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प्रवर्तन गतिविधि के लिए दिशानिर्देश

**GUIDELINES FOR ENFORCEMENT  
ACTIVITY**



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**BUREAU OF INDIAN STANDARDS**

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## 1 INTRODUCTION

1.1 The Bureau of Indian Standards Act, 2016, empowers Bureau of Indian Standards (the Bureau) to grant licences to manufacturers to use the Standard Mark on their products to indicate their conformity to the relevant Indian Standards. The Certification Marks Scheme was initially operated under the Indian Standards Institution (Certification Marks) Act, 1952 which was superseded by the BIS Act, 1986 w.e.f. 1 April 1987. Consequent upon enactment of BIS Act, 2016 w.e.f. 12 October 2017 (hereinafter will be written as BIS Act), the scheme is known as BIS Conformity Assessment Scheme and encompasses product certification (Scheme-I), Self-Declaration of Conformity (SDoC) (Scheme-II), Management Systems Certification Scheme (Scheme-III) etc. The Bureau of Indian Standards (Conformity Assessment) Regulations, 2018 have been notified under BIS Act with effect from 4 June 2018. These regulations lay down the requirements for the conformity assessment schemes that are operated by the Bureau.

1.2 The BIS Conformity Assessment Schemes are basically voluntary in nature. However, for considerations of health, safety and consumer protection, the Government of India has made the Standard Mark/Hallmark mandatory for certain specified goods under various Acts/Rules/Quality Control Orders/Notifications. Most of these orders/ notifications prohibit manufacture, storage, sale and distribution of notified products without the Standard Mark/Hallmark. In addition, for some goods, conformity to relevant Indian Standards has been made compulsory without the requirement of Standard Mark, through Certificate of Conformity under Scheme IV of BIS (Conformity Assessment) Regulations, 2018. The BIS Act, 2016 also has a provision that the Central Government can make the Standard Mark compulsory for the goods, articles, process, system or service of scheduled industry.

1.3 A number of goods have been notified by the Government of India for mandatory certification/compulsory registration from the Bureau. Moreover, the growth and popularity of the BIS Conformity Assessment Schemes has resulted in consumers and purchasers insisting on BIS certified products. Due to these developments, there have been instances of misuse of BIS Standard Mark over the past few decades during the operation of its conformity assessment schemes. Such misuse of the Standard Mark is undesirable and needs to be curbed completely.

1.4 The Conformity Assessment Schemes administered by the Bureau are basically meant to ensure availability of quality and safe goods to the consumers. Therefore, the success of the Conformity Assessment Schemes depends on effective enforcement by the Bureau, that is, surveillance and ensuring compliance to the rules and regulations. For this purpose, supervision needs to be exercised not only at the manufacturer's end but also at market place with the retailers, traders and distributors, dealers etc., and firm deterrent action taken in cases where misuse of the Standard Mark is detected. Enforcement with respect to the use of the Standard Mark, thus, has three broad areas. One, relating to licensees to ensure that sub-standard products are not marked with the Standard Mark by them and that the BIS Act 2016, as applicable, is enforced. The second is relating to the use of Standard Mark or its colourable imitation by any person/company who is not a licensee and third is related to Violation of Quality Control Orders issued by the Government for mandatory use of BIS Standard Mark on goods/articles/system/service/process etc.

1.5 The first aspect is the monitoring of the Conformity Assessment Scheme itself, and is covered under the guidelines issued by the Bureau for the relevant Conformity Assessment Scheme from time to time. Guidelines for the second and third aspect i.e. misuse of Standard

Mark by a non-licensee and Violation of Quality Control Orders was first covered in the Enforcement Manual 1994 (With 4 Amendments). This document has been prepared to incorporate the provisions of BIS Act, which includes provisions such as offence being made cognizable and provision for compounding of offence.

1.6 An attempt has been made in these Guidelines to provide general guidelines as far as possible on such matters as envisaged. These are to be read in conjunction with BIS Act and Rules and Regulations framed thereunder. However, for situations that are not covered under this document or if the guidance provided is not adequate, then in all such cases Complaint Management & Enforcement Department at the Headquarters (CMED) may be consulted.

## **2 SCOPE**

2.1 This document lays down the guidelines and procedures to be adopted in dealing with cases of violation of BIS Act. It also covers aspects relating to implementation of the various Quality Control Orders/notifications relating to mandatory certification. The sections of BIS Act covered by this document are Section 11, 14(6), 14(8), 15, 17 and 26.

2.2 The violations relating to other Sections (for example, Grant of License/ Certificate of Conformity, marking non-conforming products, non-compliance with Scheme of Inspection & Testing (SIT) or any other conditions of the licence) pertaining to the specific Conformity Assessment Scheme, shall be dealt as a part of the monitoring under the guidelines issued by BIS for relevant Conformity Assessment Scheme from time to time.

## **3 ORGANIZATIONAL SETUP FOR ENFORCEMENT ACTIVITY IN BIS**

3.1 Complaints Management and Enforcement Department at BIS Headquarters (CMED) is responsible for coordinating the enforcement activity in the Bureau. The department reports to DDG (PRT).

3.2 In addition to CMED, the enforcement function is carried out with the help of BIS Branch Offices all over India. An officer from each of the RO shall be nominated as the Nodal Officer to deal with, coordinate and guide the enforcement activity in the region. He shall report to DDGR.

3.3 In addition, an officer in each of the branch offices of BIS shall be nominated as Enforcement Officer for dealing with and coordinating the enforcement work. He shall report to the Branch Head. All officers of the ROs/BOs shall provide necessary support to the Enforcement/Nodal Officers. The Enforcement/ Nodal Officers shall also coordinate the legal work relating to enforcement function. The Enforcement Officers shall be responsible for interacting with CMED/ROs in BIS and with State Government Agencies/other bodies responsible for implementing the various Quality Control Orders.

3.4 The Legal Department at HQ shall provide legal support to the enforcement function. On completion of the investigations for establishing the violation, including Search & Seizure operation, necessary action shall be taken for contravention of provisions of the BIS Act.

## **4 PROVISIONS RELATING TO VIOLATION OF BIS ACT, RULES AND REGULATIONS**

4.1 The use of the Standard Mark is governed by the relevant provisions in the BIS Act, Rules and Regulations. Some of the important provisions of Act in respect of usage of Standard Mark are reproduced below:

- a) Section 2 (40) defines the Standard Mark as the Mark specified by the Bureau including Hallmark to represent conformity of goods/article/process/system/service to a particular Indian Standard or conformity to a standard, the mark of which has been established, adopted or recognized by the Bureau and is marked on the article or goods as a Standard Mark or on its covering or label attached to such goods or article so marked.
- b) Section 9 (1) (d) empowers the Bureau to enter into and search places, premises or vehicles, and inspect and seize goods or articles and documents to enforce the provisions of this Act.
- c) Section 12 empowers the Bureau to notify a specific or different conformity assessment scheme for any goods, article, process, system or service or for a group of goods, articles, processes, systems or services and to establish a Standard Mark in relation to each of its conformity assessment schemes, which shall be of such design and contain such particulars as may be specified by regulations to represent a particular standard.
- d) Section 13 empowers the Bureau to Grant a certificate of conformity in a manner as may be specified by regulations or a licence to use or apply a Standard Mark in a manner as may be specified by regulations. It also empowers the Bureau to specify the marking and labelling requirements that shall necessarily be affixed

4.1.1 As per the Section 16 (1) the Central Government may notify—

- (a) Goods or article of any scheduled industry, process, system or service; or
- (b) Essential requirements to which such goods, article, process, system or service,

which shall conform to a standard and direct the use of the Standard Mark under a licence or certificate of conformity as compulsory on such goods, article, process, system or service.

4.1.2 As per the Section 16 (2) the Central Government may authorize the Bureau or any other agency having necessary accreditation or recognition and valid approval to certify and enforce conformity to the relevant standard or prescribed essential requirements under sub-section (1) of Section 16.

4.2 Provisions to prevent the improper use of the Standard Mark and penalties for violations, as detailed below, have been provided in the BIS Act.

4.2.1 Section 14 (6) provides that no testing and marking Centre or Assaying and Hallmarking Centre, other than the recognized by the Bureau, shall with respect to goods or articles notified under sub-section (1) of Section 14, use, affix, emboss, engrave, print or apply in any manner the Standard Mark, including the Hallmark , or colorable imitation thereof, on any goods or article; and make any claim in relation to the use and application of a Standard Mark, including the Hallmark , through advertisements, sales promotion leaflets, price lists or the like.

4.2.2 Section 14 (8) provides that no recognized testing and marking Centre, including Assaying and Hallmarking Centre, shall, notwithstanding that it has been recognized under sub-section (5) of Section 14, use or apply in relation to any goods or article notified under sub-section (1) of Section 14, a Standard Mark, including Hallmark, or any colorable imitation thereof, unless such goods or article conforms to the relevant standard.

4.2.3 Section 15 (1) provides that no person shall import, distribute, sell, store or exhibit for sale, any goods or article under sub-section (1) of section 14, except under certification from the Bureau.

4.2.4 Section 15 (2) provides that no person, other than that certified by the Bureau, shall sell or display or offer to sell goods or articles that are notified under sub-section (3) of section 14 and marked with the Standard Mark, including Hallmark and claim in relation to the Standard Mark, including Hallmark, through advertisements, sales promotion leaflets, price lists or the like.

4.2.5 Section 15 (3) provides that no certified jeweller or seller shall sell or display or offer to sell any notified goods or articles, notwithstanding that he has been granted certification, with the Standard Mark, including Hallmark, or any colorable imitation thereof, unless such goods or article is marked with a Standard Mark or Hallmark, in a manner as may be specified by regulations, and unless such goods or article conforms to the relevant standard.

4.2.6 Section 17 (1) provides that No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16-

- (a) Without a Standard Mark, except under a valid licence; or
- (b) Notwithstanding that he has been granted a license, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

4.2.7 Section 17 (2) provides that no person shall make a public claim, through advertisements, sales promotion leaflets, price lists or the like, that his goods, article, process, system or service conforms to an Indian standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the Central Government under sub-section (2) of section 16.

4.2.8 Section 17 (3) provides that no person shall use or apply or purport to use or apply in any manner, in the manufacture, distribution, sale, hire, lease or exhibit or offer for sale of any goods, article, process, system or service, or in the title of any patent or in any trade mark or design, a Standard Mark or any colorable imitation thereof, except under a valid licence from the Bureau.

4.2.9 Section 11 (1) and (2) provides that no individual shall, without the authorization of the Bureau, in any manner or form, publish, reproduce or record any Indian Standard or part thereof, or any other publication of the Bureau and no person shall issue a document that creates, or may create the impression that it is or contains an Indian Standard, as contemplated in this Act provided that nothing in this sub-section shall prevent any individual from making a copy of Indian Standard for his personal use.

4.2.10 Section 26 provides that no person shall, with a view to deceive or likely to deceive the public, 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 the name which contains the expression "Indian Standard" or any abbreviation thereof; or
- (b) Any title of any patent or mark or trade mark or design, in relation to any goods, article, process, system or service, containing the expressions "Indian Standard" or "Indian Standard Specification" or any abbreviation of such expressions.

4.2.11 Sections 27 and 28 of the Act empower the Certification Officers of the Bureau to deal with enforcement which include inspection and drawl of the samples to ensure proper use of the BIS Standard Mark and power to search and seizure for contravention of Section 14(6) or 14(8) or Section 15 or Section 17.

4.2.12 Section 29 provides for penalties for contravention of Sections 11, 14(6), 14(8), 15, 17 and 26. Section 29(4) specifies that offence of violation of Section 17 shall be cognizable.

## **5 PRODUCTS UNDER MANDATORY CERTIFICATION**

5.1 The BIS Conformity Assessment Scheme is basically voluntary in nature but the Government of India for consideration of health, safety and consumer protection, has made the use of BIS Standard Mark compulsory for certain specified items under various Acts/Rules/Notifications. Certification of these products is operated through various Schemes specified under BIS (Conformity Assessment) Regulations, 2018 such as Scheme I i.e. ISI Mark Scheme, Scheme-II i.e. Compulsory Registration Scheme (CRS) and Scheme IV i.e. Certificate of Conformity.

