

South Africa

Standards Act, 2008

Regulations for control over the use or application of Codes of Practice, 1995

Government Notice 1236 of 1995

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Regulations for control over the use or application of Codes of Practice, 1995

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Standards Act, 2008

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Government Notice 1236 of 1995

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Under the powers vested in him by section 37 (1), read with section 16 (6), of the Standards Act, 1993 ([Act No. 29 of 1993](#)), the Minister of Trade and Industry has withdrawn the regulations published by Government Notice 962 of 20 May 1988 and substituted therefor the regulations contained in the Schedule hereto.

The purport of the regulations is to enable the SABS to run its own registration schemes without infringing the rights granted any other persons or institutions in terms of section 21 (2) of the Standards Act, 1993.

1. Definitions

In these regulations unless the context indicates otherwise—

“**the Act**” shall mean the Standards Act, 1993 ([Act No. 29 of 1993](#));

“**accreditation**” shall mean a procedure by which the SABS gives formal recognition that a body is competent to carry out specific activities;

“**assessment**” shall mean evaluation of the level of effectiveness obtaining in regard to the execution of an act;

“**audit**” shall mean inspection to verify adherence to an approved level of effectiveness;

“**certification**” shall mean a procedure by which the SABS certifies that a process or service conforms to specified requirements;

“**commodity**” shall include a range or group of commodities;

“**register**” shall mean a list of suppliers provided for in regulation 4, and when used as a verb shall be deemed to be the act of registration;

“**registered supplier**” shall mean a supplier who has been registered by the SABS in terms of regulation 4;

“**registration**” shall mean the procedure by which the SABS indicates relevant characteristics of a process or service, or particulars of a body or person in an appropriate publicly available list;

“**registration certificate**” shall mean a certificate issued in terms of regulation 6;

“**registration mark**” shall mean a mark that has been established in terms of regulation 5.2, that may be used in manner authorized by regulation 5;

“**registration scheme**” shall mean an accreditation or certification scheme established under regulation 3 and includes such a scheme as amended under regulation 3.1;

“**specified**” means specified in terms of these regulations;

“**supplier**” shall mean a person or body who executes an act in accordance with a code of practice with a view to achieving a stated purpose or obtaining a stated result, and shall include a manufacturer,

and any expression to which a meaning is assigned in the Act shall have the same meaning in these regulations.

2. Claim of registration as supplier by the SABS

- 2.1 Except as provided for in regulation 4 no person shall in connection with the manufacture of a commodity or the execution of any act claim or imply that he has been registered as a supplier by the SABS

3. Registration scheme

- 3.1 The SABS may establish a scheme for the purpose of ensuring consistent compliance with the provisions of a particular code of practice or any part thereof as a registration scheme, and may amend or withdraw such scheme.
- 3.2 A registration scheme may be classified either as an accreditation scheme or as a certification scheme for the purpose of these regulations.
- 3.3 The SABS shall make known the establishment of a registration scheme or any amendment or withdrawal thereof by publication in the *Government Gazette* of a notice specifying the code of practice, and where relevant, setting out the scope and purport of the scheme or its amendment.

4. Registration of suppliers

- 4.1 The SABS may at the request of a supplier cause any act executed by him or any method or procedure followed by him in connection therewith to be assessed for compliance with the provisions of a code of practice specified in a registration scheme and may from time to time make such further assessments or audits as it may deem necessary.
- 4.2 A supplier who has been assessed and found to comply with the provisions of the relevant code of practice in accordance with regulation 4.1 shall be entitled to have his name, together with such description of his activities as the SABS may deem desirable registered whereupon he shall be deemed to be a registered supplier.
- 4.3 Subject to the provisions in regulation 6.2 a supplier who conducts his business from more than one factory or premises, and who requires registration in respect of each of such premises shall be required to apply for registration in respect of each individual factory or premises in accordance with regulation 4.1.
- 4.4 The SABS may for the purpose of any registration scheme compile a list of registered suppliers and may issue such list in any manner and containing such information that it may deem expedient, and may remove the name of any registered supplier, whose registration has been withdrawn or suspended in terms of regulation 4.6, from any such list.
- 4.5 A registered supplier may publish the particulars relating to his registration provided that the publication of information additional to that contained in the list contemplated in regulation 4.4 shall be subject to the approval of the SABS.
- 4.6 The SABS may at any time suspend or withdraw any registration effected in terms of regulation 4.2 due to non-compliance by a registered supplier with the conditions of a registration scheme, and may in its discretion at any time re-instate any registration so suspended or withdrawn, upon such conditions as it may deem expedient. Provided that if the registration in respect of one of the premises or factories of a registered supplier in regulation 6.2 has been suspended or withdrawn, such suspension or withdrawal is applicable to all the premises and/or factories indicated on the certificate of registration.

