

Decree of the Cabinet of Ministers of Ukraine

On Standardization and Certification

No.46-93

June 11, 1997

Amended by the law of Ukraine of June 11, 1997
No. 333/97-BP, Golos Ukrainy of 27.06.97.

This Decree determines legal and economic aspects of the standardization and certification systems, establishes organizational forms of their functioning at the territory of Ukraine.

Chapter I. General provisions

Article 1. Purview

This Decree covers enterprises, institutions and organizations irrespective of their type of ownership and activity, functioning at the territory of Ukraine and also citizens – agents of the entrepreneurial activity.

Article 2. State standardization system

1. State standardization system in Ukraine determines objectives and management principles, forms and general organizational and technical rules covering execution of all types of works in the area of standardization.
2. State standardization system shall ensure the following:
 - observance of the unified technical policy in the area of standardization, metrology and certification;
 - protection of the interests of the consumers and state regarding safety of products/processes, works and services* for the life, health and property of citizens, protection of the environment;
 - interchangeability and compatibility of products, their functions;
 - quality of products in accordance with the development of science and technology, needs of the population and economy;
 - efficient utilization of all types of resources, technical and economic improvement of production;
 - safety of the national economic objects taking into account possibility of natural and technogenic disasters and other force majeure;
 - establishment of the legislative base for the products' standardization and certification;
 - defense and mobilization potential of the country.

* hereinafter referred to as products

Article 3. Basic principles of standardization

There are following basic principles of standardization:

- comparison of the science and technology levels, environmental requirements, economic expediency and efficiency of production for the manufacturer, benefits and safety for the consumers and state in general;
- harmonization with international, regional and, if necessary, with national standards of other countries;
- compliance of the normative documents with legislative acts;
- participation in the development of normative documents of all interested parties (manufacturers, consumers, state executive bodies, etc.);
- efficiency of the normative documents of all levels;
- applicability of the normative documents for the products certification;
- availability of the information about current standards and standardization programs taking into account requirements of the current legislation.

Chapter II. Normative documents in the area of standardization and requirements towards them

Article 4. Normative documents in the area of standardization

1. Normative documents in the area of standardization shall be subdivided for the following:

state standards of Ukraine;

sector standards;

standards of the scientific, technical and engineering associations and unions;

technical terms and conditions;

standards of the enterprises.

State construction norms and rules including state classifiers of the technical, economic and social information shall be equal to the state standards of Ukraine. State Committee on Standardization, Metrology and Certification shall determine the procedure of development and utilization of the state classifiers.

2. International, regional and national standards of other countries shall be applied in Ukraine in accordance with its international agreements.

Interstate standards provided by the Agreement on Coordinated Policy in the Area of Standardization, Metrology and Certification signed in the city of Moscow on March 13, 1992 (hereinafter referred to as interstate standards) shall be also utilized as state standards of Ukraine.

Republican standards of the Ukrainian Soviet Socialist Republic (RST of the Ukrainian Soviet Socialist Republic) shall be applied as state standards until they are substituted or abolished.

State Committee on Standardization, Metrology and Certification shall determine rules for the application of standards provided by this Article at the territory of Ukraine.

Article 5. State standards of Ukraine

1. State standards of Ukraine shall be developed for the following:

organizational, methodological and general technical objects, namely, organization of the standardization works, scientific and technical terminology, classification and codes of the technical, economic and social information, technical documents, informational technologies, organization of the metrology works, reliable reference information about properties of the materials and substances;

products for the general machinery engineering utilization (bearings, instruments, bindings, etc.);

components of the national economic objects (banking and financial system, transport, communication, energy system, environmental protection, defense, etc.);

intersectoral products;

products for the population and national economy;

examination methods.

2. State standards of Ukraine contain obligatory and recommended requirements.

Obligatory requirements contain the following:

requirements providing safety of products for the life, health and property of the population, their compatibility and interchangeability, environmental protection and requirements regarding examination methods for these properties;

requirements of the technical safety and hygiene of the labor with references to the respective sanitary norms and rules;

metrology norms, rules, requirements and provisions providing for reliability and uniformity of the measurements;

provisions providing for technical uniformity when developing, manufacturing and utilizing products.

3. Obligatory requirements of the national standards must be observed by the state executive bodies, all enterprises, their associations, institutions, organizations and citizens - agents of the entrepreneurial activity, which activity is covered by the standards.

Recommended requirements of the state standards of Ukraine must be observed in the following cases:

if this is provided by the current legislative acts;

if these requirements are included into the contracts for the development, manufacturing and supply of products;

if manufacturer (supplier) of products announced about compliance of products to these standards.

4. State standards of Ukraine shall be adopted by the State Committee of Ukraine on Standardization, Metrology and Certification, and state standards in the area of construction and construction materials industry - by the Ministry of Construction and Architecture of Ukraine.