5.2 The Bureau is responsible for operating the Conformity Assessment Schemes, however, the enforcing authority for products under mandatory certification is stated in respective Quality Control Order. The Bureau is committed to curb the Violation of Quality Control Orders, if any, in the market place. For the QC Orders where enforcing authority is other than BIS, BIS shall on its part offer any technical assistance that the enforcing authority may require. Guidelines for coordination with the States are given in **Annex I**.

5.3 When goods are notified for compulsory certification under the BIS Act, the responsibility for enforcement of relevant order rests with BIS.

5.4 In order to take up proactive enforcement of QCOs issued from time to time, CMED had issued guidelines in this regard vide Ref. No. CMED/GEN/6 dated 23.12.2021.

Note: Relevant QCO/Notifications/Regulations are available on BIS website for reference.

## **6 SOURCES OF INFORMATION OF VIOLATION:**

6.1 The Bureau shall endeavour to look for cases of violations of the Act without waiting for somebody to point out the violation. The main sources from which information regarding violation may emanate are:

- a) Newspapers/ Journals (Print Media)
- b) Advertisements on Hoardings or Advertisements on digital media including e-commerce platforms.
- c) Complaints
- d) Anonymous letters providing exact details of address of party misusing the standard mark and details of the misuse
- e) Consumer Associations / Manufacturing Associations
- f) Exhibitions
- g) Display in Markets
- h) Inspections / Market Surveys
- i) Seizure Memo in raids by other Central / State Government Organizations



6.2 The Regional and Branch Offices shall build up a system for collection of information. Some of the steps that may be taken are:

- a) Subscription to important Local newspapers and scrutiny for any information of interest to BIS. Advertisements appeared to be examined for any misuse/violation.
- b) Close liaison may be maintained with State government agencies responsible for enforcement of various Quality Control Orders and their Nodal Officer/Department and their help sought in detecting any case of misuse.
- c) Close liaison may be maintained with consumer organizations or other groups such as Resident Welfare Associations, Self-Help Groups etc. of the State and they may be requested to report any case of misuse coming to their notice.
- d) Exhibitions related to products may be visited to look out for products carrying BIS Mark without license from the Bureau.
- e) Market surveys along with the market sample procurement may be taken periodically to find out products which may be on sale contravening the provisions of BIS Act. These may be organized along with the visits for procurement of market samples. Hoardings, sign boards etc. may also be scanned for any misrepresentation/violation. In case no violation is reported/detected in the BO for a financial year, a special campaign may be conducted.
- f) In case any information of misuse is received from other BO as collected during their raid, action on the same shall be taken on priority and outcome shall be informed to the concerned BO under intimation to CMED. In case, raid is to be undertaken by BO based on such information received from other BO, it will be counted as a separate raid.

## 7 GUIDELINES FOR DEALING WITH VIOLATIONS

7.1 Top priority shall be accorded to the enforcement function and investigations in all cases of violations shall be taken up immediately with the aim of securing prosecution of the offending party. The progress of each case shall be closely monitored by the branch heads and DDGRs.

7.2 All correspondence and actions relating to enforcement shall be confidential.

7.3 Guidelines for dealing with the cases of violations of the BIS Act or Quality Control Orders or both, by non-licensees or licensees, are given in **Annex II**. These cover the types of violations, provisions of the law violated, action to be taken, departments responsible for action and authority responsible for closure of complaints.

7.4 Repeated cases of violation by the same person/company shall be treated more seriously than the first one.

7.5 Guidelines for dealing with misleading advertisements is given in **Annex III**.

7.6 All cases of violation received in the form of a complaint shall be dealt through Standards Promotion Portal.

7.7 When information regarding Violation of BIS Act is received in the form of a complaint through email/letter or hard copy, the receiving Department/Branch office shall enter the complaint in the Standards Promotion Portal. Simultaneously, investigation shall be initiated in the matter.

7.8 On receipt of the Complaint through Standards Promotion Portal, the serial number would be automatically generated from the portal. This number shall be quoted in all future correspondence related to the case.

7.9 All complaints (whether anonymous or otherwise) relating to misuse of BIS Standard Mark and/or for violation of Quality Control Orders (QCO) shall be taken cognizance of by the receiving office, in case a prima-facie case exists.

7.10 It may be noted that guidelines given under **Annex-II** also covers violations by seller/dealer/trader/distributor etc.

7.10.1 In case a search and seizure has been carried out at the premise of a seller/dealer/distributor/trader etc. for violation of Section 17(1)(a) of BIS Act i.e. for violation of QCO, concerned BO should make efforts to get the details of source of the material under contravention.

7.10.2 If a search and seizure has been carried out at the premise of a seller/dealer/distributor/trader etc. for violation of Section 17(3) of BIS Act (i.e. misuse of BIS Standard Mark), he shall be held responsible for unauthorized use of BIS Standard Mark, unless the seller/dealer/distributor/trader establishes otherwise within four days of search and seizure. If Certification Officer present on the spot finds prima-facie merit in the case, a notice as per format attached as **Form-I** shall be issued to seller/dealer/distributor/trader during the search and seizure itself giving them a chance to prove that they are not liable to be prosecuted for the violation, failing which, action for violation of Section 17(3) shall be initiated against the said seller/dealer/distributor/trader based upon the available evidences.

7.10.3 In case based upon the evidence submitted by the accused seller/dealer/distributor/trader, BO temporarily decides against launch of prosecution, a speaking order in this regard shall be passed by the Head of the concerned BO. Final decision for launch of prosecution in such cases shall be taken after the spuriously marked/seized material of the said seller/dealer/distributor/trader has been linked to another party against whom BO decides to launch prosecution.

7.10.4 Simultaneously, based on the available information on the article or otherwise, efforts may also be made to ascertain the source of supply from where the article in question was procured or manufactured so as to book the manufacturing firm also under BIS Act.

7.10.5 In case a market sample is purchased by BO/RO along with documentary evidence from a dealer/trader and the standard mark on the product is found to be unauthorized/illegal then these guidelines are applicable in all such cases also.

## **8 INVESTIGATION AND COLLECTION OF EVIDENCE**

8.1 On detection of the violation, immediate action shall be taken by the BO to initiate investigations for collection of the necessary evidence for the purpose of taking action for launch of successful prosecution. An attempt shall be made to collect the evidence, documentary and material, with best possible linkage between the two, to establish the violation and to hold accountable the person who has actually contravened the Law. The evidence must be collected without any delay to avoid losing it. It may be mentioned that prosecution under the BIS Act is of criminal nature, and high degree of proof is required for successful conviction under the Act. Further, the onus of proving the violation lies with the prosecution. The evidence, therefore has to be legally tenable. Although no specific guidelines

can be laid down as to what constitutes a legally tenable evidence, some of these are indicated below.

## 8.2 Collection of Evidence

### a) Documentary Evidence

- i) Cash receipt should be collected while drawing a sample from the market. Cash receipt should have maximum possible details of the product such as Batch No./S. No./Mfg. Date/Expiry date, size, type, model no., brand, reference to BIS Standard Mark, etc., to clearly link the material purchased with the cash memo.
- ii) In the event of trader refusing to give a proper receipt/cash memo, etc., or refusing to enter the desired details on the receipt/bill, official(s) of BIS involved in discreet visit may record a statement to certify the purchase giving details of markings on the product, shop from where purchased, name of the shopkeeper, if feasible, time and date of purchase, etc.
- iii) If sample is drawn from the market then the other details such as the source of procurement with the documentary evidences, for example, purchase order copy, invoice, bill, etc., should be collected to identify the person/manufacturer who has actually violated the provisions of BIS Act, 2016.
- iv) If the material in question is supplied to any Government consignee or any other private party contravening the provisions of BIS Act, then original of all documents such as tender notice, purchase order, gate pass, bills, invoices and other related documents should be collected. If it is not possible to collect original, a photocopy of all such papers duly signed by the person who is giving such documents, may be collected.
- v) BIS official shall give a receipt for sample drawn free of cost and retain a duplicate copy of the receipt duly signed by the person in whose presence sample is drawn.
- vi) Test report in original shall have proper identification of the sample to link the sample tested and the test report, if any.
- vii) Investigation report submitted by BIS officials.
- viii) Any other such documents which may be necessary to prove the case in the court beyond reasonable doubts.

### b) Material Evidence

- i) As far as possible, Sample should be drawn in its original packing/container in presence of the authorized representative of the place, premise or vehicle from where sample is being drawn. Sample shall be sealed and signed by the person in whose presence sample is drawn. In case sample cannot be practically sealed, such samples shall be marked with certain identification mark to establish their identity.
- ii) Sample is to be drawn without destroying the markings given on the product as far as possible (B. No./Sl. No./Mfg. Date/Brand/Model and BIS Standard Mark, etc.).
- iii) Photographs of the products should be taken, capturing the relevant details such as standard mark, rating plate, name of manufacturer, brand-name etc. For products which are perishable in nature, video recording should also be done capturing all relevant details such as particulars of the product, premise where it was found and source of its origin.
- iv) If sample is such that it cannot be drawn, then the product photographs may be taken from different angles to show the standard mark (wherever applicable), rating

plate, name of manufacturer, brand-name etc. affixed on the product. Such photos should be signed by the authorized representative of the firm if possible. He should also be advised in writing to keep such sample in safe custody and to produce in the court as and when required by the court and/or BIS.

c) Other Information

- i) Name and address of the person who had been contacted during the complete process of investigation.
- ii) Name and address of persons alleged to have contravened the provisions of BIS Act with the documentary evidence, if possible.
- iii) Any other information which may be useful in proving the case in the court beyond reasonable doubts.

8.3 Report of discreet investigation shall be submitted in format as per **Form II**. If discreet investigation conducted by the RO/BO is indicative of violation, it should be followed with search and seizure.

## 9 SEARCH AND SEIZURE

9.1 The word 'search' refers to the operation of government machinery that involves checking through or carefully inspecting a location, area, person, object, etc. to detect something hidden or to reveal the pieces of evidence of a crime. Search can relate to lookout for an individual or a vehicle or premises, but only after taking necessary and legitimate lawful approval. "Seizure" is a vigorous action that unexpectedly takes over, captures, removes, or overwhelms an entity or an individual.

9.2 Relevant Sections of Criminal Procedure Code (CrPC), 1973 for Procedure of Search & Seizure are detailed below:

9.2.1 Section 91 states that the Court may issue a summon or the officer in charge may give a written order stating that the person has to produce the document or anything which is believed to have importance in order to carry out investigation, inquiry or proceedings. The person who is in possession of that particular document or thing has to comply with the request and produce it at the time and place prescribed by the summon or order.

9.2.2 Section 92 states that If the law enforcement agencies including the District Magistrate and the High Court are of the opinion that a document, parcel or anything which is in the custody of postal or telegraph authority is essential for the investigation, trial or the proceedings, then the Postal or telegraph authority has to adhere to the directions given by the court and deliver the document as per the instructions. The Court may allow the postal or telegraph authority to conduct searches for any document, parcel or item because of which the order of the Court is pending.

9.2.3 Section 93 prescribes when a search warrant can be issued. First of all, if the Court believes that the person to whom the summon or order has been addressed, will not bring the document or the thing which is essential to the proceedings, a warrant can be issued against that person. It can also be issued if the Court does not know the person who may be having the document. The Court may specify the particular place or part till which the inspection will extend and the person in charge of the inspection will follow the order of the Court as given and not extend the limit of inspection. Only the District Magistrate or Chief Judicial Magistrate can grant the search of a document which is in the custody of postal or telegraph authority.

9.2.4 Section 94 deals with the search carried out at places that are suspected to contain properties that might be stolen or might also hold the forged documents. After the inquiry or the information, if a District Magistrate, Sub-divisional Magistrate or a Magistrate of first-class is of an opinion that a place would have been used for deposit or sale of stolen property or if it would have been used for the production of objectionable articles as mentioned and prescribed in this section, he may authorize the Police Officer (above the rank of a constable) by warrant to enter such place with assistance if required.

