

PROPOSED AMENDMENTS TO THE STANDARDS BILL

B46 of 2007

CLAUSE 5

1. On page 5, in line 50, to omit "(f)" and to substitute "(e)".

CLAUSE 6

1. On page 6, in line 10, to omit "10" and "13" and to substitute "7" and "9" respectively.

CLAUSE 22

1. On page 9, from line 18, to omit "except that the first financial year of the SABS begins on the date that this Act comes into operation, and ends on 31 March following the date of coming into operation of this Act".

CLAUSE 23

1. Clause rejected.

CLAUSE 24

1. Clause rejected.

NEW CLAUSES

1. That the following be new clauses:

"SOUTH AFRICAN NATIONAL STANDARDS

Norm for the setting and amending of South African National Standards

23. (1) The SABS must develop and maintain a National Norm for the development of South African National Standards.

(2) The Norm contemplated in subsection (1) must—

(a) detail a process for the development and amendment of South African National Standards, which ensures that as far as possible—

- (i) the latest technological developments are considered;
- (ii) the interests of all parties concerned, including manufacturers, suppliers and consumers, are considered;
- (iii) such South African National Standards are harmonised with international standards, if applicable; and

(iv) there has been an appropriate national consensus-building process in developing such South African National Standards; and

(b) contain an appeal procedure for resolving disputes and deadlocks.

Issuing of South African National Standards

24. (1) The SABS must, by notice in the *Gazette*—

- (a) set and issue as a South African National Standard, a standard developed through its own processes and issue amendments to such a standard;
- (b) approve and issue as a South African National Standard, a standard developed and set by a recognised standards development organisation and issue amendments to such a standard; or
- (c) withdraw any South African National Standard issued in terms of subparagraph (a) or (b);

(2) The notice contemplated in subsection (1) must—

- (a) state the title and number of the South African National Standard; and
- (b) contain a summary of the scope and purport of that South African National Standard or the amendment thereof.

(3) In setting, issuing, approving or amending a South African National Standard in terms of subsection (1), the SABS must ensure as far as possible that the processes detailed in the Norm contemplated in section 23(1) is complied with.

(4) A South African National Standard set and issued in terms of subsection (1) may be based on one or more provisions of standards issued by a foreign or international body having objects similar to those of the SABS.

(5) The SABS may develop, issue, amend or withdraw normative and informative documents other than South African National Standards.

(6) The documents issued in terms of subsection (5) do not have the status of South African National Standards.

(7) Subject to the provisions of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or the Liquor Products Act, 1989 (Act No. 60 of 1989), no person may issue a document which creates or may create the impression that it contains a South African National Standard as contemplated in this Act, unless it is issued in terms of this Act.

(8) A South African National Standard in respect of a commodity, product or service to which the Agricultural Product Standards Act, 1990, or the Liquor Products Act, 1989, apply, may be set or amended in accordance with the terms and conditions of an agreement entered into by the Board and the Director-General of the department responsible for Agriculture.”.

CLAUSE 26

1. On page 10, in line 38, after “own” to insert “personal”.

NEW CLAUSE

1. That the following be a new clause:

"Incorporation of South African National Standards in laws

28. (1) A South African National Standard, or any provision thereof, that has been published in terms of this Act in respect of any commodity, product or service which may affect public safety, health, or environmental protection, may be incorporated in any law.

(2) The South African National Standard, or any provision thereof, contemplated in subsection (1) may be incorporated by referring to—

- (a) the title and the number; or
- (b) the title, the number and the year or edition number.

(3) If the South African National Standard, or any provision thereof, contemplated—

- (a) in subsection (2)(a) is subsequently amended such amended South African National Standard, or any provision thereof, is deemed to be incorporated;
- (b) in subsection (2)(b) is subsequently amended such amended South African National Standard, or any provision thereof, is not deemed to be incorporated.

(4) Any South African National Standard, or any provision thereof, incorporated in terms of subsection (2)(a) or (b) or (3)(a) may be withdrawn."

