

LAW ON TOBACCO

I BASIC PROVISIONS

Scope of the Law

Article 1

This Law shall govern the production, processing and trade in tobacco, the production and trade in tobacco products, as well as other issues relevant for the production and trade in tobacco and tobacco products.

Meaning of Terms

Article 2

Certain terms used in this Law shall have the following meanings:

- 1) **tobacco** shall mean the leaf of cultivated plant species *Nicotiana tabacum* L in all forms and phases of production and primary processing (curing, sorting, packing, and storage) which does not serve for final consumption;
- 2) **processed tobacco** shall mean a product obtained by sorting out, technological procedure of seasonal and out of season fermentation and thermal processing, as well as other operations in the technological procedure of processing and packing of tobacco;
- 3) **tobacco products** shall mean cigarettes and other tobacco products (cigars, cigarillos, cut tobacco, pipe tobacco, chewing tobacco, snuff tobacco (snuff) etc.) obtained through the industrial procedure in preparation, production and packing of processed tobacco intended for smoking, chewing and sniffing, which meets the prescribed quality standards;
- 4) **brand** of a tobacco product shall mean the tobacco product mark which serves to distinguish tobacco products in the market.

II ADMINISTRATIVE used in this Law to distinguish tobacco products

- 6) publication of data from the registers;
- 7) cooperation with authorities and institutions responsible for combating the illicit trade in tobacco products;
- 8) monitoring the situation in the market of processed tobacco and tobacco products;
- 9) preparation of expert basis for the adoption of regulations the enforcement of which comes under its responsibility;
- 10) other tasks, in accordance with law.

III TECHNOLOGICAL CLASSIFICATION OF TOBACCO

Article 4

Technological classification of tobacco shall include the following categories:

- 1) flue-cured – tobacco cured in specialized facilities with controlled circulation of air, temperature, and humidity;
- 2) light air-cured – light tobacco cured in shade;
- 3) dark air-cured – dark tobacco cured in shade;
- 4) sun-cured – tobacco cured in the sun;
- 5) fire-cured – tobacco cured directly over a fire;
- 6) oriental tobaccos cured in the sun.

The classification, varieties and types of tobacco referred to in paragraph 1 of this Article, which are produced in Montenegro, shall be specified in the regulation of the ministry responsible for agricultural affairs (hereinafter referred to as: the Ministry).

IV PRODUCTION AND PROCESSING OF TOBACCO

1. Tobacco Production

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The contract referred to in paragraph 1 item 1 of this Article must contain in particular:

- name i.e. name and surname of the tobacco producer;
- area and the reference number of the land-register plot where tobacco shall be grown;
- name of the type and variety of tobacco;
- the manner of acquiring tobacco seeds or seedlings by the contracting parties;
- liabilities with regard to the implementation of measures for protection and eradication of harmful organisms on tobacco, as well as the implementation of other mandatory measures in the production of tobacco;
- a statement of the tobacco producer that it has not concluded a contract on tobacco production with another tobacco processor for the same period of time, and for the area referred to in indent 2 of this paragraph.

Detailed conditions referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Article 6

It shall be prohibited to place on the market chopped up or in other manner sawned tobacco (unprocessed tobacco).

2. Tobacco Processing

Conditions for Issuing Licenses for Tobacco Processing

Article 7

Tobacco processing may be conducted by any company or entrepreneur (hereinafter referred

Transport and transfer of tobacco must be carried out in a manner that ensures its hygienic safety.

The means of transport and the packaging intended for transport or transfer of tobacco may not be concurrently used for other purposes.

The Administration Authority shall determine the fulfillment of requirements referred to in paragraph 1 item 6 of this Article, issue a license for tobacco processing and make the entry in the Register of Tobacco Processors.

Tobacco processor shall keep records of tobacco producers based on the contracts referred to in paragraph 1 item 6 of this Article, and submit the data from the records to the Ministry and the Administration Authority.

Detailed conditions referred to in paragraph 1 of this Article and the procedure for obtaining license for tobacco processing referred to in paragraph 5 of this Article shall be prescribed by the Ministry in coordination with the ministry responsible for health.

Article 8

Only the company or entrepreneur entered in the Register of Tobacco Processors may engage in the sale of processed tobacco.