The Police have to search the place in the manner specified in the given warrant, taking the possession of property that could be objectionable or stolen. He has to convey about the same to the Magistrate or has to guard the same until the offender is taken to the Magistrate. He may dispose of the objectionable article in some safe place and If he finds any person who may be involved in the deposit, sale, or production of the objectionable article or stolen property, he may take the person in custody and later carry him before the Magistrate.

9.2.5 Section 95 gives the power to the Court to declare some publications forfeited. The Court can issue search warrants for those publications and If the State Government finds that any article, newspaper, document or book may contain some matter which is punishable under the following sections that are 124A, 153A, 153B, 292, 293 or 295A of IPC, it can declare every copy of such material to be forfeited to the Government. The Magistrate can authorize any Police Officer to seize those documents. As per the warrant, the Police may enter and search the suspected document on any premises. The point to note here is, the Police Officer appointed for the search, cannot be below the rank of Sub-Inspector. The term "Newspaper" and "Book" have the same meaning as said in the Press and Registration of Books Act, 1867, and the word "Document" includes any drawing, painting, photograph, or other visible presentations.

9.2.6 Section 97 is regarding the search of a person whose confinement amounts to an offence. If any District, Sub-Divisional, or a first-class Magistrate has a reason to believe the same, he may issue a search warrant. The person to whom the search warrant is addressed has to search the confined person and if he finds the confined person, he has to take him immediately before the Magistrate for further proceedings.

9.3 With a view to check the violation of BIS Act, Section 28 of BIS Act empowers the Certification Officers to undertake search and seizure in the event of the contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17. The following procedure shall be followed for undertaking any search and seizure under the BIS Act.

#### 9.4 Conditions for Undertaking Search and Seizure

- a) The search under Sec 28 of BIS Act shall be undertaken when Certification Officer has reason to believe that any goods or articles, process, system or service in relation to which contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 of the Act has taken place are secreted in any place, premises (including trading premises) or vehicles and that such goods or articles, process, system or service is/are necessary for the purposes of investigation of contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 of the Act and the same cannot, in his opinion, be obtained otherwise than by making a search of such place, premises or vehicles.
- b) The Certification Officer shall record in writing the grounds of his belief clearly bringing out the nexus between information gathered and the entertainment of belief (that is the

reasons leading him to believe) and specify in such writing as far as possible the things for which the search is to be made and the places/premises/vehicles intended to be searched and obtain authorization for search from the Competent Authority.

- c) In the interest of safety, no search should be undertaken unless at least one police personnel in uniform is made available by the local police.

9.5 Actions to be taken before undertaking Search and Seizure—As soon as a case is detected meeting the condition at 9.4 (a), following actions shall be taken to proceed with the search and seizure:

- a) Administrative Approval—Administrative approval in writing shall be taken from the Competent Authority by producing a report of belief of contravention of section 11 or sub-sections (6) or (8) of section 14 or section 15 or section 17 of BIS Act based on the preliminary investigations. The report of belief shall include the details of violations, the name and address of the premises to be searched and name of the officer to be authorized for the search. Head of the concerned BO shall be the Competent Authority for according administrative approval. The approval so obtained shall be meant only for internal use of BIS and is not required to be carried along for showing to the owner or in-charge of the premises proposed to be searched. For reasons of confidentiality, the date of proposed search shall not be indicated in the proposal and shall be decided by the concerned DDGR/ BO Head/ Certification Officer undertaking search.
- b) The search and seizure under Sec 28 of the Act shall be carried out by authorized Certification Officer.
- c) The team for the search operation may comprise of minimum 3 officers, one or two staff members and two multi-tasking staff for assisting in packing/loading of the seized material. This is only a suggested typical team for the search party which could be varied at the discretion of the Head BO depending upon the size of operation being undertaken. A model format for constitution of team is attached as **Form-III**.
- d) Suitable arrangement should be made for travel of personnel carrying out the search and seizure operations. Necessary arrangements for transportation of the seized material to BIS office should also be made.
- e) The local SHO/ACP of the police station of the area where the search operation is planned should be contacted in advance with a written communication for providing necessary assistance for protection by way of making available a team of 4-5 police personnel in uniform. If felt necessary, the BO may liaise with the higher police officials of the district/zone for getting the assistance (Model letter at **Form-V**). While communicating with the police it may be ensured that address of the place/premises to be searched should not be disclosed. If demanded by the police officials they could be informed that the address is made available to the raiding party by the Competent Authority only on the day of the raid just before proceeding for the search.
- f) Some amount of suitable packing and marking material like wooden crates, twine, ink markers, sealing wax, candles etc. may be arranged depending upon the requirement and type of product intended to be seized during the search.
- g) A lockable room in BO shall be allocated for the purpose of storing the material seized during the searches, in safe custody.
- h) To meet the requirement of witnesses, the BOs may liaise with certain consumer organizations as also other enforcement agencies seeking participation of their officials as witnesses during the search operations by BIS. This action shall be taken immediately



without reference to any particular raid so as to facilitate availability of credible witnesses as and when any raid is planned. In the absence of such witnesses, BIS officers in the team and police officials may sign the seizure memo as witnesses.

9.6 Procedure/Guidelines for Actual Process of Search and Seizure- Following procedure shall be followed in carrying out the actual process of search and seizure:

- a) The Certification Officer authorised for the search shall carry with him the certificate of appointment as a Certification Officer in terms of Sec 27(3) of the BIS Act, in the prescribed format.
- b) The Certification Officer authorised by the Competent Authority shall conduct the search himself with the assistance of any other person as may be required by him and as authorized by Head BO. A model authorisation letter is attached as **Form-IV**.
- c) Before starting the search, the Certification Officer shall identify himself by showing their identity cards to the owner or any other person incharge of the place/premises/vehicle, that he is the Certification Officer of BIS and proposes to conduct search for verifying contravention of BIS Act, 2016. In the event of the owner of the place/premises/vehicle refusing to allow search, the fact shall be recorded in a Statement with the signatures of the witnesses and a complaint under Sec 186 of IPC, 1860 shall be filed with the local police station for obstructing the public servant in discharge of public functions.
- d) The Certification Officer shall subject himself and the other members of the search party to be searched by the owner or in-charge of the place/premises/vehicle or the person liable to be searched.
- e) Every member of the search party shall show his identity, if so desired by the owner or incharge of the place/premises/vehicle or the person liable to be searched.
- f) The Certification Officer may permit the owner or in-charge of the place/premises/vehicle or the person liable to be searched, to nominate two respectable and independent persons of the locality as witness. In case no such witness is forthcoming, the Certification Officer may nominate two witnesses on his own.
- g) The Certification Officer shall allow any woman having occupancy of the premises to withdraw, before the search party enters, if according to custom, she does not appear in public.
- h) The search shall be carried out with strict regard to decency.
- i) The Certification Officer may take the help of police authorities or any other agency which in his opinion would be required for him to effectively carry out the search.
- j) The search shall not be carried out after sun-set and before sun-rise unless it is shown to the Competent Authority issuing authorisation that the object of the search cannot be achieved if the search is conducted after sun-rise and before sun-set.
- k) The Certification Officer shall prepare a list of all the items seized by him during the search in the form of Recovery/Seizure Memo which shall be signed by the Certification Officer with two witnesses. In the absence of such witnesses, BIS officers in the team and police officials may sign the seizure memo as witnesses. A copy of the recovery/seizure memo so prepared shall be delivered to the owner or in-charge of the place/premises/vehicle or the person searched and his signatures obtained. Model seizure memo is attached as **Form-VI**.
- l) Any goods or articles or documents any other material which is considered useful for or relevant to any proceeding under the Act shall also be seized by the Certification Officer. Attempt shall be made to seize/obtain a document as evidence for ownership of the

firm/company. The Certification Officer shall carry the seized goods or articles or documents either himself or through any other agency. If it is not practicable for him to seize the goods/articles/material/document, he shall seal the same to prevent any likely tampering and may serve upon the owner/incharge of the premises an order under Sec 28(2) of the BIS Act that the owner/incharge shall not remove, part with, or otherwise deal with the goods/articles/material/document except with the previous permission of the Certification Officer. Model superdari memo is attached as **Form-VII**.

- m) Certification Officer shall ensure that Attendance Sheet is signed by members of raiding team, police personnel and witnesses. See **Form-VIII** for Attendance Sheet.
- n) If the Certification Officer suspects any person in or around such premises to be or being searched may be concealing any article/ document or any other material for which search should be made, such person may also be searched. If the person to be searched as above is a woman, the search shall be made by another woman with strict regard to decency.
- o) As per Section 28 of BIS Act, 2016, provisions of Code of Criminal Procedure, 1973 (Cr.P.C.) relating to Search & Seizure shall apply to every Search & Seizure. As per Section 100 of Cr.P.C., persons in charge of the closed place shall allow the search process otherwise as per the provisions of Section 100(8), any person who without reasonable cause refuses or neglects such process shall be deemed to have committed an offence under Section 187 of Indian Penal Code, 1860 which is denial to assist public servant when bound by law to give assistance. In case there is an obstruction during the Search & Seizure process then a complaint should be filed under Section 186 of Indian Penal Code, 1860 and if in case there is non-cooperation during the process of Search & Seizure then such complaint should be filed under the provisions of the Section 187 of Indian Penal Code, 1860.
- p) There can be instances when premise/vehicle/almirahs etc. are found locked and person in charge is not allowing the Search and Seizure process. In such situations, there should be no instance of forced opening until further orders of the concerned Court of Law are received in this regard. Certification Officer should also ensure that the premise/vehicle/almirahs etc. is properly sealed and the seal is not tampered with until orders of the concerned Court are received. Appropriate instructions in this regard shall also be issued to the person in charge.
- q) Entire proceedings of search and seizure should be video recorded.

9.7 If during the raid, involvement of any other firm under jurisdiction of other BO is noticed, the concerned BO shall be informed immediately for necessary action at their end under intimation to CMED.

9.8 Do's and Don'ts while carrying out search and seizure are provided in **Annex-III** for guidance purpose.

## **10 ACTIONS SUBSEQUENT TO SEARCH AND SEIZURE**

10.1 After the search is over, the Certification Officer shall submit a report in the format attached as **Form-IX**, to the Competent Authority who had issued the search authorisation, for his perusal and further action.

10.2 Based on the available material, documents and other publically available information, approximate value of the seized material shall be assessed by the raiding team and reported



in the report of search and seizure. This would serve as a reference while deciding quantum of punishment by Court/Compounding Authority.

10.3 The material seized during the search shall be handed over to the concerned Branch Office for safe custody as the same is to be presented to the Court as evidence if the offence is not being compounded. Head BO shall ensure that separate area is allocated for storage of seized material. Seized material shall be kept under safe custody and shall not be tampered with until the trial is over. To ensure safety of material seized from Jeweller/A&H Centre etc., BO may hire locker of a nationalized Bank and store the material in the same.

10.4 A press release shall be issued by the BO after each search & seizure to the local newspapers/media latest by next day with a copy to CMED.

10.5 In case no material in contravention of BIS Act is found during the search, the case shall be analysed for applying necessary corrections in the information channel for future searches.

10.6 Concerned BO shall upload the following documents pertaining to the search and seizure in the Enforcement Module within 15 days of date of search and seizure.

- a) Report of Search & Seizure
- b) Seizure Memo-I (Form VI)
- c) Seizure Memo-II (Superdari Memo- Form VII)
- d) Press Release (Form-XI)
- e) Photographs
- f) Any Other Document

10.7 Concerned BO shall ensure that the case number is generated through Enforcement Module and is mentioned in the proposal for closure of complaint put up to the Competent Authority.

## **11 LAUNCH OF PROSECUTION AND SUBSEQUENT ACTIONS**

11.1 Legal action is required to be initiated within limitation period of the violation getting established, failing which it becomes time barred. The investigation, therefore, must be completed in time and all efforts shall be made to file the case within 45 days from the date of search and seizure. Circular issued in this regard by CMED vide Ref. No. CMED/GEN/6 dated 29.03.2022 may also be referred.

