AN BILLE FÁN ÚDARÁS UM CHAIGHDEÁIN NÁISIÚNTA NA hÉIREANN, 1996
NATIONAL STANDARDS AUTHORITY OF IRELAND BILL, 1996

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

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AN BILLE FÁN ÚDARÁS UM CHAIGHDEÁIN NÁISIÚNTA NA hÉIREANN, 1996

NATIONAL STANDARDS AUTHORITY OF IRELAND BILL, 1996

BILL

entitled

AN ACT TO ESTABLISH THE NATIONAL STANDARDS AUTHORITY OF IRELAND AS AN INDEPENDENT STATUTORY BODY, TO TRANSFER FUNCTIONS RELATING TO STANDARD SPECIFICATIONS AND STANDARD MARKS FOR COMMODITIES, PROCESSES AND PRACTICES FROM FORFÁS TO THE AUTHORITY AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

Short title.

1.—This Act may be cited as the National Standards Authority of Ireland Act, 1996.

Commencement.

2.—This Act shall come into operation on such day or days as may be fixed by the Minister by order, either generally or with reference to a particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

Interpretation.

3.—(1) In this Act, unless the context otherwise requires—

"the Act of 1961" means the Industrial Research and Standards Act, 1961;

"the Authority" means the National Standards Authority of Ireland established by *section 6*;

"the Companies Acts" means the Companies Act, 1963, and includes any enactment to be construed as one with that Act;

"the establishment day" means the day appointed under *section 6*;

"Forfás" means the body established by section 5 of the Industrial Development Act, 1993;

"functions" includes powers and duties;

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"Irish Standard Specification" means a standard specification to which *section 16* applies;

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

"the Minister" means the Minister for Enterprise and Employment;

"register", save where the context otherwise requires, means a register kept by the Authority in pursuance of *section 24*;

"specification" includes description of any commodity, process or practice by reference to any one or more of the following, namely, nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age and any other characteristic;

"standard specification" means a specification declared or deemed to have been declared under *section 16* to be a standard specification;

"standard mark" means a mark prescribed or deemed to have been prescribed by an order under *section 20* for use in connection with a commodity, process or practice to indicate that it conforms to a particular standard specification.

(2) In this Act, a reference to a section or Schedule is to a section of, or Schedule to, this Act unless it is indicated that a reference to some other provision is intended.

(3) In this Act, a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that a reference to another provision is intended.

(4) In this Act, a reference to any other enactment is to that enactment as amended by any other enactment, including this Act.

Repeals.

4.—(1) Section 6 (2) (*b*), (*c*) and (*d*), sections 20 to 31 and section 44 of the Act of 1961 are hereby repealed.

(2) Section 35 of the Restrictive Practices (Amendment) Act, 1987, is hereby repealed.

Expenses.

5.—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

The National Standards Authority of Ireland

Establishment of Authority.

6.—(1) There shall stand established, on such day as the Minister may by order appoint ("the establishment day"), a body to be known as The National Standards Authority of Ireland to carry out the functions assigned to it by this Act.

(2) The *First* and *Second Schedules* shall apply for the purposes of this section.

Functions.

7.—(1) The functions of the Authority shall be—

(*a*) to encourage the use of standard specifications with a view to improving the technical processes and methods used in the industries of the State;

(*b*) to formulate for the Minister, in accordance with the Minister's directions, specifications for commodities, processes and practices, as the Minister may from time to time request;

(*c*) with the consent of the Minister, to declare under the seal of the Authority any specification so formulated to be an Irish Standard Specification for the commodity, process or practice to which it relates, and regularly to publish a list of standard specifications so declared;

(*d*) to make recommendations to the Minister on matters concerning standards and certification;

(*e*) to formulate guides, recommendations and codes of practice for processes and practices used in the manufacturing and service industries;

(*f*) to participate in the activities of other national, regional, European or international standards bodies having objectives or functions similar or relevant to the objectives or functions of the Authority;

(*g*) to perform any function, arising from the accession of Ireland to international treaties, conventions or bodies including membership of the European Union, which relates to standardisation, harmonisation, certification or inspection; so far as this does not interfere with the functions of other State agencies or bodies;

(*h*) to certify any commodity, process or practice as conforming with an Irish Standard Specification, or with any standard of another Member State of the European Union or with any other recognised published specification;

(*i*) to determine, licence and supervise the use of standard marks in relation to any commodity, process or practice on behalf of itself or of any other body;

(*j*) to arrange for the testing and analysis of commodities, particularly in relation to certification and approval schemes, by or on behalf of the Authority;

(*k*) to promote and disseminate information concerning the formulation, publication and harmonisation of standards; and

(*l*) to enter into agreements with bodies in other countries and, in particular, agreements relating to mutual recognition of certificates of conformity.

