

भारतीय मानक ब्यूरो

(शिकायत प्रबंधन एवं प्रवर्तन विभाग)

हमारा सन्दर्भ :सीएमईडी/जनरल/5

2 नवम्बर 2021

विषय: बीआईएस अधिनियम 2016 के उल्लंघनो से निपटने के लिए मसौदा दिशानिर्देश
(प्रथम मसौदा)

सभी से अनुरोध है की उपरोक्त विषय से सम्बंधित परिपत्र का अवलोकन करें

(दीपक लोदवाल)
वै .सी ,सीएमईडी

प्रमुख (सीएमईडी)

BUREAU OF INDIAN STANDARDS

(Complaint Management and Enforcement Department)

Our Ref: CMED/Gen/5

2 November, 2021

**Subject: Draft Guidelines for Dealing with Violations of BIS Act, 2016
(1st Draft)**

All are requested to see attached circular on the above-mentioned subject.

(Deepak Lodhwal)
Sc-C, CMED

Head (CMED)

BUREAU OF INDIAN STANDARDS

(Complaint Management and Enforcement Department)

Our Ref: CMED/Gen/5

2 November, 2021

Subject: Draft Guidelines for Dealing with Violations of BIS Act, 2016 (1st Draft) - For comments

1. This has reference to the subject mentioned above.
2. Consequent upon enactment of BIS Act, 2016 and framing of BIS Rules and Regulations, the erstwhile Consumer Affairs Dept. (CAD) had issued Guidelines for Dealing with Violations vide Ref: CAD/Gen/25 dated 01.10.2018. However, BOs in recent times have encountered situations/violations that are not covered under these Guidelines.
3. Further, based on feedback received from ROs/BOs, it was noted that actions prescribed by these Guidelines for certain violations were not appropriate.
4. In view of above, CMED has prepared Draft Guidelines for Dealing with Violations of BIS Act, 2016 (1st Draft) which is attached as **Annex-1**. Efforts have been made to address all aforesaid mentioned issues in the said Guidelines.
5. Draft Guidelines and existing Guidelines issued by erstwhile CAD are placed together for violation of each section of BIS Act so as to facilitate comparison.
6. All ROs/BOs are requested to thoroughly go through the 1st Draft of the Guidelines and provide inputs/comments, if any, in the proforma attached as **Annex-2** through respective DDGRs by **25.11.2021**.
7. 1st Draft along with inputs/comments received from ROs/BOs would be put up to the Working Group constituted for revision of Enforcement Manual for finalization of the Guidelines.

(Deepak Lodhwal)
Sc-C, CMED

Head (CMED)

Circulated to: All concerned

Annex-1

Draft Guidelines for Dealing with Violations of BIS Act 2016 (1st Draft)