11.2 In case the limitation period has expired, application for condonation of delay may be filed in the Courts which may consider it on merits and condonation may be allowed on the discretion of the Court. If the complaint is filed after expiry of limitation period, the courts may summarily reject/dismiss the complaint because right to oppose the complaint on sole ground of limitation, accrues to the accused, Hence, the complaint must be filed within limitation period.

11.3 As far as possible, the officer who is well conversant with the facts of case may be made the complaint officer who may be accessible as and when required for the concerned case.

11.4 The Complaint Officer must be duly authorized by concerned DDGR for filing a complaint under BIS Act on behalf of the Bureau. The authorization by DDGR in writing is required for each complaint case, to be filed along with the complaint.

11.5 The Complaint Officer/Nodal Officer of RO/BO must ensure the correct addresses/residential or otherwise before filing the complaint so that the summons are served upon the accused person(s) and the prosecution so launched, progresses in the right direction.

The Complaint Officer may verify, if required, the names and addresses of the accused firm/person/company from DIC/Registrar of companies or other sources like Vidyut Board/Sales Tax Department/Income Tax/Telephone/Excise Department or Pollution Control Board etc. and thereafter the same may also be got re-confirmed by paying a visit to such address, if required, and the accused be arraigned accordingly.

11.6 A copy of identity card for appointment of Certification Officer issued under section 27 of BIS Act, 2016 and rules framed thereunder, duly attested must be obtained from the person proposed to be authorized as Complaint Officer.

11.7 Recital of the facts of the case must be factually true and in line with investigation report, search & seizure (Panchnama) and other documentary/ material evidence etc.

11.8 Draft complaint prepared by the Advocate is to be got examined by the concerned complaint officer especially in respect of the facts and narration/ recital of the complaint proposed to be filed in the court. A sample/specimen complaint is provided in **Form XII**.

11.9 The jurisdiction of the court vis-à-vis the place of offence which is generally demarcated Police Station wise, must be checked before filing the complaint in the trial Court having jurisdiction.

11.10 List of documents and list of witnesses and material evidences to be relied upon by the Complaint Officer must be clearly indicated in the form of Annexures which must invariably be annexed with the complaint.

11.11 Complaint must be duly signed and filed by the authorized Complaint Officer through the empanelled Advocate in the concerned Court of CJM/CMM and especially empowered by the State Government/concerned High Court, to try such cases as mentioned in Section 32(1) of BIS Act. A copy of the Notification to this effect by the particular State Govt. must also be enclosed with the complaint for the satisfaction of the Trial Court.

11.12 The Complaint Officer to be got exempted from his personal appearances either by moving a separate application or by incorporating a suitable clause in the complaint itself, to this effect in as much as the complaint officer is a Public Servant as per Section 35 of BIS Act and Section 21 of Indian Penal Code, 1860. If the Court imposes a condition for such exemption that some other employee should be present in the Court on each and every date of hearing in place of the Complaint Officer, the same may be complied with.

11.13 While filing the complaint, the Nodal Officer/Complaint Officer must ensure that the material evidence seized during the raid/search & seizure is also produced before the court, if required, for taking the cognizance of the complaint without examining the complainant and witnesses as provided under the proviso attached to section 200 of Criminal Procedure Code, 1973.

11.14 After taking the cognizance, Court may issue summons to the accused and trial will begin thereafter as per the Criminal Procedure Code, 1973.

11.15 Accused if pleads guilty, the court may decide the matter and impose punishment as per section 29 of BIS Act and the matter will either be dismissed or disposed-off.

11.16 In case, the accused do not plead guilty, then adversary proceedings/prosecution commences and after notice and framing of charges, the prosecution is allowed to proceed

with the examination-in-chief of the witnesses followed by Cross Examination or Re Examination in the light of documentary & material evidence/witnesses to prove that violation of BIS Act was committed by the accused.

11.17 After the close of prosecution proceedings, court allows the defence to proceed with their list of witness, if any, followed by examination & cross examination or re-examination of witnesses to repudiate and demolish the prosecution charges.

11.18 After the defence proceedings, the case is fixed for arguments which are conducted by the respective counsels of the parties and it being a crucial stage of the case, the complaint officer or the nodal officer must be present in the court to assist the BIS Counsel during the proceeding and also for on the spot consultation, if required.

11.19 The empaneled counsel of the Bureau handling the complaint cases must be instructed to plead effectively and in the interest of consumers in general and the Bureau in particular before the trial courts for securing maximum punishment upon the accused as provided under Section 29 of BIS Act and for compensation to BIS also under Section 357 of Cr.P.C, 1973.

11.20 After conclusion of arguments, Court may fix the date for passing the judgment/order as provided under section 353 of Criminal Procedure Code. Certified copy of the judgment must be obtained forthwith and sent to the Legal Department for further necessary action without any loss of time.

11.21 In case of acquittals or dismissal of the complaints, certified copy of the judgment must be obtained and sent to Legal Department at once without any loss of time along with the opinion of panel Advocate handling the complaint, on the advisability of preferring Criminal Revision/Appeal against the order of the trial court. Legal Department after evaluating and analysing the judgement, may advise concerned RO/BO for preferring a Criminal Revision/Appeal against the judgment/order of Trial Court. However, this action is required to be taken within the period of limitation of 30 days, and certified copy of the order is a must for preferring a Criminal Revision/Appeal. Hence certified copy is to be applied for by the empanelled Advocate of the Bureau immediately upon passing of the judgement by the trial court. The concerned RO/BO would be responsible if the timely action as stated herein above is not initiated and due to delay, filing of appeal/criminal revision becomes time barred.

11.22 In case the accused is convicted/punished, he/she may prefer Criminal Revision/Appeal against the trial court order/judgement either before District & Session Judge or the High Court of the State and if so, the Legal Department may be apprised forthwith, for tendering the advice on contesting the Appeal/Criminal Revision.

11.23 In case the accused is convicted/punished and no Criminal Revision/Appeal is preferred by the accused, after obtaining appropriate order from the court under Section 452 Cr.PC read with Section 32(4) of the BIS Act, the case property if forfeited to BIS should be destroyed/disposed of preferably by a committee consisting of three officials in such a manner that same is beyond any use and report of the committee may be placed in the case file with photographs and a copy thereof be endorsed to Legal Department for records. Thereafter, file may be consigned to Record Room/Archive.

11.24 Judgement passed by the Court holding the accused convicted may be noted in the MCR and/or preferably be circulated/published in the local/leading newspapers by PR Department of HQRs or by BO for awareness of public at large.

11.25 In case of any difficulty or any point which needs elucidation/clarification, the matter may be referred to Legal Department for the same.

11.26 When an enforcement case is examined and recommendation for filing prosecution proceedings in the court of Law is made, the following points may be kept in view:

- a) Examination requires thorough scrutiny of Investigation Report, Search & Seizure (Punchnama), if properly carried out and/or witnesses have been included during the raid and/or search and seizure or samples/incriminating material/documents etc. have been properly seized and brought back to the office duly sealed by affixing BIS seal and BIS seal alongwith its number used for the particular raid, be kept in safe custody so that same is produced before the trial court as and when required.
- b) The case property with intact seal of BIS having its distinct number and original documents of the case need to be examined in the light of Sections 24, 61 to 65, 101, 102, 135 to 165 of Indian Evidence Act and Section 243 of Criminal Procedure Code and then evaluated if there is any infirmity or the case is properly made out for launching the prosecution under Section 32(2) of BIS Act, 2016.
- c) After scrutiny of documentary/material evidence available, if the case is made out, then custody of the same must be taken by the Complaint Officer/Nodal Officer of the BO and the case be further processed for filing the prosecution proceeding in the court of Law having jurisdiction.
- d) The jurisdiction of the court is according to division of area (police station wise). Hence, it must be verified and checked if the place where violation of BIS Act has taken place falls in a particular Police Station/court and then case must be filed in the right court having jurisdiction in consultation with the empaneled counsel of the Bureau to whom the case is allotted for prosecution.
- e) At the time of filing the case, the complaint must be signed by the Complaint Officer who has been duly authorized for this purpose by the concerned DDGR. The Complaint Officer must ensure his appearance before the Court on each and every date of hearing, or as and when advised by the empaneled counsel of the Bureau and must have proper briefing before attending the Court. He must also reach well before time on each date of hearing as advised by the Advocate.
- f) The list of documents and list of witnesses need to be checked which would be of great help in establishing the case as the prosecution basically relies upon them heavily and especially, the search & seizure memo is also of great importance. It may be ensured that names of persons associated in the raid are included in the list of witnesses and also that the list of documents and witnesses is enclosed with the complaint.
- g) After the conviction, the case material is forfeited to BIS as per Section 32(4) of the Act, provided an order in that regard is passed by the competent criminal court under Section 452 of CrPC, 1973. Hence such prayer is to be incorporated in the complaint itself, to be pursued at the time of passing of the judgement/order. If no such order is incorporated in the judgement, a separate application is to be filed for the purpose. After obtaining such order regarding disposal of the case property, the same must be destroyed/disposed of only after expiry of limitation period for filing the revision/appeal

by the convicted firm/person which is 30 days from the date of the judgement after taking margin of days to file an Appeal and after the conclusion of the case. In the cases where conviction is on the basis of the accused having pleaded guilty, the right of revision/appeal is not available to him in accordance with Section 375 of Cr.PC, 1973.

- h) Destruction of forfeited material should preferably be carried out by a three member committee and report thereof along with photographs be kept in the file and then file be consigned to record room/store with a copy endorsed to Legal Department for records.
- i) In case the material seized under contravention of sub-sections (6) or (8) of section 14 or section 15 from jeweler/A&H Centre etc. is directed to be forfeited to the Bureau by the Competent Authority the same shall be disposed-off through monetization of the material through any Govt. agency like the India Govt. Mint. In case the material is not forfeited to the Bureau the directions of the Competent Authority may be adhered to.
- j) Prosecution cases must be followed up by the RO/BO and pursued effectively in coordination with the empaneled counsel of the Bureau handling the case so that complaint is not dismissed on account of lack of follow up/non-appearance of prosecution counsel, complainant, witnesses etc. as it is the prime duty of the prosecution to establish the case against the accused on the basis of documentary/material evidences, and witnesses.

11.27 If the officer who is authorised for filing the case in court of law is not able to attend the court due to transfer/superannuation or due to any other reason, DDGR may authorise another officer by filing an affidavit in the court. The unique seal and case properties lying in custody of Nodal Officer must be handed over to the new incumbent.

11.28 In the event of receipt of a request for relocation of seized material, permission from the concerned Court of Law shall be sought. In situations where prosecution has not been lodged yet and a request for relocation of seized material is received, Head (BO) may authorize relocation preferably under supervision of Certification Officer who had issued the Superdari memo. Fresh Superdari memo shall also be issued.

11.29 The general approach in various types of violations shall be to arrange thorough investigation for collection of necessary evidence for the purpose of prosecution. However, where it is considered desirable to close any case of contravention of BIS Act for reasons of non-feasibility of launching prosecution or for any other reason, the same shall be referred to DDG (PRT) through CMED with recommendations of DDGRs clearly giving the grounds on which closure of the case is recommended. Closure order of complaints for which authority for closure are DDGRs, shall be sent to CMED for information and records.

## **12 TIME NORMS FOR ENFORCEMENT RELATED ACTIVITIES**

12.1 All actions from receipt of complaint to closure shall be completed within 90 days, the timelines for dealing with complaints related to misuse of BIS Standard Mark and Violation of Quality Control Orders are attached as **Annex-V**.

12.2 Licensee end BO shall be responsible to get the complaint investigated at the end of complainant (if required) and to bring the complaint to a logical conclusion within specified time-norms.