NEW CLAUSE

1. That the following be a new clause:

Amendment of law

36. Each of the laws referred to in the Schedule are hereby amended to the extent specified in that schedule.

SCHEDULE
LAWS AMENDED
(Section 36)

No. and year of Act	Short Title	Extent of amendment
Act 77 of 1973	Trade Metrology Act, 1973	<p>1. Amendment of section 1 by—</p> <p>(a) the insertion after the definition of "certify" of the following definition: "Chief Executive Officer" means the <u>Chief Executive Officer</u> contemplated in section 16 of the <u>Standards Act, 2008</u>;"</p> <p>(b) the deletion of the definition of "president";</p> <p>(c) the substitution for the definition of "SABS Council" of the following definition: "SABS [Council] Board" means the <u>[Council] Board</u> of the South African Bureau of Standards referred to in section 6 of the Standards Act, [1993 (Act No. 29 of 1993)] 2008;"</p>
		<p>2. Amendment of section 2 by—</p> <p>(a) the substitution for subsection (1) of the following subsection: "(1) The SABS [Council] Board shall appoint a</p>

No. and year of Act	Short Title	Extent of amendment
		<p>Director of Trade Metrology.";</p> <p>(b) the substitution for subsection (2) of the following subsection: "(2) The SABS [Council] Board shall appoint a Deputy Director of Trade Metrology, who may, subject to the control and directions of the director or in absence of the director or if the director is for any other reason unable to perform his or her duties or if the post of director is temporarily vacant, do anything which may lawfully be done by the director."</p>
		<p>3. Amendment of section 3 by—</p> <p>(a) the substitution for subsection (1) of the following subsection: "(1) The SABS [Council] Board may from time to time, on the recommendation of the director, appoint inspectors or verification officers to verify or test all measuring instruments or any particular kind of measuring instrument in accordance with the provisions of</p>
		<p>time, on the recommendation of the director, appoint inspectors or verification officers to verify or test all measuring instruments or any particular kind of measuring instrument in accordance with the provisions of</p>

No. and year of Act	Short Title	Extent of amendment
		<p>this Act.";</p> <p>(b) the substitution in subsection (2) for paragraph (b) of the following paragraph: "(b) he holds a certificate issued to him by the SABS [Council] <u>Board</u> to the effect that he is qualified to act as an inspector or verification officer in respect of all measuring instruments or a particular kind of measuring instrument."</p> <p>4. Section 4 is hereby substituted by the following section:</p> <p>"Appointment of examiners</p>
		<p>4. The SABS [Council] <u>Board</u> may, on the recommendation of the director, appoint examiners to exercise the functions of examiners under this Act."</p>
		<p>5. Section 5 is hereby amended by the substitution for subsections (1) and (2) respectively of the following subsections: "(1) Subject to the control of the</p>

No. and year of Act	Short Title	Extent of amendment
		<p>Minister, this Act shall be administered by the SABS [Council] Board and by the director, inspectors, accredited laboratories, verification officers and examiners, who shall perform their duties under the control of the SABS [Council] Board.</p> <p>(2) The SABS [Council] Board may, subject to the conditions it may impose, delegate or assign to the [president] Chief Executive Officer any power or duty conferred or imposed on it by section 3 or 4."</p>
		<p>6. Section 7 is hereby amended by the substitution for subsections (1) and or respectively of the following subsections:</p> <p>"(1) The</p>
		<p>Minister may, after consultation with the SABS [Council] Board, assign in writing to any statutory body or provincial government the carrying out, subject to such conditions and requirements as may be prescribed by regulation, of</p>

No. and year of Act	Short Title	Extent of amendment
		<p>any function specified in this Act.</p> <p>(2) The SABS [Council] Board may in writing, on the recommendation of the director, designate any accredited laboratory to verify all measuring instruments or any particular kind of measuring instrument in respect of which such laboratory is accredited."</p> <p>7. Section 22A is hereby amended by the substitution for subsection (1) of the following subsection:</p> <p>"(1) Any fees collected and costs recovered in terms of section 18 or section 22(1) shall constitute revenue of the SABS [Council] Board and shall be dealt with in accordance with the provisions of the Standards Act, [1993 (Act No. 29 of 1993)] 2008."</p>
		<p>8. Section 24 is hereby amended by the substitution for subsection (3) of the following section:</p> <p>"(3) Any costs incurred by the SABS [Council] Board in connection with any appeal</p>

