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**STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION (2012-13)**

FIFTEENTH LOK SABHA

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(DEPARTMENT OF CONSUMER AFFAIRS)**

**THE BUREAU OF INDIAN STANDARDS
(AMENDMENT) BILL, 2012**

THIRTIETH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2013/ Bhadra, 1935 (Saka)

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(AMENDMENT) BILL, 2012

Presented to Lok Sabha on 30th August, 2013

Laid in Rajya Sabha on 30th August, 2013



LOK SABHA SECRETARIAT
NEW DELHI
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**COMPOSITION OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION – 2012-13**

Shri Vilas Muttemwar - *Chairman*

MEMBERS

Lok Sabha

2. Smt. Harsimrat Kaur Badal
3. Shri Shivraj Bhaiya
4. Shri Kantilal Bhuria
5. Shri Arvind Kumar Chaudhary
6. Shri Harishchandra Chavan
7. Shri Sanjay Dhotre
8. Shri Eknath M. Gaikwad
9. Shri Abdul Mannan Hossain
10. Shri Prataprao Ganpatrao Jadhav
11. Shri Sohan Potai
12. Shri Ponnam Prabhakar
13. Shri C. Rajendran
14. Shri Purnmasi Ram
15. Shri Chandulal Sahu (Chandu Bhaiya)
16. Shri Adhi Sankar
17. Shri Suresh K. Shetkar^{@@}
18. Shri Jagdish Thakor
19. Shri Laxman Tudu
20. Vacant^{**}
21. Vacant^{***}

Rajya Sabha

22. Dr. Bhushan Lal Jangde
23. Shri Lalhming Liana
24. Smt Rajani Patil[@]
25. Dr. Bharatkumar Raut
26. Ms. Rekha
27. Dr. N. Janardhana Reddy
28. Dr. T.N. Seema
29. Shri Birender Singh
30. Shri Veer Singh
31. Shri Kaptan Singh Solanki

Shri Lalchand Kataria, MP ceased to be a member of the Committee consequent his appointment as Minister of State w.e.f 28.10.2012.

^{**}Vice Shri A. Sai Prathap has been nominated to the Committee on Chemicals and Fertilizers w.e.f.09.01.2013.
[@]Smt Rajani Patil has been nominated to the Committee on FCA&PD w.e.f. 18.03.2013.

^{@@} Shri Suresh K. Shetkar has been nominated to the Committee on FCA&PD w.e.f. 01.05.2013.

^{***} Vice Shri N. Chaluvaram Swamy, MP resigned from Lok Sabha w.e.f. 21.05.2013.

(ii)

SECRETARIAT

1. Shri P.K. Misra - Additional Secretary
2. Smt. Veena Sharma - Director
3. Ms. Bhavna Tanwar - Executive Assistant

INTRODUCTION

I, the Chairman of the Standing Committee on Food, Consumer Affairs and Public Distribution (2012-13) having been authorized by the Committee to present the Report on their behalf, present this Thirtieth Report on “The Bureau of Indian Standards (Amendment) Bill, 2012” pertaining to the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs).

2. The Bureau of Indian Standards (Amendment) Bill, 2012 was introduced in Lok Sabha on 3rd May, 2012. Hon'ble Speaker referred the Bill to the Standing Committee on Food, Consumer Affairs and Public Distribution under Rule 331E(i)(b) of the Rules of Procedure and Conduct of Business in Lok Sabha on 28th May, 2012 for examination and report. The Committee invited the views/suggestions of the Individuals/Institutions/Stakeholders etc. on the various provisions of the Bill through the Print and Electronic Media including the LSTV. In response thereto, the Committee received number of Letters/Memoranda containing views/suggestions from various Institutions/ Individuals/Stakeholders etc. which were considered by the Committee while examining the Bill. The Committee also elicited opinion of various Experts and Associations/Agencies who have direct bearing on the Bill and heard the views of some of them namely, Voluntary Organization in Interest of Consumer Education (VOICE), Confederation of Indian Industry (CII), Federation of Industries of India (FII), All India Gems & Jewellery Trade Federation, Akhil Bhartiya Grahak Panchayat, Mumbai Grahak Panchayat, Consumers Association of India and Confederation of Indian Steel Producers Association who tendered their views/suggestions on the various proposed amendments to the Bill before the Committee at various sittings held on 4th, 6th and 11th March and 16th April, 2013.

3. The Committee also invited comments/suggestions from all the State Governments/UT Administrations and consequently, received responses from many State Governments/UT Administrations.

4. The Committee were briefed by the representatives of the nodal Ministry viz. Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) on the various provisions of the Bill at their sitting held on 27th February, 2013. The Committee took oral evidence of the representatives of the Department of Consumer Affairs at their sittings held on 16th April, and 9th July, 2013.

(v)

5. The Committee considered and adopted the draft Report on the Bill at their sitting held on 27th August, 2013.
6. The Committee wish to express their thanks to the Officials of the State Governments/UT Administrations and Experts/Associations as well as Individuals/Institutions/Stakeholders/Organisations etc. who placed before the Committee their valuable suggestions which were of great help while arriving at the conclusion during examination of the Bill.
7. The Committee also wish to express their thanks to the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) as well as the Bureau of Indian Standards for tendering oral evidence before the Committee and for furnishing the detailed information/material as and when desired, in connection with the examination of the Bill.
8. During the examination of the Bill, the Committee were immensely benefited by the suggestions made by the Members of the Committee for which I express my sincere thanks to them.
9. The Committee would also like to place on record their deep sense of appreciation of the invaluable assistance rendered by the officials/staff of Lok Sabha Secretariat attached to the Committee.
10. For facility of reference and convenience, the observations/ recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi
27th August, 2013
5 Bhadra, 1935 (Saka)

VILAS MUTTEMWAR,
Chairman,
Standing Committee on Food,
Consumer Affairs and Public Distribution

CHAPTER – I

INTRODUCTORY

A. ORIGIN AND DEVELOPMENT OF BUREAU OF INDIAN STANDARDS

During the pre-independence period, standardization activity was sporadic and confined mainly to a few government purchasing organizations. Later on, for economic development through coordinated utilization of resources, the government recognized the role of standardization in gearing industry for competitive efficiency and quality production. The Indian Standards Institution (ISI) was, therefore, set up in 1947 as a registered society, under a Government of India resolution with the objective of promoting standardization, quality control and simplification in industry and commerce.

1.2 The Indian Standards Institution gave the nation the standards it needed for orderly industrial and commercial growth, quality production and competitive efficiency. Product certification scheme was launched in 1955 through ISI Certification Mark Act, 1952.

1.3 In 1986 the government recognized the need for strengthening this National Standards Body due to fast changing socio-economic scenario and accorded it a statutory status. Thus came the Bureau of Indian Standards Act, 1986 (Appendix I) and on 1 April 1987, newly formed BIS took over staff assets, liabilities and functions of erstwhile ISI. Through this change over, the Government envisaged building of the climate of quality culture and consciousness and greater participation of consumers in formulation and implementation of National Standards.

B. IMPORTANCE OF STANDARDS

1.4 Over the years, Standards have started playing a pivotal role in the nation's competitiveness. Ever since fiscal barriers for international trade have started getting successively lowered and border taxes increasingly harmonized, technical barriers to

trade have assumed greater importance. For example, the World Trade Organisation agreement on Technical Barriers to Trade encourages all member countries to adopt International Standards and also move towards mutual recognition of their certification systems. WTO guidelines also provide that enforcement of standards should have uniform application both for domestic industry and for imported items. In other words, standards cannot be enforced selectively only for imported items for protecting domestic industry. Establishment and enforcement of Standards, therefore, has become more and more important for the competitiveness of industry and consequently, that of a nation. In view of the increasing significance of Standards and conformity assessment systems in world trade, it is also essential that the Bureau of Indian Standards re-orient itself to adequately address the future challenges as the National Standards Body of India.

1.5 Apart from international trade, Standards are also fundamental to consumer protection. They are the signaling mechanism to indicate what a consumer can expect from a product or service. They empower the consumer to seek redressal of his grievances on this account. For both these reasons, viz. international trade and industry competitiveness as well as consumer protection, Standards have become a very important ingredient in supportive infrastructure of a country. Over a time the ISI Mark has achieved certain respectability in terms of adherence to established quality.

C. BUREAU OF INDIAN STANDARDS

1.6 The Bureau of Indian Standards Act contained the legal framework and provisions for the establishment of the Bureau for the harmonious development of the activities of

standardization, marking and quality certification of goods and processes. According to the Department of Consumer Affairs, in order to attain this, the Bureau would strive:

- a) To provide harmonious development of standards.
- b) To satisfy the customer's need for quality and safety of goods and services through operation of Certification Schemes of BIS.
- c) To generate awareness on standards, standard mark, and safety & quality of products through Seminars, Awareness Programmes and Publicity Campaigns.
- d) To provide effective and timely service

1.7 The Bureau is a body corporate consisting of 25 members representing both Central and State governments, Members of Parliament, industry, scientific and research institutions, consumer organizations and professional bodies with Minister in charge of Ministry of Consumer Affairs, Food and Public Distribution as its President and with Minister of State or a Deputy Minister of Ministry of Consumer Affairs, Food and Public Distribution as its Vice-President.

1.8 Bureau of Indian Standards is a statutory organization functioning under the administrative control of Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India. It has six advisory committees to provide guidance and one Executive Committee (EC) with DG as Chairman, to which Bureau has delegated powers for smooth functioning of BIS.

1.9 The Bureau has its Headquarters in New Delhi. It has a network of 05 regional offices, 34 branch offices, 04 inspection offices and 08 laboratories which act as effective link between BIS, government, industry and consumers. The key activities of BIS are as follows:

- 1. Standardization
- 2. Certification
 - a) Product

- b) Management Systems
- c) Hallmarking
- 3. Laboratory
- 4. Sales of Indian Standards and other publications
- 5. International Activities
- 6. Consumer Related Activities
- 7. Promotional Activities and Publicity
- 8. Training Services
- 9. Information services
- 10. Finance & Accounts

D. PERFORMANCE & ACHIEVEMENTS

1.10 BIS, as a statutory body has completed 25 years of functioning. It has made impact not only at national level but also at international level. There are at present 18901 Indian Standards in force covering products, code of practice, test methods, guidelines etc. BIS is formulating standards to safeguard health & safety issues and to keep pace with technological advancements in order to protect Indian consumers and help industry to upgrade quality. In this era of WTO/TBT, the national standards also play a vital role, because the technical regulations for mandatory compliance are based on these national standards.

1.11 BIS has been an active member of International Organizations namely: International Organization for Standardization (ISO) and International Electro-technical Commission (IEC). BIS holds secretariat of some of the important ISO Committees which are of trade interest to India. As member of ISO, BIS takes active part in the development of International Standards with a view to protect the interests of Indian trade & industry. BIS is currently a participating member in 302 technical committees/ subcommittees of ISO and 68 technical committees/ subcommittees of IEC

The quantitative achievements of BIS are given below:

Sl. No.	Activity	Achievement
1.	Standards Formulations	
a	Indian Standards (IS) in force	18901
b	Standards harmonized with international standards	84% (where corresponding Indian Standard exists)
2	Certification (No. of operative licences)	
a	Product Certification (including 253 licences of foreign manufacturers)	25932
b	System Certification	1198
c	Hallmarking	10910

E. SALIENT FEATURES OF BUREAU OF INDIAN STANDARDS ACT

1.12 Bureau of Indian Standards Act, 1986 (63 of 1986) received the assent of President of India on 23rd December 1986 and came into force on 01 Apr 1987. The Act has the mandate for establishment of a Bureau for the harmonious development of the activities of standardization, marking and quality certification of goods and for matter connected therewith or incidental thereto.

- The Act empowers Bureau to grant, renew, suspend or cancel a licence for use of Standard Mark as determined by the regulations. The Standard Mark of the Bureau is popularly known 'ISI' Mark.
- The functions of the Bureau inter-alia include to establish, publish and promote Indian Standards in relation to any article or process; establish, maintain and recognize laboratories for the purpose of standardization and quality control, to undertake research for the formulation of Indian Standards in the interests of

consumers and manufacturers, appointment of agents in India or outside for the inspection and testing.

F. SHORTCOMINGS IN THE BIS ACT, 1986

1.13 Explaining the shortcomings in the BIS Act, 1986, the Ministry of Consumer Affairs, Food and Public Distribution stated in a written note as under:-

- The Preamble of the Act does not have clear mandate for BIS being termed as a national standards body (NSB), despite the fact it functions as NSB.
- Section 14 also restricts Central Government to notify only those article or process as given in Schedule of Industries (Development & Regulations) Act, 1951, under compulsory regime.
- There are no specific provisions for 'Hallmarking' of precious metal article/jewellery.
- There is a felt need to have an alternate system to product certification which may be simpler and based on self declaration of conformity.
- There is no flexibility in the Act as it exists, to provide for such scheme and to provide registration instead of licencing.
- Bureau has powers to appoint agents for inspection and testing, but not for collection of samples. The existing provisions of Act do not explicitly provide power to carry out survey of any article or process relating to Indian Standards, which is quiet essential for ensuring quality.

G. NEED FOR AMENDMENT OF THE ACT:-

1.14 Since its enactment in 1986, the Bureau of Indian Standards Act, 1986 has not been amended. Historically, the primary focus of establishment of standards has been on industrial products. Gradually, and particularly with the introduction of ISO-9000 regime, standards for “processes” have also become important. The “processes” are both for the manufacturing as well as for the services sector, covering Indian Standards IS/ISO 9001, IS/ISO14001, IS/ISO 22000, IS/ISO 27001, IS: 15700 etc.

1.15 Section 14 of the Bureau of Indian Standards Act gives the power to the Central Government to notify any article or process of any scheduled industry which shall conform to the Indian Standard and direct the use of the Standard Mark under licence as compulsory on such article or process. Thus, unless a product or process finds an entry in the first schedule of the Industries (Development and Regulation), Act, 1951, the Government does not have any power under the Bureau of Indian Standards Act to make licensing compulsory for such an article or process. In the interest of public health, safety and environmental considerations it has become necessary to bring under mandatory certification, certain articles (like helmets, toys, etc) not included in the first schedule of the Industries (Development and Regulation) Act, 1951. It is therefore proposed to de-link the Bureau of Indian Standards Act, 1986 and the Industries (Development and Regulation) Act, 1951 so as to empower the Government to bring under compulsory certification regime any article and/or ‘process’ which it considers necessary, in public interest.

1.16 Further, with regard to establishment of standards, the focus has always been on the “producer” of product or service and not on its “dispenser” or the seller. However, there have been requirements where the dispenser, or retailer also needed to be brought

under the standardisation regime. This is particularly so in respect of jewelers selling gold and silver jewellery where, for protecting consumers from unscrupulous jewelers, need has been felt for enforcement of “Hallmark” on jewellery articles sold in the country. The need for enforcement of “Hallmark” has also been emphasized by the Department Related Parliamentary Standing Committee in its various reports. Enforcement of mandatory hallmarking has not been possible due to absence of an enabling provision in the Bureau of Indian Standards Act, 1986. It is therefore proposed to amend the said Act to incorporate an enabling provision for mandatory hallmarking of precious metal articles. This will also facilitate India’s accession to the Convention on Control and Marking of Precious Metals (popularly known as Vienna Convention 1972) that will give a boost to export of jewellery articles to member countries of the Convention, apart from creation of internationally recognized hallmarking centres and availability of quality products for consumers within the country.

H. THE PROPOSED AMENDMENTS:

1.17 According to the Statement of objects and reasons of the Bill, the Bill seeks to amend the BIS Act, 1986, inter-alia

(a) to amend the long title of the said Act to name the Bureau of Indian Standards to be a national standards body and to include the articles, processes and services in addition to goods for the purpose of marking and quality certification;

(b) to amend section 11 of BIS Act, 1986 so as to allow any person who is a registered user of a self declaration of conformity to display or make self declaration on an article or process that his article conforms to the Indian Standards or make a public claim through advertisements, sales, promotion leaflets, price lists or like that his article conforms to the Indian Standards;

(c) to amend section 14 of BIS Act, 1986 so as to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to notify that any article or process of any industry (other than an article or process meant

for export) shall conform to the Indian Standard and direct that the use of the Standard Mark under a licence shall be compulsory;

(d) to insert a new section 14A in BIS Act, 1986 so as to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to make it compulsory for the jewellers selling the precious metal articles in such geographical area and having such minimum turnover as may be specified by regulation to use Hallmark under a licence and that such article conforms to the Indian Standards;

(e) to insert a new section 14B in BIS Act, 1986 so as to,—

(i) empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to notify that any article or process shall conform to the Indian Standard and to direct registration or grant self declaration of conformity with the Bureau as compulsory;

(ii) provide an option to any person in respect of any article or process notified by the Central Government for making registration or grant of self declaration of conformity with, or taking licence, from the Bureau;

(iii) provide that when an article or process notified for registration or in respect of which self declaration of conformity has been granted is subsequently notified, which shall conform to the Indian Standard, then, in addition to such registration or self declaration of conformity, it shall be compulsory to obtain a licence for such article or process in place of such registration or self declaration of conformity;

(f) to insert a new section 14C in BIS Act, 1986 so as to empower the Central Government to authorise any authority to be enforcement authority for enforcement of orders issued under section 14 or section 14A or section 14B of that Act;

(g) to amend section 15 of BIS Act, 1986 so as to empower the Bureau to grant, renew, suspend or cancel registration or grant self declaration of conformity;

(h) to amend section 33 of the BIS Act, 1986 so as to,—

(i) provide for enhancement of quantum of fine from rupees fifty thousand to rupees two lakhs for contravention of section 11 or section 12 or section 14 or section 14A or section 14B or section 15 of the BIS Act, 1986;

(ii) provide for compounding of the offences punishable with fine except when a person has committed offence of similar nature for the second time or thereafter on which a similar offence committed by him has been compounded.

1.18 The Department has stated that the main objectives of the proposed amendments are as under:

- (i) to remove the restrictions imposed by reference to 'Scheduled Industry' in section 14 of the Bureau of Indian Standards Act by including articles and process of any industry so as to empower the Government to bring under compulsory certification regime any article or process which it considers necessary from point of view of health, safety, environment, prevention of deceptive practices and security ;
- (ii) to allow introduction of registration to the relevant Indian Standard as an alternative mechanism to the compulsory certification regime, in order to facilitate the growth of emerging technologies, particularly in the areas of information technology, bio technology, nano technology, etc. This will protect industries and consumers from spurious and sub-standards imports;
- (iii) to facilitate introduction of Hallmarking of precious metal articles under compulsory certification regime in different parts of the country in order to protect the interest of consumers from exploitation by unscrupulous jewelers by ensuring necessary mechanism in place;
- (iv) to strengthen the penal provisions for better and effective compliance with the provisions of the Bureau of Indian Standards Act, 1986.
- (v) compounding of offences under sections 11, 12, 14, 14A, 14B or 15 of the Act .

1.19 The Committee enquired upto what extent, the proposed amendments be beneficial to the Bureau, State Governments/UT Administrations or the Central Government, other stakeholders and Consumers, the Ministry stated that this amendment Bill will be mainly beneficial to the consumers. For example, in case of compulsory hallmarking of precious metal articles, purchasers (consumers) of such articles will be greatly benefitted as they will not be cheated and will be getting the gold jewellery of the purity declared by the jewellers. Similarly, some countries may be dumping sub-standard products, which are relatively cheaper (for example, Electronic and IT products, mobile telephones, batteries for the mobile telephones, digital blood pressure measuring equipment, decorative lights, toys etc) to India. Such products may

adversely affect the health and safety of consumers. With a view to protect consumers from receipt of sub standard products and taking into consideration the demands from different industries (and particularly the IT industry) that instead of taking licence from BIS by the process mentioned above, they may be permitted to declare themselves that their product 'conforms to the relevant Indian Standard', another process for checking conformity of the product through self declaration has been introduced in the proposed amendment. This will protect consumers from spurious and sub-standard domestic or imported products.

