard specification for the purposes of this Act, and may in a like manner amend or revoke any such declaration.

(2) If any Act other than this Act prescribes or authorises the making of regulations prescribing any characteristics of any commodity, process, or practice, the Council shall not declare any specification in respect of that commodity, process, or practice to be a standard specification, nor amend nor revoke such a standard specification, except with the approval of the Minister who is for the time being charged with the administration of that other Act.

(3) No specification shall be declared to be a standard specification, and no standard specification shall be amended or revoked, unless the Council is satisfied that any persons who may be affected thereby have had an opportunity to consider it and to comment thereon to the Council or to an appropriate committee of the Council.

(4) Whenever the Council has declared any specification to be a standard specification or has amended or revoked a standard specification, notification thereof shall be published in the *Gazette*. Any such standard specification, amendment, or revocation shall in addition be promulgated in such manner as the Council directs or as may be prescribed by the rules of the Council.

(5) The fact that any specification has been declared to be a standard specification shall in the absence of proof to the contrary be sufficient evidence that the requirements of this section have been complied with.

Cf. 1941, No. 13, s. 8

24. Registration of marks as certification trade marks—(1) For the purposes of this Act the Council, or any person acting under the authority of the Council, may from time to time make application to the Commissioner of Trade Marks for the registration of any mark as a certification trade mark under section 47 of the Trade Marks Act 1953.

(2) Notwithstanding anything to the contrary in the Trade Marks Act 1953,—

(a) A mark adapted in relation to any goods to distinguish in the course of trade goods that conform to a standard specification from goods that do not conform to that specification or from goods that do not conform to any standard specification shall be registrable as a certification trade mark under the said section 47 in respect of those goods in the name, as proprietor thereof, of the Council:

(b) Any such certification trade mark may contain or consist of the words or initials "New Zealand Standard", "N.Z. Standard", or "N.Z.S.", and for the purposes of any application made under the authority of this section those words and initials shall be deemed, for the purposes of paragraph (a) of subsection (2) of the said section 47, and subject to this section, to be inherently adapted to distinguish as aforesaid:

(c) In relation to any application made under the authority of this section and to any certification trade mark registered pursuant to any such application, the said section 47 of the Trade Marks Act 1953 shall have effect subject to the foregoing provisions of this section, and as if the references in the said section 47 and in sections 48 to 54 of that Act to regulations for governing the use of certification trade marks had been omitted:

(d) Except pursuant to an application made by the Council under the authority of this section, no trade mark shall be registrable under the Trade Marks Act 1953 (whether as a certification trade mark or otherwise), if it contains or consists of the words or initials "New Zealand Standard", "N.Z. Standard", or "N.Z.S.", or if it so nearly resembles those words or initials as to be likely to deceive or cause confusion.

(3) Nothing in subsection (2) of this section shall be construed as affecting the validity of any trade mark which was on the Register of Trade Marks on the thirteenth day of October, nineteen hundred and forty-one, or as affecting any of the rights of the proprietor of any such trade mark.

Cf. 1941, No. 13, s. 9

25. Licences to use standard marks—(1) Any person desiring to use any standard mark in connection with any commodity, process, or practice may make application to the Council in such manner as the Council may determine or as may be prescribed.

(2) The Council may, in its discretion, if it is satisfied that the commodity, process, or practice with respect to which the applicant desires to use a standard mark conforms to a standard specification, grant to the applicant a licence to use a standard mark upon or subject to such conditions (if any) as the Council may think fit or as may be prescribed.

(3) No licence under this section shall be granted for any period exceeding one year:

Provided that, so long as the terms of any such licence are complied with, the licence may from time to time be renewed by the Council for such period or periods as it thinks fit, not exceeding one year at any time, and any such licence shall be deemed to have been renewed from time to time for periods of one year unless specifically revoked.

(4) Every person to whom a licence is granted under this section shall, if and whenever required by the Council so to do, submit for examination or testing a sample or samples of the commodity in respect of which the licence has been granted, or submit any information relating to the production and testing by the licensee of that commodity or relating to the process or practice in respect of which the licence has been granted.

(5) Any sample or samples required under subsection (4) of this section to be submitted for examination or testing may be selected at random by any person acting for the Council.

(6) When any sample or samples of a commodity have been submitted or selected for examination or testing there shall be payable to the Council by the licensee whose commodity has been so submitted or selected the reasonable costs of the examination or testing and such other costs as may reasonably be incurred in connection with the examination or testing.

(7) The Council shall keep a register in which there shall be recorded the details of every licence granted under this section. The register shall at all reasonable times be open to inspection by the public at the office of the Council.

(8) The Council may at any time revoke any licence granted under this section.

(9) Notwithstanding the provisions of section 14 of this Act, the Council shall not delegate its power to revoke a licence under subsection (8) of this section otherwise than to the Executive Committee of the Council.

Cf. 1941, No. 13, s. 10

26. Characteristics of commodities, etc., may be prescribed under other Acts by reference to standard specifications—Where any Act confers power to prescribe or define (whether by regulations or otherwise) any characteristics of any commodity, process, or practice, those characteristics, or any of them, may be prescribed or defined by reference to any standard specification.