12.3 DDGRs and concerned Activity Heads shall be responsible for adherence with these timelines by ROs/BOs/Departments.

## **Annex I**

### **GUIDELINES FOR COORDINATION WITH STATE GOVERNMENTS FOR ENFORCEMENT OF QUALITY CONTROL ORDERS**

#### **Coordination:**

1. Deployment/Linking of a BIS official with the State Govt. department for all the matters related to implementation/enforcement of standards for providing a “Quality Ecosystem”.
2. Six-monthly review meeting for discussion of issues/problems related to the implementation of standards. The meeting must include relevant stakeholders, such as Industry/manufacturers.
3. A link may be incorporated by all the State Govt. Departments on their working platform for getting eBIS Portal ([www.manakonline.in](http://www.manakonline.in)) on the status of a BIS license so that no invalid claims can be made by a manufacturer for participating in a tender.
4. State Govt. bodies while floating their tenders should not insist for Hardcopy of BIS license endorsement/copy and may confirm the same from BIS eBIS Portal ([www.manakonline.in](http://www.manakonline.in)).
5. Before procuring BIS certified goods/articles/system/process/service on GeM portal, Govt. bodies should verify the status of any firm claiming to be a BIS Licensee from eBIS Portal ([www.manakonline.in](http://www.manakonline.in)).
6. In cases of conflict between Govt. body and manufacturer regarding the quality of products procured through tender, sample should preferably be tested from BIS Labs/BIS Recognized Labs.
7. Establishment of an effective communication Channel on suitable platform to engage State Govt. officials which may include furnishing of information to BO with regard to violation of BIS Act and enforcement thereof. BOs to establish communication channels with relevant enforcing authorities.
8. The Standards Promotion Portal & BIS Care App shall be used for the registration of complaints.
9. A link to be incorporated by BIS with the Nodal Department of State Govt. on their working platform for getting eBIS Portal ([www.manakonline.in](http://www.manakonline.in)) on the status of BIS license for floating of tenders, Quality Control Orders issued from time to time, details of ISI marked products manufactured in the state, Grant of new licenses, mechanism to retrieve licensee data, Complaint redressal system on Standard Marked products to avoid misuse of BIS License.

## Annex II

Guidelines for Dealing with Violations of BIS Act 2016					
Sl. No.	Type of Complaint/Violation	Section violated of BIS Act, 2016	Action to be taken	Department responsible for actions	Competent Authority for Closure of Complaint
<b>SECTION 11</b>					
1	Publish, reproduce or record any Indian Standard or part thereof, or any other publication of the Bureau, in any manner or form, without authorization by Bureau.	Section 11(1)	(i) Investigation and collection of Evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs DDGRs/BOs BOs	Activity Head of Enforcement
2	Issuing a document that creates, or may create the impression that it is or contains an Indian Standard, as contemplated in BIS Act, 2016 except for any individual making a copy of Indian Standard for his personal use.	Section 11(2)	(i) Investigation and collection of evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs DDGRs/BOs BOs	Activity Head of Enforcement
<b>SECTION 26</b>					
3	Without previous permission of Bureau a) Use of names resembling the name of the Bureau or which contains the expressions “Indian Standard” or any abbreviations thereof, to deceive or likely to deceive the public. b) Use the expressions “Indian Standard” or “Indian Standard Specification” or abbreviation thereof in the title of any patent or mark or trade mark or design in relation to any goods, article, process, system or service.	Section 26(1)	(i) Investigation and collection of evidence (ii) Compounding/ Prosecution (iii) Follow-up	BOs DDGRs/BOs BOs	Activity Head of Enforcement



Guidelines for Dealing with Violations of BIS Act 2016					
Sl. No.	Type of Complaint/Violation	Section violated of BIS Act, 2016	Action to be taken	Department responsible for actions	Competent Authority for Closure of Complaint
SECTION 14 (6)					
4	a) Misuse of Hallmark/ Standard Mark or its colourable imitation or making any claim in relation to the use and application of Standard Mark or Hallmark through advertisements, sales promotion leaflets, price lists or the like by unrecognized Assaying and Hallmarking Centre.	Section 14(6)	(i) Investigation and collection of evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up	BOs/HMO(R)/ROs  BOs DDGRs/BOs  BOs	DDGR/Activity Head of Hallmarking /Activity Head of Enforcement
	b) Misuse of Hallmark/ Standard Mark or its colourable imitation or making any claim in relation to the use and application of Standard Mark or Hallmark through advertisements, sales promotion leaflets, price lists or the like by recognized Assaying & Hallmarking Centre.		(i) Investigation and collection of evidence (ii) Action as per Hallmarking Regulations	BOs/HMO(R)/ROs  BOs/HMO(R)/ROs	DDGR/Activity Head of Hallmarking /Activity Head of Enforcement
SECTION 14 (8)					
5	Use of Hallmark/Standard Mark on sub-standard precious metal articles or other goods or article by recognized Assaying and Hallmarking Centre.	Section 14(8)	(i) Investigation and collection of evidence (ii) Action as per Hallmarking Regulations	BOs/HMO(R)/ROs  BOs/HMO(R)/ROs	DDGR/Activity Head of Hallmarking /Activity Head of Enforcement

Guidelines for Dealing with Violations of BIS Act 2016					
Sl. No.	Type of Complaint/Violation	Section violated of BIS Act, 2016	Action to be taken	Department responsible for actions	Competent Authority for Closure of Complaint
<b>SECTION 15 (2)</b>					
6	<p>(a) Sell or display or offer to sell articles notified under Section 14(3) with Hallmark or making any claim in relation to the Standard Mark/Hallmark through advertisements, sales promotion leaflets, price lists or the like by unregistered jeweller.</p> <p>(b) Sell or display or offer to sell articles notified under Section 14(3) with hallmark by registered jeweller which are not covered under the scope of Registration.</p>	Section 15(2)	<p>(i) Investigation and collection of evidence</p> <p>(ii) Search &amp; Seizure</p> <p>(iii) Compounding/ Prosecution</p> <p>(iv) Follow-up</p> <p>(i) Investigation and collection of evidence</p> <p>(ii) Search &amp; Seizure</p> <p>(iii) Compounding/ Prosecution</p> <p>(iv) Follow-up</p>	<p>BOs/HMO(R)/ROs</p> <p>BOs</p> <p>DDGRs/BOs</p> <p>BOs</p> <p>BOs</p> <p>BOs</p> <p>DDGRs/BOs</p> <p>BOs</p>	<p>DDGR/Activity Head of Hallmarking /Activity Head of Enforcement</p> <p>DDGR/Activity Head of Hallmarking /Activity Head of Enforcement</p>
<b>SECTION 15 (3)</b>					
7	Sale or display or offer to sell articles notified under Section 14(3) without Hallmark by registered jeweller in districts where Hallmarking is mandatory.	Section 15(3) to be read in conjunction with Hallmarking of Gold Jewellery and Gold Artefacts Order, 2020 (With all Amendments)	<p>(i) Investigation and collection of evidence</p> <p>(ii) Search &amp; Seizure</p> <p>(iii) Compounding/ Prosecution</p> <p>(iv) Follow-up</p>	<p>BOs</p> <p>BOs</p> <p>DDGRs/BOs</p> <p>BOs</p>	DDGR / Activity Head of Hallmarking /Activity Head of Enforcement

Guidelines for Dealing with Violations of BIS Act 2016					
Sl. No.	Type of Complaint/Violation	Section violated of BIS Act, 2016	Action to be taken	Department responsible for actions	Competent Authority for Closure of Complaint
8	Manufacture, import, distribute, sell, hire, lease, store or exhibit for sale goods, article, process, system or service which is under mandatory certification without a Standard Mark (with or without a valid license or license under suspension/ deferment /dormancy): a) Where BIS is the Enforcing Authority.  b) Where BIS is not the Enforcing Authority	Section 17(1)(a)	(i) Investigation and collection of evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up  Inform enforcing authority	BOs  BOs DDGRs/BOs  BOs BOs	DDGR/ Concerned Activity Head/Activity Head of Enforcement
<b>SECTION 17 (2)</b>					
9	Make public claim through advertisement, sales promotion leaflets, pricelists or the like that goods, article, process, system or service conforms to an Indian Standard or make such a declaration on the goods or article without having a valid CoC or license.	Section 17(2)	(i) Investigation and collection of evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up	BOs  BOs DDGRs/BOs BOs	DDGR/ Concerned Activity Head/Activity Head of Enforcement

Guidelines for Dealing with Violations of BIS Act 2016					
Sl. No.	Type of Complaint/Violation	Section violated of BIS Act, 2016	Action to be taken	Department responsible for actions	Competent Authority for Closure of Complaint
<b>SECTION 17 (3)</b>					
10	Use or apply or purport to use or apply a Standard Mark or any colourable imitation thereof, without a valid license in manufacture/ distribution/ sale/ hire/ lease/ exhibition/offering for sale, on any goods, article, process, system, service or in the title of patent or any trade mark or design.	Section 17(3) (For products under mandatory certification, Section 17(1)(a) also applies)	(i) Investigation and collection of evidence (ii) Search & Seizure (iii) Compounding/ Prosecution (iv) Follow-up (For violation by licensee by marking on variety outside the scope of license or license under suspension/deferment/dormancy, action shall be taken as per BIS (Conformity Assessment) Regulations, 2018)	BOs BOs DDGRs/BOs BOs	DDGR/ Concerned Activity Head /Activity Head of Enforcement
<b>SECTION 468 of IPC</b>					
11	Forging of any document or providing false information in relation to application for grant of license/ certificate of conformity/ registration (CRS)/ registration for Hallmark or related matters	Section 468 of IPC / Section 336 of BNS	(i) Investigation and collection of evidence (ii) Rejection of application (iii) File FIR	BOs BOs BOs	DDGR/Concerned Activity Head /Activity head of Enforcement
12	Tampering/ Forging of license document or endorsement or any other document by: a) Licensee	Section 468 of IPC / Section 336 of BNS	(i) Investigation and collection of evidence (ii) Action as per relevant	BOs BOs	DDGR/Concerned activity Head/ Activity Head of

			Regulations (iii)File FIR	BOs	Enforcement
b) Non-licensee			(i) Investigation and collection of evidence (ii) File FIR	BOs  BOs	DDGR Concerned Activity Head /Activity Head of Enforcement

**Note: In general, complaints shall be closed by DDGR. In any particular case, if felt necessary, the case may be forwarded to the relevant activity head or the activity head of enforcement for closure, along with justification by DDGR.**

**Annex III**  
**Dos and Don'ts during Search and Seizure Operation**

**DOs**

1. The information and documents on the basis of which the raid is executed are very important as it is the foundation for the complaint. Therefore, the information and documents must be clear and specific.
2. A discreet investigation is to be conducted before the actual date of raid. During the discreet investigation, the actual ownership of the entity be ascertained.
3. Where possible, a large quantity of the products on which the Standard Mark of the Bureau is misused, be taken as case property.
4. Search and seizure operation be conducted with the Police Assistance.
5. Clear photographs of the sign-boards, banners, premises, products on which the Standard Mark of the Bureau is misused be taken, particularly where the forged licence number is mentioned. Photos of the Accused, Plant and Machinery, equipment, Stationery and tool etc. can also be taken during raid. Seizure Report is required to be prepared clearly. Seizure Report be got signed from the Accused and witnesses also.
6. Correct details of the Accused must be obtained i.e. name, specific role, designation, contact details, address of the each accused.
7. Permanent residence address, Native place address or nearest close or blood relative's address of the each accused is very important instead of taking the office address of the Accused. If the Accused is having rental address then the copy of Lease or license be taken on record with the permanent address proof of their native place.
8. In case, the company or firm is having rental address then the proper address proof of the directors, owners, proprietors, partners or other authorized persons must be taken as address proof such as; Aadhaar card, Voter's Card, Ration Card, Driving license, Passport, Property card etc., in addition to the details of the company or firm such as Certificate of Incorporation, date of registration of the firm etc.
9. While filing the complaint, the complainant (Complaint Officer) must mention his correct designation as per the BIS Regulations, in the Authority Letter as well as in the complaint.

### DO NOTs

1. Don't conduct any search and seizure without Authority Letter from the Competent Authority and Certification Officer Card.
2. Don't conduct any search and seizure without information and assistance of the Police Authority of the area concerned.
3. Don't write anything below the signature and at other places in the seizure memo.
4. Don't mention anything in the complaint for which no facts are available.
5. Don't make the persons as witness in the complaint, who had not witnessed the search and seizure.