(2) The functions of the Authority shall not include any functions vested in Forfás by the Industrial Development Act, 1993, other than those to which *section 8* relates.

Functions formerly exercised by Forfás.

8.—All functions set out in section 6(2)(*b*), (*c*) and (*d*) of the Act of 1961 which were vested in Forfás by section 9 of the Industrial

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Development Act, 1993 shall vest in and be exercised only by the Authority.

Delegation of functions.

9.—Any function exercised by the Authority may, without prejudice to its general responsibilities under this Act, be performed through or by its Chief Executive Officer or any other member of staff duly authorised in that behalf.

Consultation by the Authority.

10.—(1) The Authority may consult with such authorities, persons or bodies, as it thinks proper, to perform its functions under this Act.

(2) The Authority may from time to time appoint, for such period and subject to such terms of reference, such and so many consultative committees as it considers proper to advise and assist it on the technical contents of standards.

(3) Membership of a consultative committee may include persons who are not members of the Authority or its staff.

(4) The chairpersons and other members of consultative committees may receive such remuneration and expenses as the Minister, with the consent of the Minister for Finance, shall determine.

(5) The Authority may at any time terminate the membership of all or any of the members of consultative committees.

Grants to Authority.

11.—(1) The Minister may in each financial year, after consultation with the Authority in relation to its proposed work programme, make grants of such amounts as may be sanctioned by the Minister for Finance out of moneys provided by the Oireachtas towards the expenditure incurred by the Authority in the performance of its functions.

(2) In determining the amount of any such grant to be paid in any financial year, the Minister shall give due consideration to the income and expenditure of the Authority, and for that purpose the Board shall furnish to the Minister as and when requested information regarding such income and expenditure.

Power to charge fees.

12.—(1) The Authority shall have power to charge, receive and recover fees for researches, tests, investigations and analyses undertaken by the Authority on behalf of any person other than the Minister.

(2) The Authority may levy interest in respect of money due to it under *subsection (1)* but which has not been paid from a date on which such money became due.

Acceptance of gifts by Authority.

13.—(1) The Authority may accept gifts of money, land or other property, upon such trusts or conditions, if any, as may be specified by the person making the gift.

(2) The Authority shall not accept any gift if the conditions attached by the donor to the acceptance thereof are inconsistent with the functions of the Authority.

(3) The Authority shall publish in its annual report details of all gifts accepted by it during the period of the report.

14.—The Authority may, for the purposes of the performance of its functions, borrow money, but shall not do so without the consent of the Minister with the concurrence of the Minister for Finance. Borrowing by Authority.

15.—(1) The Authority shall have the power to establish companies, both inside and outside the State, for the purpose of providing services in relation to standards and certification. Power to establish companies.

(2) The establishment by the Authority of such companies shall be subject to the consent of the Minister with the concurrence of the Minister for Finance.

(3) The Chief Executive Officer and staff of any subsidiary company established by the Authority shall hold office on terms and conditions, including remuneration, no less stringent than those applying to the Authority itself.

(4) The remuneration and expenses of the chairpersons and other members of any subsidiary companies established by the Authority shall be such as the Minister, with the consent of the Minister for Finance, shall determine.

(5) The borrowing powers (if any) of any subsidiary companies established by the Authority shall be subject to the consent of the Minister with the concurrence of the Minister for Finance.

PART III

Standard Specifications and Standard Marks

16.—(1) The Authority shall formulate for the Minister specifications for such commodities, processes and practices as the Minister may from time to time request. Standard specifications.

(2) In formulating specifications under *subsection (1)* the Authority shall comply with the directions of the Minister.

(3) The Authority, on formulating a specification, may, with the consent of the Minister, declare it to be a standard specification for the commodity, process or practice to which it relates.