1.20 Therefore, the only way left out to stop import of sub standard products in the present era of non-tariff measures is to enforce technical regulations, that is, only those products would be allowed to be imported to our country, which as a minimum, meet laid down national standards. To check whether the products conform to the relevant Indian Standards, BIS has been operating third party product certifications activity as per which licence is granted to manufacturer if he is found competent to product products to conform to Indian Standards. There have been demands from different industries (and particularly the IT industry) that instead of taking licence from BIS by the process mentioned above, they may be permitted to declare themselves that their product 'conforms to the relevant Indian Standard'. Therefore, with a view to include another process for checking conformity of the product through self declaration, amendment has been proposed. This is likely to help the domestic industry to facilitate their growth in emerging technologies, particularly in the areas of information technology, bio technology, nano technology, etc. This will protect industries and consumers from spurious and sub-standards imports.

1.21 There are more than 850 enforcement cases pending in various courts against various persons for misuse of BIS standard mark. This is taking considerable time of BIS officers attending courts. A proposal has been made in the amendment to BIS Act to strengthen the penal provisions for better and effective compliance with the provisions of the Bureau of Indian Standards Act, 1986 and also to provide for compounding of the offence punishable with fine. This will be beneficial to BIS as well as to the industry. Further, for ensuring that the licensee continually produces the products as per relevant Indian Standards, his market samples are procured by BIS technical officers for testing in BIS laboratories. This collection of market samples takes considerable time of BIS

officers. Therefore, it has been proposed in the amendment to this Act that Bureau shall also be given powers to appoint agents for collection of market samples. If this proposed amendment is accepted, it would save considerable time of BIS officers and thus, will be beneficial to the Bureau.

1.22 When the Committee enquired how the Amendment Bill will affect the working of the Bureau and its stakeholders, the Ministry informed that with the introduction of new sections 14 A (enabling compulsory hallmarking) and 14B (compulsory registration), the workload for the Bureau would increase significantly. The Department of Electronics and IT (Deity), Central Government has already notified 15 electronic and IT products under compulsory registration, as per which the manufacturers (domestic and foreign) of these products have to get registration from Bureau before they can sell their products in India. During discussions in various meetings with Deity/manufacturers, it is observed that there may be about 5000 registrations for these 15 electronic and IT products. Similarly, there may be other Central Government Departments, which may consider bringing the products under their control under compulsory registration scheme of BIS. With compulsory gold hallmarking, all the jewellers in the specified locations and having specified minimum turnover would approach BIS for licence. Additionally, the testing centres (Assaying and Hallmarking Centres) for testing purity of gold jewellery and articles would also increase and they would require recognition of BIS before they can test the purity of the gold jewellery sent by the jewellers. Therefore, BIS would require additional human resources as well as other physical resources depending upon the quantum of work likely to come when amendment bill to BIS Act is passed.

1.23 In reply to a query as to what will be the infrastructure required after the Amendment Bill comes into effect, the Department stated as under:-

'It is expected that one technical office and one staff would be able to handle registrations for about 150 manufacturers. Further, the grant of registration is proposed to be decentralized through 34 Branch Offices of BIS and one department at Headquarters for foreign manufacturers. Adequate physical infrastructure and IT equipment would be required.

In implementing amendment Bill making it compulsory for Hallmarking by the Jewellers as per proposed Section 14 (a), - resources, particularly

(i) Manpower would be required for activities, such as grant of licence, monitoring of the licensed jewellers, carrying out market survey, collection of samples of Hallmarked Items, their testing and enforcement of the provisions of the Act for compulsory Certification for Hallmarking.

(ii) Further, infrastructure in terms of creation of more numbers of Assaying and Hallmarking Centres will be required in order to meet the increased demand for Hallmarking as the number of licensed jewellers will increase substantially.

1.24 The Committee also enquired about the role of the State Governments in the implementation of standards of the Bureau of Indian Standards and how the proposed amendment will affect the State Governments, the Ministry informed that the BIS Product Certification Scheme is voluntary in nature. However, as per Section 14 of BIS Act, the Central Government in the public interest can notify any product of the scheduled industry which shall conform to the Indian Standard and shall compulsory have BIS Standard Mark after obtaining a licence from BIS. Additionally, there are other statutory and/or regulatory provisions of various Government Departments (like FSSAI regulations, GAS cylinder rules, Atomic energy regulation board etc) as per which BIS Standard Mark on some products is mandatory. As on date, 90 such products (like packaged drinking water, cement, electrical appliances, pneumatic tyres and tubes, LPG cylinders, milk powder, etc.) have been notified by various Central Government Ministries/Departments. These notifications are normally issued in a document called 'Quality Control Order' as per, which, a manufacturer of such products has to use BIS Standard mark on the products after obtaining license from BIS. As such, no manufacturer can manufacture these products without BIS standard mark on them. Similarly, these products cannot be imported, sold, distributed unless they have BIS standard mark. The enforcement authority for implementation of such quality control orders normally rests with the State Governments/UT Administrations. Additionally, if some manufacturer is using BIS standard mark without obtaining license from Bureau

(misusing BIS Standard mark), and thus violating provisions of BIS Act; in that case also Bureau takes the help of State Governments/UT Administrations to take action against such manufacturers.

1.25 The Committee was further informed that in the proposed amendments to BIS Act, a new Section 14 B has been introduced, as per which the Central Government in the public interest can notify any product which shall conform to the Indian Standard and shall compulsorily use the words 'self declaration-conforming to IS...' on such products, after obtaining registration from BIS. If this amendment is accepted and thereafter some Central Government ministries/departments notify the products under this section, then the enforcement authority of such orders would normally be with the State Governments/UT Administrations. Similarly, if hallmarking on precious metal (for example, gold) articles is made compulsory under proposed Section 14 A of BIS Act, then the enforcement authority will have to ensure that the jewellers located in the specified geographical areas and having specified minimum turnover (as determined by the regulations – to be prepared subsequently) shall compulsorily sell only hallmarked precious metal articles (for example, gold jewellery) after obtaining licence from Bureau. The enforcement authority would be defined in the notification (Quality Control Order), which normally will be with the State Governments/UT Administrations. Thus, the workload of State Governments/UT Administrations will increase.

PROCESS OF CONSULTATION HELD BY THE MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION WHILE DRAFTING THE BILL

1.26 The Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) invited comments from various Ministries/Departments on the draft note for Cabinet for Amendment to Bureau of Indian Standards Act, 1986. The Ministry received comments from the following Ministries/Departments:-

(i) Agriculture and Cooperation (ii) Commerce (iii) Industrial Policy and Promotion (iv) Health and Family Welfare (v) Information Technology (vi) Finance (vii) Posts (viii) Information and Broadcasting. The suggestions/views of the Ministries were considered and the relevant clauses were modified suitably and appropriate changes made in the draft bill before submitting it to the Cabinet for its approval.

The Ministry of Consumer Affairs, Food and Public Distribution received the approval of the Cabinet and then presented the Bill in the Parliament on 3rd May, 2012.

I. PROCESS OF CONSULTATION HELD BY THE COMMITTEE WHILE EXAMINING THE SAID LEGISLATION

1.27 The Bureau of India Standards (Amendment) Bill, 2012 (Appendix II) was introduced in Lok Sabha on 3rd May, 2012 which was referred to the Standing Committee on Food, Consumer Affairs and Public Distribution by Hon'ble Speaker for examination and report on 28th May, 2012 as per Rule 331 (E) (1) (b) of the 'Rules of Procedure and Conduct of Business in Lok Sabha'. The Committee accordingly, obtained written information on various issues provided in the Bill from the Nodal Ministry i.e. Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs). The Committee were briefed by the representatives of the Department of Consumer Affairs on the various aspects of the Bill at a subsequent sitting of the Committee. The Committee also took oral evidence of the representatives of the Nodal Ministry and BIS.

1.28 The Committee decided to invite the views of experts, organizations, individuals and other stakeholders through print and electronic media including the Lok Sabha TV. In order to obtain views/suggestions from various Institutions/ Individuals/ Stakeholders/ Experts etc. a Press Advertisement was issued and in response thereto the Committee received a number of letters/Memoranda containing their views. Accordingly, as decided by the Committee, selected experts/representatives of associations/ trade federations who have direct bearing on the Bill deposited before the Committee to share their views/suggestions on the various proposed amendments to the Bill, namely:

- (a) VOICE
- (b) Federation of Industries of India (FII)
- (c) Confederation of Indian Steel Producers Association (CISPA)
- (d) Confederation of Indian Industry (CII)
- (e) Consumers Association of India (CAI)
- (f) All India Gems & Jewellery Trade Federation (GJF)
- (g) Mumbai Grahak Panchayat
- (h) Akhil Bharatiya Grahak Panchayat

The aforesaid experts and stakeholders raised few reservations on some of the provisions of the Bill and suggested some modifications/amendments.

1.29 Since the Quality Control Orders to include a particular product in the mandatory list of products is to be issued by the Central Ministries and their enforcement authorities would normally be the State Governments/UT Administrations, the Committee also invited comments/suggestions of the various concerned Central Government Ministries, State Governments/UT Administrations. Consequently, the Committee received responses from various Central Government Ministries viz. Ministry of Commerce and Industry, Agriculture, Chemicals and Fertilizers, Road Transport & Highways, Science and Technology, Drinking water & Sanitation, Finance, Micro Small and Medium Enterprises, Textiles, Steel, Heavy Industries & Public Enterprises, Food Processing Industries and State Governments/UT Administrations viz. Assam, Rajasthan, Mizoram, Chhattisgarh, Andaman & Nicobar Islands, Andhra Pradesh, Maharashtra, Punjab and Nagaland.

1.30 The Committee desired to know whether there was a possibility of duplicacy of work in case of formulation of standards by BIS and other mandated authorities such as Food Safety and Standards Authority of India (FSSAI), the Department in a written communication stated that BIS has so far formulated around 1000 Indian Standards in the area of food quality and safety, which include product specifications, methods of test, codes of practice and terminology. Indian Standards are formulated by a process of consultation with consumers, regulatory and other Government bodies, industry, scientists, technologists and testing organizations through duly constituted technical committees. Indian Standards on food products are comprehensive documents covering requirements, sampling plans, methods of tests etc. whereas FSSAI regulations cover mandatory requirements for food products. The standards laid down by BIS and FSSAI regarding food articles have been mostly harmonized. Differences, if any, are resolved in technical committees where experts from both organizations participate. In unresolved cases concerning food articles, finally the standards laid down by FSSAI will prevail.

1.31 The Committee also invited comments on the views expressed by some organizations that other Accredited Certification Bodies such as NABL, Quality Council of

India, Food Safety & Standards Authority of India, etc, may be allowed to carry out the implementation of National Standards. The Ministry in reply stated as under:-

“BIS is a ‘certification body’ which certifies quality standards of products and services. Bodies like Quality Council of India (QCI) and NABL are Accreditation bodies that give accreditation/recognition to quality ‘Laboratories’. As regards Food Safety and Standards Authority of India (FSSAI) it is mandated under the Food Safety and Standards Act, 2006 to ‘fix food standards and regulate – monitor the manufacturing, import, processing, distribution and sell of food so as to ensure safe and wholesome food for the people’. Both BIS and FSSAI will function harmoniously to protect consumer interests.”

The Committee would deal with various provisions of the Bill which need comments in the subsequent chapters.

1.32 The Committee note that the Bureau of Indian Standards Act, 1986 was enacted to provide for the establishment of a Bureau for the harmonious development of the activities of Standardization, marking the quality certification of goods, granting, renewing or cancelling the licence for the use of Standards Mark in order to promote International trade of Indian goods and protect the Indian consumers. Despite the Indian economy going under liberalization, privatization and globalization wherein the markets are opened for foreign goods and the Indian goods facing international competition, the BIS Act, 1986 has never been amended to adopt to the challenges of the global trade. The Committee, therefore, feel that the Bureau of Indian Standards (Amendment) Bill, 2012, which seeks to proclaim the Bureau of Indian Standards as the National Standards Body, de-linking the BIS Act from the Industries (Development and Regulation) Act, 1951 which restricted the Bureau from bringing important products and services under compulsory certification scheme, introduction of the provision for self-declaration of conformity and giving more teeth to the Bureau by strengthening the penal provisions of the BIS Act, is the need of the hour. The Committee observe that the Government had held consultations for finalizing the Amendment Bill with various Central Government Departments/Ministries viz. the Department of Industrial Policy and Promotion, Ministry of Commerce, Ministry of Health and Family Welfare, Ministry of Agriculture & Co-operation and Department of Information and Technology etc. who more or less have no objection to the provisions of the Bill. While examining the Bill, the Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution also invited views/comments of various Central Ministries/ Departments as well as State Governments/UTs and received comments from some of them who have by and large agreed to the various provisions of the Bill. The Committee also held wide consultations with the experts, Organizations and other Stakeholders. In these consultations, few reservations on some of the provisions of the Bill were also expressed which will be discussed subsequently in relevant chapters of the report. Keeping in view the importance of the Bill which aims at ensuring standard quality of products being manufactured and traded, thus benefiting the consumers at large, the Committee recommend the passage of the Bureau of Indian Standards (Amendment) Bill,

2012 subject to their observations/recommendations contained in the subsequent chapters of the Report.

1.33 The Committee note that the BIS has a network of 5 regional offices, 34 branch offices, 4 inspection offices and 8 laboratories which act as an effective link between BIS, Government, Industry and consumers. The Committee also note that with the introduction of new sections 14A and 14 B, the workload for the Bureau would increase significantly. For example, the Department of Electronics and IT has already notified 15 electronic and IT products under compulsory registration and expect about 5000 registrations for these products alone. Similarly, there will be other Central Government Departments which may bring their products under compulsory registration scheme of BIS. Therefore, BIS would require additional human resources and infrastructure depending on the increase in the quantum of work. The Committee are of the view that the Bureau is not equipped with enough manpower resources, infrastructure, laboratories and skilled manpower. The Committee have been informed that bodies like Quality Council of India (QCI) and National Accreditation Board for Testing and Calibration Laboratories (NABL) are accreditation bodies that give accreditation/recognition of quality 'Laboratories'. The Committee recommend that for better implementation of the Act and enforcement of mandatory standards, the Bureau should involve other organizations/institutions such as Quality Council of India and other accreditation boards to carry out surveys, inspection and testing the quality of the goods, etc. This will reduce the workload of the Bureau thus helping it focus on its prime motive of standards formulation. Such decentralization of functions will also imbibe faith and confidence in the minds of the industry pertaining to transparency of its operations. The Committee also recommend that the Bureau should be strengthened in terms of manpower, technical expertise and testing

facilities like laboratories. Bureau should open more regional centers covering all the districts and specially the industrial zones and equip them with the latest technological advanced facilities and equipments. Further, the BIS website should be regularly updated and made more user friendly enabling the consumers/manufacturers to access information and download forms etc. for their use. The Committee also recommend that the Bureau may invigorate its working and focus on ground level implementation so that the provisions of the Bureau of Indian Standards (Amendment) Bill, 2012 are executed as per the spirit of the Bill.

1.34 The Committee note that neither the BIS Act, 1986 nor the amendment Bill provide for a direct redressal forum, like a Tribunal to deal with complaints relating to faulty execution of the Bill. In the absence of such a redressal forum, interpretation or application of these provisions of the Bill for fair implementation of the proposed mechanism would be a great challenge. The Committee, therefore, strongly recommend for setting up of such a redressal forum or tribunal under the Bureau of Indian Standards which may exclusively deal with the complaints and issues pertaining to the misinterpretation or faulty execution of the provisions of the Bureau of Indian Standards (Amendment) Bill, 2012.

1.35 The Committee note that at present BIS has the mandate to formulate standards on any product or services for the entire country. The Committee are informed that Indian Standards are formulated by a process of consultation with consumers, regulatory and other Government bodies, industry, scientists, technologists and testing organizations through duly constituted technical committees and Indian Standards on food products are comprehensive documents covering requirements, sampling plans, methods of test, etc. The Committee also note that BIS has so far formulated around 1000 Indian Standards in the area of food quality and safety, which include product specifications, methods of test, codes of practice and terminology. The Committee further note that the Food Safety and Standards Authority of India (FSSAI) has been created in 2006 to specifically deal with food sector as a specialized agency. It is mandated under the Food Safety and Standards Act, 2006 to 'fix food standards and regulate – monitor the manufacturing, import, processing, distribution and sale of food so as to ensure safe and wholesome food for the people'. Both BIS and FSSAI function harmoniously to protect consumer interests. The Committee are of the view that the standards laid down by BIS and FSSAI regarding food articles have been mostly harmonized. The Committee recommend that differences, if any, should be resolved in technical committees where experts from both organizations participate and in unresolved cases concerning food articles, finally the standards laid down by FSSAI should prevail.

1.36 The Committee also note that implementation of mandatory standards is mostly done by officers appointed by State Governments or by higher officers in the concerned Central Ministries. However, there does not exist any monitoring mechanism on the part of BIS, resulting in inferior quality products being offered to the consumers inspite of formulation and existence of standards, voluntary and mandatory. The Committee are of the view that it should be the endeavour of the Government to protect the consumers' interest, health and safety, as well as support Indian manufactures, small, medium and large to be competitive in serving the Indian as well as global markets. This can be done only by formulating a well-devised policy on standards which should be properly implemented with an effective monitoring mechanism. The Committee, therefore, recommend that the Bill should provide for mass and regular market checks by BIS and the implementation of standards should not be left to the States only.

