

# **BUREAU OF INDIAN STANDARDS**

## **(CENTRAL MARKS DEPARTMENT - I)**

**Our Ref: CMD-I/2:12:2 (Part 2)**

**28 December 2021**

**Subject: Guidelines for dealing with unsatisfactory performance (other than matters related to non-conformity of the product) during operation of Licence including suspension and revocation of suspension under Scheme - I of Schedule - II of BIS (Conformity Assessment) Regulations, 2018 - reg.**

This document stipulates the guidelines for dealing with unsatisfactory performance (other than matters related to non-conformity of the product) including imposition of Suspension (SUS), Revocation of Suspension (RoS) and cancellation or special situations. These are to be read in conjunction with the BIS Act 2016 and Rules, Regulations framed thereunder. In particular, the provisions for SUS and RoS of a licence are addressed in Regulation 10 and Paragraph 11 of Scheme - I, Regulation 11 and Paragraph 12 of Scheme - I BIS (Conformity Assessment) Regulations, 2018 respectively. Any situation, in general, not covered in these guidelines are to be dealt as per provisions of the Act, Rules and Regulations by the Regional Offices (ROs) and Branch Offices (BOs).

- Unsatisfactory Performance of licence***
1. Performance of a licence shall be treated as unsatisfactory in case of discrepancies observed in the operation of the licence. Such situations are not limited to, but may include the following:
    - (i) Non-availability of testing personnel even as the Standard Mark is being used and product being dispatched/sold without testing
    - (ii) Use of Standard Mark on non-conforming products
    - (iii) Major deviations observed in the implementation of scheme of inspection and testing
    - (iv) Major modification(s) in the manufacturing process without prior evaluation of the Bureau
    - (v) Unsatisfactory hygienic conditions in case of food products
    - (vi) Non-availability of manufacturing machinery and test equipments declared by the manufacturer
- Inspection report indicating unsatisfactory performance***
2. In case of unsatisfactory performance, the inspection report along with the DVR shall be submitted by the certification officer within 5 working days from the date of inspection and necessary data entry shall be made by him/her in IT Software.
- Review of performance (RoP)***
3. (i) The DO shall prepare a Review of Performance (ROP) wherein he shall determine whether it is a case of first instance of unsatisfactory performance or consecutive instances of unsatisfactory performance.

(ii) The decision on RoP shall normally be completed preferably within five working days from the date of recording of unsatisfactory performance. The reasons for non-completion of decision on RoP within ten working days from date of inspection shall be recorded by Head BO.

***Suspension due to unsatisfactory Performance***

4. In case of consecutive instances of unsatisfactory performance, suspension shall be imposed. However, suspension is not to be considered on the basis of combination of non-conformity of sample(s) in Third Party Laboratory (TPL)/ Factory Testing (FT) only and unsatisfactory performance.
5. In case of unsatisfactory performance due to the discrepancies mentioned at para 1 (iv), (v) and (vi) above, suspension may be imposed at the first instance itself.
6. In case of discrepancies mentioned at para 1, except 1 (iv), (v) and (vi), the reasons for unsatisfactory performance shall be communicated to the licensee through email/speed post/IT portal with a copy of the DV report. The licensee shall be advised to take corrective actions and submit its reply within 30 days (one month) from the date of communication. (template of the letter attached as ***Annexure - I***)
7. (i) When the corrective actions are received within 30 days (one month), the DO shall put up the case to the Head BO for nominating an officer for verification of the corrective actions preferably within 90 days through a surveillance inspection.

(ii) However, if complete and satisfactory reply is not received within 30 days (one month) from the date of communication of unsatisfactory performance, the case may be processed for suspension.

***Communication of suspension***

8. (i) The decision of suspension shall be promptly communicated to the licensee through email/speed post/IT Software seeking its response (template of the letter attached as ***Annexure - II***). If response is received, then further action shall be taken as per para 9 and 10.