(4) Where, under any other enactment, any Minister of the Government is authorised to prescribe a specification or standard of quality of Irish origin for any commodity, process or practice, or to issue licences for the sale or advertisement of any commodity, the Minister shall not consent to the declaration of a standard specification in respect thereof except with the consent of that Minister.

(5) The Authority may, with the consent of the Minister, revoke or amend a standard specification.

(6) The specifications declared or deemed to have been declared by orders made under section 20 of the Act of 1961 which were in force immediately before the commencement of this Act shall be deemed to have been declared under this section.

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(7) Except as provided in this Act, no person shall establish, accept, adopt, publish or place on the market in relation to a product, process or practice any document which purports, expressly or by implication, to be an Irish Standard Specification.

(8) A person who contravenes *subsection (7)* shall, subject to *section 30 (3)*, be guilty of an offence.

(9) An Irish Standard Specification may (without prejudice to any other mode of citation) be cited in an Act, regulation or bye-law by the title and number given to it by the Authority and any such citation shall (unless the context otherwise requires) be deemed to include and refer to the latest Irish Standard Specification with that citation (together with any modification of it) promulgated by the Authority before the relevant Act was enacted or the relevant regulation or bye-law made.

Publication of notice of standard specification.

17.—The Authority shall as soon as may be after the declaration of a standard specification cause notice thereof to be published in *Iris Oifigiúil* and in such other manner as the Minister may direct and shall publish and place on sale copies of the standard specification.

Evidence of standard specification.

18.—(1) *Prima facie* evidence of a standard specification may be given by the production of a copy thereof purporting to be published by or on behalf of the Authority.

(2) Section 6 of the Documentary Evidence Act, 1925, shall apply to the printing, publication and tendering in evidence of documents purporting to be standard specifications as it applies to the official documents referred to in the said section 6 with the substitution, for references to the Stationery Office, of references to the Authority.

False representation in connection with standard specifications.

19.—(1) Every person who makes any representation which is false in any material respect that any commodity, process or practice is of standard specification shall, subject to *section 30 (3)*, be guilty of an offence.

(2) In this section "representation" means, in relation to a commodity, process or practice, any representation, direct or indirect, and whether oral, or by conduct, or in writing, and if in writing, includes a representation in any advertisement, catalogue, bill head or other document relating to the commodity, process or practice or implied in the use of any trade mark or style.

(3) Nothing in this section shall be construed as limiting the operation of paragraph (*d*) of subsection (1) of section 2 of the Merchandise Marks Act, 1887.

Standard marks.

20.—(1) The Authority may, by notice published in *Iris Oifigiúil*, specify a standard mark or marks for use, in accordance with this Act, in connection with commodities, processes and practices generally or with any class or kind of commodity, process or practice to indicate conformity with a standard specification, with a specification under the seal of the Authority or with a specification of a body recognised by the Authority.

(2) The marks prescribed under section 24 of the Act of 1961 which were in force immediately before the commencement of this

Act shall be deemed to have been specified under this section and may be withdrawn accordingly.

(3) A standard mark shall include the words "Caighdeán Éireannach" or the initials "C.É." and may include the words "Irish Standard" or the initials "I.S." or any other mark.

(4) The Authority may, by notice published in *Iris Oifigiúil*, withdraw the specification of a standard mark.

(5) Where a standard mark for use in connection with a commodity, process or practice conforming to a particular standard specification is for the time being in force, the following provisions shall have effect—

(*a*) the Authority shall be the proprietor of the standard mark;

(*b*) for the purposes of the Merchandise Marks Acts, 1887 to 1978, and the Trade Marks Act, 1996, the standard mark shall be a trade mark.

Grant of licence to use a standard mark.

21.—(1) The Authority may grant to a person a licence to use, subject to such conditions as may be expressed in the licence, a standard mark in connection with any commodity, process or practice for which there is a standard specification.

(2) The conditions expressed in a licence granted under this section shall include conditions that the standard mark for any commodity, process or practice shall be used only—

(*a*) in conjunction with the serial number assigned by the Authority to the standard specification for that commodity, process or practice, and

(*b*) in connection with a commodity, process or practice which conforms with that standard specification.

