Kenya Bureau of Standards

Standards for quality life

GUIDELINE ON THE IMPLEMENTATION OF FREE SALE CERTIFICATE (FSC) REQUIREMENT FOR IMPORTS

1. Background and Context

Clause 12(2) of the Standards Act Cap 496 provides that: *"A person who imports a product shall not place on the market or put into service any product that is not sold freely or does not conform to applicable regulatory requirements in the country of origin."*

This provision introduces a mandatory origin-based compliance requirement applicable to all imported goods.

This guideline therefore establishes a risk-based, structured, and trade-facilitative framework for implementation.

2. Purpose of the Guideline

Recognizing that Kenya has in place a considerably effective regulatory regime to ensure compliance of imported products to requirements, this Guideline serves as a complementary, gap-filling regulatory assurance tool. It provides both strategic and operational direction for the implementation of the FSC requirement under Clause 12(2) of the Standards Act, Cap 496 of the laws of Kenya. The Guideline seeks to ensure that implementation is lawful, proportionate, transparent, and in agreement with Kenya's national regulatory objectives, while protecting consumer welfare, public health, safety and protecting the environment. Further, it is meant to promote free and lawful movement of goods from one economy to another by prohibiting unnecesary barriers to trade and aligning with the best international practice.

In addition, this guideline is geared to ensure that documentary requirements are achievable in practice, reflect how exporting countries regulate products and do not impose impossible or unreasonable burdens.

3. Scope of Application

Based on the products risk profiling the FSC requirement shall be administratively restricted to the following product categories:

a) Food products for human and animal consumption
b) Cosmetics and personal care products
c) Children's toys

d) Electrical and electronic products
e) Fertilizers and soil conditioners

These categories were selected due to direct public health or safety implications, consumer vulnerability, environmental impact potential and international regulatory sensitivity.

4. Application Framework

4.1 Imports from PVOC Countries

For countries operating under the Pre-Export Verification of Conformity (PVOC) programme:

FSC shall apply **only** where the product, in Clause 3 above, is **not covered** by any one of the following:

a) A Kenya Standard (KS)
b) An equivalent International Standard
c) A National Standard from the exporting country.

Where any of the above standard exist, conformity shall be demonstrated through the certification under the PVoC programme rather than on FSC. However, where none of the above standards exist and PVoC certification is based on the Manufacturer Specifications, FSC shall be required.

4.2 Imports from Non-PVOC Countries

For imports originating from non-PVOC countries FSC shall apply where the product, in clause 3 above, is not accompanied by a test report demonstrating compliance to any of the following Standards:

a) A Kenya Standard; or
b) An equivalent International Standard.
c) A regional Standard/ National Standard of the exporting country

5. Authentication and Verification Mechanism

Recognizing that FSC credibility depends on authenticity, the following controls shall apply:

- FSC must be issued by a competent authority in the exporting country;
- The issuing authority must be identifiable and verifiable;

6. Used Goods

Used goods shall not require FSCs. Accordingly, for used machinery, used electrical/electronic equipment, used textiles and footwear, should comply with the relevant quality requirements.

The above approach prevents introduction of impracticable compliance demands while safeguarding the safety objectives and to facilitate trade in line with the KEBS mandate.

7. Expected Outcomes

Through this structured implementation, KEBS will:

- Operationalize Clause 12(2) of the Standard's Act Cap 496 lawfully and credibly;
- Protect public health, safety, and the environment;
- Maintain compliance with international trade obligations;
- Prevent regulatory gaps;
- Avoid unintended non-tariff trade barriers.

Approved for Implementation:

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