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
SECTION 11						
Draft Guidelines 1	Publish, reproduce or record an Indian Standard or part thereof, or any other publication of the Bureau without authorization by Bureau	Section 11	(i) Investigation and collection of evidence (ii) Compounding/ Prosecution (iii) Follow-up	BOs/ Publication Dept. Publication Dept. Publication Dept.	DDGR / DDG (PRT)	
2018 Guidelines A14	Copyright of Indian Standards	Section 11	(i) Investigation and collection of evidence (ii) Legal Notice (iii) Prosecution (iv) Follow-up	BOs BOs/ Legal# BOs/ Legal# BOs	DDG (CA)	
SECTION 26						
Draft Guidelines 2	Without prior permission of BIS – a) Use of names resembling the name of the Bureau or which contains the expressions "Indian Standard" or any abbreviations thereof, likely to deceive or to mislead 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.	Section 26(1)	(i) Investigation and collection of evidence (ii) Compounding/ Prosecution (iii) Follow-up	BOs BOs BOs	DDGR	
A10	Misuse of Name of Bureau - Use of names resembling the name of the Bureau or which contain the expression "Indian Standards" any abbreviation thereof to deceive public.	Section 26	(i) Show cause notice (ii) If response is positive and advised corrective actions are taken then case may be closed (iii) If response is not positive, proceed with investigation and collection of evidence (iv) Prosecution (v) Follow-up	BOs BOs BOs/ CAD BOs BOs	DDG (CA)	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
A11	Misuse of any mark or trademark in relation to any article containing the expression "Indian Standard" or "Indian Standard Specification" or abbreviation thereof	Section 26	(i) Show cause notice (ii) If response is positive and advised corrective actions are taken then case may be closed (iii) If response is not positive, proceed with investigation and collection of evidence (iv) Prosecution (v) Follow-up	BOs BOs/ Legal# BOs/ Legal# BOs/ Legal#	DDG (CA)	
SECTION 14 (6)						
Draft Guidelines 3	a) Misuse of Hallmark/ Standard Mark or its colourable imitation by unrecognized (including the recognized assaying centre but not recognized for the product under complaint) assaying and hallmarking centre. b) Make any claim in relation to the use and application of Standard Mark or Hallmark through advertisements, sales promotion, price list leaflets etc. by unrecognized (including the recognized assaying centre but not recognized for the product under complaint) assaying and hallmarking centre.	Section 14(6)	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up	BOs/HMO(R)/ROs BOs BOs BOs	DDG (PRT) DDGR - for misuse by recognized A&HC for product for which it is not recognized	
2018 Guidelines A12	Misuse by recognized Assaying & Hallmarking Centres	Section 14 Hallmarking Regulation 13	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) Prosecution (iv) Follow-up	ROs/ HMD/ CAD ROs/ HMD/ Legal# ROs/ HMD/ Legal# ROs/ HMD/ Legal#	DDG (CA)	
2018 Guidelines A13	Misuse by unrecognized Assaying & Hallmarking Centres	Section 14(6)	(i) 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)	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
SECTION 14 (8)						
Draft Guidelines 4	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) Hallmarking Regulation	i) Investigation and collection of evidence ii) Action as per Hallmarking Regulation iii) Prosecution/Compounding iv) Follow up	BOss/HMO(R)/ROs HMO(R)/ROs BOss/HMO(R)/ROs	DDGR	This item was not included in 2018 Guidelines.
SECTION 15 (1)						
Draft Guidelines 5	Import, distribute, sell, store or exhibit for sale of precious metal goods or articles or other goods notified by the central Govt. for mandatory Hallmark or Standard Mark without certification from the Bureau.	Section 15(1)	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs BOs BOs	DDGR	
2018 Guidelines A3	Misuse or Hallmark or its colorable imitation on jewellery/artefact (Hallmark) by licensed jeweller	Section 15 (1) Hallmarking Regulation 7	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) Prosecution (iv) Follow-up	BOs/ HMD/ CAD BOs/ HMD/ Legal# BOs/ HMD/ Legal# BOs/ HMD/ Legal#	DDG (CA)	
2018 Guidelines A5	Misuse or Hallmark or its colorable imitation on jewellery/artefact (Hallmark on packaging)	Section 15	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Prosecution (iv) Follow-up	BOs/ CAD BOs BOs/ Legal# BOs/ Legal#		
SECTION 15 (2)						
Draft Guidelines 6	Sale or display or offer to sell jewelry with Hallmark or its colorable imitation by non-registered jeweller . Make any claim in relation to the standard Mark/Hallmark through advertisements, sales promotion, price list, leaflets etc. by non-registered jeweler .	Section 15 (2) Hallmarking Regulation 7	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs BOs BOs	DDGR	
2018 Guidelines A2	Misuse or Hallmark or its colorable imitation on jewellery/artefact (Hallmark) by non-licensed jeweller	Section 15	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Prosecution (iv) Follow-up	BOs/ HMD/ CAD BOs BOs/ HMD/ Legal# BOs/ HMD/ Legal#	DDG (CA)	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
SECTION 15 (3)						
Draft Guidelines 7	A certified jeweller or seller : a) sale or display or offer to sell precious metal articles or other goods or article with Hallmark/Standard Mark but does not conform to the relevant standard. b) sale or display or offer to sell with improper Hallmark/Standard Mark on precious metal articles or other goods or article.	Section 15(3) Hallmarking Regulation	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Actions as per Hallmarking Regulations (iv) Compounding/ Prosecution (v) Follow-up	BOs BOs BOs BOs BOs	DDGR	This item was not included in 2018 Guidelines
SECTION 17 (1) (a)						
Draft Guidelines 8	Violation of QCO - Manufacture, import, distribute, sell, hire, lease, store or exhibit for sale goods which is under mandatory certification without a Standard Mark (with or without a valid license or license under suspension/deferment): 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) Raid to be conducted (iii) FIR to be filed (iv) Compounding/ Prosecution (v) Follow-up Inform enforcing authority	BOs BOs BOs BOs BOs BOs/CMED	DDGR NA	
2018 Guidelines L4	Manufacturing the product/varity/type/grade etc., which is under mandatory certification (under Acts other than BIS Act) and for which holding the BIS license but the same is under stop marking/ suspension/ deferment [without BIS Standard Mark]	Section 16	(i) Inform state implementing authority (ii) Follow-up	BOs BOs/CAD	DDGR	This is covered in sl. 8 of draft guidelines
2018 Guidelines L5	Manufacturing the product other than covered in the license, which is under mandatory certification, without ISI mark	Section 16	(i) Inform state implementing authority (ii) Follow-up	BOs BOs/CAD	DDGR	This is covered in sl. 8 of draft guidelines