***Visit to check compliance of suspension orders***

(ii) The ROs/BOs may arrange visit(s) as given below to check compliance with suspension orders and any possible violation of the BIS Act, 2016 and Rules, Regulations framed thereunder:

- (a) Products notified by the Central Government for compulsory BIS certification: No response received from the manufacturer within 15 days - Visit within next 15 days.

(b) Products under voluntary certification: No response received from the manufacturer within 30 days - Visit within next 15 days.

If there is still no response received from the manufacturer, licence may be processed for cancellation.

(iii) In case of detection of misuse or any violation of the provisions of the BIS Act, 2016 and Rules, Regulations framed thereunder, further necessary action shall also be taken.

***Inspection for  
Revocation of  
Suspension (RoS)***

9. (i) On receipt of corrective actions, an inspection for considering RoS shall be organised by the Head BO preferably within 15 days. In case it is not possible to do so, the reasons for the same shall be recorded. Wherever it is necessary for verification of corrective actions, sample from one lot shall be tested in the factory for all possible tests in a day.

(ii) In case of suspension due to major modification(s) in the manufacturing process without prior evaluation of the Bureau [Para 1(iv)], sample shall be drawn for complete testing.

***Processing RoS***

10. (i) The processing for RoS shall be completed preferably within 7 days after the inspection for RoS. However, if the corrective actions are found to be insufficient, or if the sample shows non-conformity in factory-testing (where applicable), the licensee shall be advised to take corrective actions.

(ii) In case of para 9(ii), the action for RoS shall be completed within 7 days from the date of receipt of test report indicating conformity of the sample. However, if the sample shows non-conformity in TPL or FT for products certification operated on FT basis, the licensee shall be advised to take corrective actions.

***Shifting of  
premises***

11. When a licensee informs about shifting of the manufacturing facilities to a new premises, suspension shall be imposed. The decision on suspension shall be communicated to the licensee (template attached as *Annexure - II*) with an advise to also inform-

(i) The proposed new address to which the manufacturing facilities are being shifted,

(ii) Document for authentication of the new premises of manufacture,

(iii) Location map for the new premises,

(iv) The probable date for completion of the shifting process.

(v) All other relevant documents as taken during Grant of Licence.

***Inspection for considering RoS***

12. On receipt of information from the licensee about completion of shifting process, inspection shall be carried out at the old as well as the new premises to verify the same. During the inspection at the new premises, among other things, the certification officer shall –
- (i) verify the manufacturing machinery, test equipment, plant layout and, if applicable hygienic conditions. If the Quality Control In-charge (QCI) has changed, the competence of QCI shall also be checked.
  - (ii) verify the working condition of the manufacturing machinery and test equipment, a sample may be subjected to testing to ascertain the workability of manufacturing and testing equipment.
  - (iii) in case of Packaged Drinking Water (PDW), draw a product sample for complete TPL testing including radioactive residues, as change of source of water is involved. For other similar products product specific guidelines shall be followed, if any.

***Processing RoS***

13. (i) The process for RoS shall be completed preferably within 3 weeks from the date of receipt of information from the licensee about completeness of the shifting process. However, shifting of premises in case of PDW, the process for RoS shall be completed preferably within 7 days from the date of receipt of satisfactory test report. The new address shall be endorsed in the licence as per the template attached as *Annexure - III*.
- (ii) In case the licensee does not confirm completion of shifting process for more than 90 days, a visit may be organised to both the new and existing premises to check any violation of the provisions of the BIS Act 2016 and Rules, Regulations framed thereunder.

***Non-payment of fee***

14. In case of non-payment of fee as specified in the BIS (Conformity Assessment) Regulations 2018, suspension shall be imposed after giving 21 days' notice to the licensee. Revocation of suspension shall be considered as soon as the necessary fee is paid by the licensee.

