

Bureau of Indian Standards

Consumer Affairs Department

Our Ref: CAD/Gen/25

01.10.2018

Sub: Guidelines for dealing with violation.

Consequent upon notification of BIS Act 2016, BIS Rules 2017 and BIS (Conformity Assessment) Regulation 2018, the guidelines for dealing with various types of violation (enclosed) has been prepared in line with BIS Act 2016 which has been approved by CA and vetted by Legal Department.

This is for information and compliance by the concerned.

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H(CAD)

DDGCA

All DDGRs/All Head of BOs

ITSD - For uploading on BIS Interanet.

उपभोक्ता मामले विभाग

हमारा सन्दर्भ: सीएडी/जन/25

28.09.2018

बीआईएस अधिनियम 2016, बीआईएस नियम 2017 और बीआईएस (अनुरूपता निर्धारण) विनियम 2018 की अधिसूचना के फलस्वरूप, बीआईएस अधिनियम 2016 के अनुरूप, विभिन्न तरह के उल्लंघनों से निपटने के लिए दिशानिर्देश (संगलन) तैयार किए गए हैं जिन्हें सक्षम अधिकारी द्वारा स्वीकृत किया गया है और कानून विभाग द्वारा जाँचा जा चुका है।

यह सूचनार्थ एवं अनुपालन के लिए है।

अमित चौधरी

वैज्ञा. सी (उपभोक्ता मामले)

प्रमुख(सीएडी)

डीडीजीसीए

सभी डीडीजीक्षेत्रीय/ सभी प्रमुख शाखा कार्यालय

GUIDELINES FOR DEALING WITH VIOLATIONS BY NON-LICENSEES INCLUDING APPLICANTS*

Notation	Type of Complaints/Violations	Provisions violated	Action to be taken	Department responsible for actions as applicable	Authority for Closure of complaint	Remarks
A1	Misuse of Standard Mark or its colourable imitation on goods (mandatory – cognizable)	Section 17	i)Investigation and collection of evidence ii) Raid to be conducted iii) FIR to be filed iv) Prosecution v)Follow up	BOs/CAD BOs BOs/Legal# BOs/ Legal# BOs/ Legal#	DDG (CA)	Compounding authority – DDGRs (see Rule 50 of BIS Rules, 2017)
A2	Misuse of Hallmark or its colourable imitation on jewellery/artefact (Hallmark) by non-licenced jeweller	Section 15	i)Investigation and collection of evidence ii) Raid to be conducted ii) Prosecution iii)Follow up	BOs/HMD/CAD BOs BOs/HMD/ Legal# BOs/HMD/ Legal#	DDG (CA)	
A3	Misuse of Hallmark or its colourable imitation on jewellery/artefact (Hallmark) by licenced Jeweller	Section 15 (1) Hallmarking Regulation 7	1)Investigation and collection of evidence ii) Cancellation of Licence iii) Prosecution iv)Follow up	BOs/HMD/CAD BOs/HMD/ Legal# BOs/HMD/ Legal# BOs/HMD/ Legal#	DDG (CA)	
A4	Using Standard Mark or its colourable imitation on the package/packing or any other article /document that goes with the packaging of any product (mandatory – cognizable)	Section 17	1)Investigation and collection of evidence ii) Raid to be conducted iii) FIR to be filed iv) Prosecution v)Follow up	BOs/CAD BOs BOs/ Legal# BOs/ Legal# BOs/ Legal#	DDG (CA)	Compounding authority – DDGRs (see Rule 50 of BIS Rules, 2017)
A5	Misuse of Hallmark or its colourable imitation on jewellery/artefact	Section 15	i)Investigation and collection of evidence ii) Raid to be conducted	BOs/CAD BOs	DDG (CA)	