V PRODUCTION OF TOBACCO PRODUCTS

1. Public Tender

Article 9

The public invitation referred to in paragraph 5 of this Article shall contain conditions for obtaining the right to participate in the public tender, as well as other information of importance for informing the public tender participants.

The public invitation shall be published in the “Official Gazette of Montenegro”, in at least one daily newspaper distributed on the entire territory of Montenegro, as well as on the website of the Administration Authority.

The public tender procedure shall be governed by a regulation of the Government.

Conditions for Participation in the Public Tender

Article 10

Any company or entrepreneur shall be entitled to participate in a public tender for issuing license for the production of tobacco products if it meets the following requirements, in particular that:

- 1) it has been registered in

Issuance of Licenses for Production of Tobacco Products

Article 11

The company or entrepreneur referred to in Article 10 paragraphs 1 and 2 of this Law that leads on the final list of bidders for issuing a license for the production of tobacco products shall, within five days from the date of receiving the final list, provide the Administration Authority with the following:

- the contract concluded with the tobacco processor, if it is not entered in the Register of Tobacco Processors;
- the evidence of the payment of first installment or the entire amount of fee for issuing a license for the production of tobacco products, in compliance with this Law.

A fee amounting to 300,000 Euros shall be paid for issuing a license for the production of cigarettes, while a fee that shall be paid for the production of other tobacco products amounts to 100,000 Euros.

Upon the expiry of the deadline from the detailed project, the company or entrepreneur referred to in Article 10 Paragraph 3 of this Law that leads on the final list of bidders for issuing license for the production of tobacco products, shall provide the Administration Authority with the evidence on implementation of the project and fulfillment of requirements.

The company or entrepreneur that has met the requirements referred to in paragraphs 1, 2 and 3 of this Article shall be issued a license for the production of tobacco products for the term of five years and shall be entered in the Register of the Producers of Tobacco Products by the Administration Authority.

Detailed conditions referred to in Article 10 of this Law and the procedure for determining the fulfillment of requirements shall be prescribed by the Ministry, in cooperation with the ministry responsible for health affairs.

VI TRADE IN TOBACCO PRODUCTS AND PROCESSED TOBACCO

1. Wholesale Trade in Tobacco Products

Conditions for Issuing Licenses

Article 12

Any company or entrepreneur may engage in wholesale trade in tobacco products if it meets in particular the following requirements:

- 1) it has been entered in the CRCC for performing the activities of wholesale trade in tobacco products;
- 2) it meets the prescribed minimum of technical requirements for wholesale trade in goods;
- 3) it has appropriate premises and equipment for storage of tobacco products, and for the wholesale trade in cigarettes it has the premises and equipment for storage of at least 30 tons of cigarettes;

2. Retail Trade in Tobacco Products

Conditions for Issuing Licenses

Article 14

Any company or entrepreneur may engage in reta

5) it has paid the fee referred to in Articles 17 paragraph 3 and 22 paragraph 3 of this Law.

Where the importer of tobacco products has already been registered for wholesale trade in tobacco products, the importer must also meet the requirements referred to in paragraph 1 items 3 and 4 and paragraph 2 of Article 12 of this Law.

Application and Issuance of Licenses

Article 17

In addition to the application for issuing license for engaging in the activity of the importation of tobacco, processed tobacco and tobacco products, a company or an entrepreneur shall submit the evidence on fulfillment of requirements referred to in Article 16 paragraph 1 items 1 to 4 of this Law.

Where the Administration Authority, based on the evidence referred to in paragraph 1 of this Article, establishes that the requirements have been met, it shall notify in writing the company or entrepreneur to submit, within three working days from the day of submitting the notification, the evidence of the payment of the first installment or the entire amount of the fee for issuing license for engaging in the activity of importation, in accordance with the calculation of the Administration Authority.

A fee amounting to 150,000 Euros shall be paid for issuing a license for engaging in the activity of importation referred to in paragraph 1 of this Article, or a fee amounting to 30,000 Euros where the license refers to the importation of other tobacco products.

The fee referred to in paragraph 3 of this Article may be paid in five equal annual installments, in a manner prescribed by this Law.

Any company or entrepreneur that have met the requirements referred to in this Article shall be issued a license for performing the activity of importation for the term of five years and shall be entered in the Register of the Importers of Tobacco, Processed Tobacco and Tobacco Products by the Administration Authority.

