The Clinical Thermometers (Quality Control) Order, 2001

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The Clinical Thermometers (Quality Control) Order, 2001[1]

In exercise of the powers conferred by Section 14 of the Bureau of Indian Standards Act, 1986 (63 of 1986), the Central Government hereby makes the following order, namely:—

1. Short title and commencement.—(1) This Order may be called the Clinical Thermometers (Quality Control) Order, 2001.

(2) [2][It shall come into force on the expiry of 300 days from the date of their publication in the Official Gazette.]

2. Definitions.—In this order, unless the context otherwise requires:

(*a*) 'Appropriate Authority' means Director, Legal Metrology posted under Section 28 of the Standards of Weights and Measures Act, 1976.

(*b*) *Clinical Thermometer.*—A medical thermometer of liquid-in-glass type provided with a maximum indicating device for measuring the temperature of human beings.

Note.—Shapes and ranges of these thermometers depend on their use.

(*i*) *Solid Stem Type.*—The thermometers shall be of the solid-stem, mercury-in-glass type.

(*ii*) *Enclosed-Scale Type.*—The thermometers shall be of the enclosed-scale mercury-in-glass type.

(*c*) Specified Standard means the following Indian Standards specifications:

IS No.	*Title*
IS: 3055 (Part 1): 1994	Clinical Thermometers: Part 1 Solid Stem Type (Second Revision)
IS: 3055 (Part 2): 1988	Clinical Thermometers: Part 2 Enclosed Scale Type (First Revision)

(*d*) 'Bureau' means Bureau of Indian Standards.

(*e*) 'Manufacturer' in relation to clinical thermometer means a person or a firm or a Hindu undivided family which, produces, makes, assembles or manufactures any such clinical thermometers and includes a person or a firm or a Hindu undivided family which claims such clinical thermometers to be produced, made, assembled or manufactured by such person or firm or Hindu undivided family, as the case may be.

1. *Vide* GSR 843(E), dt. 9-11-2001, published in the Gaz. of India, Extra., Pt. II, S. 3(*i*), dt. 9-11-2001, pp. 5-9, No. 575.
2. *Corrected* by GSR 328(E), dt. 7-5-2002.

(*f*) 'Dealer' in relation to clinical thermometer means a person who or a firm or a Hindu undivided family which carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such clinical thermometers, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration.

(*g*) 'Standard Mark' means the Bureau of Indian Standards Certification Mark specified by the Bureau to represent a particular Indian Standard as stated in clause 2(*c*) above.

3. Prohibition of manufacture, storage, sale and distribution of clinical thermometers in contravention of standards specified in clause 2(*c*).—(1) No person shall, by himself or by any person on his behalf, manufacture or store for sale, sell or distribute any clinical thermometers which do not conform to the Standards specified under clause 2(*c*). The clinical thermometers shall bear the Standard Mark of the Bureau on obtaining Certification Marks licence:

Provided that in case of export of clinical thermometer specified under clause 2(*c*) required by the foreign buyer, such specification shall not be less than the standards specified under clause 2(*c*).

(2) The sub-standard or defective clinical thermometers which do not conform to the specified standard, shall be destroyed beyond use and disposed of as scrap.

4. Certification of manufacturers.—(1) All existing manufacturers of the clinical thermometers as specified in clause 2(*c*) shall obtain licence for use of the Standard Mark, within 180 days of the publication of this order.

Explanation: The manufacturer may apply within 60 days of the publication of this order so as to grant them the licence before this order comes into force.

(2) The grant of licences by the Bureau for use of the Standard Mark shall be as per provisions under the Bureau of Indian Standards Act, 1986 and the rules and regulations framed thereunder.

(3) When any person by himself or by any person on his behalf proposes to manufacture clinical thermometers after this notification comes into force, he shall not commence regular production (except required for the purpose of inspection and testing by BIS) without obtaining a valid licence from the Bureau for use of the Standard Mark.

(4) Consequent to the expiry of any licence or cancellation thereof by the Bureau for clinical thermometers as specified in clause 2(*c*) above, the Appropriate Authorities other than the Bureau shall also be informed.

5. Power to call for information etc.—The appropriate Authority may with a view to securing compliance with this Order:

(1) Require any person engaged in the manufacture, storage for sale, sales or distribution of clinical thermometers as specified in clause 2(*c*) above to give such information as it deems necessary in relation to the manufacture, storage for sale, sale or distribution of clinical thermometers as specified in clause 2(*c*) above for the implementation of

this order or require any such person to furnish to it samples of clinical thermometers as specified in clause 2(*c*) above.

(2) Inspect or cause to be inspected any books or other documents or clinical thermometers as specified in clause 2(*c*) above or belonging to or in the possession or under the control of any person engaged in the manufacture, storage for sale, sale or distribution of clinical thermometers as specified in clause 2(*c*) above.

(3) Cause an officer authorized under paragraph (7) to enter and search any premises and seize clinical thermometers as specified in clause 2(*c*) above in respect of which it has reason to believe that contravention of this order has been committed or the said clinical thermometers as specified in clause 2(*c*) above is not of the specified standard.

(4) The provisions of Section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall so far as, may be, applied to searches and seizure under this clause.

6. Testing of samples.—Samples of clinical thermometers as specified in clause 2(*c*) above bearing the Standard Mark and drawn by the Appropriate Authority, for establishing whether it is of the specified standard, shall be tested in the laboratory approved by the Bureau and in the manner as determined by the Bureau.

7. Delegation of powers.—The Appropriate Authority may by general or special order in writing authorize an officer to exercise on its behalf all or any of its functions under this order provided that no officer who is not of Gazetted rank shall be authorized by the Appropriate Authority to exercise the powers of search and seizure under clause 5(3) above.

8. Power to issue direction to manufacturers and dealers etc.—The appropriate Authority may issue such directions to manufacturers and dealers, consistent with the provisions of this order, as may be necessary in carrying out the purpose of this order.

9. Compliance of directions.—Every person engaged in the manufacture, storage for sale, sale or distribution of clinical thermometers as specified in clause 2(*c*) above to whom any direction is issued under this order, shall comply with such direction.

10. Obligatory to furnish information.—No manufacturer or dealer shall with intent to evade the provisions of this order, refuse to give any information lawfully demanded from him under Paragraph 5 or conceal, destroy, mutilate or deface any books or documents or clinical thermometers as specified in clause 2(*c*) above kept by such person or in the possession or control of such person.

11. Filing of complaint.—The Director, Legal Metrology or any person authorized by him in this behalf may file complaint under Section 34 of the Bureau of Indian Standard Act, 1986.

12. Penalty.—Any person who contravenes the provision of clause 3 of this order shall be liable for punishment under Section 33 of the Bureau of Indian

Standards Act, 1986 and the property in respect of which the order has been contravened, shall be liable to forfeiture.

13. Appeal.—(1) Any person, manufacturer or dealer aggrieved by any decision taken under this order may prefer an appeal in writing to the Central Government, within 30 days from the date of receipt by him of the copy of the order communicating such decision:

Provided that the Central Government may admit any appeal after the expiry of the period aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of the appeal under sub-clause (1) the Central Government may, after giving the appellant an opportunity of being heard, pass such order as it may deem fit.