State standards of Ukraine shall be registered by the State Committee of Ukraine on Standardization, Metrology and Certification and published in Ukrainian and Russian, both texts are authentically equal.

5. Property part of the copyright for the state standards of Ukraine belongs to the state regardless of the sources of financing of their development.

Article 6. Sectoral standards, standards of the scientific, research and engineer associations and unions.

1. Sectoral standards shall be developed for the products if there are no state standards of Ukraine or if it is necessary to establish requirements exceeding or supplementing requirements of the state standards.

Obligatory requirements of the sectoral standards must be observed by the enterprises, institutions and organizations subordinated to the body that has adopted these standards.

2. Standards of the scientific, technical and engineer associations and unions shall be developed if it is necessary to disseminate results of the fundamental and applied researches received in the definite areas of knowledge or professional interests. These standards may be utilized based on the voluntary consent of the respective agents.
3. Standards indicated in the paragraphs 1 and 2 of this Article shall not contradict with obligatory requirements of the state standards of Ukraine and subject to the state registration by the State Committee of Ukraine on Standardization, Metrology and Certification.

The procedure for developing, adopting and utilizing these standards shall be established by the respective body managing activity of the enterprises, institutions and organizations and also by the statutory bodies of the scientific, research and engineer associations and unions which are competent to organize standardization works.

4. Property part of the copyright for the normative documents indicated in the paragraphs 1 and 2 of this Article belongs to the bodies adopting them.

Article 7. Technical requirements and standards of the enterprises

1. Technical terms and conditions contain requirements that regulate relations between supplier (manufacturer) and consumer (customer) of products.

2. State Committee of Ukraine on Standardization, Metrology and Certification shall register in its regional bodies technical terms and conditions for the products and amendments to them with the purpose of informing consumers (customers) about nomenclature and quality of manufactured products and to perform control over compliance of the technical terms and conditions with obligatory requirements of the state and sectoral standards. Technical terms and conditions and amendments to them not registered by the state shall be considered not valid.
3. State Committee of Ukraine on Standardization, Metrology and Certification by the consent of the Ministry of Economy of Ukraine shall determine registration fee payable for the state registration of the technical terms and conditions and amendments to them.
4. Standards of the enterprises shall be developed for the products utilized only at the definite enterprise.
5. Property part of the copyright for the technical terms, conditions and standards of the enterprises shall belong to the enterprises or bodies adopting them.

Article 8. Responsibility for the development and adoption of the normative documents

Organizations and institutions which have conducted examination and bodies, enterprises, institutions, organizations and citizens – agents of the entrepreneurial activity which have adopted these documents shall bear responsibility for the compliance of the normative documents with requirements of the legislative acts and also for their scientific and technical level.

Article 9. Application of the normative documents

Normative documents shall be applied when developing, manufacturing, selling, using, repairing, storing, transporting and utilizing products.

Supply contract shall include references to the normative documents registered by the state covering supply of products.

Chapter III. Organization of the standardization works

Article 10. Management of the activity in the area of standardization

1. State Committee of Ukraine on Standardization, Metrology and Certification shall organize and coordinate standardization works and functioning of the state standardization system. It shall establish general organizational and technical rules of standardization, perform intersectoral coordination of these works including planning, development, publication, distribution and application of state standards. State Committee of Ukraine on Standardization, Metrology and Certification shall determine procedure for the state registration of the normative documents and shall participate in the international and regional standardization pursuant to the international agreements of Ukraine, organize education and professional training of the experts in the area of standardization.
2. Ministry of Construction and Architecture of Ukraine shall organize work in the area of construction and construction materials industry. Developed and adopted by this

Ministry rules for the structure, wording and registration of standards shall comply with the state standardization system.

Other bodies of the state executive power shall participate in the standardization and organize this activity within their competence.

Article 11. Technical Committees on Standardization

1. Technical Committees on standardization shall be established to provide and ensure development, studying, examination, coordination and preparation for the adoption of the state standards of Ukraine, other normative documents in the area of standardization. Technical Committees on standardization shall be established also to conduct works in the area of international (regional) standardization by the decision of the State Committee of Ukraine on Standardization, Metrology and Certification or of the Ministry of Construction and Architecture of Ukraine (in the area of construction and construction materials industry). Technical committees shall perform their activity in accordance with provision adopted by the State Committee of Ukraine on Standardization, Metrology and Certification and contract with this Committee.

Technical committees shall not earn profit from their activity.

2. Technical committees may invite on the voluntary basis authorized representatives of the interested enterprises, institutions and organizations of the contractors (consumers), manufacturers of products, bodies and organizations on standardization, metrology and certification, associations (unions) of consumers, scientific, research and engineer associations, other public organizations, leading scientists and experts.
3. Technical committee becomes legal entity from the moment of its registration by the bodies performing state registration of the agents of entrepreneurial activity.