CHAPTER II
SECTION/CLAUSE-WISE ANALYSIS OF THE BILL

A. DEFINITIONS

The Clause (3) proposes to amend Section 2 of the Bureau of Indian Standards Act, 1986 containing various definitions which are as under:-

2. In this Act, unless the context otherwise requires, -

- a. "article" means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;*
- b. "Bureau" means the Bureau of Indian Standards established under section 3 ;*
- c. "consumer" means a consumer of any article or process ;*
- d. "covering" includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;*
- e. "Executive Committee" means the Executive Committee constituted under sub-section (1) of section 4;*
- f. "Fund" means the Fund constituted under section 18;*
- g. "Indian Standard" means the standard (including any tentative or provisional standard) established and published by the Bureau, in relation to any article or process indicative of the quality and specification of such article or process and includes -
 - i. any standard recognised by the Bureau under clause (b) of section 10; and*
 - ii. any standard established and published, or recognised, by the Indian Standards Institution and which is in force immediately before the date of establishment of the Bureau;**
- h. "Indian Standards Institution" means the Indian Standards Institution set up under the Resolution of the Government of India in the late, Department of Industries and Supplies No. 1 Std.(4)/45, dated the 3rd day of September, 1946, and registered under the Societies Registration Act, 1860;*
- i. "inspecting officer" means an inspecting officer appointed under section 25;*
- j. "Licence" means a licence granted under section 15 to use the Indian Standards Certification Mark in relation to any article or process which conforms to the Indian Standard and includes any licence granted under the Indian Standards Institution (Certification Marks) Act, 1952 and is in force immediately before the date of establishment of the Bureau;*
- k. "manufacturer" means the manufacturer of any article or process;*
- l. "mark" includes a device, brand, heading, label, ticket,. pictorial representation, name, signature, word, letter or numeral or any combination thereof;*
- m. "member" means a member of the Bureau;*
- n. "prescribed" means prescribed by rules made under this Act;*
- o. "Process" includes any practice, treatment and mode of manufacture of any article;*

- p. "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;
- q. "regulations" means regulations made by the Bureau under this Act;
- r. "rules" means rules made by the Central Government under this Act;
- s. "Specification" means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;
- t. "Standard Mark" means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard and also includes any Indian Standards Institution Certification Mark specified by the Indian Standards Institution;
- u. "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;
- v. an article is said to be marked with a Standard Mark if the article itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

2.2 The Government under Clause 3 have proposed to add new sub sections under the existing Section 2 for the purpose of defining 'hallmark, 'jeweller', 'precious metals', 'precious metal articles', 'registration', 'registered user' and 'self declaration of conformity' which is as under:-

3. In section 2 of the principal Act,—

(i) after clause (f), the following clause shall be inserted, namely:—

'(fa) "Hallmark" means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard in relation to precious metal article;'

(ii) after clause (j), the following clause shall be inserted, namely:—

'(ia) "jeweller" means a person selling precious metal articles;'

(iii) after clause (m), the following clauses shall be inserted, namely:—

'(ma) "precious metal" means gold, silver, platinum and palladium;

'(mb) "precious metal article" means any article made entirely or in part from precious metals or their alloys;'

(iv) after clause (p), the following clauses shall be inserted, namely:—

'(pa) "registration" means the registration granted by the Bureau for self declaration under sub-section (1A) of section 15;

(pb) "registered user" means a person who has been granted registration or self declaration of conformity by the Bureau under sub-section (1A) of section 15;

(pc) "self declaration of conformity" means a declaration by a manufacturer of his product in conformity with the Indian Standard;'

(v) in clause (t), for the words "includes any", the words "includes Hallmark or the mark of an international body or institution or any" shall be substituted.

Summary of views/suggestions placed before the Committee

2.3 Ministry of Commerce (Department of Industrial Policy and Promotion) –

'Precious metal articles' means any article made entirely or in part from precious metal or their alloys including gems studded jewellery made from precious metal because diamond/stone studded jewellery made from precious metal is becoming more popular and by inclusion of such items the scope and coverage will be substantially enlarged.

Department of Information Technology (DIT):

- i. 'Registration' be defined as Registration of goods granted by an agency/ Organisation notified by the Government as a part of the scheme notified under article 14 B of this Act.
- ii. The industry has all along been arguing in favour of open system and any control by a single agency creates a doubt in the mind of industry. Thus, in order to take the industry along and in line with the international practice it is proposed to use liberalized – decentralized approach.
- iii. Definition of 'Standard mark' amended to include hallmark. The Standard Mark shall also include any other Mark that Govt. may notify in consultation with the Bureau or otherwise under scheme notified by BIS/Govt.

With the proposed amendment of BIS, it would be possible to evolve/grant a 'Standard Mark' only for Licensing by BIS. Provision for evolving/ granting a "Standard Mark" for Registration or for depicting Compliance to Standards even with/ without registration is also needed.

Consumer Association of India – Jeweller means a person selling or manufacturing or otherwise dealing in precious metal articles.

VOICE – The definition of “services” should be incorporated because BIS has already started certifying services standards of ISO. Also the definition of jeweler should be amended as under:

Section 2 (ia) “jeweller” means person making, selling precious metal articles.

(ma) Add the word “diamond”

Mumbai Grahak Panchayat have suggested that the word “service(s)” needs to be defined also the definition of (ia) “jeweller” means a person selling precious metal articles should be amended to be read as (ia) “jeweller” means a person manufacturing and/or repairing and/or selling precious metal articles.

2.4 In response to the above suggestions made by the Department of Industrial Policy and Promotion, the Department of Consumer Affairs replied that since any article made entirely or in part from precious metals has been defined as a ‘precious metal article’, gems studded jewellery made from precious metal like diamond would also be covered within the purview of the definition. Modification of the definition is therefore not found necessary. This definition has been taken from the Indian Standard.

2.5 To the suggestions made by Department of Information Technology (DIT), the Department of Consumer Affairs replied as follows:-

- i. Registration is a scheme parallel to the existing statutory core licencing function of BIS. It’s basic objective is to allow self declaration by manufacturers, of conformance of their products to the relevant Indian Standard(s) so that they are freed from the delay and costs involved in obtaining a licence. On par with the situation prevailing in licencing where no agency other than BIS grants licenses, registration of manufacturers should also be confined to BIS, the statutory authority concerned.
- ii. Multiplicity of agencies for the purpose of registration under BIS Act is likely to result in lack of uniformity and difficulties in enforcement of compliance with the Standards and therefore not considered feasible. Orders in respect of articles to

be brought under mandatory registration in any case are issued by the nodal Ministry/Dept. concerned taking into consideration its special requirements, if any. The nodal Ministry/Department would also play the dominant role in monitoring the performance of the manufacturers granted registration.

- iii. Use of Standard Mark is not permitted under registration. Further, permission for self-certification under registration scheme can be granted to 'registered users' possessing valid registration from the Bureau under sub section (1A) of section 15. Entities not registered with the Bureau cannot have the facility of self-declaration of conformance. Since BIS does not handle with matters relating to non licencees/non registered units, enforcement of conformity and punishment for infringement of the Act and Rules/Regulations framed there under will not be possible in the cases of non licencees /unregistered entities.

2.6 The Committee note that clause 3 of the Bill intends to add new sub-sections under the already existing definitions under Section 2 of the Principal Act for the purpose of defining 'Hallmarking', 'jeweller', 'precious metal article', 'registration', 'registered user' and 'self declaration of conformity' as the terms are used elsewhere in the Act. The Committee observe that insertion of these definitions would provide better clarity and facilitate Indian Standardization of goods, articles, processes and services. The Committee, however, find that the term "jeweller" has been defined in a narrow and vague sense. The Committee fail to understand the rationale of not including "manufacturing and repairing" in the definition of jeweller. The Committee, therefore, desire that "jeweller" may be defined as "means a person manufacturing, selling or repairing precious metal articles".

The Committee find that in the Bill "services" has been included in the preamble to the Act but the definition of 'services' does not appear anywhere in the text of the Bill. A suitable definition for the term "services" may, therefore, be included in the definitions under Section 2 of the principal Act of 1986 since BIS has already started certifying services standard of ISO. The Committee also recommend that in Section 2 of the Principal Act in sub-section (g), after the word 'specification of such article' the words 'or service' may be added.

B. Ambiguity regarding 'Registration' and 'Self declaration of Conformity' (SDOC)

2.7 Confederation of Indian Industry (CII) in their written Memoranda have pointed out the Ambiguity regarding 'Registration' and 'Self Declaration of Conformity (SDOC)' which is as under:-

Provision as read in the Amendment Bill	Inferred meaning
'2 <i>pa</i>) "registration" means the registration granted by the Bureau <i>for self declaration</i> under sub-section (1A) of section 15;	Implies Registration is the method by which a manufacturer can make a 'self declaration of conformity.
2 <i>(pb)</i> " <i>registered user</i> " means a person who has been <i>granted registration or self declaration of conformity</i> by the Bureau under sub-section (1A) of section 15;	This implies that Registration and Self Declaration are two different options, but the owner of either will be called 'Registered user'.
2 <i>c)</i> " <i>self declaration of conformity</i> " means a <i>declaration by a manufacturer</i> of his product in conformity with the Indian Standard;';	A separate definition implies 'Self declaration' is an independent option
10 " <i>(da) grant, renew, suspend or cancel, registration or self declaration of conformity;</i> "; Also 15 (a), (1A) The Bureau may, for the purpose of self declaration under sub-section (1) of section 14B, by order, <i>grant, renew, suspend or cancel registration or grant self declaration of conformity</i> in such manner as may be determined by regulations."	The terms are used as alternates. Purely from 'self declaration' perspective, which signifies a voluntary action, the use of regulatory terms grant, renew, suspend and cancel appear contradictory
11 (3) No person, other than a <i>registered user in possession of a valid registration or self declaration of conformity</i> , shall, on and after the commencement of the Bureau of Indian Standards (Amendment) Act, 2012 display on and after such commencement in relation to any article or process, the words "Self declaration — conforming to IS....." on an article or packaging, as the case may be, or make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his article conforms to the Indian Standard or make such a declaration on the article.'	Here it appears a Registered user can have either a 'registration' or 'self declaration of conformity' (same as in definition of 'Registered user').
14B. (1) Without prejudice to the provisions of section 14, where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order, published in the Official Gazette,— (a) notify any article or process which shall conform to the Indian Standard; and (b) direct <i>registration or grant self declaration of conformity</i> with the Bureau as compulsory <i>for the purpose of self declaration</i> on such article or process as under: "Self declaration—Conforms to IS....."	Here the terms used are registration and 'grant' self declaration of conformity. Para b) is also bad in English – direct grant self declaration of conformity with the Bureau as compulsory for the purpose of self declaration Also the intent of making a voluntary action (self declaration) as compulsory is self contradictory
15 (2) The grant or renewal of the licence under sub-section (1) <i>or as the case may be, registration or allow self declaration of conformity or renewal thereof under sub-section (1A)</i> " shall be subject to such	The term used is 'allow' self declaration. This implies that self declaration can be allowed without a formal 'registration'.

conditions and on payment of such fees as may be determined by regulations.	
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The definitions of 'registration' and 'self declaration of conformity' need to be clarified with respect to their usage in the rest of the body of the Bill. The amendment Bill needs to be re-drafted to remove any ambiguity in the understanding and further treatment of these two terms – 'Registration' and 'SDOC' and preferably provide for SDOC as an additional option without the need for 'granting' Registration.

2.8 The Department of Consumer Affairs were requested to furnish their comments on each of the above issues. In response the Department have furnished the following table:-

Statement in Proposed amendment to BIS Act	Interpretation by CII	Department's response
'2 pa) "registration" means the registration granted by the Bureau for self declaration under sub-section (1A) of section 15;	Implies Registration is the method by which a manufacturer can make a 'self declaration of conformity.	"Registration" is a process by which Bureau grants permission to a manufacturer to make a self declaration under sub-section (1A) of section 15 on his product.
2 (pb) "registered user" means a person who has been granted registration or self declaration of conformity by the Bureau under sub-section (1A) of section 15;	This implies that Registration and Self Declaration are two different options, but the owner of either will be called 'Registered user'.	The words, "registration or self declaration" are to be corrected as "registration for self declaration".
2 c) "self declaration of conformity" means a declaration by a manufacturer of his product in conformity with the Indian Standard;;	A separate definition implies 'Self declaration' is an independent option	The definition may be corrected as follows: 2 c) "self declaration of conformity" means a declaration by a manufacturer that his product conforms to the Indian Standard; The right of self declaration accrues to the manufacturer on his getting registration from

		BIS. It is not an independent option.
<p>10 "(da) grant, renew, suspend or cancel, registration or self declaration of conformity;"</p> <p>Also</p> <p>15 (a), (1A) The Bureau may, for the purpose of self declaration under sub-section (1) of section 14B, by order, grant, renew, suspend or cancel registration or grant self declaration of conformity in such manner as may be determined by regulations."</p>	<p>The terms are used as alternates.</p> <p>Purely from 'self declaration' perspective, which signifies a voluntary action, the use of regulatory terms grant, renew, suspend and cancel appear contradictory</p>	<p>10 (da) The words , "registration or self declaration" are to be corrected as "registration for self declaration".</p> <p>15(a)(1A)- Words "registration or grant self declaration" to be corrected as "registration for self declaration"</p> <p>The comment of CII is based on presumption that 'Self declaration' is an independent option. It is not so, as explained above.</p>
<p>11 (3) No person, other than a registered user in possession of a valid registration or self declaration of conformity, shall, on and after the commencement of the Bureau of Indian Standards (Amendment) Act, 2012 display on and after such commencement in relation to any article or process, the words "Self declaration — conforming to IS....." on an article or packaging, as the case may be, or make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his article conforms to the Indian Standard or make such a declaration on the article.'</p>	<p>Here it appears a Registered user can have either a 'registration' or 'self declaration of conformity' (same as in definition of 'Registered user').</p>	<p>Registration and Self Declaration are not two different options</p> <p>The words , "registration or self declaration" are to be corrected as "registration for self declaration".</p>
<p>14B. (1) Without prejudice to the provisions of section 14, where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or</p>	<p>Here the terms used are registration and 'grant' self declaration of conformity.</p>	<p>The statement in proposed amendment to be corrected as follows:</p>

<p>expedient in the public interest so to do, it may, by order, published in the Official Gazette,—</p> <p>(a) notify any article or process which shall conform to the Indian Standard;</p> <p>and</p> <p>(b) direct registration or grant self declaration of conformity with the Bureau as compulsory for the purpose of self declaration on such article or process as under: "Self declaration—Conforms to IS....."</p>	<p>Para b) is also bad in English – direct grant self declaration of conformity with the Bureau as compulsory for the purpose of self declaration</p> <p>Also the intent of making a voluntary action (self declaration) as compulsory is self contradictory</p>	<p>(b) direct registration for self declaration of conformity with the Bureau as compulsory for the purpose of self declaration of conformity on such article or process as under:</p> <p>"Self declaration— Conforms to IS....."</p>
<p>15 (2) The grant or renewal of the licence under sub-section (1) or as the case may be, registration or allow self declaration of conformity or renewal thereof under sub-section (1A)" shall be subject to such conditions and on payment of such fees as may be determined by regulations.</p>	<p>The term used is 'allow' self declaration.</p> <p>This implies that self declaration can be allowed without a formal 'registration'.</p>	<p>A formal registration is mandatory before self-declaration</p>

2.9 The Committee note that throughout the proposed amendment the terms 'Registration' or 'Grant of self declaration of conformity' have been used differently. The Committee feel that it is very important to understand how it will impact the manufacturers - whether the conditions for 'registration' and SDOC will be identical or different. In view of the above, the amendment needs to be re-drafted to remove any ambiguity in the understanding and further treatment of these two terms – 'Registration' and 'SDOC'. The Committee, therefore, recommend that these terms may be clarified in the draft bill and be used in an unambiguous way.

2.10 The Committee note that huge money is spent in establishing the standards but these standards are not used by the industry. Consequently, the consumers get inferior quality of produce and the money spent on establishing the standards goes waste. The Committee, therefore, desire that some portion of the budget of the Department should be earmarked to oversee its implementation.

The Committee also feel that some sort of incentive will help in encouraging the industry to use ISI/BIS specifications. The Committee, therefore, desire that if any product uses such standards/mark laid down by BIS for the first time in the industry, it should get 1% to 5% rebate in excise duty/VAT. It may cover some cost of compliance by the producer.

C. THE EXECUTIVE COMMITTEE

2.11 The Clause 4 proposes to amend Section 4(1) of the Bureau of Indian Standards Act, 1986.

4. (1) The Bureau may, with the prior approval of the Central Government, by notification in the Official Gazette, constitute an Executive Committee which shall consist of the following members, namely:-

- a. Director-General of the Bureau, who shall be its ex-officio Chairman;*
- b. such number of members, as may be prescribed.*

(2) The Executive Committee constituted under sub-section (1) shall perform, exercise and discharge such of the functions, powers and duties of the Bureau as may be delegated to it by the Bureau.

2.12 The Government under Clause 4 of the Bill proposes to amend Section 4(1) of the BIS Act which is as under:-

4. In section 4 of the principal Act, in sub-section (1), after clause (b), the following proviso shall be inserted, namely:—

"Provided that a member of the Executive Committee as may be prescribed, may, authorise any person to represent him in the Committee."

2.13 When asked about the role, powers and functions of the Executive Committee, the Ministry in their written replies has given the extracts from the proceedings of the first meeting of the BIS held on 18th April, 1987 informing as under:-

"Delegation of Functions, Powers and Duties of the Executive Committee – Having considered item 3.2 of the Agenda, the Bureau RESOLVED that the following functions, powers and duties of the Bureau be delegated to the Executive Committee:

- i) Powers and functions of the Bureau as laid down under section 10 (1) of the Act and rules 7 to 13 of the Rules framed thereunder;
- ii) Constitution of technical Committees of experts for the formulation of standards in respect of articles or processes (section 5(3) of the Act);
- iii) Advising the Central Government in public interest for notifying any article or process of any scheduled industry to conform to Indian Standard and direct the use of Standard Mark under a licence as compulsory on such article or process (section 14 of the Act);

- iv) To borrow money from any source as may be deemed fit for discharging all or any of the functions of the Bureau with the consent of the Central Government or in accordance with the terms of any general or specific authority given to it by the Central Government (section 19 (1) of the Act);
- v) Approval of the Revised Budget Estimates for the current year and Budget Estimates for the next year and forwarding them to the Central Government (section 20 of the Act)
- vi) Preparation of the Annual Report within nine months from the end of the year to which it relates for approval of the Bureau and forwarding copies of the Annual Report to the Central Government for being laid before each House of Parliament (sections 21 and 23 of the Act);
- vii) Creation of posts subject to approval of the Central Government.

2.14 In reply to a query, the Ministry in their written reply has informed that the effect of the proposed amendment would be that the Executive Committee members due to their preoccupation or otherwise, unable to attend the meeting themselves will be empowered to nominate their representatives in the meetings of the Executive Committee. Amendment will also ensure adequate representation of EC members and assist wider views on the issues leading to better decision. It would also facilitate meeting the requirement of quorum of the meeting of the Executive Committee.

Summary of views/suggestions placed before the Committee

Ministry of Science and Technology (Department of Biotechnology) - Since Members of the Executive Committee are the nominated officials of various Government Departments/Institutions for a defined term, they only are supposed to participate in the meetings of the Executive Committee. Therefore there should not be further nomination of another person by the member(s) of the Executive Committee.

Ministry of Drinking Water and Sanitation - Authorized person, nominated by the member of the Executive Committee should have professional educational qualifications and experiences relevant to the sector represented.

Ministry of Chemicals and Fertilizers – Considering the nature of the job necessitating specialized knowledge, provisions related to enabling Member of the Executive Committee to nominate another persons are not advisable under normal circumstances. It may be reviewed and Bureau be advised to prepare minimum qualification criteria, guidelines for accepting alternate members. Provisions for nomination of alternate member are advisable under special conditions provided nominated alternate member meets qualifying requirements of Bureau. This Department agrees that if a member feels to invite any subject area expert to attend a meeting, this provision should be there.

Ministry of Agriculture – It is felt that another person nominated by the Member of the Executive Committee should have adequate technical competence. A suggestion can be that there may be a Principal Executive Member and an Alternate Executive Member (having competence) and Alternate Member may attend the meeting if Principal Member is not able to attend the meeting. Such a system is followed by BIS in various Sectional Committees.

Ministry of Science and Technology – Since Member(s) of the Executive Committee are the nominated officials of various Government Departments/Institutions for a defined term, they only are supposed to participate in the meetings of the Executive Committee. Therefore, there should not be further nomination of another person by the member(s) of the Executive Committee.

Ministry of Finance – The technical qualifications required by the Member or the nominee will have to be prescribed as necessary which is a matter of detail or procedure.

UT of Andaman and Nicobar - While nominating any other person on behalf of any member of the Executive Committee, the nominated Member should be a resourceful person from this field.

Government of Nagaland – The concerned Department of the State Government believes that the empowerment of a member of the Executive Committee of the Bureau by the Central Government to authorize any person to represent him in the Committee, is done ensuring that the representatives has all the qualification essential to be a member of the Committee.