***Non-implementation of revised Indian Standard***

15. In case of non-implementation of revised Indian Standard, amendment to Indian Standard, suspension shall be imposed, if-
- (i) Additional testing facilities are required and the licensee fails to develop the facility within the stipulated time;
  - (ii) Non-submission of evidence of conformity to the revised provisions where it is a requirement as per the relevant BIS guidelines.

16. In case of SUS as at para 15,
- (i) Where the licensee has to develop the additional testing facilities, RoS shall be permitted on confirmation of additional testing facility.
  - (ii) Where evidence of conformity to the revised Indian Standard is not available, RoS shall be permitted on receipt of evidence of conformity of the product as per the new provisions.

***Suspension along with cancellation notice*** 17. The licence may be put under suspension when the cancellation proceedings are initiated against a licensee.

***Proceedings for cancellation*** 18. (i) The cancellation of a licence shall be done as per the Regulation 11 of BIS (Conformity Assessment) Regulations, 2018.

(ii) Before cancelling a licence, a cancellation notice of not less than twenty one days shall be given to the licensee (template attached ***Annexure - IV***).

(iii) The competent authority shall pass speaking orders for decision taken.

(iv) The decision to cancel the licence shall be communicated to the licensee (template of the letter attached as ***Annexure - V***).

***Suspension in vogue for more than a year*** 19. The licence may be cancelled without giving any further notice if licence has been under suspension for more than a year.

***Product specific guidelines*** 20. In addition to these guidelines, any product specific guidelines issued by CMDs shall be followed, as applicable.

***Inspection fee*** 21. All inspections other than surveillance inspections or inspections carried out for complaint investigation shall be chargeable, in advance, as per provisions of BIS (Conformity Assessment) Regulations, 2018.

***Testing fee*** 22. The testing fee of samples other than those, which may be drawn during surveillance or complaint investigation, shall be borne by the licensee.

***Provision for appeal*** 23. For cases in which the manufacturer submits an appeal to the Director General, the brief history of the case shall be communicated by RO/BO to concerned CMD (template as per ***Annexure - IX*** of grant of licence guidelines).

***Discrete visit***

24. To check for compliance towards any instructions issued to the licensee (For example, cancelled/expired/dormant licences), the ROs/BOs may arrange discreet visit(s) to check any possible violation of the BIS Act, 2016 and Rules, Regulations.

**Annexure - I**

**Our Ref: ..... BO/CML-**

**Date:**

**Subject: Unsatisfactory performance pertaining to Licence CM/L ..... for  
..... (Product name) as per ..... (Indian Standard)**

M/s

Madam/Sir,

- 1) This has reference to the BIS Certification Marks Licence No. CM/L ..... granted to you for use of BIS Standard Mark (S) on..... (Product name) according to IS..... which is valid up to .....
- 2) A surveillance inspection was carried out at your factory premises on..... During the visit, following discrepancies in the operation of the licence were observed and communicated to you (Ref. Discrepancy-cum-Advisory Report issued during the visit, copy enclosed):
- 3) You are advised to take appropriate corrective actions to avoid such discrepancies in future and intimate BIS the details of actions taken along with applicable supporting evidence within one month from the issuance of this letter.
- 4) Kindly note that in case, complete/satisfactory reply is not received within the stipulated period or performance during next surveillance visit is also found unsatisfactory, suspension may be imposed in accordance with clause (a) of sub-paragraph (5) of Paragraph 11 of Scheme - I of Schedule - II under the BIS (Certification) Regulations, 2018.
- 5) Kindly acknowledge the receipt and ensure compliance.