Article 12. Information provision of the standardization and certification works

1. State Committee of Ukraine on Standardization, Metrology and Certification shall establish information funds and provide consumers with the following information:

state standards of Ukraine;

current interstate standards;

international, regional and national standards of other countries;

state classifiers of the technical, economic and social information;

certificates issued or recognized according to the established procedure;

technical committees on standardization;

certification bodies;

experimental laboratories (centers);

characteristics and properties of the materials and substances.

2. State Committee of Ukraine on Standardization, Metrology and Certification shall manage property part of the copyrights in respect of state standards of Ukraine and also standards, rules, instructions and recommendations of the international and regional organizations on standardization which Ukraine is a participant of if this is provided by its international agreements. This refers also to the interstate standard.

Ministry of Construction and Architecture of Ukraine shall manage property part of the copyrights in respect of state and interstate standards in the area of construction and construction materials industry.

3. Property part of the normative documents indicated in the Articles 6 and 7 of this Decree shall be managed by the enterprise or body that have adopted these normative documents.

Chapter IV. Certification of products

Article 13. Types of certification and its purpose

Certification of products in Ukraine may be subdivided into the obligatory and voluntary certification.

Certification of products shall be performed by the authorized certification bodies - enterprises, institutions and organizations with the following purposes:

to prevent sale of products dangerous for the life, health, property of citizens and environment;

to assist consumer to chose products;

to create conditions for the agents of the entrepreneurial activity to participate in the international economic, scientific and technical cooperation and international trade.

Article 14. State certification system

1. State certification system shall be established by the State Committee of Ukraine on Standardization, Metrology and Certification - national body of Ukraine on Certification which shall perform and coordinate activity with the purpose of ensuring its functioning, namely:

determines basic principles, structure and rules of the certification system of Ukraine;

adopts lists of products subject to obligatory certification and determines its application;

appoints certification bodies;

accredits certification bodies and experimental laboratories (centers), attests experts-auditors;

determines rules of recognizing certificates of other countries;

considers disputes regarding testing and observance of certification rules;

keeps Register of the state certification system;

provides information in respect of the certification issues.

State Committee of Ukraine on Standardization, Metrology and Certification within its competence shall bear responsibility for the observance of certification rules and procedure.

Article 15. Obligatory certification

1. The compliance with obligatory requirements of the normative documents shall be certified only by the state certification system.
2. Obligatory certification in all cases shall include examination and testing of products to determine its properties and further state technical supervision over the certified products.
3. The accredited experimental laboratories (centers) using methods determined by the respective normative documents shall conduct testing for the purposes of obligatory certification. If there are no normative documents, methods shall be determined by the certification body or by the body acting on its behalf.

Article 16. Certificate and conformity mark of the state certification system

After certification and in case of the positive decision of the certification body applicant shall receive certificate and the right to mark products with special conformity mark.

Design, size and technical requirements in respect of the conformity mark shall be determined by the state standard.

Conformity mark may not be applied if the rules of its utilization are violated.

Article 17. Obligations of the manufacturers, suppliers, executors and sellers of products under obligatory certification

Manufacturers, suppliers, executors, sellers of products subject to the obligatory certification which are sold at the territory of Ukraine have the following obligations:

to certify products within determined period and according to the established procedure;

to ensure manufacturing of products in accordance with requirements of the normative document pursuant to which they were certified;

to sell products only if conformity certificate is available;

to suspend or stop sale of certified products if it is discovered that these products do not comply with requirements of the normative document pursuant to which they were certified or if the certificate has expired or its validity was suspended or stopped by the decision of the certification body.

Article 18. Certification of the imported products

Compliance of the products (goods) imported and sold at the territory of Ukraine with obligatory requirements of the norms and standards currently valid in Ukraine shall be confirmed either by the certificate or paper about recognition of the foreign certificate issued or acknowledged by the State Committee of Ukraine on Standardization, Metrology and Certification or by the authorized (accredited) body.

State Committee of Ukraine on Standardization, Metrology and Certification based on the issued conformity certificates or papers about recognition of the foreign certificate shall include certified products into the Unified Register of the certified in Ukraine products.

Customs bodies shall perform customs clearance of the imported goods based on the indicated Unified Register according to the procedure determined by the Cabinet of Ministers of Ukraine.

State Committee of Ukraine on Standardization, Metrology and Certification shall control availability of the certificates for the goods sold by legal or natural entities at the customs territory of Ukraine. (Article 18 is amended in accordance with the Law #333/97-BP dd. 11.06.97)

Article 19. Payment for the obligatory certification of products

1. All types of works connected with obligatory certification of products are payable, namely, preparation, examination, accreditation, attestation, testing, control and registration.
2. Expenses for the obligatory certification shall be included in to the cost of products.
3. Cost of works connected with obligatory certification of products shall be specified in the contract between customer and executor.