## Timelines for Dealing with Complaints related to Misuse of BIS Standard Mark and Violation of QCO

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4	Discreet investigation and submission of report through portal	Licensee/manufacturer BO	end	Within 7 working days of receipt of complaint from CMED or BO at the end of complainant/dealer/seller/shop etc., as applicable
5	Search and Seizure (If discreet investigation is indicative of violation of BIS Act)	Licensee/manufacturer BO	end	Within 3 days of conducting discreet investigation
6	Uploading details of Search & Seizure on Enforcement Module	Licensee/manufacturer BO	end	Within 7 days of conducting Search & Seizure
7	Putting up recommendations and closure proposal to DDGRs	Licensee/manufacturer BO	end	Within 10 working days of conducting Search & Seizure
8	Recommendation/Decision on complaints and forwarding recommendation to CMED (where DDGR is not the CA to close the complaint)	DDGRs		Within 3 working days of receipt of proposal from BO
9	Putting up closure proposal/recommendation to DDG (PRT)	CMED		Within 3 working days of receipt of proposal from concerned RO
10	Decision and closure of complaints	DDG(PRT)		Within 3 working days of receipt of proposal from CMED
# RO/BO/Dept. in these timelines refers to any department such as Branches, FMCD, MSCD and Registration Dept.				

Note:

1. The actions for closure of complaint shall be completed within ninety days, excluding the testing time, where testing of the product is involved.
2. Overall responsibility of bringing the complaint towards a logical conclusion shall lie with licensee end BO.
3. Concerned DDGRs and Activity Heads shall be responsible for the adherence with these timelines by the concerned RO/BO.

**Form-I**  
**(Clause 7.10.2)**  
**Notice**  
-----BIS Letter-head-----

**Ref:**  
**Sub: Violation of BIS Act**

**Date:**

Sir,

This has reference to (reference to the points/source of misuse and the specific contravention to be made here).

In this context your attention is drawn to the BIS Act, 2016 which prohibit use of BIS Standard Mark without a valid license from the Bureau \_\_\_\_ (+to be filled with appropriate section depending upon contravention). It is obvious that use of BIS Standard Mark without a valid licence from the Bureau contravenes the BIS Act, 2016 and makes you liable to be prosecuted under Section 29 of the said Act which provides for penalties of imprisonment up to two years or fine not less than two lakh rupees for the first contravention and not less than five lakh rupees for the second and subsequent contraventions or with both and also forfeiture of property in terms of Section 32(4) of the said Act.

A notice is hereby served on you to furnish a reply within 4 days of the receipt of this letter to cause as to why action as per Section 29 of BIS Act should not be taken against you for contravention of Section \_\_\_\_ (+to be filled with appropriate section depending upon contravention) of the BIS Act, 2016.

(Name and designation and signature of Certification Officer)

+ Suggestions in brackets are for guidance only

**Form II**  
**BUREAU OF INDIAN STANDARDS**  
**(      Branch office)**  
**REPORT OF DISCREET INVESTIGATION**

Complaint Ref:

Date:

1. Date of Complaint:
2. Name of Complainant (with address):
3. Type of complaint:
4. Reasons for carrying out the visit:
5. Location/area visited:
6. Findings during the investigation (along with enclosures, if any):
7. Conclusion:
8. Recommendations:

\_\_\_\_\_  
Name and Designation of IO  
Department

HOD

**Form III**  
**BUREAU OF INDIAN STANDARDS**  
**(      Branch Office)**  
**Constitution of Team**

Our Ref:

Date:

The following team has been constituted to conduct the search and seizure on \_\_\_\_\_ at \_\_\_\_\_ (Only place to be mentioned).

1.        -        Team Leader
- 2.
- 3.
- 4.
- 5.

(Head BO)

Circulated to team leader and members

**Form IV****Authorization to conduct Investigation, Search & Seizure**

-----BIS Letter-head-----

**Ref:****Date:****Subject: Authorization to Conduct Investigation, Search & Seizure.**

M/s \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Complete name and  
address of the  
premise to be  
searched

Dear Sir(s),

Bureau of Indian Standards (herein after referred as The Bureau) has authentic information and reason to believe that violation of BIS Act, 2016 is taking place in your premises.

2. I am hereby authorizing the following officials of this Bureau to undertake investigation and search of your premises on \_\_\_\_\_, in pursuance of Section 28 of BIS Act, 2016:

- 1.
- 2.
- 3.
- 4.

3. It may be pertinent to mention that 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 BIS Act, 2016, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

4. You are requested to kindly cooperate with the above named officials and assist them in discharge of public functions.

Yours faithfully,

Place:

(Head BO)  
Name & Designation with Seal

**Form V**  
**Letter to Police**

-----BIS Letter-head-----

**Ref:****Date:**

Subject: Request for detailing the Armed Police Personnel for protection and safety of BIS Investigating Teams(s) to conduct Search & Seizure under the provisions of BIS Act, 2016-Reg.

To,

Assistant Commissioner of Police

-----

-----

Dear Sir,

As you might be aware, Bureau of Indian Standards (BIS) is the National Standards Body set up under an Act of the Parliament for harmonious development of the activities of Standardization, marking and quality certification of the goods in the country. The Bureau took over the assets, liabilities and functions of the erstwhile Indian Standards Institution (ISI) with effect from 1 April 1987. The status of the organization was enhanced by the Government with a view to provide more statutory powers for enabling the organization carry out its functions effectively. The BIS operates a Certification Marks Scheme under which licence are granted to the manufacturers for use of ISI Mark on the products under specified conditions. Thus, through this scheme BIS makes available the benefit of third party certification to the common consumer.

With the popularity of the ISI Mark, the instances of misuse of the mark are on the increase. To check such misuse and Violation of Quality Control Orders (QCOs), necessary prohibitory provisions have been made under Sec 11, 14(6), 14(8), 15 and 17 of the BIS Act, 2016. Also penalties for the misuse have been prescribed under Sec 29 of the Act. The employees of the Bureau have been declared as public servants within the meaning of Sec 21 of the Indian Penal Code. Also Certification Officers of the Bureau appointed by the Competent Authority, under Sec 27 of the Act, have been empowered to undertake search and seizure of any place, premises or vehicles where there are reasons to believe that contravention(s) as above are taking place.

During our recent drives, it has been observed that a number of manufacturers/dealers are resorting to misuse of BIS Standard Mark and Violation of QCO and there is an urgent need to check the same. Towards this objective, we seek your help in the process of carrying out search and seizure operations in accordance with the provisions under the BIS Act, for collection of direct evidence to facilitate prosecution of the offenders.

It is requested that you may consider advising the police stations under your jurisdiction to provide necessary help for search and seizure as and when approached by the BIS officials.

We shall be pleased to have your response.

Thanking you,

Yours faithfully,  
(Head BO)

**Form VI****Seizure Memo**

-----BIS Letter-head-----

**Our Ref:****Date:****Subject: Seizure Memo**

In pursuance of Sec 28 of the Bureau of Indian Standards Act, 2016, a search at the premises \_\_\_\_\_ of \_\_\_\_\_ M/s

\_\_\_\_\_ was carried out on \_\_\_\_\_  
and was found to be contravening the provisions of BIS Act, 2016 and seized the following materials:

Sl. No.	Description of the material/documents Seized with details of marking with specific reference to Standard Mark	Quantity	Identification Mark
(1)	(2)	(3)	(4)

The above material has been seized and sealed in the presence of the following persons:

Witness:

Name &amp; Signature of the Certification Officer(s)

1.

2.

Signature, name and address of the person In-charge of the premises searched (For receiving a copy of this letter after search).

**Form VII****Seizure Memo**

-----BIS Letter-head-----

**Our Ref:****Date:****Subject: Search & Seizure Operation on \_\_\_\_\_**

To,

Shri \_\_\_\_\_

M/s \_\_\_\_\_

Sir,

The article(s) as detailed below have been seized today from the aforesaid premises vide Seizure Memo No. \_\_\_\_\_ dated \_\_\_\_\_ at \_\_\_\_\_ hrs (time) while carrying out search & seizure operation, under the provision of BIS Act, 2016.

2. The article(s) have been seized in pursuance to Section 28 of the Bureau of Indian Standards Act, 2016, which empowers the BIS Certification Officer(s) to seize such goods or article and other material and documents which, in his opinion will be useful for, or relevant to any proceeding under this Act:

Sl. No.	Description of the material/documents Seized with details of marking with specific reference to Standard Mark.	Quantity	Identification Mark
(1)	(2)	(3)	(4)

3. You are hereby advised in your interest, that the seized article(s) as detailed above is not removed, part with or otherwise dealt with, except with the previous permission of the undersigned (Certification Officer). Please note that any such action on your part shall further amount to contravention of Section 28 of BIS Act, 2016 and Section 206 of IPC, 1860.

Name &amp; Signatures of the Certification Officer(s)

(Signature, name and address of the person, Prop./Partner/Owner/Employee/Representative of the premises receiving this letter after search)



**Form VIII**  
**Attendance Sheet**

**Our Ref:****Date:**

Date of Search &amp; Seizure:

Search & Seizure was carried out at M/s \_\_\_\_\_ in the presence of following:

Attendance Sheet

BIS Personnel

Sl. No.	Name	Department	Designation	Signature
.1				
.2				
.3				
.4				

Police Personnel

Sl. No.	Name and Belt No.	Police Station	Designation	Signature
.1				
.2				
.3				
.4				

Witnesses

Sl. No.	Name	Address	Signature
.1			

**Form IX**  
**BUREAU OF INDIAN STANDARDS**  
( \_\_\_\_\_ BRANCH OFFICE)  
**REPORT OF SEARCH & SEIZURE**

**Ref:**

**Date:**

1.	Reference Number of CMED (HQ), if available	
2.	Name & Address of the firm raided	
3.	Date of detection/discreet investigation.	
4.	Brief of discreet investigation	
5.	Date of Search & Seizure	
6.	Team Members	
7.	Details of Police Personnel	
8.	Type of Violation (Refer Annex-II of this document)	
9.	Provisions violated	
10.	Person(s) contacted	
11.	Detailed observations (including activities at the time of visit & facilities available)	
12.	Means adopted for misuse (i.e. stencil, roller, stamp, sticker etc)	
13.	Total Quantity (Approx.) of material available, which considered to have misuse	
14.	Details of material seized & sealed (enclose copy of seizure memo)	
15.	Details of seized material left with the firm (if any) under Superdari (Ref. Sec 28 of BIS Act, 2016)	
16.	Name and address of persons(s) Responsible for misuse [Proprietor/Director(s)/Partners(s)]	
17.	Linkage of available documentary Evidences of raided premises with person responsible for misuse.	
18.	Name & Address of witness(s)	
19.	Purchase documents in case of dealer/trader	

20.	Follow up taken with other BOs linked in the case	
21.	Supporting documentary evidence	
22.	Conclusion	
23.	Recommendation of Raid Team	

**Signature :**

1. - Team Leader
2. - Team Member
3. - Team Member
4. - Team Member

<u>Head (BO)</u>	
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**Head (CMED), BIS HQ, New Delhi**

**Form X**  
**PRESS RELEASE**  
**BUREAU OF INDIAN STANDARDS**  
 ( \_\_\_\_\_ Branch Office)

<b>1.</b>	RO/BO	
<b>2.</b>	Press Release No. (RO/BO)/Serial no.	
<b>3.</b>	Date(s) of Search & Seizure	
<b>4.</b>	Name and address of Firm	
<b>5.</b>	Description (Attach Photographs)	
<b>6.</b>	Whether Press Release is already issued for local Print Media. If yes, attach copy.	

