



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE ANTI-COUNTERFEIT ACT

NO. 13 OF 2008

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ANTI-COUNTERFEIT ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title
2. Interpretation

PART II – ESTABLISHMENT, POWERS
AND FUNCTIONS OF THE AUTHORITY

3. Establishment of the Authority
4. Headquarters
5. Functions of the Authority
6. Board of the Authority
7. Powers of the Board
8. Conduct of business and affairs of the Board
9. Remuneration of Board members
10. Executive Director
11. Staff of the Authority
12. The common seal
13. Delegation by the Board
14. Protection from personal liability
15. Liability of the Board for damages
16. Liability for damage or loss on application of Act

PART III – FINANCIAL PROVISIONS

17. Funds of the Authority
18. Financial year
19. Annual estimates
20. Accounts and audit
21. Investment of funds

PART IV – INSPECTION

22. Appointment of inspectors
23. Powers of inspectors
24. Obstruction and breaking of seal
25. Duty of inspector upon seizure of goods
26. Evidence and presumptions
27. Storage and access to seized goods
28. Release of seized goods
29. Counterfeit goods depot
30. Conduct of prosecutions
31. Disclosure of information and impersonation

PART V – COUNTERFEIT GOODS

Anti-Counterfeit

- 32. Offences
- 33. Laying a complaint
- 34. Powers of the Commissioner or Executive Director
- 34A. Compounding of offences
- 34B. Trademark

PART VI – MISCELLANEOUS

- 35. Penalties
- 36. Exemption from stamp duty
- 37. Regulations

SCHEDULES

NO. 13 OF 2008

ANTI-COUNTERFEIT ACT

[Date of assent: 24th December, 2008.]

[Date of commencement: 7th July, 2009.]

An Act of Parliament to prohibit trade in counterfeit goods, to establish the Anti-Counterfeit Authority, and for connected purposes

[Act No. 13 of 2008, Legal Notice 115 of 2009, Act No. 12 of 2012, Act No. 18 of 2014, Act No. 25 of 2015, Act No. 11 of 2017, Act No. 18 of 2018.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Anti-Counterfeit Act, 2008.

2. Interpretation

In this Act, unless the context otherwise requires—

"Agency" *deleted by Act No. 18 of 2018, Sch.;*

"Authority" means the Anti-Counterfeit Authority established under section 3;

"Commissioner" shall have the meaning assigned to it under the Kenya Revenue Authority Act (Cap. 469);

"complainant" means a person, institution, government agency or state corporation entitled to lay a complaint under section 33(1), or who has laid such a complaint;

"consumer" includes any member of the public or person who purchases or likely to purchase goods as an end user other than the owner of intellectual property right; and

"counterfeiting" means taking the following actions without the authority of the owner of intellectual property right subsisting in Kenya or outside Kenya in respect of protected goods—

- (a) the manufacture, production, packaging, re-packaging, labelling or making, whether in Kenya, of any goods whereby those protected goods are imitated in such manner and to such a degree that those other goods are identical or substantially similar copies of the protected goods;
- (b) the manufacture, production or making, whether in Kenya, the subject matter of that intellectual property, or a colourable imitation thereof so that the other goods are calculated to be confused with or to be taken as being the protected goods of the said owner or any goods manufactured, produced or made under his licence;
- (c) the manufacturing, producing or making of copies, in Kenya, in violation of an author's rights or related rights;
- (d) in relation to medicine, the deliberate and fraudulent mislabelling of medicine with respect to identity or source, whether or not such products have correct ingredients, wrong ingredients, have sufficient active ingredients or have fake packaging;