	(Hallmark on packaging)		ii) Prosecution iii) Follow up	BOs/ Legal# BOs/ Legal#		
A6	Misuse of Standard Mark or its colourable imitation on goods (Voluntary)	Section 17	i) Investigation and collection of evidence ii) Raid to be conducted iii) Prosecution iv) Follow up	BOs/CAD BOs BOs/ Legal# BOs/ Legal#	DDG (CA)	
A7	Using Standard Mark or its colourable imitation on the package/packing or any other article /document that goes with the packaging of any product (Voluntary)	Section 17	1) Investigation and collection of evidence ii) Raid to be conducted iii) Prosecution iv) Follow up	BOs/CAD BOs BOs/ Legal# BOs/ Legal#	DDG (CA)	
A8	Misuse of Standard Mark - Using Standard Mark or its colourable imitation in the advertisements leaflets and pamphlets, etc (mandatory - cognizable)	Section 17	i) Physical verification to check that Standard Mark is not used on the product/package ii) Show cause notice, if standard mark not observed on the product. iii) If response is positive and advised corrective actions are taken, the case may be closed iv) If response is not positive, proceed for Prosecution v) Follow up vi) In case mark is used on the product/package, refer to A1 and A2.	BOs BOs BOs/CAD BOs/ Legal# BOs/ Legal#/CAD BOs	DDG (CA)	Compounding authority – DDGRs (see Rule 50 of BIS Rules, 2017)

A9	Misuse of Standard Mark - Using Standard Mark or its colourable imitation in the advertisements leaflets and pamphlets, etc (Voluntary)	Section 17	<p>i) Physical verification to check that Standard Mark is not used on the product/package</p> <p>ii) Show cause notice, if standard mark not observed on the product.</p> <p>iii) If response is positive and advised corrective actions are taken, the case may be closed</p> <p>iv) If response is not positive, proceed for Prosecution</p> <p>v) Follow up</p> <p>vi) In case mark is used on the product/package, refer to A6 and A7.</p>	<p>BOs</p> <p>BOs</p> <p>BOs/CAD</p> <p>BOs/ Legal#</p> <p>BOs/ Legal#</p> <p>BOs</p>	DDG (CA)	
A10	Misuse of Name of Bureau - Use of names resembling the name of the Bureau or which contain the expressions "Indian Standard" or any abbreviations thereof to deceive the public	Section 26	<p>i) Show cause notice</p> <p>ii) If response is positive and advised corrective actions are taken, the case may be closed</p> <p>iii) If response is not positive, proceed with Investigation and collection of evidence</p> <p>iv) Prosecution</p> <p>v) Follow up</p>	<p>BOs</p> <p>BOs</p> <p>BOs/CAD</p> <p>BOs / Legal#</p> <p>BOs/ Legal#</p>	DDG (CA)	
A11	Misuse of any mark or trade mark in relation to any article containing the expressions "Indian Standard" or "Indian Standard Specification" or	Section 26	<p>i) Show cause notice</p> <p>ii) If response is positive and advised corrective actions are taken, the case may be closed</p> <p>iii) If response is not</p>	<p>BOs</p> <p>BOs/ Legal#</p> <p>BOs/ Legal#</p>	DDG (CA)	

	abbreviation thereof		positive, proceed with Investigation and collection of evidence iv) Prosecution v) Follow up	BOs/ Legal# BOs/ Legal#		
A12	Misuse by recognized assaying and hallmarking centres	Section 14 Hallmarking Regulation 13	1) Investigation and collection of evidence ii) Cancellation of Licence iii) Prosecution iv) Follow up	ROs/HMD/CAD ROs/HMD/ Legal# ROs/HMD/ Legal# ROs/HMD/ Legal#	DDG (CA)	
A13	Misuse by unrecognized assaying and hallmarking centres	Section 14 (6)	1) Investigation and collection of evidence ii) Raid to be conducted iii) Prosecution iv) Follow up	ROs/HMD/CAD ROs/HMD/ Legal# ROs/HMD/ Legal# ROs/HMD/ Legal#	DDG (CA)	
A14	Copy right of Indian Standards	Section 11	1) Investigation and collection of evidence ii) Legal notice iii) Prosecution iv) Follow up	BOs BOs/Legal# BOs/Legal# BOs	DDG (CA)	To be dealt by Publication Department
A15	Violations of Q.C. Orders (cognizable)	Section 16 & 17	i) Investigation and collection of evidence ii) Raid to be conducted iii) FIR to be filed iv) Prosecution v) Follow up	BOs/CAD BOs BOs/ Legal# BOs/ Legal# BOs	DDG (CA)	Compounding authority – DDGRs (see Rule 50 of BIS Rules, 2017)
B1	Forging of licence document or endorsement or any other BIS document – (By licensee or non-licensee)	Section 420 of IPC	i) Inform the party about the forgery and suggest to proceed against the offender ii) BIS to file FIR with Police	BOs BOs/ Legal#	DDG (CA)	