(3) Where it appears to the Authority—

(*a*) that the condition mentioned in *paragraph (a)* or that mentioned in *paragraph (b)* of *subsection (2)* is not complied with, or

(*b*) in any other case where it seems proper to the Authority so to do,

the Authority may revoke a licence granted under this section.

(4) Where a licence is revoked under *subsection (3)* the Authority shall inform the licensee of the revocation and of the reason therefor.

(5) Where the Minister has, with the consent of another Minister of the Government, consented to the declaration of a standard specification in relation to any commodity, process or practice, the Authority may not grant a licence under this section for the use of a standard mark in connection with that commodity, process or practice save with the consent of the Minister in agreement with that other Minister.

(6) Where the use of a standard mark on a commodity or its container would not be practicable, a licence to use that standard mark

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may authorise the use of the mark on business stationery or in advertisements on conditions which would prevent misunderstanding as to the commodity to which the mark relates.

(7) The use of a standard mark in connection with a commodity, process or practice which does not conform with the standard specification relating to such commodity, process or practice shall not be deemed to be an application of a false trade description to the goods for the purposes of the Merchandise Marks Acts, 1887 to 1978.

(8) A licence granted or deemed to have been granted to any person under section 25 of the Act of 1961 which was in force immediately before the commencement of this Act shall be deemed for the purposes of this Act to be a licence granted under this section.

(9) Any person aggrieved by a decision of the Authority under *subsection (1)* or *(3)* may appeal to the Minister in such manner and within such time as the Minister may direct.

Unlawful use of standard marks.

22.—(1) Every person who—

(*a*) uses a standard mark without a licence to do so granted under this Act, or

(*b*) makes any representation or uses any mark in connection with any commodity, process or practice which suggests or is likely to suggest that a person who is not licensed to use a standard mark in connection with that commodity, process or practice is so licensed or is entitled to use a standard mark,

shall, subject to *section 30 (3)*, be guilty of an offence.

(2) The word "representation" in *subsection (1)* has the same meaning as it has in *section 19 (2)*.

Registration of standard marks abroad.

23.—The Authority may procure the registration, in any register maintained in any place outside the State, of a standard mark and may procure that the Authority be entered in the register as the proprietor of the standard mark.

Registers.

24.—(1) The Authority shall keep—

(*a*) a register of standard specifications,

(*b*) a register of standard marks, and

(*c*) a register of licensees under this Act.

(2) Each register shall be made available for inspection by any person, free of charge, at all reasonable times.

(3) A certificate under the official seal of the Authority as to the contents of a register or of any entry therein shall be *prima facie* evidence of the facts so certified.

(4) The Authority shall issue to any person, on payment of such fee as the Authority may prescribe for each entry, such certificate as is mentioned in *subsection (3)*.

Restriction on registration under Registration of Business Names Act, 1963.

25.—A person shall not be registered under the Registration of Business Names Act, 1963, after the commencement of this section by a name containing or consisting of the words "Caighdeán Éireannach" or the words "Irish Standard" or the initials "C.É." or "I.S." or by a name which so nearly resembles any such word or initials as to be likely to deceive.

Restriction on registration under the Companies Acts, 1963 to 1990.

26.—A company shall not be registered under the Companies Acts, 1963 to 1990 after the commencement of this section, by a name containing or consisting of the words "Caighdeán Éireannach" or the words "Irish Standard" or the initials "C.É." or "I.S." or by a name which so nearly resembles any such word or initials as to be likely to deceive.

Restriction on registration under the Industrial and Commercial Property (Protection) Acts, 1927 to 1958.

27.—No trade mark or design shall be registered under the Industrial and Commercial Property (Protection) Acts, 1927 to 1958, or the Trade Marks Act, 1996, after the commencement of this section if it contains or consists of the words "Caighdeán Éireannach" or the words "Irish Standard" or the initials "C.É." or "I.S." or if it so nearly resembles such word or initials or any standard mark as to be likely to deceive.

Regulations for promoting safe use of commodities and safe practices.

28.—(1) For the purpose of promoting the safe use by the public of a commodity intended for sale to the public and for promoting safe practices the Minister may by regulations prohibit the manufacture, assembly, storage, supply, offer to supply or the exhibiting of commodities or the exercise of certain practices, unless such commodities or practices comply with the Irish Standard Specification for that commodity or practice published under the seal of the Authority, in accordance with this Act, or with the standard of another Member State which is equivalent to the Irish Standard Specification declared under this Act, or with a specification or condition set down by the Minister.