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
2018 Guidelines A15	Violation of QC 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)	This is covered in sl. 8 of draft guidelines
SECTION 17 (1) (a)						
Draft Guidelines 9	Violation of QCO - Manufacture, import, distribute, sell, hire, lease, store or exhibit for sale of product which is under mandatory certification without a Standard Mark, but the product is outside the scope of the Standard (with or without a valid license or license under suspension/deferment): 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) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up Inform enforcing authority	BOs BOs BOs BOs BOs/CMED	DDGR NA	This item was not included in 2018 Guidelines
Draft Guidelines 10	Violation of QCO - Manufacture, import, distribute, sell, hire, lease, store or exhibit for sale goods, which is under mandatory certification, with a Standard Mark but without a valid license (by licensee* or non-licensee) : 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) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up Inform enforcing authority	BOs BOs BOs BOs BOs/CMED	DDGR NA	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
2018 Guidelines A8	Misuse of Standard Mark or its colorable imitation in the advertisement leaflets and pamphlets etc. (mandatory-cognizable)	Section 17	(i) Physical verification to check that Standard Mark is not used on 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 then 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 (PRT)	
SECTION 17 (1) (a)						
11	Violation of QCO - manufacture, import, distribute, sell, hire, lease, store or exhibit for sale goods which is under mandatory certification with a standard mark but License is under suspension/deferment: 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) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up Inform enforcing authority	BOs BOs BOs/ Legal# BOs BOs/CMED	DDGR NA	
2018 Guidelines L3	Manufacturing the product/variety/type/grade etc., which is under mandatory certification under BIS Act and for which holding BIS license but the same is under stop marking/ suspension/ deferment	Section 16	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) Prosecution (iv) Follow-up	BOs BOs/ROs BOs/Legal# BOs/Legal#	DDGR	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
SECTION 17 (1) (b)						
Draft Guidelines 12	Violation of QCO - A licensee Manufacture, import, distribute, sell, hire, lease, store or exhibit for sale goods which is under mandatory certification with a Standard Mark but does not conform to the relevant standard or prescribed requirements: a) Where BIS is the Enforcing Authority. b) Where BIS is not the Enforcing Authority	Section 17(1)(b)	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up Inform enforcing authority	BOs BOs BOs/ Legal# BOs BOs/CMED	DDGR NA	This item was not included in 2018 Guidelines
SECTION 17 (2)						
Draft Guidelines 13	Making public claim or declaration through advertisement, sales promotion leaflets etc. that goods/article/process/system/service conforms to an Indian Standard without having a valid license.	Section 17(2)	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs BOs BOs	DDGR	
2018 Guidelines B3	Misuse of Standard Mark 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}}	Section 17(2)	(i) Investigation and collection of evidence (ii) Prosecution (iii) Follow-up	BOs BOs/ Legal# BOs/ Legal#	DDG (CA)	
SECTION 17 (3)						
Draft Guidelines 14	Use or apply or purport to use or apply a Standard Mark or any colorable imitation thereof, without a valid license in manufacture/ distribution/ sale/ hire/ lease/ exhibition/offering for sale, without valid license on any Goods, article, process, system, service or in the title of patent or any trade mark or design.	Section 17(3)	(i) Investigation and collection of evidence (ii) Raid to be conducted (iii) FIR to be filed (iii) Compounding/ Prosecution (iv) Follow-up	BOs BOs BOs BOs BOs BOs	DDGR	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
2018 Guidelines A1	Misuse of Standard Mark or its colorable 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)	
2018 Guidelines A4	Using Standard Mark or its colorable imitation on the package/packing or any other article/document that goes with the packaging of any product (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)	
2018 Guidelines A6	Misuse of Standard Mark or its colorable 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)	
2018 Guidelines A7	Using Standard Mark or its colorable imitation on the package/packing or any other article/document that goes with the packaging of any product (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)	
2018 Guidelines A9	Misuse of Standard Mark or its colorable imitation in the advertisement leaflets and pamphlets etc. (voluntary)	Section 17	(i) Physical verification to check that Standard Mark is not used on 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 then 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 A6 and A7	BOs BOs BOs/CAD BOs/Legal# BOs/Legal# BOs	DDG (CA)	
2018 Guidelines L7	Marking product under other manufacturer's name and other's licence no.	Section 17(3)	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) File FIR with the police for forgery (iv) Follow-up	BOs BOs/ROs BOs/Legal# BOs/ROs/Legal#	DDGR	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
SECTION 420 of IPC						
Draft Guidelines 15	Forging of any document or providing false information in relation to application for grant of license/ certificate of conformity/ registration or related matters	Section 420 of IPC	(i) Rejection of application (ii) File FIR	BOs BOs		This item was not included in 2018 Guidelines
Draft Guidelines 16	Tampering/ Forging of license document or endorsement or any other BIS document by: a) Licensee b) Non-licensee	Section 420 of IPC	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) File FIR (i) Investigation and collection of evidence (ii) File FIR	BOs BOs BOs BOs BOs	DDGR	
L6	Forging of license document or endorsement or any other BIS document	Section 420 of IPC	(i) Investigation and collection of evidence (ii) Cancellation of license (iii) File FIR with the police for forgery (iv) Follow-up	BOs BOs/ROs BOs/Legal# BOs/ROs/Legal#	DDGR	
B1	Forging of license document or endorsement or any other BIS document (By licensee or non-licensee)	Section 420 of IPC	(i) Inform the party about forgery and suggest to proceed against the offender (ii) BIS to file FIR with police	BOs BOs/Legal#	DDG (CA)	
Draft Guidelines 17	Manufacturing/Marketing duplicate products in the brands of licensees without Standard Mark			No action by BIS		
2018 Guidelines B2	Manufacturing/Marketing duplicate products in the brands of licensees without Standard Mark			No action by BIS		
2018 Guidelines L1	Marking varieties / types / sizes / grades etc., not covered in the licence	Section 13(2) Regulation 6(4)	(i) Issuance of cancellation notice (ii) Follow-up	BOs BOs/ROs	DDGR	These items are not included in draft Guidelines as these violations are to be dealt with as per Regulations/ Guidelines framed by CMD-I
2018 Guidelines 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	DDGR	