Name & Designation of Nodal Officer:

**Head (BO)**

**Head (CMED), BIS HQ, New Delhi**

## Form XI

## SPECIMEN / MODEL OF COMPLAINT

IN THE COURT OF \_\_\_\_\_  
DISTRICT \_\_\_\_\_  
STATE \_\_\_\_\_

Criminal Complaint No. \_\_\_\_\_ of 20\_\_

**IN THE MATTER OF: -**

BUREAU OF INDIAN STANDARDS

COMPLAINANT

**VERSUS**

M/s \_\_\_\_\_ & Ors.  
----- ACCUSED Shri  
----- Proprietor/Partner(s) of

M/s \_\_\_\_\_

1. (Name and addresses of accused)
2. (Name and addresses of accused)
3. (Name and addresses of accused)

ACCUSED No.1  
ACCUSED No.2  
ACCUSED No.3

POLICE STATION-----

**INDEX**

SI No.	DESCRIPTION	PAGE No.
1.	Complaint under Section 32(2) of BIS Act, 2016 to be read with Section 200 of Cr.P.C read with Section 11 or sub- section (6) or (8) of Section 14 or 15 or 17 or Section 26 ( <b><i>as the case may be</i></b> ) of Bureau of Indian Standards Act, 2016	
2.	List of Documents	
3.	<b><u>ANNEXURE 1</u></b> :- Authorization Letter dated---	
4.	<b><u>ANNEXURE 2</u></b> : Copy of the Discreet Investigation Report dated .....	
5.	<b><u>ANNEXURE 3</u></b> : Copy of the request for deployment of armed personnel dated .....	
6.	<b><u>ANNEXURE 4</u></b> : Copy of the letter no. _____ dated _____ issued in favour of the raiding team and requesting the offender to extend full cooperation	
7.	<b><u>Annexure 5</u></b> :- Copy of the Seizure Memo No. ....dated.....	

8.	<b><u>ANNEXURE 6:-</u></b> Copy of the report of raid/Search & Seizure No.....dated .....	
8.	<b><u>ANNEXURE 7:-</u></b> Copy of the Partnership Deed, dated----- if any, or in case of a company necessary documents to this effect	
9.	<b><u>ANNEXURE 8:-</u></b> Copy of Lease/ Rent Deed dated ----- as well as photocopy of Pan Card/ Aadhar Card/Telephone Bill/Electric Bill/ Driving license etc. or any other documents obtained during the raid. <b>(colly)</b>	
10.	List of Witness (s)	
11.	Vakalatnama	

**COMPLAINANT**

**THROUGH**

**BIS COUNSEL NAME, ADDRESS AND PHONE  
NUMBER OF THE EMPANELED COUNSEL OF THE  
BUREAU**

Place:- \_\_\_\_\_  
\_\_\_\_\_ Date:-        /  
                    /20---

IN THE COURT OF \_\_\_\_\_  
DISTRICT \_\_\_\_\_  
STATE \_\_\_\_\_

Criminal Complaint No. \_\_\_\_\_ of 20-

**IN THE MATTER OF: -**

BUREAU OF INDIAN STANDARDS

COMPLAINANT

**VERSUS**

M/s \_\_\_\_\_ & Ors.  
----- ACCUSED Shri  
----- Proprietor/Partner of

M/s \_\_\_\_\_

(Name and addresses of accused)

**ACCUSED No.1**

(Name and addresses of accused)

**ACCUSED No.2**

(Name and addresses of accused)

**ACCUSED No.3**

**POLICE STATION: \_\_\_\_\_**

COMPLAINT UNDER SECTION 32(2) OF BIS ACT, 2016 TO BE READ WITH SECTION 200 OF Cr.P.C READ WITH SECTION 11 OR SUB- SECTION (6) OR (8) OF SECTION 14 OR 15 OR 17 OR SECTION 26 (***as the case may be***) OF THE BUREAU OF INDIAN STANDARDS ACT, 2016, FOR PROSECUTING AND PUNISHING THE ACCUSED PERSONS/FIRM FOR VIOLATIONS OF BIS ACT, 2016.

**MOST RESPECTFULLY SHOWETH: -**

1. That the Bureau of Indian Standards is a body corporate under Sub-Section 2 of Section 3 of the Bureau of Indian Standards Act, 2016 (hereinafter referred to as "the Act"). The Bureau of Indian Standards (hereinafter referred to as "the Bureau") is the National Standards Body for formulation of Standards and grants License or Certificate of Conformity if the goods, articles, process, system or service confirms to a Standard. The Bureau has been empowered to grant Certification Marks License in respect of goods, products and services as also the Quality Systems and Management Systems. The present complaint against the accused person is being filed through **Shri** \_\_\_\_\_, **Scientist-** \_\_\_\_\_, **Department**, the Complainant in this case, who has been duly authorized by the Competent Authority in this behalf. (**Copy of Authorization letter is enclosed herewith as Annexure ....**).
2. THAT the Bureau of Indian Standards is a body corporate under an Act of Parliament (Act No. 11 of 2016) known as the Bureau of Indian Standards Act, 2016 (called BIS Act, 2016) for the harmonious development of the activities of Standardization, conformity assessment and quality assurance of goods, articles,

processes, systems and services and for matters connected therewith or incidental thereto. By virtue of powers conferred under Section 9 read with Section 27 of the Bureau of Indian Standards Act, 2016, the complainant is authorized to conduct inspection and take samples of any material or substance as may be necessary to see whether an article or process in relation to which the Standard Mark has been used, conforms to the Indian Standard and to verify whether the Standard Mark has been used properly in relation to any article or goods in terms of the license.

3. The Bureau has been vested with the power to grant, renew, suspend or cancel a license u/s 13 and 14 of BIS Act, 2016, subject to various provisions of regulations made thereunder:

Section 11: (1) No individual shall, without the authorization of the Bureau, in any manner or form, publish, reproduce or record any Indian Standard or part thereof, or any other publication of the Bureau. (2) No person shall issue a document that creates, or may create the impression that it is or contains an Indian standard, as contemplated in this Act. Provided that nothing in this sub-section shall prevent any individual from making a copy of Indian Standard for his personal use.

Section 13: A person may apply for grant of licence or certificate of conformity, as the case may be, if the goods, article, process, system or service conforms to an Indian Standard.

Section 14 (4): the Bureau may, by an order, grant, renew, suspend or cancel certification of Standard Mark or Hallmark of a jeweller or any other seller for sale of goods or articles notified under sub-section (1) in such manner as may be determined by regulations.

Section 14(6): No testing and marking centre or assaying and hallmarking centre, other than the recognized by the Bureau, shall with respect to goods or articles notified under sub-section (1), use, affix, emboss, engrave, print or apply in any manner the Standard Mark, including the Hallmark, or colourable imitation thereof, on any goods or article, and make any claim in relation to the use and application of a Standard Mark, including the Hallmark, through advertisements, sales promotion leaflets, price lists or the like.

Section 14(8): No recognized testing and marking centre, including assaying and hallmarking centre, shall, notwithstanding that it has been recognized under sub-section (5), use or apply in relation to any goods or article notified under sub-section (1) a Standard Mark, including Hallmark, or any colourable imitation thereof, unless such goods or article conforms to the relevant standard.

Section 15: of the Act, no person shall import, distribute, sell, store or exhibit for sale, any goods or article under the sub-section (1) of Section 14, except under certification from the Bureau.

Section 15(2): No Person, other than that certified by the Bureau, shall sell or display or offer to sell goods or articles that are notified under sub-section (3) of section 14 and marked with the Standard Mark, including Hallmark and



claim in relation to the Standard Mark, including Hallmark, through advertisements, sales promotion leaflets, price lists or the like.

Section 15(3): No certified jewellers or seller shall sell or display or offer to sell any notified goods or articles, notwithstanding that he has been granted certification, with the Standard mark, including Hallmark, or any colourable limitation thereof, unless such goods or article is marked with a Standard Mark or Hallmark, in a manner as may be specified by regulations, and unless such goods or article conforms to the relevant standard.

Section 16: The Central Government has the power 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 a licence as compulsory on such article or process. In pursuance of the provisions of the Central Government notification GSR has brought the \_\_\_\_ (name of product) preparation and mixtures (IS : 5346) under compulsory certification vide its Quality Control Order issued by the Ministry of Health & Family Welfare, Department of Health, Notification G.S.R. No.764(E) dated 15 November 1984 under the Prevention of Food Adulteration (3rd Amendment) Rules, 1984 made under the Prevention of Food Adulteration Act, 1954.

Section 17 (1): No person shall manufacture, import, distribute, sell, hire, lease store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of section 16 –(a) without a Standard Mark, except under a valid licence, or (b) notwithstanding that he has been granted a license, apply a standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

Section 17(2): No person shall make a public claim, through advertisements, sales promotion leaflets process lists or the like, that his goods, article, process, system or service conforms to an Indian Standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the central government under sub-section (2) of section 16.

Section 17(3): of the Act envisages that no person shall use or apply or purport to use or apply in any manner, in the manufacture, distribution, sale, hire, lease or exhibit or offer for sale of any goods, article, process, system or service or in the title of any patent or in any trade mark or design, a Standard Mark or any colorable thereof, except under a valid licence from the Bureau.

Section 25: Powers of the Central Government to issue direction(s) have been defined.

Section 25(3): The powers of the Bureau, inter-alia, includes the power to take such other action as may be necessary for the promotion, monitoring and management of quality of goods, article, processes, systems and services and to protect the interests of consumers and various others stakeholders and notify any other goods, articles, processes, systems and services for the purpose of sub-section of (1) of Section 16.

Section 26: (1) No person shall, with a view to deceive or likely to deceive the public, 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 the name which contains the expression "Indian Standard" or any abbreviation thereof, or

(b) Any title of any patent or mark or trade mark or design, in relation to any goods, article, process, system or service, containing the expressions "Indian Standard" or "Indian Standard Specification" or any abbreviation of such expressions.

(2) 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 sub-section (1).

(3) If any question arises before a registering authority whether the use of any name or mark is in contravention of sub-section (1), the registering authority may refer the question to the Central Government whose decision thereon shall be final.

Section 27: The Certification Officers have been vested with the powers to:

(a) inspect any operation carried on in connection with any goods, article, process, system or service in relation to which the Standard Mark has been used; and (b) take samples of any article or of any material or substance used in any goods, article, process, system or service, in relation to which the Standard Mark has been used.

Section 28: (1) If the Certification Officer has reason to believe that any goods or articles, process, system, or service in relation to which the contravention of Section 11 or sub-section (6) or (8) of Section 14 or Section 15 or Section 17 has taken place, are secreted in any place, premises or vehicle, he may enter into and search such place, premises or vehicle for such goods or articles, process, system or service, as the case may be. Where, as a result of any search made under sub-section (1), any goods or article, process, system, or service has been found in relation to which the contravention of Section 11 or Section 14 or Section 15 or Section 17 has taken place, the Certification Officer may seize such goods or articles and other material and documents etc.

Section 29: Penalties for violations of provisions of BIS Act, 2016 is prescribed, which is reproduced as under for the ready reference of this Hon'ble Court.

29. (1) *Any person who contravenes the provisions of section 11 or sub-section (1) of section 26 shall be punishable with fine which may extend to five lakh rupees.*

(2) *Any person who contravenes the provisions of sub-sections (6) or (8) of section 14 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 one lakh rupees, but may extend up to five times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark including Hallmark, or with both: Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.*

(3) Any person who contravenes the provisions of section 17 shall be punishable with imprisonment for a term which may extend up to two years or with fine which shall not be less than two lakh rupees for the first contravention and not be less than five lakh rupees for the second and subsequent contraventions, but may extend up to ten times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark, including Hallmark, or with both:

Provided that where the value of goods or articles produced or sold or offered to be sold cannot be determined, it shall be presumed that one year's production was in such contravention and the annual turnover in the previous financial year shall be taken as the value of goods or articles for such contravention.

(4) The offence under sub-section (3) shall be cognizable.

Section 32 (1): 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.

Section 32 (4): Apart from this, the Hon'ble Court may direct any property in respect of which the contravention has taken place shall be forfeited to the Bureau.

Section 32 (5): The Court may direct that any fine, in whole or any part thereof, payable under the provisions of this act, shall be payable to the Bureau.

Section 35: It has been envisaged that 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 (45 of 1860).

