

DRAFT
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**LAW OF ISLAMIC REPUBLIC OF AFGHANISTAN
ON STANDARDS AND TECHNICAL REGULATIONS**

Chapter 1. General Provisions

Article 1. Basis

Standard: is a document that has been established by consensus and approved by an recognized body that provides, for the common and repeated use, rules, guidelines or characteristics for products and related processes and production methods aimed at the achievement of the optimum degree of order in a given context based on scientific knowledge, technology and experiences, and compliance with which is not mandatory.

National Standard: is a document, which is formulated after consultation with the technical experts to protect the national interests and approved by the Supreme Council of Standard.

Regional Standard: is a document, which is formulated jointly by the standard bodies of two or more countries in a specific geographic area and approved by a regional standards body in order to facilitate the technical and trade affairs.

International Standard: is a document, which is approved and published by international standardization organizations.

Safety – is the condition during which there is no inadmissible risk connected with causing of harm to life or health of people, to property of natural or legal persons, to environment, to life or health of animals and plants;

Risk – is the probability of causing harm to life or health of people, to property of natural or legal persons, to state or municipal property, to environment, life or health of animals and plants, taking into account the severity of this harm;

Conformity assessment - any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Specifications - is a definition or explanation of a product or its process. It distinguishes specifications, such as quality, resistance, purity, ingredients, quantity, size, dimensions, weight, stability, production and expiration dates, origin, method of production of a certain product from other products.

Quality Control – is a test, inspection, observation or a combination of methods for understanding the quality of domestically produced or importing product and services and in comparison of their quality with standards.

Code of Practices - is a written document that covers scientific principles or certain executive processes of a product, technical procedures, and methods of using equipment's, products structures, related terms, applicable mechanisms, guidelines, applicable procedures and other requirements covers.

Article 4. General Principles

1. Technical regulations, standards and conformity assessment procedures shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking account of the risks non-fulfillment would create.
2. Limitation of competition in the area of certification shall not be allowed.
3. Combining the powers of accreditation body and certification bodies shall not be allowed.
4. Certification bodies cannot provide consultancy services in the areas where they provide certification services.
5. Certification bodies and inspection bodies shall be independent from manufacturers, sellers, performers and buyers.

Article 5. Prohibition of non-compliant goods

Domestically produced and imported goods can placed on the domestic market and/or put into service only if it complies with the requirements of the technical regulations. Goods non-compliant with the technical regulation may be recalled, seized, destroyed or deported according to established procedures.

Chapter 2. Standardization

Article 6. Objectives of Standardization

Standardization is aimed at:

- Stimulating scientific and technical progress;
- Increasing the competitiveness of products, works and services according to the level of development of science, engineering and technology;
- Increasing the level of safety of objects considering the extent of risk of emergency situations arising from natural and man-made origin;
- Saving and rational use of resources;
- Ensuring technical and information compatibility;
- Providing a comparability of test and measurement results; Interchangeability of products;
- Enhancing the level of safety, life, health of individuals, as well as life and health of animals and plants, property of legal entities and individuals, state and municipal

property, the environment, including assisting in implementation of requirements of technical regulations.

Article 7. Principles of Standardization

1. Preparation, adoption and application of Standards shall be carried out according to the internationally accepted guides and codes of best practices.
2. ANSA approves a procedure for standards development, adoption and application, as well as for creation and operation of technical committees on standardization. The sessions of technical committees shall be open to the public. The composition of the technical committees on standardization shall include representatives of bodies of executive power, scientific and technical organizations, associations of entrepreneurs and consumers.

Article 8. Adoption of international, regional standards and standards of other countries

1. International, regional standards and national standards of other countries are adopted in Islamic Republic of Afghanistan as national documents on standardization according to methodology and procedures established by the ANSA.
2. The international, regional standards and national standards of other countries will be applicable after the assessment of the Technical Committee and approval of the Supreme Council of Standard.

Chapter 3. Preparation, Adoption and Application of Technical Regulations

Article 9. Principles for developing technical regulations

1. Technical regulation may be prepared and adopted only for national security considerations, countering fraudulent acts against consumers, fulfilling halal requirements or protection of life and health of people, including health and safety of animals, plants, and environment.
2. On the basis of international agreements of Afghanistan, products imported from the territory of any member to such agreement shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.
3. Requirements in technical regulations shall be based on product requirements in terms of performance rather than design or descriptive characteristics unless purposes for which the technical regulation has been developed cannot be achieved.
4. Technical regulations shall be prepared based on approved or being finalized relevant international standards or parts thereof, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued because of fundamental climatic or geographical factors or fundamental technological problems.

5. If no international standards are available or existing standards are deemed ineffective or inappropriate, technical regulations may be prepared based on standards and technical regulations of regional standardization bodies.

6. Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner. Periodical reviews of technical regulations shall be conducted for this purpose.

Article 10. Notification, comments and entry into force of technical regulations

1. A notice shall be published an early stage stating that the draft technical regulation is being developed, shall identify the products covered by the proposed regulation with a description of the objective and rationale for the technical regulation.

2. From the moment of publication of the notification on development of draft technical regulation this draft shall be available to the interested persons for familiarization. Interested persons have a right to obtain a copy of the draft technical regulation for a reasonable fee. Such fee shall be equal for domestic and foreign persons except for the cost of delivery of the document.

1. The ANSA has the responsibility to determine as mandatory the application of standards of the products and goods or a part of standard or code of practices. This should be done with consideration of the principles and rules for preparation and adoption of technical regulations set forth in Articles 6, 7 and 8 of this Law.

1. Conformity assessment procedures shall be undertaken and completed as expeditiously as

- supplier's declaration;
- obligatory certification.

2. The order of application of specific schemes of obligatory conformity assessment procedures is established by this law and relevant implementing regulations.

Article 19. Obligatory Conformity Assessment

1. Obligatory conformity assessment shall be carried out only in the cases established by appropriate technical regulation, and only for conformity to the requirements of technical regulation. The object of obligatory conformity assessment may be only the product produced or imported for circulation in the territory of Afghanistan.

2. The form and schemes of obligatory conformity assessment may be established only by technical regulation taking into account the risk level of non-reaching the purposes of technical regulations.

Article 20. Voluntary Conformity Assessment

1. Voluntary assessment of conformity is performed by the initiative of the applicant based on conditions of a contract between the applicant and the certification body. Voluntary assessment of conformity can be performed to establish compliance with standards, certification systems, and provisions of contracts.

2. Certification body:

- Performs assessment of conformity of objects of voluntary assessment of conformity;
- Issues certificates of conformity for objects, which have passed voluntary certification;
- Entitles the applicant to apply the standard mark, if the application of such a - standard mark is provided by the relevant system of voluntary certification;
- Suspends or cancels the certificates of conformity issued by it.

3. A voluntary certification system can be created by a legal entity and/or an individual entrepreneur, or by several legal entities and/or individual entrepreneurs. The person or persons who have created a voluntary certification system establish a list of objects subject to certification and their characteristics for conformance to which the voluntary certification is performed, as well as the rules for performance of works provided for by this certification system, the payment procedure for them, and identify the participants of the given voluntary certification system. A certification system may have a standard mark for application.

4. It is forbidden to mark objects with the marks of conformity if conformity is not assured.

5. Procedures for application of voluntary conformity assessment is established by a separate rules adopted by the Government of Afghanistan.

Article 21. Standard mark to standards

1. The product, compliance of which with the requirements of standards has been assured, may be marked with the standard mark to standards. The image of the standard mark to standard is to be established by ANSA and approved by the Supreme Council of Standards.

2. Legal and natural persons shall independently affix the standard mark by any way convenient for them according to point 1 of the present Article.

3. It is forbidden to affix the standard mark to a product, for which compliance with the requirements of standards has not been assured.
4. Standard mark may not be affixed to a product if certification bodies, which conducted conformity assessment, are not accredited.

Article 22. Equivalence

Results of conformity assessment procedures in other countries shall be accepted under international agreements of Afghanistan, even if such procedures differ from those applied in Afghanistan, provided that those procedures offer an assessment of conformity with applicable technical regulations or standards equivalent to procedures adopted in Afghanistan.

Article 23. Right of appeal

Results of a conformity assessment procedure can be appealed to courts under relevant procedures.

Article 24. Reasonable time for entry into force

Except in cases where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, a 6 months period between the publication of requirements concerning conformity assessment procedures and their entry into force TDrts under8i8.95a1870ndeo

- (1) Approval of the general policies and strategies of the ANSA and monitoring of application of these policies and strategies;
- (2) Approval, amendment, suspension, exclusion and alternation developing, revising, suspension, withdrawal and replacement of the national standards based on the provisions of this law;
- (3) Approval of proposed technical regulations;
- (4) Approval of the Work Plan and Annual Budget of the ANSA;
- (5) Approval of standards costs, all sellable publications and services provided by the

- (9) Setting consumption, waste and dissipate norms with the help of scientific research and project designing organizations.
- (10) Determination of consumption norms to utilize financial and economical resources of the government effectively.
- (11) Establishing of Information center for standards, technical regulations, conformity assessment procedures and other related documents according to Article 37 of this Law.
- (12) Establishing periodic publication and maintaining official web-site where notices on new technical regulations, standards and conformity assessment procedures being developed and work programs are published at an early stage as to enable interested parties to become acquainted with it and to provide comments.
- (13) Representing the government in the international, regional and national organizations, in the areas related to standards and metrology.
- (14) Conducting and supporting studies and research in the fields related to standard, metrology, conformity assessment and other related issues.
- (15) Providing opportunity for privates sector to invest and operate and providing services expertise and advise in field of preparation and implementation of standards.
- (16) Presenting proposals to the Supreme Council of Standard.
- (17) Getting specialized and professional advises from governmental and nongovernmental related entities.
- (18) Imposing and receiving cash penalty and implementing the provisions of this law.
- (19) Suspending or revocation of certificate conformity, right to use from standard mark, and other privileges in accordance to this law.
- (20) Introducing the offender of this law to the legal and judicial institutions.
- (21) Regulating affairs related to right to use standard mark through adopting of procedures and rules.
- (22) Adoption of other related rules and procedures for implementation of provisions of this law.