Sl. No. /Notation	Type of Complaint/Violation	Section violated	Action to be taken	Department responsible for actions	Competent Authority for Closure	CMED Remarks
<p>Note:</p> <ol style="list-style-type: none"> 1. "Standard Mark" means the mark specified by the Bureau, and includes Hallmark, to represent conformity of goods, article, process, system or 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. 2. 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 3. All violations related to operation of various Schemes as defined in Schedule-II of BIS (Conformity Assessment) Regulations, 2018, may be dealt with in accordance with Guidelines issued by CMD-I time to time. 4. BOs may seek guidance from Legal Dept. on matter related to filing of court cases, if required. 5. Wherever applicable, compounding of offences is to be processed as per Section 33 of BIS Act, 2016 to be read with Rule 50 of BIS Rules, 2017. 6. In case of violation by BIS licensee/ registered jeweler/ recognized A&HC/ CoC holder, action may also be taken as per relevant Regulations and Guidelines in addition to the actions as stated in the table above. 7. 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. <p># For monitoring by Legal Dept. and for addressing any query of RO/BO (Presently Enforcement Cases pertaining to DLBO-1 and DLBO-2 only are being examined and filed through Legal Dept.</p>						

Annex-2

Proforma for providing comments on Draft Guidelines for Dealing with Violations of BIS Act, 2016 (1st Draft)

(Last date for sending comments- 25.11.2021)

1. Comments on Draft Guidelines (1st Draft):

Violation Serial No. (Refer draft Guidelines)	Violation of Section	Comments	Justification
1	11		
2	26(1)		
3	14(6)		
4	14(8)		
5	15(1)		
6	15(2)		
7	15(3)		
8(a)	17(1)(a)		
8(b)	17(1)(a)		
9(a)	17(1)(a)		
9(b)	17(1)(a)		
10(a)	17(1)(a)		
10(b)	17(1)(a)		
11(a)	17(1)(a)		

11(b)	17(1)(a)		
12(a)	17(1)(b)		
12(b)	17(1)(b)		
13	17(2)		
14	17(3)		
15	420 of IPC		
16(a)	420 of IPC		
16(b)	420 of IPC		
17	NA		

2. Any other comments:

Sl. No.	Comments

(Officer RO/BO)

Head (BO)

DDGR

H (CMED)