(2) Every person who contravenes regulations made by the Minister under *subsection (1)* shall, subject to *section 30 (3)*, be guilty of an offence.

(3) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the regulation is so laid, passes a resolution annulling the regulation it shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(4) Orders made under section 44 of the Act of 1961 which were in force immediately before the commencement of this section shall continue in force and shall be deemed to be regulations under this section.

Copyright.

29.—The copyright of format and content of any Irish Standard Specification or other publication of the Authority shall vest exclusively in the Authority and any person who, without the written authorisation of the Authority, publishes, reproduces or records in any manner or form, any document or part thereof in respect of which copyright vests in the Authority shall, subject to *section 30 (3)*, be guilty of an offence.

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PART IV

OFFENCES

Offences.

30.—(1) Any person who contravenes any provision of this Act or of any regulation made under this Act shall be guilty of an offence.

(2) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body, such person shall also be guilty of an offence.

(3) It shall be a good defence to a charge for a contravention of *section 16, 19, 22, 28* or *29* or *paragraph 6* of the *First Schedule* to prove that the person charged acted without intent to defraud.

(4) In this section, a reference to the contravention of a provision includes, where appropriate, a reference to a refusal, or a failure, to comply with that provision.

Penalties.

31.—A person guilty of an offence under this Act shall be liable, on summary conviction, to a fine not exceeding £1,500, or to imprisonment for any term not exceeding twelve months or, at the discretion of the court, to both such fine and such imprisonment.

Prosecution of offences.

32.—(1) An offence under this Act may be prosecuted summarily by the Minister or the Director of Consumer Affairs.

(2) Notwithstanding *subsection (1)*, the Minister may by regulations provide that an offence under this Act, specified in the regulations, may be prosecuted summarily by such other person as may be so specified.

(3) Notwithstanding the provisions of section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be commenced—

(*a*) at any time within twelve months from the date on which the offence was committed, or

(*b*) at any time within six months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge,

whichever is the later:

Provided that no such proceedings shall be initiated later than five years from the date on which the offence concerned was committed.

(4) For the purposes of this section, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence relating to the offence came to his knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purposes of this subsection and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

33.—Where a person is convicted of an offence under this Act committed after the commencement of this section, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Minister, Director of Consumer Affairs or any other person specified by the Minister in regulations made under *section 32 (2)* the costs and expenses, measured by the court, incurred by them in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers. Cost of prosecutions.

PART V

Transitional Provisions

34.—On the establishment day all property including choses-in-action, which immediately before that day was the property of the National Standards Authority of Ireland as a committee constituted by Forfás under section 10 (2) of the Industrial Development Act, 1993, shall stand vested in the Authority without any assignment. Transfer of property.

35.—(1) All rights and liabilities of the National Standards Authority of Ireland arising by virtue of any contract or commitment (expressed or implied) entered into by that body before the establishment day, as a committee constituted by Forfás under section 10 (2) of the Industrial Development Act, 1993, shall on that day stand transferred to the Authority. Transfer of rights and liabilities.

(2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Authority, in its own name and it shall not be necessary for the Authority to give notice to the person whose right or liability is transferred by this section of such transfer.

36.—Section 12 of the Finance Act, 1895, shall not apply to the vesting of any property or rights transferred by this Act. Exemption from stamp duty.

37.—Any legal proceedings pending on the establishment day in any court or tribunal to which the National Standards Authority of Ireland, as a committee constituted by Forfás under section 10 (2) of the Industrial Development Act, 1993, is a party shall continue with the substitution of the Authority for such party and shall not abate by reason of such substitution. Pending legal proceedings.

PART VI

Staff

38.—(1) (*a*) Subject to the provisions of this section, every person who immediately before the establishment day was a member of the staff of Forfás shall continue to be a member of the said staff and, where his or her principal duties related to a function which by this Act is vested in the Authority, shall discharge his or her functions in accordance with the directions of the Authority. Staff.

(*b*) Where immediately before such establishment a person was employed by Forfás on contract for a specified period or purpose related to a function which by this Act is vested in the Authority the contract

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shall, with the consent of that person, continue to operate with the substitution, for Forfás, of the Authority.