Cf. 1941, No. 13, s. 12

27. Bylaws may be made by adopting standard specifications—(1) Where any local authority is authorised by any Act to make bylaws, any such bylaw may be made, in the manner prescribed by that Act, by adopting the whole or any part of a standard specification, with or without modification, if a copy of the specification, or of the part thereof that is adopted, is attached to or incorporated in the resolution making the bylaw.

(2) No copy of a bylaw made by adopting the whole or any part of a standard specification shall be deemed to be a complete copy unless it has attached thereto or incorporated therein a copy of the specification, or of the part thereof that is adopted, and states or shows the modifications (if any) with which it was adopted.

(3) Where a standard specification or any part thereof incorporates by reference the whole or any part of any other standard specification, a copy of the first-mentioned specification or part thereof shall not be deemed to be a complete copy for the purposes of this section unless it includes a complete copy of the provisions so incorporated therein.

(4) Where any bylaw is made or proposed to be made by adopting the whole or any part of a standard specification, the object or purport of the bylaw shall be deemed to be sufficiently stated for the purposes of any enactment requiring public notice thereof if the number and title of the standard specification, and (in the case of adoption in part) the number and heading of every part of the specification that is adopted, are stated.

Cf. 1941, No. 13, s. 12A; 1950, No. 12, s. 3

28. Citation and proof of specifications—(1) In any Act, regulation, or bylaw any standard specification may, without prejudice to any other mode of citation, be cited by the title or number given to it by the Council, and such citation shall, unless the context otherwise requires, be deemed to include and refer to the latest published standard specification in existence when the Act was passed or the regulation or bylaw made.

(2) Without affecting any other method of proof, it is hereby declared that the production in any proceedings of a copy of any specification purporting to be issued by or under the authority of the Council, shall be sufficient evidence thereof in the absence of proof to the contrary.

Cf. 1941, No. 13, s. 13

29. Restriction on use of word "Standard" in certain names—(1) Except with the consent of the Governor-General in Council, no association of persons, whether a body corporate or not, shall exercise the functions for which it is formed under a name which contains the word "Standard", or the words "New Zealand Standard", or any abbreviation of those words.

(2) Where any Act provides for the registration of any association of persons, the registering authority may refuse registration if in its opinion the use of the name by which the association desires to be registered is prohibited by subsection (1) of this section.

(3) The provisions of this section shall, with the necessary modifications, apply to a person carrying on business under any name or style other than his own.

(4) Any association which, or person who, does any act in contravention of the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds.

(5) Nothing in this section shall apply to the use by any association or person of any name that was in use in New Zealand by that association or person, or any predecessor in business of that association or person, on the thirteenth day of October, nineteen hundred and forty-one.

Cf. 1941, No. 13, s. 15

30. Protection of Council—The fact that any commodity, process, or practice conforms, or is alleged to conform, to a standard specification, or the fact that a standard mark is used in connection with any commodity, shall not give rise to any claim against the Crown or the Council.

Cf. 1941, No. 13, s. 17

Financial Provisions

31. Funds and property of Council—The funds and property of the Council shall consist of:

(a) Any money appropriated by Parliament for the purposes of the Council:

(b) All money paid to the Council by way of grants, subsidies, donations, gifts, fees, subscriptions, rent, interest, and royalties:

(c) All money derived from the sale of any property held by or on behalf of the Council:

(d) All other money and property lawfully received by the Council for the purposes of the Council:

(e) All accumulations of income derived from any such property or money.

32. Investment of funds—Subject to the terms of any trust or endowment, any money belonging to the Council and available for investment may be invested in accordance with

the provisions of the Trustee Act 1956 as to the investment of trust funds.

33. Borrowing powers—With the prior consent in writing of the Minister of Finance, the Council may borrow money from the Crown or from any corporation or person; and (for the purpose of securing any money so borrowed) may mortgage, charge, or pledge any right, title, estate, or interest in any of its property.

34. Money to be paid into bank—(1) All money received by the Council, or by an officer or employee of the Council, amounting to ten pounds and upwards shall, as soon as practicable after it has come into the hands of any of them, be paid into such bank account or accounts of the Council as the Council from time to time determines.

(2) No such money shall be withdrawn from the bank except by cheque signed by an officer or employee of the Council approved by the Council, and countersigned by another such officer or employee approved by the Council.

(3) Notwithstanding the provisions of section 14 of this Act, every payment of money by the Council shall be authorised by a prior resolution of the Council or the Executive Committee of the Council or shall be submitted to the Council or the Executive Committee for authorisation at its next ordinary meeting.

35. Accounts—(1) The Council shall keep full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office which for that purpose shall have and may exercise all the powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of the accounts of local authorities.

(2) The Council shall, as soon as practicable after the end of each financial year ending with the thirty-first day of March, cause full and true statements and accounts of all its income and expenditure in that year and of its assets and liabilities at the end of that year to be prepared.