VOICE - The Executive Committee may nominate another person who is conversant with the standardization process and the working of BIS so that he is able to make valuable contribution in the deliberations.

Confederation of Indian Steel Producers Association (CISPA) – Any member of the Executive Committee should not be permitted to nominate any other person for attending a meeting vide Clause 4 and 14. However, in exceptional cases, it may be permitted with the approval of Director General of BIS.

Cold Rolled Steel Manufacturers Association of India – Any member of the Executive Committee should not be permitted to nominate any other person for attending a meeting vide Clause 4 and 14 of the Amendment Bill to maintain continuity and accountability. However, in exceptional cases, it may be permitted with the approval of Director General of BIS.

Consumer Association of India – We totally oppose the system of an Executive Committee Member nominating any persons to represent him in the Committee. Any such nomination by the Executive Committee member should be subject to acceptance by the Director of BIS, who should be given complete information regarding the background of the alternate person recommended for nomination.

The nomination of another person by the Executive Committee member, whose bonafide is not known to BIS, is not reasonable and bad in law.

Mumbai Grahak Panchayat - The person nominating should delegate sufficient deciding powers and authority to commit on his behalf to such a nominee. Rules under the act should be framed accordingly.

Reply of the Department of Consumer Affairs:

2.15 As per the BIS Rules, 1987, the quorum for the meeting of Executive Committee shall be three. In order to ensure that a meeting is not cancelled due to lack of quorum and EC is well represented, the EC members are being empowered to nominate another person on his behalf for attending the Executive Committee meetings. Thus the basic intention behind this amendment is to ensure maximum representation/participation of the members during the decision making process of the EC.

Clause 4 of the Bill seeks to amend section 4 of the Act by introducing a `proviso' empowering a member of the Executive Committee to represent him in the Committee, as may be "**prescribed**". Clause 14 of the Bill empowers Central Government to make rules in this regard. Central Government shall take care of such technical qualifications while prescribing the rules.

2.16 During evidence, representatives of Voluntary Organization in the interest of Consumer Education (VOICE) have suggested that power to nominate can also be widened to say 'nominated members and alternate member who can attend the meetings of the Executive Committee of the Bureau when there is a possibility that members may not attend'.

2.17 Further the Bill empowers the Executive Committee for making regulations with respect to Hallmarking scheme, registration or self-declaration of conformity scheme and compounding of offences by amending Section 38(2)(c), (d) and (e) of the Bureau of Indian Standards Act, 1986 vide clause 15(a) and 15(b) which state as follows:-

15. *In section 38 of the principal Act, in sub-section (2),—*

(a) after clause (c), the following clause shall be inserted, namely:—

“(ca) the jewellers, precious metal article, geographical areas and minimum turnover for jewellers under section 14A;”;

(b) for clauses (d) and (e), the following clauses shall be substituted, namely:— “(d) the manner of grant, renewal, suspension or cancellation of licence under sub-section (1) and the manner of granting registration, or allowing self declaration of conformity, its renewal, suspension or cancellation under sub-section (1A) of section 15;

(e) the conditions subject to which a licence may be granted or renewed or registration or allowing self declaration of conformity may be granted or renewed and the fees payable therefor under sub-section (2) of section 15.”.

2.18 The Committee note that the functions and duties of the Executive Committee of BIS include, inter-alia, human resource management, financial decision making, looking into economical aspects and other such tasks which require specific knowledge and experience on the part of the Members of the Committee. The Committee also note that the quorum for the meetings of the executive committee is only three members. It has been proposed in the Bill that the members of the Executive Committee may authorize any person to represent him in the Committee. This provision is proposed to be made to ensure adequate representation of Executive Committee members in case of inability of the members to attend the meeting due to their preoccupation or otherwise. The Committee feel that if members of the Executive Committee are allowed to nominate the people who will attend the meetings of the Executive Committee in their place, it would result in lack of seriousness on the part of the Members. The Committee are of the view that atleast two 'Alternate Members' should be appointed to the executive committee who may possess the same or equivalent qualifications as of the other members so that if the existing members of the executive committee are unable to attend the meetings due to preoccupation, then the alternate members can be nominated in their place to attend the meetings. The Committee, therefore, recommend that power to nominate may be vested with the Presiding Officer of the Executive Committee who may nominate alternate members to participate in the meetings of the Executive Committee when there is possibility that members may not attend. This would help solve the quorum problem as well as help to get valuable inputs of the alternate members.

D. Clause 14 – Amendment of Section 37

2.19 37(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- a. the number of members of the Bureau and the interest such members would represent under clause (e) of sub-section (3) of section 3;
- b. the term of office of the members of the Bureau, the manner for filling vacancies and the procedure to be followed in the discharge of their functions by, the members under sub-section (4) of section 3;
- c. the manner in, and the purposes for, which the Bureau may associate with itself any person for assistance and advice under sub-section (5) of section 3;
- d. the number of members of the Bureau who will be members of the Executive Committee under clause (b) of sub-section (1) of section 4;
- e. the terms and conditions of service of the Director-General of the Bureau under sub-section (2) of section 7;
- f. the design and the particulars to represent a particular Indian Standard under clause (c) of sub-section (1) of section 10;
- g. the purposes for which laboratories for the purposes of standardisation and quality control shall be established by the Bureau under clause (h), of sub-section (1) of section 10;
- h. the purposes for which agents may be appointed by the Bureau in India or outside India under clause (1) of sub-section (1) of section 10;
- i. the times and places at which any article or process may be inspected under clause (n) of sub-section (1) of section 10;
- j. the additional functions that may be performed by the Bureau under section 10;
- k. the cases in which, and the conditions subject to which, exemption may be granted under section 12;
- l. the form in which, and the time at which, the Bureau shall prepare its budget under section 20 and its annual report under section 21;
- m. the manner in which the accounts of the Bureau shall be maintained under section 22;
- n. the conditions subject to which inspecting officer may exercise his powers under sub-section (2) of section 25;
- o. any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

The Government under Clause 14 of the Bill proposes to amend Section 37 of the Act which is as under:-

14. *In section 37 of the principal Act, in sub-section (2), -*

(i) for clause (d), the following clause shall be substituted, namely:-

"(d) the number of members of the Bureau who will be members of the Executive Committee and the power of a member to authorize a person to represent him under clause (b) of sub-section (1) of section 4,";

(ii) after clause (n), the following clauses shall be inserted namely:-

"(na) the manner of compounding of offence under sub-section (1A) of section 33;

(nb) the application for compounding of an offence under sub-section (1C) of section 33;"

2.20 The Committee note that vide Clause 14 of the Amendment Bill, Government proposes to amend Section 37 of the Principal Act. The Committee desire that words 'alternate members' be inserted in Clause 14 (i) (d) of the Amendment Bill so that it should read as 'The number of members of the Bureau who will be members or alternate members of the Executive Committee'.

E. CLAUSE 7 — COMPULSORY USE OF STANDARD MARK FOR ARTICLES AND PROCESSES OF ANY INDUSTRY.

2.21 The Clause 7 proposes to amend Section 14 of the Bureau of Indian Standards Act, 1986 which prescribes the compulsory use of standard mark for articles and processes of any industry.

14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette, -

- a. notify any article or process of any scheduled industry which shall conform to the Indian Standard; and*
- b. direct the use of the Standard Mark under a licence as compulsory on such article or process.*

Explanation - For the purposes of this section, the expression "scheduled industry" shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951.

Under Clause 7 of the Bill, Government proposes to amend Section 14 of the Act which is as under:-

7. For section 14 of the principal Act, the following section shall be substituted, namely:—

'14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette,—

(a) notify any article or process of any industry which shall conform to the Indian Standard; and

(b) direct the use of the Standard Mark under a licence as compulsory on such article or process:

Provided that nothing in this section shall apply to an article or process meant only for export.

Explanation.— For the purposes of this section and section 14B, the expression "article" includes an article imported into India which is of the same nature or description as an article manufactured in India.'

2.22 Ministry in their written reply has informed that the intention behind this substitution is to bring more flexibility in notifying the products under mandatory certification of BIS, it is proposed to delete the words "of any scheduled industry".

Further it clarifies the applicability of such provisions in respect of articles imported into and exported out of India.

Section 14 of the Bureau of Indian Standards Act gives the power to the Central Government to notify any article or process of any scheduled industry which shall conform to the Indian Standard and direct the use of the Standard Mark under licence as compulsory on such article or process. Thus, unless a product or process finds an entry in the first schedule of the Industries (Development and Regulation), Act, 1951, the Government does not have any power under the Bureau of Indian Standards Act to make licensing compulsory for such an article or process. In the interest of public health, safety and environmental considerations it has become necessary to bring under mandatory certification, certain articles (like helmets, toys, etc) not included in the first schedule of the Industries (Development and Regulation) Act, 1951. It is therefore proposed to de-link the Bureau of Indian Standards Act, 1986 and the Industries (Development and Regulation) Act, 1951 so as to empower the Government to bring under compulsory certification regime any article and/or 'process' which it considers necessary, in public interest.

2.23 The Committee have also been informed that further with regard to establishment of standards, the focus has always been on the "producer" of product or service and not on its "dispenser" or the seller. However, there have been requirements where the dispenser, or retailer also needed to be brought under the standardisation regime. This is particularly so in respect of jewelers selling gold and silver jewellery where, for protecting consumers from unscrupulous jewelers, need has been felt for enforcement of "Hallmark" on jewellery articles sold in the country.

Summary of views/suggestions placed before the Committee

Confederation of Indian Steel Producers Association (CISPA) – Shifting of products from the voluntary to the mandatory list is a strategic decision with wide ranging

implication beyond the jurisdiction of a particular ministry on the downstream and upstream industries, foreign trade and industrial development of the country. It is, therefore, impertinent that the decision be broadbased by the inclusion of all stakeholders in the decision making and should not be left to the discretion of only the concerned ministry which may be more interested in improving its own performance and is also vulnerable to pressures from producers under its administrative control.

Cold Rolled Steel Manufacturers Association of India (CORSMA) – All decisions regarding the formulation of standards and inspection of various products should be taken and notified by BIS and the power cannot be delegated to any Ministry of the Central Government. Infact, empowering a Ministry of the Central Government for shifting of a product from the voluntary list to the mandatory list and appointment of inspectors negates the very concept of an independent and statutory organization stipulated in the BIS Act, 1986.

Decision to shift a product from the voluntary to the mandatory list cannot be left to the concerned ministry since it has wide ranging implications beyond the jurisdiction of the concerned ministry. Besides, the concerned ministry is invariably inclined to improve its own performance and its also under from the powerful lobbies under its administrative control to bend the policies in their favour.

2.24 The Committee desire that Section 14 (E) be inserted in Clause 8 of the Amendment Bill, indicating that the Ministry proposing shifting of a product should submit a comprehensive memorandum to the Bureau of Indian Standards including, inter-alia, the impact of the proposal on the upstream and downstream industry, prices, foreign trade threat of cartelization and feasibility of implementing the order. The proposal should comply with the three basic conditions stipulated in Clause 14 of the BIS Act, 1986 i.e. it is necessary, expedient to do so and is in the public interest.

2.25 The Committee note that the proposed amendment in Section 14 of the Bureau of Indian Standards Act removes the restrictions imposed by reference to 'Scheduled Industry' by including articles and process of any industry so as to empower the Government to bring under compulsory certification regime any article or process which it considers necessary from the point of view of health, safety, environment, prevention of deceptive practices and security. Keeping in view the safety and well being of the consumers, the Committee feel that delinking the Bureau of Indian Standards Act, 1986 from the Industries (Development & Regulation) Act, 1951 is a welcome step. The Committee feel that shifting of products from the voluntary to the mandatory list beyond the jurisdiction of a particular Ministry is a strategic decision with wide ranging implications on foreign trade and industrial development of the country. It is, however, essential to ensure that quality control is not discriminatory to favour a group of producers and is mainly based on quality related complaints by consumer organizations. The Committee also feel that it is necessary to have uniform integrated policy and procedures. Therefore, the authority to process and issue Quality Control Orders must rest with the BIS/Ministry of Consumer Affairs. However, issue of Quality Control Orders should be done after due deliberation and consultation with all the stakeholders and experts in the related field. The Committee, therefore, desire that a new Section 14 (D) in Clause 8 of the Amendment Bill be inserted accordingly. The Committee also recommend that the decision regarding shifting of a product from the voluntary to the mandatory category should be taken by an Empowered Committee comprising of all the stakeholders as indicated below:-

- (a) Secretary, Department of industrial Policy and promotion (Chairman)**
- (b) Representative of the concerned Ministry**
- (c) Representative of the Ministry of Commerce**
- (d) Representative of BIS**
- (e) Representative of Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs)**
- (f) Representative of Competition Commission of India**
- (g) Representative of the small and medium scale producers of the industry**
- (h) Association of the major consumers of the products.**

F. HALLMARKING OF PRECIOUS METAL ARTICLES, REGISTRATION FOR SELF DECLARATION AND ENFORCEMENT OF ORDERS

2.26 The Clause 8 of the Bill proposes to add new sub sections after Section 14 of the Bureau of Indian Standards Act, 1986 empowering the Government of India to notify jewellery under mandatory certification of BIS.

(A) INSERTION OF NEW SECTION 14A — COMPULSORY USE OF HALLMARKING OF PRECIOUS METAL ARTICLES

The Government under Clause 8 of the Bill proposes to insert new Section 14A which is given as under:-

'14A. Where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order, published in the Official Gazette, make it compulsory for such jewellers selling such precious metal article in such geographical areas and having such minimum turnover, as may be specified by regulations, to use Hallmark under a licence and that such article shall conform to the Indian Standard.

14 B (1) Without prejudice to the provisions of Section 14, where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order, published in the Official Gazette,-

(a) notify any article or process which shall conform to the Indian Standard;

and

(b) direct registration or grant self declaration of conformity with the Bureau as compulsory for the purpose of self declaration on such article or process as under:

'Self declaration – Conforms to IS.....'

(2) Subject to the provisions of sub-section (3), a person may, in respect of any article or process notified under sub-section (1), exercise an option for making registration or grant of self declaration of conformity with, or taking licence from, the Bureau.

(3) When an article or process notified for registration or in respect of which self declaration of conformity has been granted under sub-section (1), is subsequently notified under section 14, then, in addition to such registration or self declaration of conformity, a licence shall be compulsorily taken from the Bureau for such article or process in place of such registration or self declaration of conformity.

14 C. The Central Government may, by order, authorize any authority to be enforcement authority for enforcement of any order issued by it under section 14, or section 14A or section 14B, in such manner as may be specified in the

order.'

Summary of Views/suggestions placed before the Committee

All India Gems & Jewellery Trade Federation:

1. Before Hallmarking is made Mandatory in 4 Metros, issues of the city and the entire country should be addressed.
2. The Road map of implementation of hallmarking should be clearly informed.
3. We strongly oppose **License leading to a License Raj** in our industry.
4. Sufficient infrastructure should be in place before legislation is introduced.
5. A proper committee with sufficient members of the trade should be formed across the country prior to implementation.
6. Exemptions should be clearly defined with practical understanding of ground realities chances of confusion should be avoided.
7. Penal provisions should not lead to cancellation of license and prosecution. once a jewellery is hallmarked, jeweller should not be held responsible in any way. Hall Marking Centre, BIS, ministry of consumer affairs and Central Government should take the responsibility.
8. Hall Marking Centre's licenses have been issued to jewellers and to entities who are very close to jewellers which is against the basic fundamentals of the wishes of the central government.
9. Many hall marking centres do not have the facility of Hallmarking but they have been allotted license and are marking jewellery at their free will. BIS has taken some action and some licenses have been cancelled but the actions are not sufficient. This is an act of deceiving and cheating consumers.
10. Rampant Changes are made in the act without knowing the true nature of the industry and without taking the industry into confidence. Use of cadmium in soldering of jewellery has been banned. more than 90% jewellery being hallmarked today contains cadmium. No awareness programs were conducted for the small artisans before implementing.
11. It is the responsibility of central government as well of the jewellers to provide good quality jewellery to consumers. We recommend there should be a one time Registration Fee collected by BIS and not every three years.
12. The industry should be given recognition & should be taken into confidence as we support Hallmarking.

Confederation Of Indian Industry (CII):

Government may first consider a suitable legislation to control the supply chain in the gems and jewellery trade before imposing mandatory quality certification, because the latter is fully dependent on compliances.

If at all mandatory certification needs to be notified, it should cover manufacturers also under the proposed legislation, otherwise it would lead to tactics of routing jewelry through non certified jewelers (operating below the threshold value). Government may estimate the estimated workload and the available capacity of hallmarking assaying centers before the amendment. Clear provisions need to be made in the legislation

prohibiting any ownership / collaboration or other forms of relationships among assaying centers and jewelers. Government may also consider bringing assaying centers in the purview of Section 33.

Consumer Association of India (CAI): while presenting their views before the Committee stated that

“There is a fraud going on in the jewellery industry in the name of wastage. Everybody fixes wastage as per his norms, as per his whims and fancies from 6 per cent up to 23 per cent, 30 per cent. We may provide that wastage should be only this much after some study. Even while purchasing, they say there is wastage. When I purchase jewellery, they say there is wastage of 8 per cent. Honest people say, there is nil wastage actually in the industry, in the trade.

Most of the assaying centres are owned by jewellers only. The assaying centre must be an independent body”

2.27 The Committee enquired about the details of the existing infrastructure, viz. Assaying and Hallmarking Centres, the estimated requirement and the steps being taken to set up more of such centres to meet the requirement under the Bill, the Ministry informed that the proposed section 14 (A) will enable compulsory use of Hallmark for precious metal articles, if Government so decides. With respect to related provision of compulsory Hallmarking, it is mentioned that BIS is presently operating about 10,000 licences on voluntary basis under Hallmarking scheme. It is anticipated that with the implementation of compulsory Hallmarking of gold/silver jewellery/artefacts, there will be a manifold increase in the number of licences. However, this would depend on such geographical areas and such minimum turnover as may be specified. Samples of Hallmarked jewellery/artefacts collected by BIS from the market are tested in this laboratory to check their conformity to the relevant Indian Standard. In addition, there are 218 BIS recognized Assaying and Hallmarking Centres operating all over India. Since the setting up of Assaying and Hallmarking Centres is demand driven, more centres are expected to come up depending on the geographical areas and minimum turnover of the jewellers specified at the time of making hallmarking compulsory. At present, for setting up of Assaying and Hallmarking Centres in deficient locations, financial assistance is

provided by the Central Government through Plan Funds, which has been continuing since 10th Plan.

2.28 The Committee also enquired what will be the required infrastructure when the Amendment Bill comes into effect. The Department stated in reply that it is expected that one technical officer and one staff would be able to handle registrations for about 150 manufacturers. Further, the grant of registration is proposed to be decentralized through 34 Branch Offices of BIS and one department at Headquarters for foreign manufacturers. Adequate physical infrastructure and IT equipment would be required. In implementing amendment Bill making it compulsory for Hallmarking by the Jewellers as per proposed Section 14(A), - resources, particularly

- (i) Manpower would be required for activities, such as grant of licence; monitoring of the licensed jewellers, carrying out market survey, collection of samples of Hallmarked items, their testing and enforcement of the provisions of the Act for compulsory Certification for Hallmarking.
- (ii) Further, infrastructure in terms of creation of more numbers of Assaying and Hallmarking Centres will be required in order to meet the increased demand for Hallmarking as the number of licensed jewellers will increase substantially.