(2) The terms and conditions relating to tenure applying to a person to whom *paragraph (a)* or *(b)* of *subsection (1)* applies shall not be less favourable to the person than those prevailing immediately before the application of the relevant paragraph save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned; and if a dispute arises between Forfás or the Authority and any such person as to terms and conditions prevailing immediately before that application, the matter shall be determined by the Minister for Finance, after consultation with the Minister.

(3) The terms and conditions referred to in *subsection (2)* shall specifically include the right to apply and be considered for appointment to vacancies which arise in Forfás, Forbairt or the Industrial Development Agency (Ireland) from time to time after the establishment day.

(4) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person to whom *subsection (1)* applies shall not, while in the service of Forfás or the Authority, as the case may be, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he or she was entitled and the terms and conditions of service to which that person was subject immediately before the establishment day.

(5) Until such time as the scales of pay and the terms and conditions under this section are varied by Forfás or the Authority, as the case may be, following negotiation with recognised trade unions and staff associations concerned, the scales of pay to which any person was entitled and the terms and conditions of service, restrictions, requirements and obligations to which he or she was subject immediately before the establishment day shall continue to apply to that person and may be exercised or imposed by Forfás or the Authority, as the case may be, while they are in the service to which *subsection (1)* refers. No such variation shall operate to worsen the scales of pay or the terms or conditions of service aforesaid applicable to any such person before the establishment day, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

Section 6.

FIRST SCHEDULE

The National Standards Authority of Ireland

Incorporation.

1. (1) The Authority shall be a body corporate with the power to sue and be sued in its own name.

(2) The Authority shall have the power to acquire, hold and dispose of land and other property, including intellectual property.

Membership.

2. (1) The members of the Authority shall constitute the Board of that body.

(2) The Board of the Authority shall consist of not more than 13 members.

(3) The Board of the Authority shall include its Chief Executive Officer.

(4) Subject to *paragraph 1 (3)* of the *Second Schedule* the members of the Board shall be appointed by the Minister from among those interests involved in the process of standardisation and certification of commodities, processes and practices, without any single interest predominating, taking into account guidelines issued from time to time by the Government and, in particular, providing for staff-representation on the Board.

(5) The Minister, after consultation with any recognised trade unions or staff associations concerned, shall make such regulations as are considered necessary or desirable in order to provide for staff-representation on the Board.

(6) One member of the Board shall be designated as Chairperson by the Minister and two other members may be designated as Deputy Chairpersons by the Board.

(7) The Board of the Authority shall hold such and so many meetings as it considers necessary for the fulfilment of the functions assigned to it by this Act. The Chairperson shall take the chair at each meeting of the Board. In the absence of the Chairperson at any meeting, the chair shall be taken by a Deputy Chairperson or in the absence of a Deputy Chairperson by such person as the Board shall, in respect of such meeting, select.

(8) The Chairperson and other members of the Authority shall hold office on such terms and conditions (which may include remuneration and expenses) as the Minister, with the consent of the Minister for Finance, shall determine.

(9) The Board may act by any five of its members provided seven clear days notice by letter or fax has been given of the meeting.

(10) The Board may regulate its own procedure.

Period of office of members.

3. (1) On every anniversary of the establishment day, three of the members of the Board, excluding the *ex-officio* chief executive, shall retire.

(2) The members to retire each year shall be those who have been longest in office since their previous appointment but, as between persons who first became members on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by lot.

(3) A retiring member shall be eligible for reappointment.

Conditions of office.

4. (1) The Minister may remove a Board member from office.

(2) A member may resign office by notice in writing to the Minister with a copy to the Chief Executive Officer of the Authority and the resignation shall take effect on the date on which the Minister receives the notice.

(3) A member shall be disqualified from holding and shall cease to hold office if that member is adjudged bankrupt, or makes a composition or arrangement with creditors, or is convicted of any indictable offence in relation to a company, or is convicted of an offence involving fraud or dishonesty whether in connection with a company or not, or is the subject of an order under section 160 of the Companies Act, 1990.

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(4) Where a member is—

(*a*) nominated as a member of Seanad Éireann, or

(*b*) elected as a member of either House of the Oireachtas or of the European Parliament, or

(*c*) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

that person shall thereupon cease to be a member of the Board.

