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THE STANDARDS ACT

THE STANDARDS (AMENDMENT) REGULATIONS, 1999

In exercise of the power conferred upon the Minister by section 11 of the Standards Act and of every power hereunto enabling, the following Regulations are hereby made:—

1. These Regulations may be cited as the Standards (Amendment) Regulations, 1999 and shall be read and construed as one with the Standards Regulations, 1983 (hereinafter referred to as the principal Regulations) and all amendments thereto.

2. Paragraph (2) (a) of Regulation 6 of the principal Regulations is amended—

- (a) by deleting the words "the Schedule" and substituting therefor the words "Part A of the First Schedule";
- (b) by inserting in the margin thereof immediately before the word "Schedule" the word "First".

3. Regulation 8B of the principal Regulations is amended—

- (a) in paragraph (4)—

- (i) by deleting all the words appearing immediately after the words "and may" and substituting therefor the words", subject to paragraph (4B), charge for those investigations, a fee in accordance with paragraph (4A)";
- (ii) by deleting from the margin the word "Schedule";
- (b) by inserting next after paragraph (4) the following as paragraphs (4A) and (4B)—

"(4A) The fee referred to in paragraph (4) shall—

First
Schedule.

- (a) in relation to commodities manufactured or processed in Jamaica, be a fee calculated in accordance with the formula set out in Part A of the First Schedule; and
- (b) in relation to commodities imported into Jamaica, be payable, in accordance with the formula set out in Part B of the First Schedule, in respect of each shipment of such commodities, upon the importation thereof.

Second
Schedule.

(4B) No fee shall be payable under this regulation in relation to commodities specified in the Second Schedule."

4. The principal Regulations are amended by inserting next after regulation 11A the following as regulations 11B, 11C, 11D, 11E and 11F—

"Seizure
and
detention
of
commodity.

11B.—(1) Where a person served with a notice under regulation 11A(1) refuses to withdraw a commodity within the time specified in that notice, an inspector may seize and detain such commodity.

(2) Upon taking action under paragraph (1), the inspector shall notify the person concerned of the action taken and that person may—

- (a) enter into an agreement in writing with the Bureau to take such steps as are necessary to rehabilitate the commodity in order to satisfy the compulsory standard specification;
- (b) appeal against the seizure and detention of the commodity to a Judge in Chambers.

(3) An agreement referred to in paragraph (2) (a) shall contain the following—

- (a) a statement signed by the inspector that the commodity contravenes the compulsory standard specification;
- (b) a requirement for the person concerned to pay the costs of storage, handling and supervision of the commodity by the Bureau during the period of detention;

- (c) an undertaking by the person concerned that the rehabilitation of the commodity will be carried out under the supervision of the Bureau at that person's expense.

Period
of
detention.

11C.—(1) Subject to paragraph (2), a commodity shall not be detained under regulation 11B for any period exceeding thirty days.

(2) A commodity may be detained for any period exceeding thirty days in the following circumstances—

- (a) where rehabilitation of the commodity is being carried out; or
- (b) where an appeal against seizure and detention has not been determined.

Condem-
nation
and
forfeiture
of com-
modity.

11D.—(1) A commodity which fails to satisfy the compulsory standard specification may be condemned by an inspector who shall give notice in writing of such condemnation to the owner of that commodity.

(2) Where—

- (a) a commodity is seized, detained and condemned;
- (b) a person is convicted of an offence under regulation 11A(2) in respect thereof; and
- (c) the court is satisfied that the commodity fails to satisfy the compulsory standard specification and that—
- (i) the commodity cannot be rehabilitated in order to meet that standard;
- (ii) the person notified under regulation 11B (2) refuses to take such steps as are necessary to rehabilitate the commodity in order to satisfy that standard,

the court may, on the application of the prosecution, order the forfeiture of that commodity.

(3) Where the Clerk of the Courts intends to apply for forfeiture of any commodity under paragraph (2), he shall give notice of that intention and the reasons therefor to any person who, to his knowledge, was the owner thereof at the time of seizure:

Provided that such a notice shall not be required to be given if the seizure was made in the presence of the owner or of any of the owners of the commodity or any servant or agent of such owner.

(4) A notice under paragraph (3) may, without prejudice to any other form of service, be given by publication in a daily newspaper printed and circulating in the Island.

(5) Any person having a claim to any commodity to which this regulation applies may appear before the Court at the hearing of the application and show cause why an order for forfeiture should not be made.

(6) If no person appears before the Court to show cause as mentioned in paragraph (5), the Court shall presume that the commodity has been abandoned.

(7) If, upon the application of any person prejudiced by an order made by the Court under paragraph (2), the Court is satisfied that it is just to revoke that order, the Court—

- (a) may revoke the order on such terms and conditions as it deems appropriate; and
- (b) shall require the person to pay such charges as may be imposed by the Bureau in respect of storage and administrative expenses in relation to the commodity.

(8) An application to the Court for revocation of an order shall be made within thirty days of the date of the order or within such longer time, not exceeding three months as the Court may allow.

(9) Where a commodity is forfeited under paragraph (2), the Bureau shall take all necessary steps to have the commodity destroyed or otherwise disposed of, other than by sale, as the Bureau considers fit."

5. The Schedule to the principal Regulations is deleted and the following substituted therefor as the First and Second Schedules, respectively—

* FIRST SCHEDULE (Regulations 6(2) and 8B (4A))

PART A

Formula for calculation of annual fee

Cost per man hour = $\frac{\text{salary per annum of officer} \times \text{factor}}{\text{No. of hours per annum worked for Bureau}}$

No. of hours per annum worked for Bureau

NOTE: The factor is based on the cost of the Bureau's operations during the last preceding financial year.

FIRST SCHEDULE, *contd.*

PART B

Formula for calculation of fee payable on each shipment of imported commodities.

0.3% of the CIF value of the commodities contained in each shipment.

SECOND SCHEDULE (Regulation 8B (4B))

Commodities exempt from payment of fees under regulation 8B

1. Commodities imported in connection with 807 programmes or Government incentive programmes.
2. Commodities which are gifts to Government programmes relating to health and welfare.
3. Commodities imported in connection with international agreements or protocols or both.
4. Commodities which are household effects.
5. Commodities which are raw materials and capital goods, imported for use in the manufacturing process.

Dated this 9th day of April, 1999.

PHILLIP PAULWELL,
Minister of Commerce and Technology.

No. 11/4/02