36. Exemption from taxes—The Council is hereby declared to be exempt from the payment of land tax and income tax.

37. Individual members of Council and committees not personally liable—No member of the Council appointed or holding office under section 4 of this Act and no member of the

Executive Committee or any other committee appointed under section 12 or section 13 of this Act shall be personally liable for any act done or default made by the Council or the Executive Committee or any other committee in good faith in the course of operations of the Council or the Executive Committee or any other committee.

38. Travelling allowances—(1) The Council, the Executive Committee of the Council, and every other committee of the Council, are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to members of the Council, the Executive Committee, and any other committee, out of the funds of the Council, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Cf. 1941, No. 13, s. 6A

39. Unauthorised expenditure—The Council may in any financial year, out of its funds, expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than two hundred pounds.

40. Local authorities, etc., may contribute to funds of Council—For the purpose of providing funds for the exercise of the functions of the Council, any local authority or public body may from time to time make grants out of its general funds to the Council of such amounts as it thinks fit.

41. Insurance of members—The Council may from time to time enter into contracts of insurance insuring members of the Council and members of any committee appointed by the Council against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members, and pay the premiums payable in respect of any such contracts.

Miscellaneous Provisions

42. Annual report—(1) The Council shall, not later than the thirtieth day of June in each year, furnish to the Minister a report of its proceedings and operations for the preceding financial year, and shall attach to the said report a copy of its accounts for that year certified by the Audit Office.

(2) A copy of the annual report of the Council (including the accounts so certified attached thereto) shall be laid before Parliament within twenty-eight days after the date of the receipt thereof by the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

43. Transfer of records—Notwithstanding anything to the contrary in the Archives Act 1957, all or any of the public records (as defined in section 2 of that Act) which relate to standards, and which, at the date of commencement of this section, are held by or in the possession of the Department of Industries and Commerce, may be transferred to and vested in the Council.

44. Offences and penalties—(1) Every person commits an offence against this Act who—

(a) Makes any statement or representation, whether in writing or not, or uses any mark with reference to any commodity, process, or practice which conveys or is likely to convey the impression that a person who is not licensed to use a standard mark with reference to that commodity, process, or practice is so licensed or is otherwise entitled to use a standard mark:

(b) Makes any statement or representation, whether in writing or not, or uses any mark which conveys or is likely to convey the impression that a commodity, process, or practice complies with a standard specification when it does not do so:

(c) Without the authority of the Council, and for the purposes of gain or profit (whether by means of sale or otherwise) makes any statement or representation, whether in writing or not, whereby comparison is made in respect of any commodity, process, or practice with the standard provided for by any standard specification, unless he proves that he acted without intent to defraud:

(d) Having been licensed to use a standard mark, uses the standard mark after the revocation of his licence so to do, or otherwise than in accordance with the terms and conditions of his licence.

(2) Every person who commits an offence against this Act for which no specific penalty is provided elsewhere than in

this section shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, in the case of a continuing offence, to a further fine not exceeding five pounds for every day on which the offence is continued.

Cf. 1941, No. 13, s. 14; 1950, No. 12, s. 4

45. Secrecy of information obtained for purposes of Act—(1) All information obtained by the Council, or by any officer or employee thereof, or by any other person in the course of the administration of this Act, as to any formula, process, or practice shall be treated as confidential, save for purposes connected with the administration of this Act.

(2) The disclosure of any information relating to any formula, process, or practice to the Council, or to any member, officer, or employee thereof, or to any other person for purposes connected with the administration of this Act, shall not prejudice any application subsequently made for a patent.

Cf. 1941, No. 13, s. 16

46. Contracts of Council and members—(1) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

"The Standards Council	1965, No. 59—The Standards Act 1965."

(2) Part II of the First Schedule to the Local Authorities (Members' Contracts) Act 1954 is hereby amended by inserting in its appropriate alphabetical order the following item:

"The Standards Council	1965, No. 59—The Standards Act 1965."

47. Repeals and savings—(1) The following enactments are hereby repealed:

(a) The Standards Act 1941:

(b) The Standards Amendment Act 1950:

(c) So much of the First Schedule to the Fees and Travelling Allowances Act 1951 as relates to the principal Act.

(2) All regulations which originated under any of the enactments hereby repealed or under the corresponding provisions of any former Act and are subsisting or in force on the commencement of this section shall, so far as they could be made

by the Council as rules under this Act, enure for the purposes of this Act as fully and effectually as if they had originated as rules made by the Council under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to be rules made by the Council and to have so originated, and every reference to any such regulation in any Act, regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, after the commencement of this section, unless inconsistent with the context, be read as a reference to a rule made by the Council under the corresponding provisions of this Act.

(3) All matters and proceedings commenced under any such enactment and pending or in progress on the commencement of this section may be continued, completed, and enforced under this Act.

This Act is administered in the Department of Industries and Commerce.

WELLINGTON, NEW ZEALAND: Printed under the authority of the New Zealand Government, by R. E. OWEN, Government Printer—1966