

STATUTORY INSTRUMENTS SUPPLEMENT

No. 2

6th December, 2013.

to the East African Community Gazette No. 15 of 6th December, 2013.

Printed by the Uganda Printing and Publishing Corporation, Entebbe by Order of the East African Community.

THE EAST AFRICAN COMMUNITY STANDARDISATION, QUALITY
ASSURANCE, METROLOGY AND TESTING (ENFORCEMENT OF
TECHNICAL REGULATIONS IN PARTNER STATES), REGULATIONS 2013

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation.
2. Interpretation.
3. Declaration of technical regulations in the Partner States.
4. Implementation period for technical regulations.
5. Notifications regarding national technical regulations.
6. Compliance with technical regulations by suppliers.
7. Import inspection.
8. Administrative sanctions.

The East African Community Standardisation, Quality Assurance, Metrology and Testing (Enforcement of Technical Regulations in Partner States) Regulations, 2013.

IN EXERCISE of the powers conferred by Section 28 of the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006, the Council of Ministers make these Regulations on this 6th day of December, 2013

1. These Regulations may be cited as the East African Community Standardisation, Quality Assurance, Metrology and Testing (Enforcement of Technical Regulations in Partner States) Regulations, 2013. Citation.

2. In these Regulations unless the context otherwise requires— Interpretation.

“Act” means the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006;

“market surveillance” means the action which is carried out in order to check whether the product is in conformity with the relevant standards at the stage of placing on the market or distribution of the product concerned or when it is on the market;

“Regulatory Authority” means the national organisation or department charged with the responsibility of administering the implementation of a compulsory standard in accordance with Section 20 of the Act;

“shelf life” means the time span indicated on the product or its packaging, during which the product is endorsed to be traded or used in its designated manner;

“supplier” means any legal or natural person that brings products into circulation and includes a manufacturer, producer, importer, distributor and retailer.

Declaration of technical regulations in the Partner States.

3. (1) A technical regulation shall be declared as such in accordance with section 23 of the Act.

(2) The declaration of a technical regulation shall be in accordance with the relevant national legislation of the Partner States provided that it is not in conflict with the provisions of these Regulations or the Act.

(3) A Partner State that has declared a technical regulation, which may create barriers to trade, shall upon request, explain the justification for that technical regulation.

Implementation period for technical regulations.

4. (1) From the date of notification of a technical regulation a minimum transition period of three months shall be allowed for its implementation.

(2) The transition period shall be clearly defined in the final notice of declaration of the compulsory standards.

(3) Prior to the implementation of a compulsory standard, the regulatory authority in the Partner States shall create awareness among the stakeholders.

(4) Notwithstanding sub-regulation (1) of this Regulation, if urgent problems of safety, health or environmental protection arise or threaten to arise, Partner States may effect implementation of a compulsory standard immediately, provided that the Partner State, upon adoption of the standard as compulsory—

(a) immediately notifies other Partner States of the particular compulsory standard and the products covered, with a brief indication of the objective and the rationale of the compulsory standard, including the nature of the urgent problems; and

- (b) without discrimination, allows the other Partner States to present their comments in writing, which may be taken into account in further actions.

5. (1) During the notification period envisaged in section 23 of the Act, a Partner State planning to develop and implement a technical regulation shall—

Notifications regarding national technical regulations.

- (a) consider the recommendations on the draft technical regulation submitted by other Partner States; and
- (b) provide the other Partner States with a formal response regarding the decision on their recommendations before the technical regulation is implemented.

(2) The notification shall include—

- (a) the draft text of the proposed technical regulation unless the text is an unaltered adoption of an international standard or an East African Standard in which case a reference to this effect is sufficient; and
- (b) a statement of the grounds which make the implementation of such a technical regulation necessary, where these are not made clear in the draft text.

(3) The Partner States and the EAC Secretariat may make comments to the Partner State which has forwarded the draft technical regulation and that Partner State shall take such comments into consideration when finalizing the technical regulation.

(4) At the request of other Partner States, the Partner State shall communicate to them, within 14 days of receipt of the request, the definitive text of a technical regulation.

Compliance
with
technical
regulations
by
suppliers.

6. (1) Suppliers remain responsible for the integrity of their products falling within the scope of technical regulations even in the case of inspection, testing or certification by independent third parties including the regulatory authorities.

(2) Regulatory authorities shall take appropriate market surveillance measures to ensure that the products placed on the market comply with the relevant requirements of the technical regulations.

Import
inspection.

7. (1) No Partner State shall be prevented from introducing import inspection measures in a manner which would fulfil legitimate objectives as specified in sub-regulation 6(1), provided that—

- (a) products imported from any Partner State shall be accorded treatment no less favourable than that accorded to like products of national origin; and
- (b) such import inspection measures do not create unnecessary obstacles to trade.

(2) Partner States shall accept the test results of laboratories of another Partner State for the purposes of import inspection, as long as such laboratories have been designated in accordance with Section 12 of the Act.

(3) In implementing import inspection measures, Partner States shall ensure that products with a defined and marked shelf life have a remaining shelf life on importation of a least—

- (a) 75% of food stuffs; and
- (b) 50% of all other products.

8. (1) After a non-conforming product is identified—

Admini-
strative
sanctions.

- (a) the regulatory authority shall issue a suspension notice to the supplier and suspend trade in the product for a period of fourteen days;
- (b) the supplier may formally respond to the regulatory authority during the fourteen days of suspension referred to in sub-regulation (1) (a) regarding the non-conformity and suspension;
- (c) the suspension notice becomes permanent after the fourteen days referred to in paragraph (a) have elapsed without any formal response from the supplier, and the supplier has to dispose of the non-conforming products as directed by the regulatory authority.

(2) Where a regulatory authority finds a product in its territory that does not comply with the requirements of the technical regulation and the product bears the product certification mark as provided for in the Act—

- (a) the regulatory authority shall immediately notify all Partner States regarding the relevant product, the non-conformity and the measures it intends to take to resolve the issue; and
- (b) the certification body whose product certification mark has been used, shall take immediate and urgent steps regarding the supplier to address the non-conformities identified, and notify other Partner States accordingly.

(3) Where the regulatory authority of one Partner State identifies products that do not conform to the requirements of its technical regulation, the regulatory authority shall take such measures as necessary to contain the danger posed by the non-conforming product.

(4) Where a supplier does not comply with the requirements of this regulation, the relevant provisions of the national laws of the respective Partner State shall apply.