No. and year of Act	Short Title	Extent of amendment
		<p>which in the opinion of the committee is based on frivolous grounds, shall be borne by the appellant."</p> <p>9. Section 27 is hereby amended by the substitution for subsection (8) of the following subsection:</p> <p style="padding-left: 40px;">"(8) The Minister shall before the publication of any notice under subsection (1) consult the Board referred to in section 6(1) of the Measuring Units and National Measuring Standards Act, 1973, or if there is no such board, the [Council of the South African Bureau of Standards referred to in section 6 of the Standards Act, 1993 (Act No. 29 of 1993)], <u>SABS Board</u> and the Board of the CSIR referred to in section 7 of the Scientific Research Council Act, 1988 (Act No. 46 of 1988)."</p>
		<p>10. Section 45 is hereby amended by the substitution for subsection (1) of the following section:</p>

No. and year of Act	Short Title	Extent of amendment
		<p>"(1) The [President] Chief Executive Officer may, if he or she is of the opinion that it is necessary in the public interest and to protect the consumer, reveal in any manner—</p> <p>(a) any information which in his or her opinion is necessary to prevent the public from being misled concerning any aspect regulated by this Act;</p> <p>(b) the name of a person who in his or her opinion does not comply with any provision of this Act."</p>
Act 103 of 1977	National Building Regulations and Building Standards Act	<p>1. Amendment of section 1 by—</p> <p>(a) the insertion after the definition of "architectural area" of the following definition:</p>
		<p><u>" 'Board' means the Board as defined in section 1 of the Standards Act, 2008;"</u>;</p> <p>(b) the deletion of the definition of "council";</p> <p>(c) the deletion of the definition of "bureau";</p> <p>(d) the insertion after the definition of</p>

No. and year of Act	Short Title	Extent of amendment
		<p>"specification" of the following: " 'SABS' means the SABS as defined in section 1 of the Standards Act, 2008; and</p> <p>(e) the substitution for the definition of "Standards Act" of the following definition: " 'Standards Act' means the Standards Act, [1982] 2008;"</p> <p>2. Section 28 is hereby amended by the substitution for subsections (1), (2) and (3), respectively, of the following subsections: "(1) The Minister may on such conditions as he may think fit, in writing delegate any power conferred on him by or under this Act, other than a power referred to in section 2(2) or (4), 9(2), 17, 19, 20, 27 or 29 to the [director-general] <u>Chief Executive Officer</u> of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the Minister himself. (2) The council may in writing delegate any power conferred upon it— (a) by or under this</p>
		<p>other than a power referred to in section 2(2) or (4), 9(2), 17, 19, 20, 27 or 29 to the [director-general] <u>Chief Executive Officer</u> of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the Minister himself.</p>
		<p>(2) The council may in writing delegate any power conferred upon it— (a) by or under this</p>

No. and year of Act	Short Title	Extent of amendment
		<p>Act, other than a power referred to in section 17 or 27, to the [director-general] <u>Chief Executive Officer</u> of the bureau;</p> <p>(b) in terms of section 18(2), in such conditions as it generally or in any particular case may think fit, to any local authority or category of local authorities, but the delegation of any such power shall not prevent the exercise thereof by the council itself.</p> <p>(3) The [director-general] <u>Chief Executive Officer</u> of the bureau may in writing</p>
		<p>delegate any power delegated to him in terms of subsection (1) or (2) to any person in the employ of the bureau, but the</p>
		<p>delegation of any such power shall not prevent the exercise thereof by the [director-general] <u>Chief Executive Officer</u> himself."</p> <p>3. The word "bureau" is hereby substituted for the word "SABS" wherever it occurs in Act 103 of 1977.</p>

No. and year of Act	Short Title	Extent of amendment
		4. The word " Council " is hereby substituted for the word " Board " wherever it occurs in Act 103 of 1977 except in the definition of " local authority ".