#### **(Narration of a Hypothetical case of Packaged Drinking Water)**

4. THAT in view/pursuance to the above mentioned provisions of the Bureau of Indian Standard Act 2016, a discreet visit was carried out at the premises bearing No.------(Name & address of accused) on -----(date) in order to check and ascertain a likely misuse of BIS Standard Mark (ISI Mark). During the visit it was observed that cycle cart were loaded with empty and filled ---  
-----

(product name). Workers were found filling the empty jars with large hose pipe coming out from the premises. Some jars carried labels while others were without labels. Jars with labels were marked with standard mark while jars without labels

had no standard mark on them. Therefore manufacturing of the packaged drinking water was being done illegally without having the valid BIS licence and misuse of Standard Mark (ISI Mark) was taking place at the premises bearing No.-----  
----

----- (Name and address of accused) which is owned by Accused No.----to --.

5. THAT based on the above said discreet investigation, the Bureau of Indian Standards by virtue of powers conferred under vide Section 9 of BIS Act, 2016, investigation team was constituted to visit the said premises along with the Police assistance and it carried out the raid on ----- (date). **(Copy of the discreet investigation report dated ----- is enclosed herewith and marked as Annexure – -).**

6. THAT vide letter No. ----- dated -----, a request was made by the Complainant i.e, Bureau to the DSP/Assistant Commissioner of Police, -----  
----

(address) to deploy armed police personnel including one lady police personnel to assist and provide protection and safety to the members of investigation team constituted by the competent authority for conducting the raid at the said premises of the accused persons. **(Copy of the request dated ----- -. for deployment of**

**armed personnel is marked and enclosed herewith as Annexure – --).** Further besides the above mentioned letter No. ----- dated -----, competent authority

vide its letter No. ----- dated ----- also issued a letter in favour of the raiding team and empowered them for carrying on investigation, search and seizure in the premises of the offender, Accused No.---- to ----i.e. ----- (address of accused) under the provisions of BIS Act, 2016 and requested the owner/firm/accused person to extend full cooperation to the investigating team and help them in performing their official duties.

**(Copy of the letter no. ----- dated----- issued in favour of the raiding team and requesting the offender to extend full cooperation is enclosed herewith and marked as ANNEXURE--)**

4. That the raid was carried out by the following team  
members: -Sh (Name and designation), Team Leader  
Sh----- (Name and designation)  
Sh----- (Name and designation)  
Sh----- (Name and designation)
5. THAT the above mentioned BIS raiding team along with two witnesses, Police officials, namely i.e. Sh. ----- (Name and designation of police officials) and ----- (Name and designation of police officials) conducted the search and seizure operation at the premises of the accused firm in accordance with the Provisions of BIS Act, 2016.
6. THAT during the search and seizure operation the Investigating Team found that

M/s -----(Name and address of accused ) located at -----  
 ----

was having RO Plant for producing Packaged Drinking Water. It was also found that multiple cycle Carts and a van were parked stationed outside the premises loaded with empty and filled 20 litre PET Jars. Empty Jars were being filled and sealed in front of the premises through a plastic pipe coming out from the premises. Out of empty and filled Jars loaded on Cart and van, following items/quantity of Jars was found to be bearing Standard Mark:-

S. No.	Description of the Material/Documents seized with details of marking with specific reference in Standard Mark	Quantity	Identification Mark
1.	Packaged Drinking Water, 20 Ltrs., Pet Jar, ISI Marked, CM/L – 3109845, Brand name – G-Lite.	1 Jar	IS: 14543 ISI CM/L-3109845
2.	Empty 20 Litre Pet Jars of Packaged Drinking Water, ISI Marked, with following details :  CM/L No.0008428381 by Bisleri International Pvt. Ltd., Brand Name Bisleri  CM/L No. 2629664 by Savare Enterprises, Brand Name Blue Diet  CM/L No. 3109845, by Shree Sai Aqua Products Brand names– Big Stroke,	20 Jars	IS: 14543 ISI  CM/L Nos.00084283 8 1, 2629664,31098 45

Thereafter, the BIS team searched the said manufacturing unit, wherein it was found that M/s -----(Name accused person/firm/company) was manufacturing packaged drinking water in 20 liter PET Jars and thereby misused BIS Standard Mark without having any proper valid license to use ISI mark. Thus, the accused /firm/company was found misusing the BIS Standard Mark without having any valid BIS licence and, as such, the BIS team seized the material on -----

-(date) from the above mentioned premises.

The above mention material was coded, signed and sealed with wax in the presence of Sh. -----,(Name and designation of Police officers) and Head

Constable Sh. -----(Name and designation of Police officer ) and was thereafter taken into possession vide Seizure Memo No.----- dated-----.

It is submitted that accused no.-- i.e. -----(Name of accused) is a partnership firm, having Partnership Deed dated ----- and 2 partners i.e. accused no.2, Sh. -----(name of accused), and accused no.3 Shri/Smt. ---

----- (Name of accused). The accused Sh. -----, Partner in accused No.1 Firm and Sh----- S/o Sh/Smt. ----- who was appearing on behalf of Sh/Smt.----- at the time raid was conducted and Sh. -----, Lessee of the premises No ----- (address), acknowledged the aforesaid proceedings and have put their signature and handed over the photocopy of PAN CARD, Adhaar Card and Driving license respectively. **(Copy of Seizure memo No. ----- dated -----, Copy of the report of raid dated -----**

**and Partnership deed dated ----- is enclosed herewith as Annexure --,--- and respectively (Colly).**

THAT the BIS raiding team, the Complainant during the search and seizure operation informed that accused no.---- i.e. Sh. -----, accused no.----Sh/ Smt.

----- (whose son i.e. Sh -----, was present during the raid) and accused no.--- ,Sh----- are responsible for misusing the ISI Mark and all the three above named persons acknowledged the misuse by putting their signature on the seizure memo. That accused Sh. -----, Sh ----- and Sh----- ----

-- appearing on behalf of Shri/Smt.----- did not dispute their identity and their involvement with the illegal use of ISI Mark without valid BIS licence for using it on the article. It is submitted that upon examination the accused Sh. ----- ----

----, Sh----- and Sh-----appearing on behalf of and S/o Shri/Smt.-----

----- provided their photocopy of PAN CARD, Adhaar Card and Driving license respectively under acknowledgement. During the search and seizure operation, It was also found that a lease deed dated ----- was executed between M/s ----- (Name of accused firm/person) and Shri-----

----- (lessee) whereby the accused No.-- had given the said premises i.e ----- (address) on lease for ---- months commencing from dt-----

- to ----- and had authorized the lessee i.e. accused No. -----to sell packaged drinking water of some brands like **Affinity, Nature blue** and to carried out illegal activities. It is, further, submitted that the illegal activities were being carried out at -----and all the accused persons are responsible for day to day activity of the entire work carried out at the aforesaid premises. The accused no.---- Sh. ----- was fully aware about the activities being carried out in the said premise without valid licenses from BIS.

**(Copy of Lease Deed dated ----- as well as photocopy of PAN CARD, Adhaar Card and Driving license obtained during raid is enclosed herewith as Annexure ).**

7. THAT from the above mentioned facts, it is established clearly that the accused persons have misused the BIS Standard Mark on the product without having a valid licence from the Bureau and, as such, the accused persons have contravened the provisions Section 17 of BIS Act, 2016, therefore, all accused persons are liable to be prosecuted, tried and punished under Section 29 of BIS Act, 2016.
8. THAT since accused no. ---- to ----are /were regularly using the ISI Mark without having valid BIS licence to use the same in day to day course from the aforesaid premises i.e. -----(address), accordingly all the accused persons have committed offence of misusing the ISI Mark without having valid BIS license, therefore all the accused persons are liable to be prosecuted under Section 29 of BIS Act, 2016.
9. THAT the BIS is 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 under section 3 of the Bureau of Indian Standards Act, 2016 and a Public servant within the meaning of section 35 of the Bureau of Indian Standards Act, 2016.
10. THAT the complainant being a Public servant within the meaning of section 35 of the Bureau of Indian Standards Act, 2016 and Section 21 of the Indian Penal Code and may be exempted from personal appearance of court proceedings in future. However, the complainant will attend the court proceedings as and when ordered by the Hon'ble Court.
11. THAT since the accused persons have committed the offence at -----  
----- (address) within the territorial jurisdiction of this Hon'ble Court, as such, this Hon'ble Court is competent to take cognizance to try and punish the accused for the above mentioned contravention of Section 17 of the Bureau of Indian Standards Act, 2016.

### **PRAYER**

In the backdrop of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may please to: -

- a) entertain the complaint, the accused be summoned for having committed offence by violating and contravening the provisions of Section 17 of the BIS Act, 2016 and may further be pleased to punish them in accordance with the law provided by Section 29 of the BIS Act, 2016 for misusing the ISI Mark without having the valid BIS licence to use the same and
- b) award adequate compensation to BIS under Section 357 of Cr.P.C. read with section 32(5) of BIS Act, 2016, on considering the facts and circumstances of the case narrated in above; and
- c) direct that the seized goods, materials and articles as per the seizure memo dated ----- be forfeited to the Bureau under Section 32 (4) of BIS Act, 2016 on considering the facts and circumstances of the case narrated herein above; and

- d) pass such and further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the complainant, in favour of the complainant.

**Complainant**

**Through Counsel**

**BIS COUNSEL NAME, ADDRESS AND PHONE NUMBER**

**OF THE EMPANELED COUNSEL OF THE BUREAU**

Place:- \_\_\_\_\_  
\_\_\_\_\_ Date:-     /  
              /20---



IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE, NORTH  
DISTRICT ROHINI, DELHI

Criminal Complaint No.      of 20--

IN THE MATTER OF: -

BUREAU OF INDIAN STANDARDS

COMPLAINANT

*VERSUS*

M/s -----

ACCUSED

I, ----- S/o Sh. -----, aged -----years,  
designated  
as Scientist - -, in the Complainant organization, having my office at -----  
-----

--(address), do hereby solemnly affirm and sincerely state as follows: -

1. I state that I am working as a Scientist - - with the Complainant Organization and the Organization authorized me as their authorized representative to present their case.
2. I am well acquainted with the facts and circumstances of this case and I am competent to swear this affidavit.
3. I state that I have perused the said criminal complaint and nothing material has been suppressed therefrom. Legal submissions are all based on legal Advice.
4. I state that the annexure filed herewith are the true copies of its respective Originals.
5. I state that what I have stated in the above is true to my knowledge and belief.

**DEPONENT**

**Verification**

I, -----S/o Sh. -----, aged  
about ----- years,  
designated as Scientist - -, in the Complainant organization, having my office  
at -----

-----, verified the contents of para --- to -- of this affidavit  
and state that the contents of the same are true and correct and believed  
on the basis of the record of the case to be true. No part of it is false and  
nothing material has been concealed there from.

**DEPONENT**

**Please note: (It is to be got notarised by the Notary Public)**

IN THE COURT OF \_\_\_\_\_, DISTRICT \_\_  
STATE \_\_\_\_\_

Criminal Complaint No. \_\_\_\_\_ of 201---

**IN THE MATTER OF: -**

BUREAU OF INDIAN STANDARDS

COMPLAINANT

**VERSUS**

M/s \_\_\_\_\_ & Ors.  
----- ACCUSED  
----- Proprietor/Partner of

M/s. ....

(Name and addresses of accused)

**ACCUSED No.1**

(Name and addresses of accused)

**ACCUSED No.2**

(Name and addresses of accused)

**ACCUSED No.3**

POLICE STATION-----

**LIST OF WITNESSES ON BEHALF OF THE COMPLAINANT**

1. Shri-----Designation.....
2. Shri -----Designation.....
3. Shri -----Designation.....
4. Shri .....(Name & designation of Police officer with their badge Number address of police station)
5. Shri ..... (Name & designation of Police officer with their badge Number/  
address of police station)
6. Shri----- (name of accused/Partner of the Firm/company/ name of employee firm/company )

**Complainant Through Counsel**

**(Name and address of BIS empaneled Counsel)**

Place:

Dated: