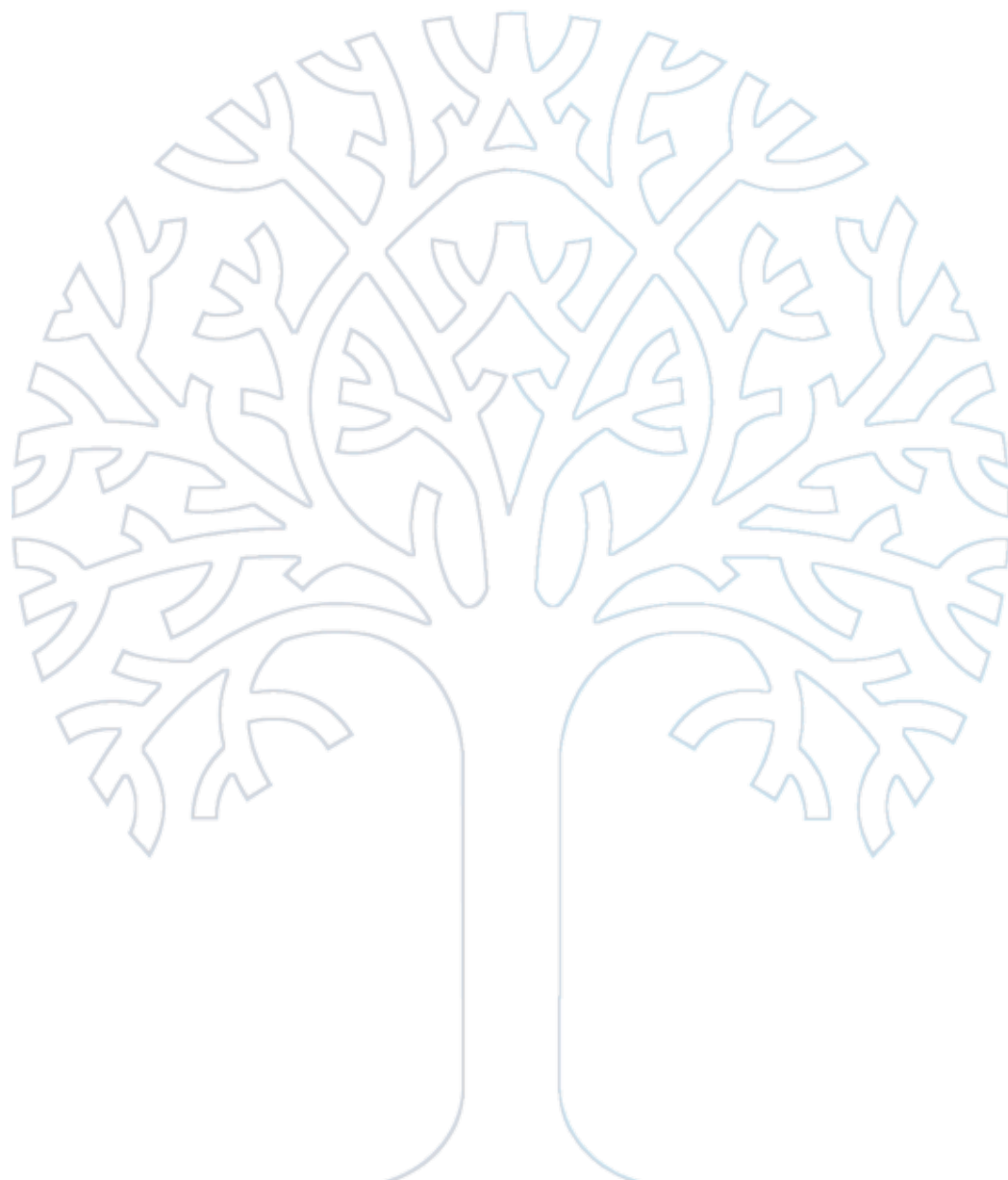




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SEPTEMBER 2024 / Issue – 3



BIS
amicus

A monthly e-newsletter on developments related
to Bureau of Indian Standards (BIS)

Lakshmikumaran & Sridharan Attorneys

India

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News Nuggets

India preparing standards to regulate artificial intelligence

As per reports, The Bureau of Indian Standards (BIS), in consultation with Ministries of consumer affairs, information technology, education and along with various stakeholders, is preparing certain set of standards to regulate Artificial Intelligence (AI) and related applications.

It is stated that the initiative by BIS aims at a structured approach to regulate AI, focusing on the entire lifecycle of AI applications from development to deployment and their eventual impact.

[Source: News as available on Live Mint [here](#) and Money Control [here](#)]

BIS to provide certifications to municipal corporations for quality drinking water

The Bureau of Indian Standards has introduced Indian Standard certification for municipal corporations to provide quality drinking water. The new initiative is titled 'Piped Drinking Water Supply Management System' for the civic bodies.

[Source: News on Times of India, as available [here](#)]

BIS launches Hackathon for Students

BIS released With a vision to cultivate interest, enhance knowledge, and raise awareness about Indian Standards, the Bureau of Indian Standards (BIS) has launched a Hackathon for student teams across institutes that have signed a Memorandum of Understanding (MoU) with BIS.

The Hackathon presents a unique opportunity for students to contribute to the design and development of a platform aimed at organizing online activities and games.

[Source: BIS Hackathon - Think, Nudge & Move Department (TN&MD), as available [here](#).]

Dedicated departments for standardization in Environment & Ecology and Ayush Sector

1. BIS has set up a new department for standardization of issues related to environment and ecology named as Environment and Ecology Department (EED). To facilitate the establishment, the Bureau also organized a workshop on 'Standardization for Environment and Ecology' on 12 August 2024.

Shri Pramod Kumar Tiwari, Director General, BIS, expressed his vision to create standards for not only India but also the world, addressing all ecological needs. He stated that BIS will also organize seminars in the next two months to further promote its objectives towards environmental standardization.

[Source: PIB Press Release, dated 13 August 2024, as available [here](#).]

2. Further, to expedite the standardization activity in the Ayush sector, the Bureau has established an exclusive department for the domain. As per the Press Release dated 9 August 2024, the new department focuses on promoting safety, efficacy, and quality of Ayush products and practices, encompassing traditional Indian systems of medicine such as Ayurveda, Yoga, Naturopathy, Unani, Siddha, Sowa-Rigpa, and Homoeopathy.

[Source: PIB Press Release, dated 9 August 2024, as available [here](#).]

Grant of All India First License

In August 2024, BIS granted All India First License to two companies for their respective products and corresponding Indian Standards. The details of the same are discussed at length later in this newsletter.

[Source: What's New – BIS as available [here](#)]

Webinars and Seminars

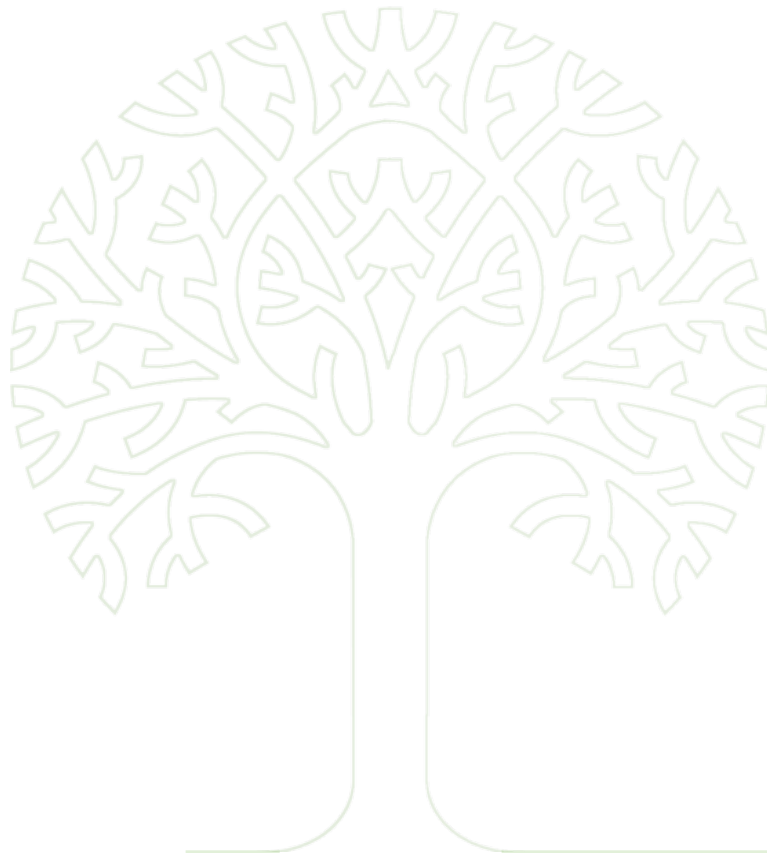
BIS is actively involved in organizing seminars and webinars to increase awareness and ensure implementation of standards and QCOs.

On 8 August 2024, the Textile Department of BIS, in association with Menstrual Health Action for Impact (MHAI), organized the **Awareness and Implementation Webinar on QCOs on Indian Standards on Menstrual Hygiene.**

LKS Comments

The aforementioned webinar was conducted considering the upcoming QCO, Medical Textiles (Quality Control) Order, 2023, which will come into force on 1 October 2024. The QCO covers under its ambit the following products:

- 1) IS 5405: 2019, Sanitary Napkins — Specification (Second Revision)*
- 2) IS 17514: 2021, Reusable Sanitary Pad/Sanitary Napkin/Period Panties — Specification*



Article

From certification to penalties: Navigating the crucial provisions of the BIS Act

By LKS BIS Team

The Bureau of Indian Standards Act, 1986 was replaced by the Bureau of Indian Standards Act of 2016 for several reasons as discussed in the previous newsletter, viz. BIS Amicus - August 2024 / Issue – 2, as available [here](#).

Having already outlined the legislative framework of BIS, we shall now delve into the key provisions of the BIS Act, 2016 in detail.

BIS Act, 2016: Guardian of Product Safety

The Bureau of Indian Standards Act, 2016 ('Act') is a comprehensive legislation that serves as the backbone of quality assurance, standardization, and certification across industries in India. This Act mandates specific standards for products, services, systems, and processes, ensuring that Indian goods are reliable, safe, and competitive, both domestically and internationally.

Key definitions under the Act

Sr. No.	Section	Term	Definition
1.	Section 2(7)	Conformity Assessment	Demonstration that requirements as may be specified relating to an article, process, system, service, person or body are fulfilled
2.	Section 2(14)	Goods	All kinds of movable properties under the Sale of Goods Act, 1930, other than actionable claims, money, stocks and shares
3.	Section 2(17)	Indian Standard	The standard including any tentative or provisional standard established and published by the Bureau, in relation to any goods, article, process, system or service, indicative of the quality and specification of such goods, article, process, system or service
4.	Section 2(20)	Licence	A licence granted under Section 13 to use a specified Standard Mark in relation to any goods, article, process, system or service, which conforms to a standard
5.	Section 2(25)	Person	A manufacturer, an importer, a distributor, retailer, seller or lessor of goods or article or provider of service or any other person who uses or applies his name or trade mark or any other distinctive mark on to goods or article or while providing a service, for any consideration or gives goods or article or provides service as prize or gift for commercial purposes including their representative and any person who is engaged in such activities, where the manufacturer, importer, distributor, retailer, seller, lessor or provider of service cannot be identified
6.	Section 2(40)	Standard Mark	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 recognised 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

Key provisions of the Act

Establishment of BIS as the National Standards Body

Section 3: Establishment of Bureau and Constitution of the Governing Council

The BIS Act designates the Bureau of Indian Standards (BIS) as the National Standards Body of India. BIS is responsible for developing, publishing, and promoting Indian standards, which cover various products, systems, services, and processes.

Indian Standards

Section 10 (1) and 10 (2): The standards established by the Bureau are called the Indian Standards. This section confers upon BIS the power to establish, publish, review and promote Indian Standards.

Section 10 (3): BIS is empowered to establish technical committees to create standards and ensure that they are in line with global trends and technological advancements. BIS operates through a well-structured network of laboratories, committees, and experts who regularly update these standards to meet current requirements and challenges.

Compulsory certification: For jewellers and sellers of certain specified goods or articles

One of the most important provisions of the BIS Act is the Compulsory Certification Scheme, which mandates specific products to carry the BIS Standard Mark. The Standard Mark is an assurance that the product meets the prescribed safety, quality, and performance standards.

Section 14(1): Pursuant to consultations with the Bureau, the Central Government, through notification, can declare precious metal articles or other goods and articles to require a mandatory Hallmark or Standard Mark. These goods are usually critical in terms of health, safety, and environmental impact.

Section 15: Prohibition to 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.

Compulsory use of Standard Mark: Quality Control Orders

The scope of the BIS Act extends beyond products to include services, systems, and processes.