(5) The conditions of office applicable to Board members and set out in *subparagraph (3)* shall also apply to members of committees or other bodies constituted under this Act.

The seal.

5. (1) The Authority shall provide itself with a seal.

(2) The seal of the Authority shall, when applied to a document, be attested to by the signature of two members of the Authority or by the signature of a member and of a member of staff of the Authority authorised by it to act in that behalf or by the signature of two members of staff of the Authority so authorised.

Symbol of the Authority.

6. (1) The Authority shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Authority or which so nearly resembles that of the Authority as to be likely to deceive shall, subject to *section 30 (3)*, be guilty of an offence.

The Authority, contracts and instruments.

7. (1) All courts of justice shall take judicial note of the seal of the Authority, and every document purporting to be an instrument made by the Authority and to be sealed with its seal and to be attested in accordance with this paragraph shall, unless the contrary is shown, be received in evidence and deemed to be that instrument without further proof.

(2) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

Annual report and accounts.

8. (1) The Authority shall submit, in such form as the Minister may direct, an annual report of its activities after the end of the financial year to which it refers and a general programme of future work. The Minister shall cause copies of the report to be laid before each House of the Oireachtas not later than six months after the end of that financial year.

(2) The Authority shall keep, in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of money received and expended by it and, in particular, shall keep in such form as aforesaid all special accounts as the Minister may from time to time direct.

(3) The accounts of the Authority shall be submitted annually to the Comptroller and Auditor General for audit at such times as the Minister, with the consent of the Minister for Finance, shall direct and when so audited shall, together with the report of the Comptroller and Auditor General thereon, be presented to the Minister, who shall cause copies thereof to be laid before each House of the Oireachtas.

Information.

9. (1) The Authority shall supply the Minister with such information regarding its activities as the Minister may from time to time require.

(2) Any committee or other body established under this Act shall provide the Authority with such information as it may require for the purposes of its functions.

SECOND SCHEDULE

Section 6.

MEMBERS AND STAFF

Chief Executive Officer.

1. (1) The Authority shall have a Chief Executive Officer.

(2) The Chief Executive Officer shall—

(*a*) be appointed by the Board of the Authority with the approval of the Minister, and

(*b*) hold office on such terms and conditions (including remuneration) as the Minister, with the concurrence of the Minister for Finance, may approve.

(3) The Chief Executive Officer of the Authority shall, for the duration of that person's appointment, become an *ex-officio* member of the Board.

Staff.

2. (1) Having regard to *section 38*, the Authority may, from time to time, appoint such and so many persons to be members of its staff as it thinks proper.

(2) Subject to *section 38*, the remuneration and allowances of the members of the staff shall be determined from time to time by the Authority with the consent of the Minister and with the concurrence of the Minister for Finance.

(3) Notwithstanding *section 38*, where a member of staff of the Authority is—

(*a*) nominated as a member of Seanad Éireann, or

(*b*) elected as a member of either House of the Oireachtas or of the European Parliament, or

(*c*) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 as having been elected to such Parliament to fill a vacancy,

that person shall thereupon stand seconded from the employment of the Authority and shall not be paid by, or be entitled to receive from the Authority, any remuneration or allowances in respect of

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the period commencing on such nomination or election or when that person is so regarded as having been elected, as the case may be, and ending when that person ceases to be a member of either House or such Assembly.

Superannuation of staff of Authority.

3. (1) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of persons appointed under *paragraph 2* to, or accepted under *section 38* into, the employment of the Authority (including the Chief Executive Officer appointed under *paragraph 1 (1)*).

(2) A scheme under *subparagraph (1)* shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme amending or revoking a scheme under this paragraph including a scheme under this subparagraph.

(4) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this paragraph, such dispute shall be submitted to the Minister, who shall refer it to the Minister for Finance, whose decision shall be final.

(5) No superannuation benefit shall be granted by the Authority on the resignation, retirement or death of an employee of the Authority and no other arrangements shall be entered into by the Authority for the provision of such a benefit otherwise than in accordance with a scheme under this paragraph.