Thanking you

Signature of designated authority  
(Name of designated authority)

Encl: As above

**Annexure - II**

**Our Ref: ..... BO/CML-**


**Date:**

**Subject: Suspension of Licence CM/L ..... for ..... (Product name) as per ..... (Indian Standard)**

M/s

Kind Attn: (Name of the CEO/MD)

Madam/Sir,

- 1) This has reference to the BIS Certification Marks Licence No. CM/L ..... granted to you for use of BIS Standard Mark () on..... (Product name) according to IS..... which is valid up to .....
- 2) Due to the ..... (BO to mention reasons and details of non-conformities) and in accordance with the provisions of clause (a) of sub-paragraph (5) of Paragraph 11 of Scheme-I of Schedule-II under the BIS (Conformity Assessment) Regulations, 2018, it has been decided to put your licence under suspension with immediate effect.
- 3) You are not permitted to mark and dispatch (including stock in hand) the above mentioned product with Standard Mark. You are, therefore, advised to ensure stoppage of marking on the product with immediate effect & confirm the same immediately preferably by return speed post/e-mail. You are also advised to submit us the following details as on the date of receipt of fax/email:
  - i) Quantity of material with Standard Mark held in stock:
  - ii) a) Batch No(s). and date(s) of manufacture;  
b) Brand;  
c) size/type/grade/variety;
  - iii) Packing details; and
  - iv) Pending Orders for material with Standard Mark, if any with purchasers' names and addresses
- 4) Your reply with above stated details must reach us within 15/30† days of the issuance of this letter failing which it will be presumed that you do not have such material in stock. In case it is subsequently found that you have sold the material with Standard Mark after receipt of BIS instructions to suspension, it will be construed that the material so sold has been marked subsequently contravening provisions of the BIS Act, 2016. In such an



eventuality, the Bureau will reserve the right to take such action against you as envisaged in the BIS Act, 2016, Rules & Regulations framed there under.

- 5) Kindly note that, according to Paragraph 5 of Scheme-I of Schedule-II under the BIS (Conformity Assessment) Regulations, 2018, the minimum marking fee of above mentioned licence is payable by you even during the period the licence is not in operation due to suspension.
- 6) You are required to take necessary corrective action in the context of the reasons for suspension as stated in paragraph 2 above and submit complete details of compliance with all supporting evidence, as applicable, for examination and verification. \*You are advised to produce a fresh batch/lot/control-unit after taking corrective actions and confirm your readiness for the visit by BIS to consider revocation of suspension.
- 7) A sum of ₹..... (plus applicable taxes) shall be payable to BIS in advance towards this special inspection visit.
- 8) The reply with information sought should be sent immediately by return speed post/e-mail but not later than 15/30† days from the issuance of this letter failing which your licence will be considered for cancellation as per the Regulation 11 of BIS (Conformity Assessment) Regulations, 2018.
- 9) Kindly acknowledge the receipt and ensure compliance.

Encl. As stated

Signature of designated authority  
(Name of designated authority)

Copy to: Quality Control In-charge  
(Licensee Name & Address)

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*\* Strike off where not applicable*

*† 15 days for products notified for compulsory BIS certification. Other cases, 30 days.*

**Annexure - III**

Attachment to Licence No. CM/L- .....

CM/L-	Name of the Licensee with the Factory Address	Name of the Product	Indian Standard No.

Endorsement No. .... Dated ....

Consequent to the shifting of the factory, the address of the licensee mentioned in the Licence has been changed to ..... with effect from .....

Other terms and conditions of the Licence remain the same.

Signature of designated authority  
(Name of designated authority)

**Annexure - IV**

**Our Ref: ..... BO/CML-**


**Date:**

**Subject: Notice for Cancellation of Licence CM/L ..... for..... (Product Name) as per .....(Indian Standard)**

M/s

Kind Attn: (Name of the CEO/MD)

Madam/Sir,

- 1) This has reference to the BIS Certification Marks Licence No. CM/L ..... granted to you for use of BIS Standard Mark () on..... (Product name) according to IS..... which is valid up to .....
- 2) The following serious discrepancies were observed with regard to the operation of the above licence which is a violation of the provision of Regulation ..... of the BIS (Conformity Assessment) Regulations, 2018.