Section 16: The Central Government may direct compulsory use of standard mark on certain products which it considers necessary in the public interest or for the protection of human, animal or plant health, safety of the environment, or prevention of unfair trade practices, or national security. The notification is made through Quality Control Orders, or QCOs, that are published in the official gazette.

Section 17: In terms of Section 17, no person is permitted to manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under section 16.

Obligations

Section 18: Section 18 lays down obligations for relevant persons covered under this Act.

- i. To remain responsible for conformance of the goods, articles, processes, systems or services carrying the Standard Mark
- ii. Responsibility of the **distributor or the seller**: To ensure that goods, articles, processes, systems or services carrying the Standard Mark are purchased from certified body or license holder
- iii. Responsibility of the **seller** before the goods or article is sold/offered to be sold/exhibited/offered for sale: To ensure the availability of requisite labels and marking details, and to ensure that they are displayed as specified
- iv. Responsibility of the **license holder**: To supply to the BIS such information and samples as may be required for monitoring the quality

- v. Responsibility to repair/replace/reprocess goods and articles that bear the standard mark but do not conform to the IS; and pay compensation to the consumer thereof.

Penalties

Section 29(3): Any person who contravenes the provisions of Section 17 (i.e., violates a QCO) can be punishable with **imprisonment** for a term which may extend up to **two years** or with **fine** which shall:

- Not be less than INR 2,00,000 for the first contravention; and
- Not be less than INR 5,00,000 for the second and subsequent contraventions
- but may extend up to ten times of the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark, or with both.

Offenses by companies

Section 30: This section holds companies accountable for violations of the BIS Act. If a company is found guilty of non-compliance, the individuals responsible (such as directors, managers, secretaries, or officers) can also be held liable, unless they can prove that the violation occurred without their knowledge or due diligence.

LKS Comments

The Bureau of Indian Standards Act, 2016 is a well-structured legislative framework that plays a crucial role in enhancing product safety, quality, and reliability - keeping in mind the growing concern over quality of the goods and safety of the consumers who use or consume such goods. By mandating stringent certification processes and enforcing penalties for non-compliance, it adequately

offers protection to the consumers, be it domestic or international. In this process, it also elevates the products to international standards and helps the manufacturers get premium price for the “compliant goods”. The Act also ensures a comprehensive system that protects consumer interests while boosting the global competitiveness of Indian products.

In the next newsletter, we shall dive deeper into two of the most noteworthy elements, viz. Indian Standards and Quality Control Orders. Now, let’s move ahead with important BIS updates that took place last month.



QCO Updates

QCO Updates – August 2024

For ease of reference, we have compiled a comprehensive set of data covering the following:

- **Upcoming QCOs** – Notified and due for implementation
- **QCOs notified in the Official Gazette:** Published by the respective line Ministries of the Central Government, in consultation with the BIS under Section 16 of the BIS Act, 2016
- **QCOs notified on the WTO-TBT portal, 'ePing':** These are draft QCOs notified by India for WTO member countries to review and give comments. They are yet to be finalized and are not published in the Official Gazette yet.
- **Amendments/extensions** to the existing QCOs

QCOs to be implemented in the upcoming months

In the upcoming months, from September to October 2024, a total of 98 products will be covered under the ambit of QCOs. Here's an overview of the same:

	September	October	November
No. of QCOs to be enforced	70	25	3
Ministry/ Department	Department for Promotion of Industry and Internal Trade (DPIIT) – 61 QCOs	Department for Promotion of Industry and Internal Trade (DPIIT) – 11 QCOs Department of Chemicals and Petrochemicals – 10 QCOs	Department for Promotion of Industry and Internal Trade (DPIIT) – 1 QCO Department of Chemicals and Petrochemicals – 1 QCO Ministry of Environment, Forest and Climate Change of India - 1 QCO

	September	October	November
	Department of Chemicals and Petrochemicals – 9 QCOs	Ministry of Textiles – 3 QCOs Ministry of Steel – 1 QCO	
Products	Utensils, electrical appliances, cast iron products, V-belts, asbestos, textiles, aluminium and aluminium alloys, etc.	Sanitary napkins, baby diapers, drinking water coolers, EVA copolymers, copper products, fatty acids, etc.	Morpholine, Telescopic Ball Bearing Drawer Slide, and RO-Based Point of Use Water Treatment System

Industries likely to be impacted:

Electronics and IT, Automotive, Chemicals, Textiles, Aluminium, and Furniture, among others.