(6) A scheme under this paragraph shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next twenty-one days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) A scheme or schemes under this paragraph shall, as respects a person accepted into wholetime employment of the Authority under *section 38*, provide for the granting to or in respect of that person of superannuation benefits upon and subject to terms and conditions that are not less favourable to that person than the terms and conditions applied to that person immediately before the day on which that person was so accepted into the employment of the Authority in relation to the grant of such benefits.

(8) Where, during the period between the establishment day and the coming into operation of a scheme under this paragraph, superannuation benefits would have been granted to or in respect of a person accepted into wholetime employment of the Authority under *section 38*, in respect of that person's employment with the public authority concerned, the superannuation benefits shall be granted and paid to or in respect of the person by the Authority and, for that purpose, that person's pensionable service with the Authority shall be aggregated with that person's previous pensionable service.

(9) The Minister for Finance shall make such contribution as may be specified in a scheme towards the superannuation benefits related

to reckonable service given before the establishment day which may be granted to or in respect of persons who, immediately before that day, were members of the staff of Forfás and the scheme shall fix the manner and times of the payment of such contribution.

(10) Moneys required to be paid by the Minister for Finance under this paragraph shall be advanced out of the Central Fund or the growing produce thereof.

(11) In this paragraph "superannuation benefits" means pensions, gratuities and other allowances payable on resignation, retirement or death.

(12) A scheme submitted by the Authority under this paragraph shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Authority in accordance with its terms.

Disclosure of documents.

4. (1) The Authority shall not, without the consent of the Minister, disclose any document in its custody or under its control, production of which is sought in relation to any legal proceedings.

(2) Where the Minister refuses to consent to the disclosure, the Authority shall be entitled to, and shall claim in the proceedings, the like privilege in respect of the document as the Minister would be entitled to claim if it were in the Minister's own custody.

Disclosure of information.

5. (1) Subject to *subparagraph (3)*, a person shall not disclose any information obtained by that person—

(*a*) while performing duties as a member of the Board or of any committee appointed under this Act or as a member of staff of, or adviser or consultant to, the Authority, or

(*b*) as a member of or as a member of staff of any body consulted in pursuance of the provisions of this Act, while performing duties relating to any such consultation.

(2) A person who contravenes *subparagraph (1)* shall be guilty of an offence.

(3) Nothing in *subparagraph (1)* shall prevent—

(*a*) disclosure of information in a report made by the Authority (or on its behalf) to the Minister, or

(*b*) disclosure of information by the Authority or by a member of the Authority or by a member of any committee appointed under this Act for the purpose of a scheme of research and development or a scheme of acquisition of product and process technology.

Declaration of interests.

6. (1) Where a member of the Board or of the staff of the Authority has any financial or other interest, directly or indirectly, in any industrial, commercial or service undertaking, that person shall, before exercising any functions under this Act, declare the nature of such interest to the Authority and shall comply with such directions as may be given by the Board of the Authority in regard to it.

(2) Any such declaration of interests shall be provided in a form

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to be prescribed by the Authority for the purpose which shall be signed by the person concerned.

(3) Any material change in an interest referred to in *subparagraph (1)* shall require a new declaration to the Authority in the prescribed form.

(4) Any person who fails to comply with *paragraph 6* or who, when purporting to comply with the requirements of the said paragraph, gives particulars which are false or which to that person's knowledge are misleading in a material respect, shall be guilty of an offence.

AN BILLE FÁN ÚDARÁS UM CHAIGHDEÁIN NÁISIÚNTA NA hÉIREANN, 1996

BILLE

dá ngairtear

Acht do bhunú an Údaráis um Chaighdeáin Náisiúnta na hÉireann mar chomhlacht reachtúil neamhspleách, d'aistriú feidhmeanna a bhaineann le sonraíochtaí caighdeánacha agus marcanna caighdeánacha d'earraí, do phróisis agus do chleachtais ó Fhorfás chuig an Údarás agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ritheadh ag dhá Theach an Oireachtais,
25 *Iúil*, 1996

NATIONAL STANDARDS AUTHORITY OF IRELAND BILL, 1996

BILL

entitled

An Act to establish the National Standards Authority of Ireland as an independent statutory body, to transfer functions relating to standard specifications and standard marks for commodities, processes and practices from Forfás to the Authority and to provide for related matters.

Passed by both Houses of the Oireachtas,
25*th July*, 1996

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
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