(RO/BO to give the reasons for proposed cancellation in this space)

- 3) In view of the above, it is proposed to cancel the licence CM/L- .....held by you in accordance with the provisions under Section 13 of the BIS Act, 2016 read in conjunction with the provisions of Regulation 11 of the BIS (Conformity Assessment) Regulations, 2018.
- 4) In view of the above you are, henceforth, not permitted to use and apply Standard Mark and dispatch (including stock in hand) the above mentioned product with Standard Mark. Your licence is, therefore, put under suspension with immediate effect & you are advised to confirm that you have stopped using and applying Standard Mark immediately preferably by returned speed post/e-mail. You are also advised to submit us the following details as on the date of receipt of speed post/email:
  - i) Quantity of material with Standard Mark held in stock
  - ii) a) Batch No(s) and date(s) of manufacture;  
b) Brand;  
c) size/type/grade/variety
  - iii) Packing details; and

iv) Pending Orders for material with Standard Mark, if any with purchasers' name and address

5) In case you have anything to say in this matter, you may submit your explanation to the Bureau within 21 days from the date of issue of this notice, failing which, it will be presumed that you are no longer interested in continuing the said licence and as such the licence will be processed for cancellation without any further reference to you.

This notice is being issued without any prejudice to the right of this Bureau to take any legal action under section 29 of the BIS Act, 2016.

6) If you desire to be heard in person or through a representative authorised by you on your behalf, you may seek an appointment for such a hearing with the undersigned, after submitting your written explanation.

7) Kindly acknowledge the receipt and ensure compliance.

Thanking You,

Signature of designated authority  
(Name of designated authority)

Encl.: As above

Annexure - V


**Our Ref: ..... BO/CML-**

**Date:**


**Subject: Cancellation of BIS Certification Marks Licence No. CM/L ..... for .....  
(Product name) as per ..... (Indian Standard)**

M/s

Madam/Sir,

- 1) This has reference to the BIS Certification Marks Licence No. CM/L ..... granted to you for use of BIS Standard Mark () on..... (Product name) according to IS..... which was valid up to .....
- 2) The Competent Authority has decided to cancel your Licence after ..... as per the provision of Regulation ..... of the BIS (Conformity Assessment) Regulations, 2018 due to the following reasons:

(BO to mention the reasons)

- 3) Your above mentioned licence, therefore, stands cancelled w.e.f.....You are therefore not entitled to mark/ dispatch your product (Product name) as per IS ..... with BIS Standard Mark after ..... or to claim in your advertisements or in any other publicity material that you are a licensee to use the  Mark on your product after .....
- 4) Any publicity material such as handbills, pamphlets, letterheads, etc. claiming that you hold BIS Product Certification Licence for your above mentioned product should be destroyed or such markings obliterated/defaced immediately. This should be confirmed by you at the earliest, positively within 15 days.
- 5) Further, you are advised to furnish a statement of (Product Name) with Standard Mark as follows:
  - i) Quality held in stock:
    - a) Type or Grade
    - b) Variety
    - c) Brand, if any
  - ii) Batch/Control Unit (C.U.)/Lot No.
  - iii) Packing

iv) Pending order for ISI certified material, if any and purchaser's name and address

- 6) Please note that any material found marked with BIS Standard Mark after ....., will be deemed to be the violation of the provisions of the BIS Act 2016, and Rules and Regulations framed thereunder and action will be taken as per the BIS Act 2016, and Rules and Regulations framed thereunder.
- 7) You are advised to surrender the original licence along with all the attachments/endorsements sheets, etc. and also submit an undertaking to the fact that you have not retained photocopy of the said licence document and shall not produce it anywhere under any circumstances subject to prior permission from BIS in this regard.
- 8) If you are aggrieved by the above order, you may prefer an appeal to the Director General, Bureau of Indian Standards within ninety days from the date of the order with a fee of two thousand rupees as per provisions of section 34 of the the BIS Act 2016 read along with Rule 37 of the BIS Rules 2018.
- 9) Please acknowledge the receipt and ensure compliance.

Signature of designated authority  
(Name of designated authority)