LKS Comments

All the manufacturers (both domestic and foreign) of the products listed above shall be required to obtain BIS certification in order to comply with the QCOs. However, subject to the facts and circumstances of the case, the manufacturers may also seek an exemption or extension of the QCO by drafting a representation to BIS/line ministry, as the case may be.

QCOs notified in the Official Gazette

Sr.No.	Order Title
1	Steel & Steel Products (Quality Control) Order, 2024

LKS Comments

The above-mentioned order pertaining to steel and steel products has been issued to supersede the previous order dated 5 February 2024. We applaud the efforts undertaken by the Ministry of Steel, which periodically revises the QCO, to expand its ambit.

Steel importers who are impacted by this QCO can seek clarification from the Ministry through its dedicated portal, viz. *TCQCO Portal*. It is important to note that steel imports require BIS license for each imported steel consignment.

QCOs notified by India on the WTO-TBT portal – ‘ePing’

Sr. No.	Order Title	Notification Date
1.	Electric Fence Energizers (Quality Control) Order, 2024	12 August 2024

LKS Comments

While the draft QCOs notified on the WTO website are yet to be notified and implemented, we suggest that the manufacturers start the necessary procedures to comply with the QCOs. Once they are notified by the Central Government, it will be mandatory to obtain BIS certification for the respective products.

Extensions to the existing QCOs

Sr. No.	Order Title	Date of implementation
1.	Acetic Acid (Quality Control) Order, 2019	3 August 2025
2.	Aniline (Quality Control) Order, 2019	3 August 2025
3.	Cotton Bales (Quality Control) Amendment Order, 2023	27 August 2025
4.	Methanol (Quality Control) Order, 2019	3 August 2025
5.	Morpholine (Quality Control) Order, 2020	1 November 2024
6.	Poly Vinyl Chloride (PVC) Homopolymers (Quality Control) Order, 2024	24 December 2024
7.	Polypropylene (PP) Materials for Moulding and Extrusion (Quality Control) Order, 2024	24 December 2024
8.	Specification for Ferronickel – Steel & Steel Products (Quality Control) Order, 2024	23 October 2024

Amendment Orders

Sr. No.	Order Title
1.	Footwear made from all Rubber and all Polymeric Material and its Components (Quality Control) Amendment Order, 2024
2.	Footwear made from Leather and other Materials (Quality Control) Amendment Order, 2024
3.	Insulated Flask, Bottles and Containers for Domestic Use (Quality Control) Amendment Order, 2024
4.	Potable Water Bottles (Quality Control) Amendment Order, 2024

LKS Comments

- i. While Footwear made from all Rubber and all Polymeric Material and its Components (Quality Control) Amendment Order, 2024
- ii. Footwear made from Leather and other Materials (Quality Control) Amendment Order, 2024

The above-mentioned amendment orders related to footwear clarify that the stock of footwear without BIS Mark that were manufactured or imported prior to the commencement of the Amendment Order dated 30 August 2024, shall be permitted to be sold or displayed or offered to be sold for a period up to the 31 July 2026.

iii. Insulated Flask, Bottles and Containers for Domestic Use (Quality Control) Amendment Order, 2024

iv. Potable Water Bottles (Quality Control) Amendment Order, 2024

These recently enforced QCOs have been amended to exempt goods or articles that are domestically manufactured or imported before the date of commencement of this Order dated August 29, 2024, by:

- a. a manufacturer certified by the Bureau; or
- b. a manufacturer who has applied to the Bureau for certification; or
- c. by an importer for the relevant goods and articles;

and such manufacturer or importer shall be permitted to sell or display or offer to sell such declared stock up to 6 months from the date of commencement of this Amendment order, subject to the condition that such manufacturer or importer shall make a declaration to this effect certified by a Chartered account to the Bureau.

BIS - All India First Licence

BIS issued the All India First Licence, that is, the first licence ever issued for a certain product/Indian Standard for the following products in August 2024:

Sr. No.	Product	Indian Standard	Company
1	Brass Tubes for General Purposes	IS 407: 1981	M/s Multimetals Limited
2	2- Naphthylamine - 3 : 6 : 8 - Trisulphonic Acid, Technical	IS 11557:1986	M/s Kiri Industries Limited

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