Article 28. Receiving of Administrative Fee

1. The ANSA will charge a reasonable fee for providing laboratory and research services, certification, as well as training, using of the standard mark, issuance of certificate and license, selling of standard and publication and providing copies of documents related to conformity assessment and technical regulations, offering of professional training.

2. In publication and dissemination of the Nationa

Article 29. Technical Committees

1. In order to give scientific and technical inputs regarding formulation, adoption, revision, amendment and withdrawal of standards, according to the need to establish the technical committees, sub committees and working groups.
2. The technical committees mentioned in the first paragraph of this article includes representatives from the government and nongovernment organizations, experts and academia representatives.
3. Membership requirements, responsibilities and authorities of the technical committees, sub committees and working groups will be regulated in separate work procedure.

Article 30: Inspection and Control of Goods

1. Control of safety and quality of trading goods in the market places (import and export goods), manufactured goods and services, except for food, pharmaceuticals, cosmetics and medical equipments, will be conducted by Afghan National Standards Authority (ANSA).
2. Authorities and responsibilities of ANSA with respect to inspections will be determined in a separate regulation adopted by Council of Ministers.

Chapter 6. Prohibitions and Penalties

Article 31: Prohibitions

1. Committing the following actions are prohibited:
 - (1) Production, import and supply of products, goods and services in contrary with technical regulations.
 - (2) Sale, marketing, and buying and exhibiting products, goods and services that are inconsistent with technical regulations.
 - (3) Concealment, delay or failure to present documents, evidences, samples or creating obstacles and resistance towards inspecting operations.
 - (4) Change, altering, fraud or unauthorized use of stamp, mark, label, sealing, specification mark, certificate, license, test papers.
 - (5) Changing specifications of products or goods, which are included in technical regulations after provision and production or bringing changes in can, package, box, or carton of products with intention to fraud.
 - (6) Supply or selling of other products or goods under the name of standardized products or goods.
 - (7) Supply or selling of expired products and unauthorized mixture.
 - (8) Disclosure of confidential information and reports of National Standard Authority
2. In addition to prohibitions mentioned in paragraph 1 of this Article, ANSA has the right to identify other prohibitions and determine amount of fine and punishment for them subject to approval of the Supreme Council of Standards.

Article 32. Responsibility for non-compliance with the requirements of technical regulations

1. The manufacturer (developer, seller or person representing the foreign manufacturer) shall bear responsibility according to the legislation of the Islamic Republic of Afghanistan for

violation of technical regulation requirements.

2. If harm is caused to life or health of people, property of natural or legal persons, state or municipal property, environment, life or health of animals and plants as a result of nonconformity of products to technical regulation requirements, the manufacturer (developer, seller, person representing the foreign manufacturer) is obliged to compensate this harm and to take measures with the purpose of eliminating violations.

3. The duty to compensate harm may not be restricted by the contract or announcement of one of the parties. Agreements or announcements for limitation of the responsibility shall be considered as null and void.

Article 33. Penalties

1. When a natural or legal person commits any of actions written under clause (1) of paragraph 1 of article 35 of this law, he or she will be punished to pay cash amount of not less than five million and not more than ten million Afghanis.

2. If a natural or legal person commits any of the actions mentioned in clauses of 2, 7, and 8, paragraph 1 of article 35 of this law, he/she will be punished to pay cash amount of not less than ten thousand and not more than hundred thousand Afghanis.

3. If a natural or legal person commits any of the actions mentioned in clause 3, paragraph 1 article 35 of this law, he/she will be punished to pay cash amount of not less than five thousand and not more than twenty thousand Afghanis.

4. If a natural or legal person commits any of the actions mentioned in clauses of 4, 5, 6, paragraph 1 article 35 of this law, he/she will be punished to pay cash amount of not less than fifty thousand and not more than two hundred thousand Afghanis.

5. In case of finding of prohibitions of article 35 of this law and as the report by Inspection Panel, ANSA can suspend or cancel license, certificate, right to use the standard mark and other issued privileges for a period of not less than a month.

6. Cash penalties of the paragraph 1 of this Article will be received by Inspection Panel of ANSA and will be transferred to bank account based on related procedures and in accordance with article 24 of this law.

Article 34. Decision making on goods not compliant with tec

3. Decision of the panel included in paragraph (2) on collected goods in contrary with technical regulations can be appealed to courts according to established procedures.

Article 35. Judicial Prosecution