2.29 During the deliberations of the Committee, it was, inter-alia, informed that many jewellers charge higher prices for hallmarked jewellery articles as compared to the ordinary jewellery articles which discourages the consumers from purchasing hallmarked articles. In this context, the Committee enquired the Department regarding the cost of getting an article hallmarked incurred by a jeweller and existence of any mechanism through which this practice of charging different rates can be checked. To this, the Department replied as follows:-

- (a) The present charges for hallmarking are as follows:
 - (i) Rs. 25/- per article and
 - (ii) Minimum charge for a consignment is Rs. 150/-
- (b) Possibility of fixing a ceiling of the additional amount which can be charged for hallmarking is being examined.

The Department of Consumer Affairs also stated that It is mandatory for a BIS licensed jeweller to prominently display their Hallmarking licence and also to display the components of the Hallmark. In addition information about Hallmarking scheme is available on BIS website (www.bis.org.in). BIS is regularly organizing consumer awareness programmes in which details of the Hallmarking scheme and its benefits are explained to the public/consumers. BIS is also considering to make it mandatory for the jeweller to provide a card with each hallmarked article explaining the implications of the hallmark put on the concerned jewellery, as well as indicate the provisions regarding feedback/complaint to BIS. The Department of Consumer Affairs is also covering “Hallmarking” as a theme under its “Jago Grahak Jago” campaign.

On being asked regarding jewellers charging exorbitant prices in the name of ‘making charges’ and ‘wastages’ which results into a loss to the consumers and whether the Department has taken any measure to regulate these practices, the Committee were informed that the Hallmarking only provides assurance to the consumer about the purity of the precious metal in the hallmarked article. The Scheme does not address issues like price of the precious metal, making charges, wastages, etc. The consumers will be sensitized to such unethical trade practices through awareness campaign under “Jago Grahak Jago”.

2.30 The Committee appreciate the efforts of the Department towards making hallmarking of precious metals articles mandatory as recommended by this Committee in their previous Report on Hallmarking of gold jewellery. Nevertheless, the Committee are apprehensive regarding the implementation of the same as there are presently only 218 Assaying and Hallmarking centres in the entire country and with the implementation of compulsory hallmarking of jewellery, there will be manifold increase in the number of licenses. Mandatory Hallmarking of precious metal articles is not feasible without the existence of adequate number of functioning A&H centres. The Committee, therefore, desire the Government to set up the required number of hallmarking centres as a pre-emptive step to make hallmarking of jewellery as mandatory. For this, wider publicity of the financial assistance provided by the Government for setting up of these A&H centres is necessary so as to expedite the process of setting up of these A&H centres. The Committee also desire that the A&H centres should also be held responsible/accountable in case of non-conformity of hallmarked jewellery/articles, thereby ensuring efficient functioning on the part of these centers. The Committee also recommend the strengthening of the Enforcement Wing of the BIS to ensure that the 'Mandated Hallmarking' is implemented properly.

2.31 The Committee note that various jewellers charge different prices for hallmarked jewellery and non-hallmarked jewellery and the price of the hallmarked jewellery is far more than that of the ordinary non-hallmarked jewellery, thus discouraging the consumer from buying hallmarked jewellery. In this context, during oral evidence the Committee were informed by the representatives of the Department of Consumer Affairs that the present charges for hallmarking are Rs.25 per article and a minimum charge for a consignment is Rs.150/- The Committee are however dismayed to note that the Department has no control on the situation whereby the customers are being exploited by the BIS Certified Jewellers. The Committee, therefore, strongly recommend that the Ministry should take concrete steps to prevent jewellers from over charging or charging higher price in the name of Hallmarked Jewellery and to curb such malpractices on the part of the jewelers so as to protect the interest of the consumers at large. The Committee also note that many jewelers charge exorbitantly high making charges and also charge money on the pretext of 'wastage charges' from the consumers. The Committee, therefore, strongly recommend that the Department of Consumer Affairs should look into these aspects so that the consumers are not exploited by the jewellers. The Committee are also of the view that unless the consumers of rural/remote and hilly areas are made aware of the benefits of the Hallmarked Jewellery, they cannot come forward to opt for the Hallmarked Jewellery. The Committee, therefore, recommend that the consumers should be enlightened/encouraged to buy only hallmarked jewellery through wider media publicity. They also need to be sensitized about the unethical trade practices like charging of high making charges and wastage charges through media publicity.

G. CLAUSE 12 — PENAL PROVISIONS

2.32 The Clause 12 proposes to amend Section 33(1) and add new sections namely Section 33(1A) to 33(1F) to the Bureau of Indian Standards Act, 1986 which prescribes the penal provisions in relation to contravention of the provisions of the said Act by substituting the existing section and adding subsequent sub sections as under:—

33. (1) Any person who contravenes the provisions of section 11, or section 12 or section 14 or section 15 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both.

(2) Any court trying a contravention under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Bureau.

Under Clause 12, the Government propose to amend section 33 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Any person who contravenes the provisions of section 11 or section 12 or section 14 or section 14A or section 15 shall be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees, or with both.

(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by an officer of the Bureau, not below the rank of Scientist G or Additional Director General of the Bureau appointed by the Director General in the Bureau in such manner as may be prescribed:

Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed under sub-section (1) for the offence so compounded:

Provided further that nothing in this sub-section shall apply to an offence committed by a person for the second time or thereafter on which a similar offence committed by him has been compounded.

(1B) Every officer referred to in sub-section (1A) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Bureau.

(1C) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(1D) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(1E) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1A) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(1F) Any person who fails to comply with an order made by the officer referred to in sub-section (1A) shall be punishable with imprisonment for a term which may extend to two years, or with fine not exceeding ten lakh rupees, or with both.”.

2.33 Ministry in respect of the above clause has justified its intent by stating that these sub sections are required to enhance the penalties to minimum of 2 Lakhs for violations under this Section to have desired deterrent effect. It has also mentioned that as per existing provisions, complaint is filed before the court of law by the Bureau for misuse of standard Mark which takes long time in securing conviction against offenders, hence it is proposed to introduce provision for compounding of offences which are committed out of ignorance and the violators are willing to stop the misuse and offence forthwith.

Department of Industrial Policy & Promotion (DIPP):

1. The penalty must be enhanced substantially. “...a term which may extend to one year” or with fine not less than Rs.50,000, is clearly inadequate in the present economic context. It should be imprisonment of one year plus a fine not less than Rs.2 lakhs.

Justification:

After the introduction of Registration scheme the volume of work will increase substantially. It will not be feasible to monitor each and every case. The punishment should be high enough to act as a deterrent on its own.

2. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, may, either before or after the institution of any prosecution, be compounded by an officer of the Bureau, not below the rank of Joint Secretary to the Central Government appointed by the Central Government to exercise powers under this section, on payment by the person referred to in sub section (1).

Justification

The authority to compound an offence should rest with a senior officer.

Ministry of Information & Broadcasting:

Before adding 'any article or processes' pertaining to Entertainment & Media Sector including film, music, broadcasting and print industry under the regime of compulsory licensing, Department of Consumer Affairs should consult this Ministry.

Reply of the Government :

2.34 The BIS Act provides for imprisonment or fine or fine with imprisonment as punishment for contravention of sections 11, 12, 14 or 15 of the Act. DIPP does not appear to be in favour of award of punishment in monetary terms only but with imprisonment also, which will necessitate initiation of time-consuming prosecution proceedings even in cases where a simple fine is considered adequate. Since the principal Act provides for fine (only) as a kind of punishment, there does not appear to be enough justification for removing that provision from the Act. Therefore, the suggestion is found unacceptable. The suggestion to enhance the minimum fine from Rs. 50,000/- to Rs.2 lakh is however acceptable

In reply to point 2 raised by DIPP, the Government stated that the suggestion has been partially accepted and the section has been modified suitably to provide for compounding by Scientist F who is above the level of Director in Government of India.

2.35 While taking the evidence of the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs), the Committee enquired regarding the number of cases/incidents wherein BIS/Prosecution has pleaded imprisonment for an offender/defaulters. In reply to this, the Secretary, Department of Consumer Affairs stated as under:-

'In the year 2012-13, we have filed 66 cases. 52 are in our favour. But we don't have information regarding our prosecution imprisoning anyone'.

2.36 The Committee also enquired about the number of defaulters/offenders not conforming to/misusing BIS standards been identified by the BIS in the last three years and what action was taken against them, the Department in their written reply stated as under:-

The details of defaulters/offenders misusing BIS Standard Mark during each of last three years and the status of action taken as on date are given below

Year	No. of Defaulters/ Offenders	Action Taken
------	------------------------------	--------------

	detected	Prosecution Pending in Court	Case Decided in favour of BIS	Cases Closed by BIS	Prosecution to be Launched
2010-11	135	81	43	07	04
2011-12	125	86	23	05	11
2012-13	112	31	08	01	72

Action against BIS product certification licensees are taken if their product do not conform to the Indian Standards or they misuse the Standard mark. These actions, as given in BIS certification regulations, can be

- a) Stoppage of Marking till they take corrective action and their samples pass after taking these actions, or
- b) Non renewal of their licence, or
- c) Cancellation of licence.

As regards steps taken in order to deter the manufacturers and traders from following such malpractices/fraudulent activities, the Department stated that the following steps are taken in order to deter the manufacturer/traders from misuse of BIS Standard Mark:

- a. Conducting Consumer Awareness programme
- b. Advertisement in Newspapers and Journals
- c. Press release in Newspapers after raids and case decided by Court.
- d. Market survey for identifying spurious and sub-standard products and conducting raids if misuse found.

2.37 The Committee feel that the Bill needs to give more teeth to the Bureau in order to create a fear in the minds of the defaulting manufacturers/ traders so as to refrain them from indulging in illegal and inappropriate practices. The penal provisions in the Bill need to be made more stringent and should be formulated in such a manner that it should act as an effective deterrent against offenders. The Committee, therefore, strongly recommend that in case of large scale manufactures of Fast Moving Consumer Goods (FMCG) Companies, the provisions should clearly specify the fine as a particular percentage, say 5% of the turnover of the brand/line of product of the Company/Organisation so that the penalty imposed is in tune with the scale of operation of the defaulter. Accordingly, the Committee desire that in Section 33 (1) (F), after the words 'extend to two years', the words 'or with fine which shall be 5% of the average turnover of the offender averaged over last three years subject to a minimum of Rs. 10 lakhs or both' may be inserted. The repetition of the offence must also be strictly penalized.

H. MISCELLANEOUS

2.38 The important points/suggestions brought out in the written Memoranda as well as during Oral evidence are given as under:-

Underwriters' Laboratory India Pvt. Ltd – Currently the BIS Act focuses on 2ndparty certification – done by the Indian Government. With provisions of the Bill seeking to expand the conformity 'mechanisms' available to the GOI, consideration should be given to alignment with the WTO Technical Barriers to Trade Agreement which outlines these mechanisms, along with the use of independent third party testing, inspection and certification providers.

VOICE – International Organization for Standardization (ISO) develops and publishes standards but does not involve itself in certification of standards. Similarly for wider reach of ISI marked products and services to masses, BIS standards conformity assessment should also be delegated to other competent certifying accredited bodies. However BIS should lay down accreditation guidelines and the overall control should be kept with BIS.

2.39 The Committee desire that after Clause (o) of the Section 10(1) of the Principal Act, the following Clause be inserted:-m,

OO : To recommend to the Central Government to appoint, authorize and notify agencies for market surveillance of products and services so as to keep abreast of the trends in the markets, to identify products and services being sold in the market that either do not conform to standards or have not been licensed or registered in respect of products or services in spite of direction on compulsory use of Standard Mark under license and/or conform to a notified standard.

OOA: To prosecute manufactures and resellers of products or services who either misuse standard mark or violate this Act in any manner or sell products or services in violation of direction for compulsory use of standard mark under licence and/or conforming to a national standard.

**NEW DELHI
27th August, 2013
5 Bhadra, 1935(Saka)**

**VILAS MUTTEMWAR,
Chairman,
Standing Committee on Food,
Consumer Affairs and Public Distribution**

**MINUTES OF THE NINETEENTH SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2011-12) HELD ON
TUESDAY, THE 24th JULY, 2012**

The Committee sat from 1100 hrs. to 1135 hrs. in Committee Room 'C', Ground floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar - Chairman

MEMBERS

LOK SABHA

2. Shri Jaywant Gangaram Awale
3. Smt. Harsimrat Kaur Badal
4. Shri Arvind Kumar Chaudhary
5. Shri Sanjay Dhotre
6. Shri Lal Chand Kataria
7. Shri Prabodh Panda
8. Shri Sohan Potai
9. Shri Purnmasi Ram
10. Shri Ramkishun
11. Shri Chandulal Sahu
12. Smt. Usha Verma

RAJYA SABHA

13. Smt. T. Ratna Bai
14. Dr. M. S. Gill
15. Shri Vivek Gupta
16. Shri P. Kannan
17. Shri Lalhming Liana
18. Shri Sanjay Raut
19. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P.K.Misra - Joint Secretary
2. Smt. Veena Sharma - Director
2. Shri Khakhai Zou - Under Secretary

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee convened to consider the Memorandum No. 5 regarding the course of action to be taken by the Committee in the examination of 'The Bureau of Indian standards (Amendment) Bill, 2012' pertaining to the Department of Consumer Affairs.

3. The Committee, after due deliberations, approved the course of action to be taken on 'The Bureau of Indian standards (Amendment) Bill, 2012' as contained in the Memorandum No. 5.

The Committee then adjourned.

MINUTES OF THE EIGHTEENTH SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON FRIDAY, THE 22nd FEBRUARY, 2013

The Committee sat from 1500 hrs. to 1525 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Smt. Harsimrat Kaur Badal
3. Shri Arvind Kumar Chaudhary
4. Shri Eknath M. Gaikwad
5. Shri Abdul Mannan Hossain

RAJYA SABHA

6. Dr. Bharatkumar Raut
7. Shri Birender Singh
8. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Misra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

WITNESSES

Representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs)

1. Shri Pankaj Agrawala - Secretary
2. Shri Ganga Murthy - Principal Advisor
3. Shri Afzal Amanullah - Special Secretary/DG, BIS
4. Shri P. K. Jha - AS & FA
5. Shri Manoj Kumar Parida - Joint Secretary
6. Smt. Alka Panda - Additional DG, BIS
7. Shri P. K. Gambhir - Scientist G & Chief (Certification), BIS
8. Shri P. K. Batra - Scientist G & Chief (Labs), BIS
9. Shri J. Roy Chowdhary - Scientist F, BIS
10. Shri A. K. Sharma - Scientist G & Head (CMD- III), BIS
11. Lt. Col (Rtd) K. Shantanu - Bureau Secretary
12. Shri Bhupal Singh - Director (Legal)

The sitting of the Committee was scheduled to be held to have briefing by the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) on 'The Bureau of Indian Standards (Amendment) Bill, 2012'

As there was lack of quorum even after waiting for 25 minutes, Hon'ble Chairman decided under the provisions of Rules 259(1) of the Rules of Procedure and Conduct of Business in Lok Sabha to postpone the sitting of the Committee to 27th February, 2013.

MINUTES OF THE NINETEENTH SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON WEDNESDAY, THE 27th FEBRUARY, 2013

The Committee sat from 1500 hrs. to 1645 hrs. in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar - Chairman

MEMBERS

LOK SABHA

2. Shri Kantilal Bhuria
3. Shri Arvind Kumar Chaudhary
4. Shri Harishchandra Chavan
5. Shri Sanjay Dhotre
6. Shri Sohan Potai
7. Shri Ponnam Prabhakar
8. Shri Chandulal Sahu
9. Shri Jagdish Thakor

RAJYA SABHA

10. Dr. Bhushan Lal Jangde
11. Shri Lalhming Liana
12. Dr. Bharatkumar Raut
13. Dr. T. N. Seema
14. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

**Representatives of the Ministry of Consumer Affairs, Food and Public Distribution
(Department of Consumer Affairs)**

- | | | |
|-------------------------------|---|--|
| 1) Shri Pankaj Agrawala | - | Secretary |
| 2) Shri Ganga Murthy | - | Principal Advisor |
| 3) Shri Afzal Amanullah | - | Special Secretary/DG, BIS |
| 4) Shri P. K. Jha | - | AS & FA |
| 5) Shri Manoj Kumar Parida | - | Joint Secretary |
| 6) Smt. Alka Panda | - | Additional DG, BIS |
| 7) Shri P. K. Gambhir | - | Scientist G & Chief (Certification), BIS |
| 8) Shri P. K. Batra | - | Scientist G & Chief (Labs), BIS |
| 9) Shri E, Devender | - | Scientist G & Chief (Standardization), BIS |
| 10) Shri A. K. Sen | - | Scientist F & DDG (HP), BIS |
| 11) Shri J. Roy Chowdhary | - | Scientist F, BIS |
| 12) Shri A. K. Sharma | - | Scientist G & Head (CMD- III), BIS |
| 13) Lt. Col (Rtd) K. Shantanu | - | Bureau Secretary |
| 14) Shri Bhupal Singh | - | Director (Legal) |
| 15) Shri B. N. Dixit | - | Director (Consumer Affairs) |

At the outset, Hon'ble Chairman welcomed the members to the sitting of the Committee convened for briefing by the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) on the Bureau of Indian Standards (Amendment) Bill, 2012. Thereafter, Secretary and other officials of the Department of Food and Public Distribution were invited to the sitting of the Committee. After welcoming them, the Chairman apprised them of the provisions of Direction 55(1) of the Directions by the Speaker.

2. Hon'ble Chairman then requested the representatives of the Department to brief the Committee on various issues such as the salient features of the Bill, aims and objectives, major weaknesses/shortcomings in the existing Bureau of Indian Standards Act, 1986, etc.

3. Thereafter, the Secretary, Department of Consumer Affairs addressed the issues raised by the Hon'ble Chairman and also briefed the Committee on the various issues

related to the Bill with the help of a power point presentation. The supplementary queries of the Members of the Committee were also responded to by the representatives of the Department.

4. The following are some of the important points that emerged during the deliberations of the Committee:-

- I. Need to strengthen the working of the Bureau by making it proactive and answerable;
- II. Need to have sufficient infrastructure before making hallmarking of precious metals and its products mandatory;
- III. Need to give more teeth to the vigilance division of the Bureau by making the punitive provisions in the amendment Bill more severe;
- IV. Need to harmonize the Indian Standards with the International Standards to simplify trade procedures and boost Indian economy;
- V. Need to involve State Governments/UT Administrations and other Organizations to make the provisions of the Amendment Bill more executable; etc.

5. The Hon'ble Chairman then thanked the Secretary and other representatives of the Department of Consumer Affairs for free and frank discussion and also for briefing the Committee properly.

6. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE TWENTIETH SITTING OF THE STANDING COMMITTEE ON
FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON
MONDAY, 4TH MARCH, 2013**

The Committee sat from 1500 hrs. to 1650 hrs. in Committee Room No. 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Smt. Harsimrat Kaur Badal
3. Shri Shivraj Bhaiya
4. Shri Arvind Kumar Chaudhary
5. Shri Harishchandra Chavan
6. Shri Sanjay Dhotre
7. Shri Eknath M. Gaikwad
8. Shri Poonam Prabhakar
9. Shri C.Rajendran
10. Shri Purnmasi Ram

RAJYA SABHA

11. Dr. Bhushan Lal Jangde
12. Shri Lalhming Liana
13. Dr. Bharatkumar Raut
14. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Misra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

WITNESSES

(I) FEDERATION OF INDUSTRIES OF INDIA (FII)

Sl. No.	Name	Designation
1.	Shri S.P.Bhatia	Vice President
2.	Shri Sushil Naithani	Executive Member
3.	Shri H.L.Bhardwaj	Secretary General

(II) VOLUNTARY ORGANIZATION IN INTEREST OF CONSUMER EDUCATION (VOICE)

Sl. No.	Name	Designation
1.	Prof. Sri Ram Khanna	Managing Trustee
2.	Shri Ashok Kanchan	Member

At the outset, the Hon'ble Chairman welcomed the Members of the Committee to the sitting convened to hear the views and suggestions of the representatives of Federation of Industries of India (FII) and Voluntary Organization in Interest of Consumer Education (VOICE) on the 'Bureau of Indian Standards (Amendment) Bill, 2012.'