Article 20. Responsibility of the certification bodies and experimental laboratories (centers) performing obligatory certification

1. Certification body bears responsibility when performing obligatory certification for the following:

unfounded or illegitimate issuance of the conformity certificate;

violation of the certification rules.

Accredited experimental laboratory (center) bears responsibility for the unreliability of the examination results.

2. If actions indicated in the paragraph 1 of this article has not caused damage to the consumer, citizens, their property and environment body responsible for the violation of the rules shall pay to the state budget of Ukraine double value of the performed works based on decision of the State Committee of Ukraine on Standardization, Metrology and Certification. After the second similar violation of the certification rules certification body and experimental laboratory (center) shall be deprived of the accreditation in the state certification system.

Losses (including expected and not-received profit) caused by the manufacturer to the consumers, their property and harm caused to the environment by the actions indicated in the paragraph 1 of this Article shall be compensated by the body which have performed obligatory certification according to the procedure determined by the current legislation. Moreover, this body shall be deprived of the accreditation in the state certification system.

Article 21. Responsibility of the manufacturer (seller, executor) for the violation of the obligatory certification rules

Manufacturer (seller, executor) bears responsibility for the violation of the obligatory certification rules in accordance with the current legislation.

Article 22. Voluntary certification

1. Voluntary certification may be performed to examine conformity of products to the requirements not included by the legislative acts and normative documents to the obligatory requirements. Voluntary certification may be initiated by the manufacturer, seller, consumer, state executive power bodies, public organizations and separate citizens on the contractual basis between applicant and certification body.
2. Enterprises, organizations, other legal entities that have undertaken functions of the voluntary certification body and also accredited in the state certification system bodies have the right to perform voluntary certification.
3. Voluntary certification rules shall be established by the voluntary certification bodies submitting to the State Committee of Ukraine on Standardization, Metrology and Certification information for their registration according to the established by the Committee procedure.

Chapter V. Financing of the standardization works, encouragement of the application of the state standards

Article 23. Sources of financing

1. There are following sources of financing of the state standardization works and participation in the international cooperation:

funds of the state budget of Ukraine and currency appropriations provided for these purposes to the State Committee of Ukraine on Standardization, Metrology and Certification and for the Ministry of Construction and Architecture of Ukraine – only assets of the state budget of Ukraine;

assets provided for the execution of the social and economic, scientific and research programs and projects;

assets of the enterprises, institutions and organizations or other customers intended for the development of standards;

bank loans;

2. Scientific and research works in the area of standardization, development of the international and national standards determining basic and general requirements and obligatory requirements ensuring safety of products for the life and health of people, their compatibility and interchangeability and protection of the environment shall be financed from the allocated budget funds in the first place. This refers also to the works on the direct utilization of the international, regional and national standards of other countries as state standards of Ukraine and also respective scientific, methodic and coordination work.
3. State Committee of Ukraine on Standardization, Metrology and Certification and the Ministry of Construction and Architecture of Ukraine (in the area of construction and construction materials industry) are the customers of works for which assets from the state budget are allocated. These ministries shall distribute allocated assets between definite executors of works and control their quality and terms of execution.
4. When developing social, economic and research programs and projects including programs of creation and unification of the defense products, normative documents and sources of financing shall be provided.

Article 24. Utilization of assets received from the implementation of standards

1. Assets received from the implementation of national and international standards (except expenses for their issuance) shall be directed exclusively to the development of scientific and technical base and international cooperation in the area of standardization and certification.
2. Prices for the national standards shall be determined by the State Committee of Ukraine on Standardization, Metrology and Certification and by the Ministry of Construction and Architecture of Ukraine (in the area of construction and construction materials industry) by the consent of the Ministry of Economics of Ukraine.

Chapter VI. International relations in the area of standardization and certification

Article 25. Participation of the State Committee of Ukraine on Standardization, Metrology and Certification in the international cooperation in the area of standardization and certification

State Committee of Ukraine on Standardization, Metrology and Certification according to the legislation of Ukraine and international agreements ratified by Ukraine shall represent interests of Ukraine in the international and regional standardization organizations and in relations with respective bodies of other states in the area of standardization and certification. It shall also make decision about accession to the international and regional certification systems and conclude agreements about mutual recognition of the certification results.

Article 26. International agreements

If international agreements provide for different rules than those contained in this Decree, rules of the international agreements shall be applied.

Chapter VII. Final provisions

Article 27. Validity of the Decree

This Decree becomes valid from the day of its publication.