B2	Manufacturing/Marketing duplicate products in the brands of licensees without Standard Mark - A.10	No action by BIS				
B3	<u>Misuse of Standard Mark</u> Making public claim of conformity when standard mark for a product has been specified {Except item when covered under Household Electrical Appliances (Q.C) Order, 1981} - A.6	Section 17 (2)	i) Investigation and collection of evidence ii) Prosecution iii) Follow up	BOs BOs / Legal# BOs / Legal#	DDG (C A)	

GUIDELINES FOR DEALING WITH COMPLAINTS

VIOLATIONS BY LICENSEES

Notation	Type of Complaints	Provisions violated	Action to be taken	Department responsible for action	Authority for Closure of complaint
L1	Marking varieties / types / sizes / grades etc., not covered in the licence - B.1	Section 13(2) Regulation 6 (4)	i) Issuance of cancellation notice ii) Follow up	BOs BOs/ROs	DDG (R)
L2	Marking varieties / types / sizes / grades etc., covered in the licence but the same is under stop marking/suspension/deferment	Section 13(2) Regulation 6 (6)	i) Issuance of cancellation notice ii) Follow up	BOs BOs/ROs	DDG (R)
L3	Manufacturing the product/variety/type/grade etc., which is under mandatory certification under BIS Act and for which holding BIS licence but the same is under stop marking/suspension/deferment – B.2	Section 16	i) Investigation and collection of evidence ii) Cancellation of licence iii) Prosecution iv) Follow up	BOs BOs/ROs BOs/Legal# BOs/Legal#	DDG (R)
L4	Manufacturing the product/variety/type/grade etc., which is under mandatory certification (under Acts other than BIS Act) and for which holding BIS licence but the same is under stop marking/suspension/deferment [without BIS Standard Mark]– B.3	Section 16	i) Inform State implementing Authority ii) Follow up	BOs BOs/CAD	DDG (R)
L5	Manufacturing the product other than covered in the licence, which is under mandatory certification, without ISI Mark - B.4	Section 16	i) Inform State implementing Authority ii) Follow up	BOs BOs/CAD	DDG (R)

L6	Forging of licence document or endorsement or any other BIS document – B.5	Section 420 of IPC	i) Investigation and collection of evidence ii) Cancellation of licence iii)File FIR with the police for forgery iv)Follow up	BOs BOs/ROs BOs/Legal# BOs/ROs/Legal#	DDG (R)
L7	Marking product under other manufacturer's name and other's licence no. – B.6	Section 17(3) Regulation 6	i) Investigation and collection of evidence ii) Cancellation of licence iii)File FIR with the police for forgery iv)Follow up	BOs BOs/ROs BOs/Legal# BOs/ROs/Legal#	DDG (R)

* In all cases of violations by applicants, a decision shall also be taken about closure/rejection of application based on the type and extent of misuse.

For monitoring by Legal Deptt. and for addressing any query of RO/BO (Presently Enforcement Cases pertaining to DLBO-I and DLBO-2 only are being examined and filed through legal Department)

Highest priority shall be accorded to the enforcement activity and investigations in all cases of violations shall be taken up immediately with the aim of securing prosecution of the offending party so that documentary/material evidences are readily available. The progress of each case shall be closely monitored by the BO heads and DDGRs. All correspondence and actions relating to enforcement shall be made strictly confidential.