[The witnesses were then called in]

2. The Hon'ble Chairman welcomed the representatives of Right to Food Campaign to the sitting and mentioned, inter-alia, that the discussions held shall be kept confidential as required under the provisions of Direction 55(1) of the Directions by the Speaker and requested the representatives of the Right to Food Campaign to share their views/suggestions on any chapter, clause or provision of the National Food Security Bill, 2011 which they felt should be considered by the Committee in their report. Thereafter the representatives briefed the Committee about the views/suggestions of the organization on the Bill. The following are some of the important points that emerged during the deliberations of the Committee:-

- i. Selling companies have their own system to follow and do not want to follow Indian system of mandatory Quality Control Orders.
- ii. There is need to check the quality of material imported according to the norms set by BIS.

- iii. Need to revise BIS norms to make registration process, quality checks etc. smooth and efficient.
- iv. Need to upgrade standards of items in the country in order to have standards of their own and to comply with WTO regime.
- v. Need to re-think over the issue of bringing the raw material which is in short supply or not made in our country under the ambit of the Bill.
- vi. To protect the interest of the consumers, there is a need to monitor the standards of items by frequent testing of samples collected from market, factories, etc. and to detain the person (s), if found guilty.
- vii. There is a need to check/dilute the monopoly of BIS from becoming the only certification body and to have multiple agencies for product certification.
- viii. BIS should be made accountable and enforcement agency for the implementation of standards.
- ix. The word 'Articles' should be replaced with 'Articles and Services' as per amendments proposed in order to have services of different types subjected to standards.
- x. As per the Competition Act passed by the House, the fine should be revised to 5 per cent of the turnover of the company.
- xi. Need to spread awareness amongst consumers to buy atleast ISI marked products or products which have higher standards.

4. The queries raised by the Chairman and Members of the Committee during the course of the deliberation were responded to by the representatives of the Right to Food Campaign. The Hon'ble Chairman then thanked the witnesses for appearing before the Committee and sharing their views with them.

[The witnesses then withdrew.]

5. The Hon'ble Chairman then highlighted the important recommendations contained in the draft Report of the Committee (2012-13) on the action taken by the Government on the observations/recommendations contained in the Eighteenth Report of the Committee (2011-12) on DFG (2012-13) pertaining to the Ministry of Consumer

Affairs, Food and Public Distribution (Department of Consumer Affairs). The Committee then took up for consideration the above stated draft Report. After due deliberation, the Committee unanimously adopted the draft Report without any amendments/modifications.

6. The Committee then authorized the Chairman to finalize the aforesaid Report and present the same to the Parliament.

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE TWENTY FIRST SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON WEDNESDAY, THE 6th MARCH, 2013

The Committee sat from 1500 hrs. to 1700 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Shri Kantilal Bhuria
3. Shri Arvind Kumar Chaudhary
4. Shri Eknath M. Gaikwad
5. Shri Abdul Mannan Hossain
6. Shri Sohan Potai
7. Shri C. Rajendran
8. Shri Chandulal Sahu

RAJYA SABHA

9. Shri Bhushanlal Jangde
10. Shri Lalhming Liana
11. Dr. Bharat Kumar Raut
12. Dr. T. N. Seema
13. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Mishra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

WITNESSES

I. Representatives of Consumers Association of India:

1. Shri M.R. Krishnan, Deputy Director, Consumer Association of India

II. Representatives of All India Gems & Jewellery Trade Federation:

1. Shri Ashok Minawala, Past Chairman
2. Shri Pramod Agrawal, Member, Board of Director
3. Shri Manish Jain, Member, Board of Director
4. Shri Sribash Dasmohapatra, Executive Director
5. Shri Gopal K. Verma, Regional Manager

At the outset, the Hon'ble Chairman welcomed the Members of the Committee to the sitting convened to hear the views and suggestions of the representatives of (i) Consumers Association of India (CAI) and (ii) All India Gems & Jewellery Trade Federation (GJF) on the various provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012.'

[The witnesses were then called in one by one]

[The representative of Consumers Association of India (CAI), was called in]

3. The Hon'ble Chairman welcomed the representative of Consumers Association of India (CAI) to the sitting and mentioned, inter-alia, that the discussions held shall be kept confidential as required under the provisions of Direction 55(1) of the Directions by the Speaker. Hon'ble Chairman then requested the representative of the CAI to share his views/suggestions on any chapter, clause or provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012' which he felt should be considered by the Committee in their report. Thereafter the representative of the CAI briefed the Committee about the views/suggestions of the organization on the Bill. The following are some of the important points that emerged during the deliberations of the Committee:-

- VI. Need to cover all the persons related to precious metals trade i.e. from artisans to sellers and hold them accountable under the ambit of the Bill;
- VII. Need to amend the punitive provisions under the Bill for making them more stringent by including both imprisonment as well as penalty;
- VIII. Need to make the Assaying and Hallmarking Centres independent of the Jewellers to prevent malpractices and frauds ; and
- IX. Need to put a check on the heavy charges levied by the Jewellers in the name of 'wastages', thus depriving the consumers of their rightful quantity of precious metal for the amount paid by them; etc.

4. The queries raised by the Chairman and Members of the Committee during the course of the deliberation were responded to by the representative of the CAI. The Hon'ble Chairman then thanked the witness for appearing before the Committee and sharing the views of the CAI with them.

[The witness then withdrew.]

[The representatives of All India Gems & Jewellery Trade Federation (GJF), were then called in]

5. After welcoming the witnesses, the Hon'ble Chairman apprised them of the provisions of Direction 55(1) of the Directions by the Speaker regarding the confidentiality of the proceedings of the sitting.

6. Thereafter, the representatives of the GJF tendered their views/suggestions on the various provisions of the Bill. Some of the important points that emerged during the deliberations of the Committee are as follows:-

- (i) Need to provide for 100% hallmarking and do away with the licensing system to avoid the prevalence of 'License Raj' in the industry;
- (ii) Need to hold the Assaying and Hallmarking Centre responsible for any deficiency in quality of Hallmarked jewellery and not the jeweller;
- (iii) Need to replace the word 'license' with either the word 'registration' or 'regulation' to curb the fears of licensing malpractices in the minds of the traders ; and
- (iv) Need to give a window period of approximately one year to the jewellers to help them finish their old jewellery stocks first before introducing mandatory hallmarking in the country; etc.

7. The representatives of the All India Gems & Jewellery Trade Federation (GJF) responded to the queries raised by the Chairman and the members during the course of the sitting.

8. The Hon'ble Chairman then thanked the witnesses for appearing before the Committee and sharing their views with them in a free and frank manner.

[The witnesses then withdrew.]

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE TWENTY SECOND SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON WEDNESDAY, THE 11th MARCH, 2013

The Committee sat from 1500 hrs. to 1655 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Smt. Harsimrat Kaur Badal
3. Shri Sohan Potai
4. Shri Ponnamp Prabhakar
5. Shri Purnmasi Ram

RAJYA SABHA

6. Shri Bhushanlal Jangde
7. Dr. Bharat Kumar Raut
8. Dr. T. N. Seema
9. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Mishra - Joint Secretary
2. Smt. Veena Sharma - Director

WITNESSES

Representatives of Confederation of Indian Steel Producers Association:

1. Shri S. S. Beriwalla - President, CISPA and Managing Director, Shyam Steel Industries, Kolkata
2. Shri Kamal Aggrawal - Senior Vice President, All India Induction Furnace Association of India
3. Shri S. C. Mathur - Secretary General, CISPA, New Delhi
4. Shri Vinod Vashist - Chairman, All India Steel Rerollers Association of India
5. Shri Pawan Bansal - Chairman, All India Induction Furnace Association of India, Rajasthan

Representatives of Confederation of Indian Industry:

1. Shri Anupam Kaul - Principal Counsellor
2. Shri C. N. Sinha - Consultant

3. Dr. Rajiv Kumar - Chief Scientist, Tata Chemicals Ltd., Pune
4. Shri Manoj Belgaonkar - General Manager, Quality Management Indust Sector, Siemens Ltd.

At the outset, the Hon'ble Chairman welcomed the Members of the Committee to the sitting convened to hear the views and suggestions of the representatives of (i) Confederation of Indian Steel Producers Association (CISPA) and (ii) Confederation of Indian Industry (CII) on the various provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012.'

[The witnesses were then called in one by one]

[The representative of Confederation of Indian Steel Producers Association (CISPA), was called in]

2. The Hon'ble Chairman welcomed the representative of Confederation of Indian Steel Producers Association (CISPA) to the sitting and mentioned, inter-alia, that the discussions held shall be kept confidential as required under the provisions of Direction 55(1) of the Directions by the Speaker. Hon'ble Chairman then requested the representative of the CISPA to share their views/suggestions on any chapter, clause or provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012' which they felt should be considered by the Committee in their report. Thereafter the representative of the CISPA briefed the Committee about the views/suggestions of the organization on the Bill. The following are some of the important points that emerged during the deliberations of the Committee:-

- X. Need to reconsider including Steel products in the Mandatory list of BIS as its effects go against India's foreign trade policy to develop free trade among countries ;
- XI. Need to include the raw materials used in making steel products in the mandatory list;
- XII. Need to form a committee comprising representatives of the Ministry of Commerce, the concerned Ministry, BIS, Ministry of Consumer Affairs, Competition Commission of India to consider inclusion of any product/service in the mandatory list ; and

XIII. Need to give the responsibility of inspecting quality of steel products to the BIS alone and not to the Ministry of Steel which lacks the qualified Officers, in order to prevent occurrence of Inspector-raj; etc.

3. The queries raised by the Chairman and Members of the Committee during the course of the deliberation were responded to by the representative of the CISPA. The Hon'ble Chairman then thanked the witness for appearing before the Committee and sharing their views with them.

[The witness then withdrew.]

[The representatives of Confederation of Indian Industry (CII), were then called in]

4. After welcoming the witnesses, the Hon'ble Chairman apprised them of the provisions of Direction 55(1) of the Directions by the Speaker regarding the confidentiality of the proceedings of the sitting.

5. Thereafter, the representatives of the CII tendered their views/suggestions on the various provisions of the Bill. Some of the important points that emerged during the deliberations of the Committee are as follows:-

- (v) Need to distinguish between the concepts of 'Registration' and 'Self Declaration of Conformity' and apply regulating provisions accordingly;
- (vi) Need to discontinue with the registration trend and provide for strong penal actions in case of false declaration under the 'Self declaration of Conformity' scheme;
- (vii) Need to limit the search and seizure operation to those manufacturers/traders against whom a complaint has been filed and not to those under Self declaration of Conformity to avoid reoccurrence of Inspector-raj; and
- (viii) Need to make the scheme of Self declaration of conformity more broad based by including other bodies such as Quality Council Of India, National Accreditation Board for Testing and Calibration Laboratories (NABL), etc.

6. The representatives of the Confederation of Indian Industry (CII) responded to the queries raised by the Chairman and the members during the course of the sitting.

7. The Hon'ble Chairman then thanked the witnesses for appearing before the Committee and sharing their views with them in a free and frank manner.

[The witnesses then withdrew.]

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE TWENTY SEVENTH SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON TUESDAY, THE 16th APRIL, 2013

The Committee sat from 1430 hrs. to 1700 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS
LOK SABHA

2. Shri Shivraj Bhaiya
3. Shri Arvind Kumar Chaudhary
4. Shri Sanjay Dhotre
5. Shri Purnmasi Ram
6. Shri Adhi Sankar

RAJYA SABHA

7. Shri Birender Singh
8. Shri Veer Singh
9. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Mishra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

WITNESSES

Representatives of Akhil Bharatiya Grahak Panchayat:

1. Shri Bheemsen Sachdeva - Member
2. Shri Suraj Prakash Manchanda - Member
3. Shri Santosh Godbole - Member
4. Ad. Shri Bhupendra Parekh - Member

Representatives of Mumbai Grahak Panchayat:

1. Shri Vivek Patki - Vice President

Representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs)

1. Shri Pankaj Agrawala	-	Secretary
2. Shri Afzal Amanullah	-	Special Secretary/DG, BIS
3. Shri P. K. Jha	-	AS & FA
4. Shri Manoj Kumar Parida	-	Joint Secretary
5. Shri A. K. Jain	-	Director (BIS)
6. Shri S. K. Nag	-	Director (P&C)
7. Smt. Alka Panda	-	Additional DG, BIS
8. Shri P. K. Gambhir	-	Scientist G & Chief (Certification), BIS
9. Shri P. K. Batra	-	Scientist G & Chief (Labs), BIS
10. Smt. Parminder Bajaj	-	Scientist G & Chief (Standardization), BIS
11. Shri A. K. Sen	-	Scientist F & DDG (Hallmarking), BIS
12. Shri Rahul Kumar	-	Scientist F & Head (IRD)
13. Shri J. Roy Chowdhary	-	Scientist F (IRD&TISC), BIS
14. Shri A. K. Sharma	-	Scientist G & Head (CMD- III), BIS
15. Lt. Col (Rtd) K. Shantanu	-	Bureau Secretary
16. Shri Bhupal Singh	-	Director (Legal)

At the outset, the Hon'ble Chairman welcomed the Members of the Committee to the sitting convened to hear the views and suggestions of the representatives of (i) Akhil Bharatiya Grahak Panchayat and (ii) Mumbai Grahak Panchayat and to take oral evidence of the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) on the various provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012.'

[The witnesses were then called in one by one]

[The representative of Akhil Bharatiya Grahak Panchayat and Mumbai Grahak Panchayat were called in]

2. The Hon'ble Chairman welcomed the representative of Akhil Bharatiya Grahak Panchayat and Mumbai Grahak Panchayat to the sitting and mentioned, inter-alia, that the discussions held shall be kept confidential as required under the provisions of Direction 55(1) of the Directions by the Speaker. Hon'ble Chairman then requested the representative of both the Grahak Panchayats to share their views/suggestions on any chapter, clause or provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012' which they feel should be considered by the Committee in their report. Thereafter the representative of the Akhil Bharatiya Grahak Panchayat and Mumbai Grahak Panchayat briefed the Committee about the views/suggestions of the organization on the Bill. The following are some of the important points that emerged during the deliberations of the Committee:-

- I. Need to define the term 'services' in the Bill for better clarity;

- II. Need to redefine the term 'Jewellers' as persons manufacturing, selling and repairing precious metal articles and bring them under the purview of the Bill;
- III. Need to have fixed Hallmarking charges on the hallmarked articles sold by the jewelers instead of giving them a freehand for levying it on percentage basis; and
- IV. Need to have flexible but stringent penal provisions which should be in proportion to the level/intensity of violation of law/non-conformity to standards; etc.

3. The queries raised by the Chairman and Members of the Committee during the course of the deliberation were responded to by the representative of both the Grahak Panchayats. The Hon'ble Chairman then thanked the witness for appearing before the Committee and sharing their views with them.

[The witness then withdrew.]

[The representatives of Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs), were then called in]

4. After welcoming the Secretary and other officials of the Department of Consumer Affairs, the Chairman apprised them of the provisions of Direction 55(1) of The Directions by the Speaker. Hon'ble Chairman, in his opening remarks sought comments of the Secretary on important issues related to the Bill such as functions of the Bureau after the Bill comes into effect, availability of resources, qualified manpower and infrastructure with the Bureau to execute the provisions of mandatory standardization, relevance of grant, renewal, cancellation, etc of Self Declaration of Conformity, appropriateness of enforcement of 'Quality Control Orders' issued by various Central Ministries by the State Governments considering the availability of technically qualified manpower required for the same, etc.

5. Thereafter, the Secretary, Department of Consumer Affairs addressed to the concerns raised by the Hon'ble Chairman in his remarks. During the discussions, the

issues raised by Hon'ble Chairman were further supplemented by the Members of the Committee.

6. The following are some of the important points that emerged during the deliberations of the Committee:-

- (i) Need for amending the Bureau of Indian Standards Act, 1986 in order to make widen its scope and give more power to the Bureau to curb malpractices and fraudulent activities prevailing in the market;
- (ii) Need to make the penal provisions more stringent to make the BIS Act self deterrent;
- (iii) Need to protect the consumers from being exploited at the hands of jewelers in the name of BIS hallmarked jewellery, exorbitantly high making charges and process loss/wastage charges; and
- (iv) Need to establish at least one Assaying and Hallmarking centre in each district before the Bill comes into effect in order to ensure proper implementation of mandatory hallmarking provision; etc.

7. The representatives of the Department responded to the queries raised by the Chairman and the members on the aforesaid issues.

8. The Hon'ble Chairman then thanked the Secretary and other representatives of the Department of Consumer Affairs for briefing the Committee on the various provisions of the Bill and responding to their queries in a satisfactory manner.

[The witnesses then withdrew.]

A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE TWENTY NINTH SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON TUESDAY, THE 9th JULY, 2013

The Committee sat from 1500 hrs. to 1615 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Shri Shivraj Bhaiya
3. Shri Arvind Kumar Chaudhary
4. Shri Sanjay Dhotre
5. Shri Eknath M. Gaikwad
6. Shri Prataprao G. Jadhav
7. Shri Ponnamp Prabhakar
8. Shri Purnmasi Ram
9. Shri Chandulal Sahu
10. Shri Adhi Sankar

RAJYA SABHA

11. Dr. Bhushan Lal Jangde
12. Shri Lalhming Liana
13. Smt. Rajani Patil
14. Dr. Bharatkumar Raut
15. Dr. T. N. Seema
16. Shri Birender Singh
17. Shri Veer Singh
18. Shri Kaptan Singh Solanki

SECRETARIAT

1. Shri P. K. Misra - Joint Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

WITNESSES

Representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs)

1. Shri Pankaj Agrawala - Secretary
2. Shri Manoj Kumar Parida - Joint Secretary

3. Shri Ashok Kumar Jain	-	Director (BIS)
4. Shri Sunil Soni	-	Director General, BIS
5. Smt. Alka Panda	-	Additional DG, BIS
6. Shri P. K. Gambhir	-	Scientist G & Chief (Certification), BIS
7. Shri Parminder Bajaj	-	Scientist G & Chief (Standardization), BIS
8. Smt. Madhulika Prakash	-	Scientist F & DDG (Enf.), BIS
9. Shri A. K. Sen	-	Scientist F & DDG (Hallmarking), BIS
10. Shri A. K. Sharma	-	Scientist F & Head (CMD-III), BIS
11. Shri J. Roy Chowdhary	-	Scientist F (IR&TISC), BIS
12. Shri Kulvinder Kumar Arora	-	Director (Legal), BIS

At the outset, the Hon'ble Chairman welcomed the Members of the Committee to the sitting convened to take oral evidence of the representatives of the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) on the various provisions of 'The Bureau of Indian Standards (Amendment) Bill, 2012.'

2. Thereafter, Secretary and other officials of the Department of Consumer Affairs were invited to the sitting of the Committee. After welcoming them, the Chairman apprised them of the provisions of Direction 55(1) of The Directions by the Speaker. Hon'ble Chairman, in his opening remarks, sought comments of the Secretary on various important issues related to the Bill such as provision for third party certification, composition and working of the Executive committee of the Bureau, steps taken for further simplification of the process of registration with the Bureau for its effective functioning, etc.

3. Thereafter, the Secretary, Department of Consumer Affairs addressed to the concerns raised by the Hon'ble Chairman in his remarks. During the discussion, the issues raised by Hon'ble Chairman were further supplemented by the Members of the Committee.

4. The following are some of the important points that emerged during the deliberations of the Committee:-

- I. Need for fixing responsibility of Hallmarking centres and Jewellers in case of detection of deviations from the set standards in the hallmarked jewellery;

- II. Repercussions of the Quality Control Orders issued by the other Central Ministries on the secondary sector industries especially the Ministry of Steel's Quality Control Order, 2012;
- III. Need and availability of additional manpower and infrastructure for smooth implementation of the Bill;
- IV. Need to protect consumers interest by stopping misleading and fraudulent advertisements;
- V. Scope for involving other Authorities to be vested with the power to grant, renew, cancel the registration for Self Declaration of Conformity ; and
- VI. Need to make the penal provisions more stringent and ensuring their implementation acts as a deterrent by itself, etc.

5. The representatives of the Department responded to the queries raised by the Chairman and the members on the aforesaid issues.

6. The Hon'ble Chairman then thanked the Secretary and other representatives of the Department of Consumer Affairs for briefing the Committee on the various provisions of the Bill and responding to their queries in a satisfactory manner.

7. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE THIRTY FIRST SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON THURSDAY, THE 22nd AUGUST, 2013

The Committee sat at 1530 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar, M.P. - Chairman

MEMBERS

LOK SABHA

2. Shri Kantilal Bhuria
3. Shri Arvind Kumar Chaudhary
4. Shri Ponnamb Prabhakar
5. Shri C. Rajendran
6. Shri Suresh K. Shetkar

RAJYA SABHA

7. Shri Bhushan Lal Jangde
8. Smt. Rajani Patil
9. Dr. Bharatkumar Raut

SECRETARIAT

1. Shri P. K. Misra - Additional Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

The sitting of the Committee was scheduled to be held to consider and adopt the draft report of the Committee on 'The Bureau of Indian Standards (Amendment) Bill, 2012'

As there was lack of quorum even after waiting for 20 minutes, Hon'ble Chairman decided under the provisions of Rules 259(1) of the Rules of Procedure and Conduct of Business in Lok Sabha to postpone the sitting of the Committee to 27th August, 2013.

MINUTES OF THE THIRTY SECOND SITTING OF THE STANDING COMMITTEE ON FOOD, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (2012-13) HELD ON TUESDAY, THE 27th AUGUST, 2013

The Committee sat from 1500 hrs. to 1545 hrs. in Room No. 115-A, First floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Vilas Muttemwar - Chairman

MEMBERS

LOK SABHA

2. Shri Arvind Kumar Chaudhary
3. Shri Eknath M. Gaikwad
4. Shri Ponnamp Prabhakar
5. Shri Purnmasi Ram
6. Shri C. Rajendran

RAJYA SABHA

7. Dr. Bhushanlal Jangde
8. Smt. Rajani Patil
9. Dr. T.N. Seema
10. Shri Veer Singh

SECRETARIAT

1. Shri P.K.Misra - Additional Secretary
2. Smt. Veena Sharma - Director
3. Shri Khakhai Zou - Under Secretary

At the outset, Hon'ble Chairman welcomed the Members to the sitting convened for consideration and adoption of two draft Reports of the Committee (2012-13) on (i) 'Bureau of Indian Standards (Amendment) Bill, 2012' and (ii) the Action Taken by the Government on the observations/recommendations of the Committee contained in their

THE BUREAU OF INDIAN STANDARDS ACT, 1986

No. 63 of 1986

[23rd December, 1986.]

An Act to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bureau of Indian Standards Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, -

- w. "article" means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;
- x. "Bureau" means the Bureau of Indian Standards established under section 3 ;
- y. "consumer" means a consumer of any article or process ;
- z. "covering" includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;
- aa. "Executive Committee" means the Executive Committee constituted under sub-section (1) of section 4;
- bb. "Fund" means the Fund constituted under section 18;
- cc. "Indian Standard" means the standard (including any tentative or provisional standard) established and published by the Bureau, in relation to any article or process indicative of the quality and specification of such article or process and includes -
 - i. any standard recognised by the Bureau under clause (b) of section 10; and
 - ii. any standard established and published, or recognised, by the Indian Standards Institution and which is in force immediately before the date of establishment of the Bureau;

- dd. "Indian Standards Institution" means the Indian Standards Institution set up under the Resolution of the Government of India in the late, Department of Industries and Supplies No. 1 Std.(4)/45, dated the 3rd day of September, 1946, and registered under the Societies Registration Act, 1860;
- ee. "inspecting officer" means an inspecting officer appointed under section 25;
- ff. "Licence" means a licence granted under section 15 to use the Indian Standards Certification Mark in relation to any article or process which conforms to the Indian Standard and includes any licence granted under the Indian Standards Institution (Certification Marks) Act, 1952 and is in force immediately before the date of establishment of the Bureau;
- gg. "manufacturer" means the manufacturer of any article or process;
- hh. "mark" includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;
- ii. "member" means a member of the Bureau;
- jj. "prescribed" means prescribed by rules made under this Act;
- kk. "Process" includes any practice, treatment and mode of manufacture of any article;
- ll. "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;
- mm. "regulations" means regulations made by the Bureau under this Act;
- nn. "rules" means rules made by the Central Government under this Act;
- oo. "Specification" means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;
- pp. "Standard Mark" means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard and also includes any Indian Standards Institution Certification Mark specified by the Indian Standards Institution;
- qq. "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;
- rr. an article is said to be marked with a Standard Mark if the article itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

CHAPTER II

THE BUREAU OF INDIAN STANDARDS

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Bureau, to be called the Bureau of Indian Standards.

(2) The Bureau shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Bureau shall consist of the following members, namely :-

- a. the Minister incharge of the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex-officio* President of the Bureau;
- b. The Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the Bureau who shall be *ex-officio* vice-President of the Bureau, and where there is no such Minister of State or Deputy Minister, such person as may be nominated by the Central Government to be the Vice-President of the Bureau;
- c. the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the Bureau *ex-officio*;
- d. the Director-General of the Bureau *ex-officio*;
- e. such number of other persons, to represent the Government, industry, scientific and research institutions and other interests, as may be prescribed, to be appointed by the Central Government.

(4) The term of office of the members referred to in clause (e) of sub-section (3) and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members, shall be such as may be prescribed.

(5) The Bureau may associate with itself, in such manner and for such purposes as may be prescribed, any persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Bureau relevant to the purposes for which he has been associated but shall not have the right to vote.

4. (1) The Bureau may, with the prior approval of the Central Government, by notification in the Official Gazette, constitute an Executive Committee which shall consist of the following members, namely:-

- c. Director-General of the Bureau, who shall be its *ex-officio* Chairman;
- d. such number of members, as may be prescribed.

(2) The Executive Committee constituted under sub-section (1) shall perform, exercise and discharge such of the functions, powers and duties of the Bureau as may be delegated to it by the Bureau.

5. (1) Subject to any regulations made in this behalf, the Bureau may, from time to time and as and when it is considered necessary, constitute the following Advisory Committees for the efficient discharge of its functions, namely:-

- a. Financial Committee;
- b. Certification Advisory Committee;
- c. Standards Advisory Committee;
- d. Laboratory Advisory Committee;
- e. Planning and Development Advisory Committees;
- f. such number of other committees as may be determined by regulations.

(2) Each Advisory Committee shall consist of a Chairman and such other members as may be determined by regulations.

(3) Without prejudice to the powers contained in sub-section (1), the Bureau may constitute, as and when considered necessary, such number of technical committees of experts for the formulation of standards in respect of articles or processes.

6. No act or proceedings of the Bureau, the Executive Committee or any Committee constituted under section 5 shall be invalid merely by reason of :-

- a. any vacancy in, or any defect in the constitution of the Bureau or the Committee; or
- b. any defect in the appointment of a person acting as a member of the Bureau or Committee; or
- c. any irregularity in the procedure of the Bureau or the Committee not affecting the merits of the case.

7. (1) The Central Government shall appoint a Director-General of the Bureau.

(2) The terms and conditions of service of the Director-General of the Bureau shall be such as may be prescribed.

(3) Subject to the general superintendence and control of the Bureau, the Director-General of the Bureau shall be the Chief Executive Authority of the Bureau.

(4) The Director-General of the Bureau shall exercise and discharge such of the powers and duties of the Bureau as may be determined by regulations.

8. (1) The Bureau may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of officers and employees of the Bureau appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC. OF THE INDIAN STANDARDS INSTITUTION TO THE BUREAU

9. (1) On and from the date of establishment of the Bureau, -

- a. any reference to the Indian Standards Institution in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Bureau;
- b. all properties and assets, movable and immovable, of, or belonging to, the Indian Standards Institution shall vest in the Bureau;
- c. all the rights and liabilities of the Indian Standards Institution shall be transferred to, and be the rights and liabilities of, the Bureau;
- d. without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Indian Standards Institution immediately before that date, for or in connection

- with the purposes of the said Institution shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Bureau;
- e. all sums of money due to the Indian Standards Institution immediately before that date shall be deemed to be due to the Bureau;
 - f. all suits and other legal proceedings instituted or which could have been instituted by or against the Indian Standards Institution immediately before that date may be continued or may be instituted by or against the Bureau; and
 - g. every employee holding any office under the Indian Standards Institution immediately before that date shall hold his office in the Bureau by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement or other terminal benefits as he would have held such office if the Bureau had not been established and shall continue to do so as an employee of the Bureau or until the expiry of a period of six months from that date if such employee opts not to be the employee of the Bureau within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Bureau in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BUREAU

10. (1) The Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and, in particular, such powers include the power to -
- a. establish, publish and promote in such manner as may be prescribed the Indian Standard, in relation to any article or process;
 - b. recognise as an Indian Standard, in such manner as may be prescribed, any standard established by any other Institution in India or elsewhere, in relation to any article or process;
 - c. specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;
 - d. grant, renew, suspend or cancel a licence for the use of the Standard Mark;
 - e. levy fees for the grant or renewal of any licence;
 - f. make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without a licence;
 - g. seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country;
 - h. establish, maintain and recognise laboratories for the purposes of standardisation and quality control and for such other purposes as may be prescribed;
 - i. undertake research for the formulation of Indian Standards in the interests of consumers and manufacturers;

- j. recognise any institution in India or outside which is engaged in the standardisation of any article or process or the improvement of the quality of any article or process;
- k. provide services to manufacturers and consumers of articles or processes on such terms and conditions as may be mutually agreed upon;
- l. appoint agents in India or outside India for the inspection, testing and such other purposes as may be prescribed;
- m. establish branches, offices or agencies in India or outside;
- n. inspect any article or process, at such times and at such places as may be prescribed in relation to which the Standard Mark is used or which is required to conform to the Indian Standard by this Act or under any other law irrespective of whether such article or process is in India or is brought or intended to be brought into India from a place outside India;
- o. coordinate activities of any manufacturer or association of manufacturers or consumers engaged in standardisation and in the improvement of the quality of any article or process or in the implementation of any quality control activities;
- p. perform such other functions as may be prescribed.

(2) The Bureau shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government.

11. (1) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

12. No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Bureau, -

- a. any name which so nearly resembles the name of the Bureau as to deceive or likely to deceive the public or which contains the expression "Indian Standard" or any abbreviation thereof; or
- b. any mark or trade mark in relation to any article or process containing the expressions "Indian Standard" or "Indian Standard Specification" or any abbreviation of such expressions.

13. (1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall -

- a. register any company, firm or other body of persons which bears any name or mark; or
- b. register a trade mark or design which bears any name or mark; or
- c. grant a patent, in respect of an invention, which bears a title containing any name or mark

if the use of such name or mark is in contravention of section 11 or section 12.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 11 or section 12, the registering authority may refer the question to the Central Government whose decision thereon shall be final.

14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette, -

- c. notify any article or process of any scheduled industry which shall conform to the Indian Standard; and
- d. direct the use of the Standard Mark under a licence as compulsory on such article or process.

Explanation - For the purposes of this section, the expression "scheduled industry" shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951.

CHAPTER V

LICENCE

15. (1) The Bureau may, by order, grant, renew, suspend or cancel a licence in such manner as may be determined by regulations.

(2) The grant or renewal of the licence under sub-section (1) shall be subject to such conditions and on payment of such fees as may be determined by regulations.

16. (1) Any person aggrieved by an order made under section 15 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

17. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Bureau grants and loans of such sums of money as that Government may consider necessary.

18. (1) There shall be constituted a Fund to be called the Bureau of Indian Standards Fund and there shall be credited thereto -

- a. any grants and loans made to the Bureau by the Central Government under section 17;
- b. all fees and charges received by the Bureau under this Act;
- c. all sums received by the Bureau from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting -

- a. the salary, allowances and other remuneration of the members, Director-General, officers and other employees of the Bureau;
- b. expenses of the Bureau in the discharge of its functions under section 10;
- c. expenses on objects and for purposes authorised by this Act.

19. (1) The Bureau may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Bureau under sub-section (1).

20. The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Central Government.

21. The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

22. (1) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Bureau shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureau to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Bureau.

(4) The accounts of the Bureau as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

23. The Central Government shall cause the annual report to be laid, as soon as may be after it is received, before each house of Parliament.

CHAPTER VII

MISCELLANEOUS

24. (1) Without prejudice to the foregoing provisions of this Act, the Bureau shall, in the exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

25. (1) The Bureau may appoint as many inspecting officers as may be necessary for the purpose of inspecting whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been properly used in relation to any article or process with or without licence, and for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an inspecting officer shall have power to -

(a) inspect any operation carried on in connection with any article or process in relation to which the Standard Mark has been used; and

(b) take samples of any article or of any material or substances used in any article or process, in relation to which the Standard Mark has been used.

(3) Every inspecting officer shall be furnished by the Bureau with a certificate of appointment as an inspecting officer and the certificate shall, on demand, be produced by the inspecting officer.

26. (1) If the inspecting officer has reason to believe that any article or process in relation to which the contravention of section 11 or section 12 has taken place are secreted in any place, premises or vehicles, he may enter into and search such place, premises or vehicle for such article or process.

(2) Where, as a result of any search made under sub-section (1), any article or process has been found in relation to which contravention of section 11 or section 12 has taken place, he may seize such article and other things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act :

Provided that where it is not practicable to seize any such article or thing, the inspecting officer may serve on the owner an order that he shall not remove, part with, or otherwise deal with, the article or things except with the previous permission of the inspecting officer.

(3) The provision of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this section.

27. The Bureau may, by general or special order in writing, delegate to any member, member of the Executive Committee, officer of the Bureau or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 38) as it may deem necessary.

28. Every licensee shall supply the Bureau with such information, and with such samples of any material or substance used in relation to any article or process, as the Bureau may require.

29. Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

30. Any information obtained by an inspecting officer or the Bureau from any statement made or information supplied or any evidence given or from inspection made under the provisions of this Act shall be treated as confidential :

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

31. All members, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

32. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any member, officer or other employee of the Bureau for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

33. (1) Any person who contravenes the provisions of section 11, or section 12 or section 14 or section 15 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both.

(2) Any court trying a contravention under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Bureau.

34. (1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the Government or Bureau or by any officer empowered in this behalf by the Government or the Bureau, or any consumer or any association recognised in this behalf by the Central or State Government.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

35. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section, -

- a. "company" means any body corporate and includes a firm or other association of individuals; and
- b. "director", in relation to a firm, means a partner in the firm.

36. All orders and decisions of, and all other instruments issued by, the Bureau shall be authenticated by the signature of such officer or officers as may be authorised by the Bureau in this behalf.

37. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- p. the number of members of the Bureau and the interest such members would represent under clause (e) of sub-section (3) of section 3;
- q. the term of office of the members of the Bureau, the manner for filling vacancies and the procedure to be followed in the discharge of their functions by, the members under sub-section (4) of section 3;
- r. the manner in, and the purposes for, which the Bureau may associate with itself any person for assistance and advice under sub-section (5) of section 3;
- s. the number of members of the Bureau who will be members of the Executive Committee under clause (b) of sub-section (1) of section 4;
- t. the terms and conditions of service of the Director-General of the Bureau under sub-section (2) of section 7;
- u. the design and the particulars to represent a particular Indian Standard under clause (c) of sub-section (1) of section 10;
- v. the purposes for which laboratories for the purposes of standardisation and quality control shall be established by the Bureau under clause (h), of sub-section (1) of section 10;
- w. the purposes for which agents may be appointed by the Bureau in India or outside India under clause (1) of sub-section (1) of section 10;
- x. the times and places at which any article or process may be inspected under clause (n) of sub-section (1) of section 10;
- y. the additional functions that may be performed by the Bureau under section 10;
- z. the cases in which, and the conditions subject to which, exemption may be granted under section 12;

- aa. the form in which, and the time at which, the Bureau shall prepare its budget under section 20 and its annual report under section 21;
- bb. the manner in which the accounts of the Bureau shall be maintained under section 22;
- cc. the conditions subject to which inspecting officer may exercise his powers under sub-section (2) of section 25;
- dd. any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

38. (1) The Executive Committee may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- a. the members of the Advisory Committees constituted under section 5 ;
- b. the powers and duties that may be exercised and discharged by the Director-General of the Bureau under sub-section (4) of section 7;
- c. the terms and conditions of service of officers and employees of the Bureau under sub-section (2) of section 8;
- d. the manner of grant, renewal, suspension or cancellation of licence under sub-section (1) of section 15;
- e. the conditions subject to which a licence may be granted or renewed and the fees payable therefor under sub-section (2) of section 15.

39. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

40. Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 or the Drugs and Cosmetics Act, 1940, or any other law for the time being in force, which deals with any standardisation or quality control of any article or process.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :-

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

42. (1) The Indian Standards Institution (Certification Marks) Act, 1952, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have done or taken (including any rule, regulation, notification, scheme, specification, Indian Standard, Standard Mark, inspection order or notice made, issued or adopted, or any appointment, or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or direction given or any proceedings taken or any penalty or fine imposed) under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.

[Home](#)

Bill No. 52 of 2012

**THE BUREAU OF INDIAN STANDARDS
(AMENDMENT) BILL, 2012**

A

BILL

to amend the Bureau of Indian Standards Act, 1986.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Bureau of Indian Standards (Amendment) Act, 2012.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

63 of 1986. **2.** In the Bureau of Indian Standards Act, 1986 (hereinafter referred to as the principal Act), in the long title,—

Amendment
of long title.

(i) after the words "establishment of a Bureau", the words "to be a national standards body" shall be inserted;

10 (ii) for the word "goods", the words "goods, articles, processes and services" shall be substituted.

Amendment
of section 2.

3. In section 2 of the principal Act,—

(i) after clause (f), the following clause shall be inserted, namely:—

'(fa) "Hallmark" means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard in relation to precious metal article;'

5

(ii) after clause (i), the following clause shall be inserted, namely:—

'(ia) "jeweller" means a person selling precious metal articles;'

(iii) after clause (m), the following clauses shall be inserted, namely:—

'(ma) "precious metal" means gold, silver, platinum and palladium;

'(mb) "precious metal article" means any article made entirely or in part from precious metals or their alloys;'

10

(iv) after clause (p), the following clauses shall be inserted, namely:—

'(pa) "registration" means the registration granted by the Bureau for self declaration under sub-section (IA) of section 15;

'(pb) "registered user" means a person who has been granted registration or self declaration of conformity by the Bureau under sub-section (IA) of section 15;

15

'(pc) "self declaration of conformity" means a declaration by a manufacturer of his product in conformity with the Indian Standard;'

(v) in clause (t), for the words "includes any", the words "includes Hallmark or the mark of an international body or institution or any" shall be substituted.

20

Amendment
of section 4.

4. In section 4 of the principal Act, in sub-section (I), after clause (b), the following proviso shall be inserted, namely:—

"Provided that a member of the Executive Committee as may be prescribed, may, authorise any person to represent him in the Committee."

25

Amendment
of section 10.

5. In section 10 of the principal Act, in sub-section (I),—

(i) after clause (d), the following clause shall be inserted, namely:—

"(da) grant, renew, suspend or cancel, registration or self declaration of conformity;"

(ii) in clause (e), for the word "licence", the words "licence or registration or self declaration of conformity" shall be substituted;

30

(iii) after clause (j), the following clause shall be inserted, namely:—

"(ja) recognise with the prior approval of the Central Government the mark of any international body or institution in relation to any article or process at par with the Standard Mark for such article or process;"

35

(iv) in clause (l), for the words "inspection, testing", the words "inspection, collection of samples, testing" shall be substituted;

(v) after clause (n), the following clause shall be inserted, namely:—

"(na) carry out survey of any article or process relating to Indian Standard;"

40

Amendment of
section 11.

6. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

'(3) No person, other than a registered user in possession of a valid registration or self declaration of conformity, shall, on and after the commencement of the Bureau

of Indian Standards (Amendment) Act, 2012 display on and after such commencement in relation to any article or process, the words "Self declaration — conforming to IS....." on an article or packaging, as the case may be, or make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his article conforms to the Indian Standard or make such a declaration on the article.'

7. For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 14.

'14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette,—

Compulsory use of Standard Mark for articles and processes of any industry.

(a) notify any article or process of any industry which shall conform to the Indian Standard; and

(b) direct the use of the Standard Mark under a licence as compulsory on such article or process:

Provided that nothing in this section shall apply to an article or process meant only for export.

Explanation.— For the purposes of this section and section 14B, the expression "article" includes an article imported into India which is of the same nature or description as an article manufactured in India. '

8. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 14A, 14B and 14C.

'14A. Where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order, published in the Official Gazette, make it compulsory for such jewellers selling such precious metal article in such geographical areas and having such minimum turnover, as may be specified by regulations, to use Hallmark under a licence and that such article shall conform to the Indian Standard.

Compulsory use of Hallmark for precious metal article.

14B. (1) Without prejudice to the provisions of section 14, where the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient in the public interest so to do, it may, by order, published in the Official Gazette,—

Compulsory registration for self declaration.

(a) notify any article or process which shall conform to the Indian Standard; and

(b) direct registration or grant self declaration of conformity with the Bureau as compulsory for the purpose of self declaration on such article or process as under:

"Self declaration—Conforms to IS....."

(2) Subject to the provisions of sub-section (3), a person may, in respect of any article or process notified under sub-section (1), exercise an option for making registration or grant of self declaration of conformity with, or taking licence from, the Bureau.

(3) When an article or process notified for registration or in respect of which self declaration of conformity has been granted under sub-section (1), is subsequently notified under section 14, then, in addition to such registration or self declaration of conformity, a licence shall be compulsorily taken from the Bureau for such article or process in place of such registration or self declaration of conformity.

Enforcement of orders.	14C. The Central Government may, by order, authorise any authority to be enforcement authority for enforcement of any order issued by it under section 14, or section 14A or section 14B, in such manner as may be specified in the order.’.	
Substitution of Chapter heading.	9. In Chapter V of the principal Act, for the Chapter heading "LICENCE" the following Chapter heading shall be substituted, namely:—	5
	"LICENCE AND REGISTRATION OR SELF DECLARATION OF CONFORMITY".	
Amendment of section 15.	10. In section 15 of the principal Act,—	
	(a) after sub-section (1), the following sub-section shall be inserted, namely:—	
	"(1A) The Bureau may, for the purpose of self declaration under sub-section (1) of section 14B, by order, grant, renew, suspend or cancel registration or grant self declaration of conformity in such manner as may be determined by regulations.";	10
	(b) in sub-section (2), after the words, brackets and figure "under sub-section (1)", the words, brackets, figure and letter "or as the case may be, registration or allow self declaration of conformity or renewal thereof under sub-section (1A)" shall be inserted.	15
Amendment of section 26.	11. In section 26 of the principal Act, in sub-sections (1) and (2), for the words and figures "section 11 or section 12", the words, figures and letters "section 11 or section 12 or section 14 or section 14A or section 14B or section 15" shall respectively be substituted.	20
Amendment of section 33.	12. In section 33 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—	
	“(1) Any person who contravenes the provisions of section 11 or section 12 or section 14 or section 14A or section 15 shall be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees, or with both.	25
	(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by an officer of the Bureau, not below the rank of Scientist G or Additional Director General of the Bureau appointed by the Director General in the Bureau in such manner as may be prescribed:	2 of 1974. 30
	Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed under sub-section (1) for the offence so compounded:	35
	Provided further that nothing in this sub-section shall apply to an offence committed by a person for the second time or thereafter on which a similar offence committed by him has been compounded.	
	(1B) Every officer referred to in sub-section (1A) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Bureau.	40
	(1C) Every application for the compounding of an offence shall be made in such manner as may be prescribed.	
	(1D) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.	45
	(1E) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in	

sub-section (1A) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

5 (1F) Any person who fails to comply with an order made by the officer referred to in sub-section (1A) shall be punishable with imprisonment for a term which may extend to two years, or with fine not exceeding ten lakh rupees, or with both.”.

13. In section 34 of the principal Act, in sub-section (1), the words “recognised in this behalf by the Central or State Government” shall be omitted. Amendment of section 34.

14. In section 37 of the principal Act, in sub-section (2),— Amendment of section 37.

10 (i) for clause (d), the following clause shall be substituted, namely:—

“(d) the number of members of the Bureau who will be members of the Executive Committee and the power of a member to authorise a person to represent him under clause (b) of sub-section (1) of section 4;”;

(ii) after clause (n), the following clauses shall be inserted, namely:—

15 “(na) the manner of compounding of offence under sub-section (1A) of section 33;

(nb) the application for compounding of an offence under sub-section (1C) of section 33;”.

15. In section 38 of the principal Act, in sub-section (2),— Amendment of section 38.

20 (a) after clause (c), the following clause shall be inserted, namely:—

“(ca) the jewellers, precious metal article, geographical areas and minimum turnover for jewellers under section 14A;”;

(b) for clauses (d) and (e), the following clauses shall be substituted, namely:—

25 “(d) the manner of grant, renewal, suspension or cancellation of licence under sub-section (1) and the manner of granting registration, or allowing self declaration of conformity, its renewal, suspension or cancellation under sub-section (1A) of section 15;

30 (e) the conditions subject to which a licence may be granted or renewed or registration or allowing self declaration of conformity may be granted or renewed and the fees payable therefor under sub-section (2) of section 15.”.

STATEMENT OF OBJECTS AND REASONS

The Bureau of Indian Standards Act, 1986 (BIS Act, 1986) provides for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto. Section 10 of the said Act provides that the functions of the Bureau of Indian Standards, *inter alia*, are to establish, publish and promote Indian Standards, to grant, renew, suspend or cancel licence for the use of the Standards Mark and to specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark. The Bureau of Indian Standards have, so far, formulated over 18,500 standards for about 9,500 article or process of industry.

2. Under the aforesaid Act, it is not compulsory to obtain licence from the Bureau by the producer or dispenser of a product or service for the use of the Standard Mark even after a standard for a product or service has been established and published by the Bureau, unless the Central Government, under section 14 of the Act, after consulting the Bureau, by order published in the Official Gazette, directs that the use of Standard Mark under a licence is compulsory. However, any person may apply to the Bureau of Indian Standards for licence if a standard has been established and published by the Bureau of Indian Standards only when an article or process is of any scheduled industry specified in the Industries (Development and Regulation) Act, 1951.

3. In view of the provisions of section 14 of the BIS Act, 1986, no one can declare that his article or process conforms to the Indian Standard unless he obtains a licence from the Bureau and the article or process is of the scheduled industry.

4. It is, therefore, proposed to amend the aforesaid Act, *inter alia*,—

(a) to amend the long title of the said Act to name the Bureau of Indian Standards to be a national standards body and to include the articles, processes and services in addition to goods for the purpose of marking and quality certification;

(b) to amend section 11 of BIS Act, 1986 so as to allow any person who is a registered user of a self declaration of conformity to display or make self declaration on an article or process that his article conforms to the Indian Standards or make a public claim through advertisements, sales, promotion leaflets, price lists or like that his article conforms to the Indian Standards;

(c) to amend section 14 of BIS Act, 1986 so as to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to notify that any article or process of any industry (other than an article or process meant for export) shall conform to the Indian Standard and direct that the use of the Standard Mark under a licence shall be compulsory;

(d) to insert a new section 14A in BIS Act, 1986 so as to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to make it compulsory for the jewellers selling the precious metal articles in such geographical area and having such minimum turnover as may be specified by regulation to use Hallmark under a licence and that such article conforms to the Indian Standards;

(e) to insert a new section 14B in BIS Act, 1986 so as to,—

(i) empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to notify that any article or process shall conform to the Indian Standard and to direct registration or grant self declaration of conformity with the Bureau as compulsory;

(ii) provide an option to any person in respect of any article or process notified by the Central Government for making registration or grant of self declaration of conformity with, or taking licence, from the Bureau;

(iii) provide that when an article or process notified for registration or in respect of which self declaration of conformity has been granted is subsequently notified, which shall conform to the Indian Standard, then, in addition to such registration or self declaration of conformity, it shall be compulsory to obtain a licence for such article or process in place of such registration or self declaration of conformity;

(f) to insert a new section 14C in BIS Act, 1986 so as to empower the Central Government to authorise any authority to be enforcement authority for enforcement of orders issued under section 14 or section 14A or section 14B of that Act;

(g) to amend section 15 of BIS Act, 1986 so as to empower the Bureau to grant, renew, suspend or cancel registration or grant self declaration of conformity;

(h) to amend section 33 of the BIS Act, 1986 so as to,—

(i) provide for enhancement of quantum of fine from rupees fifty thousand to rupees two lakhs for contravention of section 11 or section 12 or section 14 or section 14A or section 14B or section 15 of the BIS Act, 1986;

(ii) provide for compounding of the offences punishable with fine except when a person has committed offence of similar nature for the second time or thereafter on which a similar offence committed by him has been compounded.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 13th April, 2012.

K.V. THOMAS.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 4 of the Act to empower the Central Government to make rules to empower a member to authorise any person to represent him in the Executive Committee of the Bureau.

2. Clause 8 of the Bill seeks to insert three new sections 14A, 14B and 14C. New section 14A seeks to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, make it compulsory for the jewellers selling the precious metal articles in such geographical area and having such minimum turnover, as may be specified by regulations to use Hallmark under a licence and that article conforms to the Indian Standards, new section 14B seeks to empower the Central Government, after consulting the Bureau, by order published in the Official Gazette, to notify any article or process which shall conform to the Indian Standard and direct registration or grant self declaration of conformity with the Bureau as compulsory while new section 14C seeks to empower the Central Government by order to authorise any authority to be enforcement authority for enforcement of any order issued by it under the new section 14 or section 14A or section 14B in such manner as may be specified in the order.

3. Clause 10 of the Bill seeks to insert a new sub-section (1A) in section 15 and to amend sub-section (2) thereof to empower the Bureau to make order to grant, renew, suspend or cancel registration or grant self declaration of conformity in accordance with the regulations and subject to the condition and on payment of fees for grant or renewal of self declaration of conformity in accordance with the regulations in this behalf, respectively.

4. Clause 12 of the Bill proposes to amend section 33 of the Act to empower the Central Government to make rules to provide for the manner of compounding of offences and making application therefor.

5. The matters in respect of which the rules and regulations may be made, or orders to be issued are matters of detail or procedure. The delegation of the legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE BUREAU OF INDIAN STANDARDS ACT, 1986

(63 OF 1986)

An Act to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

* * * * *

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

* * * * *

(t) “Standard Mark” means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard; and also includes any Indian Standards Institution Certification Mark specified by the Indian Standards Institution;

* * * * *

4. (I) The Bureau may, with the prior approval of the Central Government, by notification in the Official Gazette, constitute an Executive Committee which shall consist of the following members, namely:— Constitution of Executive Committee.

* * * * *

(b) such number of members, as may be prescribed.

* * * * *

CHAPTER IV

POWERS AND FUNCTIONS OF THE BUREAU

10. (I) The Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and, in particular, such powers include the power to— Functions of the Bureau.

* * * * *

(e) levy fees for the grant or renewal of any licence;

* * * * *

(l) appoint agents in India or outside India for the inspection, testing and such other purposes as may be prescribed;

* * * * *

14. If the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest, it may, by order published in the Official Gazette,— Compulsory use of Standard Mark for articles and processes to certain scheduled industries.

(a) notify any article or process of any scheduled industry which shall conform to the Indian Standard; and

(b) direct the use of the Standard Mark under a licence as compulsory on such article or process.

Explanation.—For the purposes of this section, the expression “scheduled industry” shall have the meaning assigned to it in the Industries (Development and Regulation) Act, 1951.

CHAPTER V

LICENCE

Grant of licence.	15. (1)	*	*	*	*	*
	(2) The grant or renewal of the licence under sub-section (1) shall be subject to such conditions and on payment of such fees as may be determined by regulations.					
	*	*	*	*	*	*
Power to search and seizure.	26. (1)	If the inspecting officer has reason to believe that any article or process in relation to which the contravention of section 11 or section 12 has taken place are secreted in any place, premises or vehicles, he may enter into and search such place, premises or vehicle for such article or process.				
	(2) Where, as a result of any search made under sub-section (1), any article or process has been found in relation to which contravention of section 11 or section 12 has taken place, he may seize such article and other things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:					
	Provided that where it is not practicable to seize any such article or thing, the inspecting officer may serve on the owner an order that he shall not remove, part with or otherwise deal with, the article or things except with the previous permission of the inspecting officer.					
	*	*	*	*	*	*
Penalty for improper use of Standard Mark, etc.	33. (1)	Any person who contravenes the provisions of section 11, or section 12 or section 14 or section 15 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both.				
	*	*	*	*	*	*
Cognizance of offences by courts.	34. (1)	No court shall take cognizance of any offence punishable under this Act, save on a complaint made by or under the authority of the Government or Bureau or by any officer empowered in this behalf by the Government or the Bureau, or any consumer or any association recognised in this behalf by the Central or State Government.				
	*	*	*	*	*	*
Power to make rules.	37. (1)	*	*	*	*	*
	(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—					
	*	*	*	*	*	*
	(d) the number of members of the Bureau who will be members of the Executive Committee under clause (b) of sub-section (1) of section 4;					
	*	*	*	*	*	*
Power to make regulations.	38. (1)	*	*	*	*	*
	(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—					
	*	*	*	*	*	*
	(d) the manner of grant, renewal, suspension or cancellation of licence under sub-section (1) of section 15;					
	(e) the conditions subject to which a licence may be granted or renewed and the fees payable therefor under sub-section (2) of section 15.					
	*	*	*	*	*	*

LOK SABHA

A

BILL

to amend the Bureau of Indian Standards Act, 1986.

*(Shri K.V. Thomas, Minister of State for Consumer Affairs, Food and
Public Distribution)*

Extra portion

G. FUNCTIONS OF BUREAU OF INDIAN STANDARDS

2.1 The core activities of Bureau of Indian Standards are standard formulation and certification of articles and processes under licence. Bureau of Indian Standards has the power to grant licence under clause (d) of sub-section (1) of section 10 and sub-section (1) of section 15 of the Bureau of Indian Standards Act. Taking of such licence is, by and large, voluntary. Even after a standard for a product or service has been established and published by the Bureau of Indian Standards, it is not incumbent on the producer or dispenser of such a product or service to necessarily obtain licence from the Bureau of Indian Standards, unless the Government makes taking such licence compulsory under section 14 of the Bureau of Indian Standards Act. However, any person can apply voluntarily to the Bureau of Indian Standards for licence provided a standard has been established and published by the Bureau of Indian Standards. The Government exercises the power under section 14 for ensuring compulsory compliance with standards in public interest from the point of view of public health and safety of consumers (e.g. cement, packaged drinking water, etc).

2.2 Under the explicit provisions of the Act, no one can declare that his article or process conforms to the relevant Indian Standard unless he obtains a licence from the Bureau. The only exception is Section 12 according to which, no person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Bureau, any mark or trade mark in relation to any article or process containing the expression "Indian Standard" or "Indian Standards Specification" or any abbreviation of such expression.

2.3 It can, therefore, be seen that section 12 permits the use of the expression "conforms to Indian Standard" as an exception to the general rule where such expression should normally not be used. It has now been felt that in a fairly large number of cases, especially in the emerging technologies such as information technology, bio-technology and nano technology, a need may arise for an article or process to use the expression "conforms to Indian Standard". In such an eventuality, it

may be appropriate to have an explicit provision in the Act as has been proposed in this note.

J. FUTURE GOALS

- To formulate Indian standards in line with national priorities, incorporating technical advancements. Keeping pace with international standardization at the same protecting the interest of Indian trade and industry.
- To continue to serve consumers and customers by way of providing quality goods and services.
- To encourage Indian industries to adopt Indian Standards voluntarily to face international competitiveness.

On being asked whether other Accredited Certification Bodies such as NABL, Quality Council of India, Food Safety and Standards Authority of India, etc. may be allowed to carry out the implementation of National Standards, the Department stated that it is submitted that BIS is a 'certification body' which certifies quality standards of products and services. Bodies like Quality Council of India (QCI) and NABL are Accreditation bodies that give accreditation/recognition of quality 'Laboratories'. As regards Food Safety and Standards Authority of India (FSSAI), it is mandated under the Food Safety and Standards Act, 2006 to 'fix food standards and regulate – monitor the manufacturing, import, processing, distribution and sell of food so as to ensure safe and wholesome food for the people'. Both BIS and FSSAI will function harmoniously to protect consumer interests.

When asked by the Committee which standard will prevail whether laid down under Food Safety and Standards Authority of India (FSSAI) and BIS in respect of food articles under the given circumstances, the Ministry replied as under_____Reply awaited.

On being enquired whether any steps being taken by the Bureau for mass and regular market checks for implementation of standards, the Department stated _____Reply awaited.

G. License

15. (1) The Bureau may, by order, grant, renew, suspend or cancel a licence in such manner as may be determined by regulations.

(2) The grant or renewal of the licence under sub-section (1) shall be subject to such conditions and on payment of such fees as may be determined by regulations.

The Government in Clause 10 proposes to amend Section 15 as under:-

10. *In Section 15 of the principal Act, -*

(a) after sub-section (1), the following sub-section shall be inserted, namely :-

'(1A) – The Bureau may, for the purpose of self declaration under sub-section (1) of section 14B, by order, grant, renew, suspend or cancel registration or grant self declaration of conformity in such manner as may be determined by regulations.'

(b) in sub-section (2), after the words, brackets and figure 'under sub-section (1)', the words, brackets, figure and letter' or as the case may be, registration or allow self declaration of conformity or renewal thereof under sub-section (1A)' shall be inserted.

Summary of Views/Suggestions placed before the Committee

Consumer Association of India – Suspension or cancellation of license is to be widely publicized in all the media.