5. Conditions of registration

- 5.1 The SABS may impose such conditions as it may deem necessary for the effective administration of any registration scheme, or to ensure compliance with the provisions of the code of practice specified in such scheme, and may from time to time amend any conditions so imposed.
- 5.2 The SABS may establish a registration mark by notice in the *Government Gazette* for use in conjunction with any registration scheme and may allocate different registration marks in respect of different schemes, and may from time to time amend or withdraw the allocation of any such registration marks.
- 5.3 A registered supplier may apply or display an applicable registration mark in accordance with the conditions imposed by the SABS under regulation 6.1.

6. Certificate of registration

- 6.1 The SABS may issue a certificate as evidence of registration to a registered supplier subject to such special conditions relating to the display or use of such certificate or of a registration mark, as it may deem expedient.
- 6.2 The SABS may on request of a registered supplier referred to in regulation 4.3 and subject to such special conditions as referred to in regulation 6.1 and subject to the provisions of regulations 4.6 issue one certificate of registration as evidence of registration in respect of each factory or premises.
- 6.3 A registration certificate shall at all times remain the property of the SABS, and the SABS may at any time upon suspension or termination of registration in writing cancel such certificate, in which event it shall immediately be surrendered to the SABS.
- 6.4 During the currency of registration, the registered supplier shall consistently comply with the requirements of the SABS with regard to the registration scheme and the provisions of the code of practice specified therein.

7. Termination of registration

- 7.1 The registration of the supplier under regulation shall remain effective until terminated in accordance with regulation 7.2.
- 7.2 Without derogating from the authority of the SABS to withdraw or suspend registration at any time it shall also terminate—
 - (a) upon not less than 30 days notice of termination by the registered supplier: Provided that no such notice may be given earlier than 12 months after the effective date stated in the registration certificate; or
 - (b) upon a change of ownership in the business of the registered supplier, subject thereto that the SABS may in its discretion approve otherwise; or
 - (c) upon removal of the registered supplier's business from the factory or premises to which his registration is applicable, and the SABS is not being prepared to renew his registration in respect of an alternative factory or premises.

8. Appeal

- 8.1 Any supplier who feels himself aggrieved by a decision of the SABS to refuse to register him in terms of regulation 4.2 or to withdraw or suspend any registration in terms of regulation 4.6, may appeal to the Minister, and the provisions of section 26 of the Act shall apply *mutatis mutandis* to any such appeal.

9. Fees

- 9.1 The fees payable by any applicant for registration or by a registered supplier in respect of an assessment or audit referred to in regulation 4.1 shall be as for services rendered by the SABS in terms of section 4(1)(k) of the Act.
- 9.2 Fees periodically due by a registered supplier during the period of validity of registration shall be payable in advance on the first day of each 6-monthly period commencing on 1 April and 1 October of each year; provided that fees may be calculated on a *pro rata* basis for the first period reckoned from the effective date of registration to the end of such period.
- 9.3 In the event of termination of registration in accordance with regulation 7, fees paid in advance by the registered supplier shall be refunded *pro rata* for any unexpired period to which such payment relates.
- 9.4 A registered supplier shall not be absolved from payment of any amount owing to the SABS that may be due and unpaid, and a certificate issued by the accounting officer of the SABS shall be *prima facie* proof of any amount so due and unpaid for the purpose of court proceedings.

10. Offences and penalties

- 10.1 Any person who—
- (a) contravenes the provisions of regulation 2.1;
 - (b) publishes false or misleading information in regard to registration under regulation 4, including additional information not approved by the SABS under regulation 4.5;
 - (c) fails to comply with any condition imposed under regulation 5.1 or 6.1;
 - (d) fails to surrender a registration certificate in accordance with regulation 6.2; or
 - (e) fails to make payment of any amount due in terms of regulation 9,
- shall be guilty of an offence and liable on conviction—
- (i) in the case of an offence referred to in subregulation (a) to (c) to a fine not exceeding R4 000 or imprisonment for a period not exceeding 1 year, or both that fine and imprisonment;
 - (ii) in the case of an offence referred to in subregulation (d) to (e) to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months, or both that fine and imprisonment; and
 - (iii) in the case of a second or subsequent conviction the amount of the fine and the period of such imprisonment shall be double that referred to in (i) and (ii).
- 10.2 A court convicting any person of an offence referred to in 10.1 (e) may, in addition to any penalty it may impose, order that any amount due be paid by the accused, which order may be executed as if it were a civil judgment given under the Magistrate's Court Act, 1944 ([Act 32 of 1944](#)).