Trade in Tobacco Products in Free Zones and Free Warehouses

Article 18

Trade in tobacco, processed tobacco and tobacco products in free zones and free warehouses shall be conducted in accordance with law governing free zones and law governing foreign trade.

4. Exportation of Tobacco, Processed Tobacco and Tobacco Products

Article 19

Any company or entrepreneur may engage in exportation of tobacco, processed tobacco and tobacco products (hereinafter referred to as: the exporter) if it meets the following requirements, in particular that:

- 1) it has been entered in the CRCC for engaging in foreign trade;
- 2) it meets the prescribed minimum technical conditions for wholesale trade in goods;

- 3) that the company, entrepreneur or the responsible person within a company has not been convicted of the criminal offence of unauthorized trade or of the criminal offence of unauthorized production of tobacco, processed tobacco and tobacco products within three consecutive years prior to applying for a license.

Where the exporter of tobacco products has already been registered for wholesale trade in tobacco products, the exporter must also meet the conditions referred to in paragraph 1 items 3 and 4 and paragraph 2 of Article 12 of this Law.

Application and Issuance of a License

Article 20

In addition to the application for issuance of a license for engaging in the activity of exportation of tobacco, processed tobacco and tobacco products, a company or an entrepreneur shall submit evidence on fulfillment of requirements referred to in Article 19 of this Law.

The company or entrepreneur referred to in paragraph 1 of this Article shall be issued a license for engaging in the activity of exportation and shall be registered in the Register of Exporters of Tobacco, Processed Tobacco and Tobacco Products by the Administrative Authority.

5. Trade Marks of Tobacco Products

Application and Entry in the Register

Article 21

Producer and importer of tobacco products shall submit application to the Administrative Authority for entering trade marks of tobacco products in the register (hereinafter referred to as: the Register on Trade Marks of Tobacco Products) prior to placing the tobacco products into circulation.

In addition to the application referred to in paragraph 1 of this Article, the following shall be enclosed:

- 1) the relevant act of the responsible authority on registration of the trade mark;
- 2) contract on licensed production of tobacco products;
- 3) evidence on authorization by the foreign producer of tobacco products or authorized distributor for distribution of tobacco products on the territory of Montenegro.

In respect of the application referred to in paragraph 2 of this Article, the Administrative Authority shall adopt a decision on entry in the Register of Trade Marks of Tobacco Products and publish data from that Register on the web page of Administrative Authority.

VII OBLIGATIONS OF COMPANIES AND ENTREPRENEURS ENTERED IN REGISTERS

Manner of Payment of the Fee Article 22

The fee payable by a company or entrepreneur in accordance with this Law shall be adjusted annually with the growth rate of retail prices determined by the authority responsible for statistics.

The fee referred to in paragraph 1 of this Article shall be calculated by the Administrative Authority and shall be the revenue of the Budget of Montenegro.

The Administrative Authority may approve payment of the fee in five equal annual installments at the most, for the period of five years, upon request of the company or entrepreneur.

If the company or entrepreneur makes the payment for the fee for issuing license referred to in Articles 13 and 17 of this Law in five equal annual installments, it shall make the payment of each following installment no later than three working days prior to the expiry of the period of one year from the day of payment of the previous installment, in accordance with the calculation of the Administrative Authority.

Company or entrepreneur that is eligible for registering with several registers in accordance with this Law, and which has paid the fee for issuance of one license, shall not pay the fee for subsequent licenses unless such fee is prescribed in the amount exceeding the one that has been paid.

If the fee referred to in paragraph 5 of this Article is prescribed in the amount exceeding the one that has been paid, for issuance of the subsequent license the company or entrepreneur shall pay the difference, in accordance with the calculation of the Administrative Authority.

Reporting of Changes in Registered Data Article 23

The company or entrepreneur that is entered in the register or records based on the license, shall be obliged to report to the Administrative Authority any changes in the entered data within eight working days from the day the changes have been made.

Publishing of Retail Prices Article 24

Producer or importer of tobacco products shall report the retail prices of tobacco products to the tax authority and the Administrative Authority.

Producer or importer of tobacco products shall publish retail prices referred to in paragraph 1 of this Article in the Official Gazette of Montenegro.

Wholesalers and retailers in tobacco products shall be obliged to conduct trade in tobacco products at retail prices referred to in paragraph 2 of this Article.

Special Records

Article 25

The company or entrepreneur that is entered in registers or records based on the license, shall keep special records on the data related to the processing and trade in processed tobacco and production and trade in tobacco products.

The special records referred to in paragraph 1 of this Article shall be kept for five years from the day of entering the data in records.

The company or entrepreneur referred to in paragraph 1 of this Article shall provide data from the records upon request of the Administrative Authority within eight working days from the day of the receipt of application at the latest.

The ministry responsible for trade shall prescribe the content and the manner of record keeping referred to in this Article.

Obligations of Producers of Tobacco Products

Article 26

Producer of tobacco products shall sell the produced tobacco products to wholesalers in tobacco products that are entered in the Register of Wholesalers in Tobacco Products, unless the producer of tobacco products is already entered in the Register of Wholesalers in Tobacco Products.

Obligations of Wholesalers in Tobacco Products

Article 27

Wholesalers in tobacco products shall sell tobacco products to retailers that are entered in the Records of Retailers in Tobacco Products, as well as to the wholesalers in tobacco products that are entered in the Register of Wholesalers in Tobacco Products.

Wholesalers in tobacco products shall supply the retailers in tobacco products in the manner prescribed by this Law.

Obligations of Importers of Tobacco, Processed Tobacco and Tobacco Products

Article 28

Importer of tobacco and processed tobacco shall sell tobacco or processed tobacco to the processor of tobacco or producer of tobacco products that are entered in the Register of Producers of Tobacco, or the Register of Producers of Tobacco Products.

Importer of tobacco products shall sell tobacco products to wholesalers that are entered in the Register of Wholesalers in Tobacco Products.

Importer of tobacco, processed tobacco or tobacco products which terminates the contract referred to in Article 16 paragraph 1 item 3 of this Law shall inform thereof the

Administrative Authority in writing, no later than eight working days from the day of termination of the contract.

Transportation of Tobacco Products **Article 29**

Tobacco products shall be transported by means of transport marked as prescribed by the ministry responsible for trade.

Notwithstanding Article 27 paragraph 2 of this Law, retailer may supply tobacco products for its own needs, if it has more than 10 retail facilities and means of transport that meets the requirements referred to in paragraph 1 of this Article.

Tobacco products may not be transported at the same time with other goods.

VIII LICENSE EXTENSION AND REVOCATION

License Extension **Article 30**

Company or entrepreneur licensed for a definite time period in accordance with this Law, shall submit an application for extension of the license validity to the Administrative Authority no later than 30 working days prior to expiry of the license validity.

The license shall be extended under the conditions and in the manner prescribed for issuance of licenses.

License Revocation **Article 31**

The license of the company or entrepreneur shall be revoked if:

- 1) it ceases to fulfill requirements prescribed for issuance of licenses;
- 2) it fails to pay the installment of the fee for issuance of license, in the manner specified in this Law;
- 3) the company, entrepreneur or the responsible

Administrative Authority shall revoke license in cases referred to in paragraph 1 of this Article, no later than eight working days from the day of identification of the facts referred to in paragraph 1 items 1 and 2 of this Article or the day of receipt of notification referred to in paragraph 2 of this Article.

Company or entrepreneur whose license is revoked in the case referred to in paragraph 1 item 3 of this Article, and that has submitted application for issuing a license, shall not be issued license within three years from the day of license revocation, or within one year in case of a retailer in tobacco products.

IX REGISTERS AND RECORDS

Registers Article 32

Registers maintained by the Administrative Authority shall be as follows:

- 1) Register of Tobacco Processors;
- 2) Register of Producers of Tobacco Products;
- 3) Register of Wholesalers in Tobacco Products;
- 4) Register of Importers of Tobacco, Processed Tobacco and Tobacco Products;
- 5) Register of Exporters of Tobacco, Processed Tobacco and Tobacco Products;
- 6) Register of Trade Marks of Tobacco Products.

Registers referred to in paragraph 1 items 1 to 5 of this Article shall be maintained on the basis of licenses issued in accordance with this Law, and the Register referred to in item 6 of this Article in accordance with Article 21 of this Law.

A company or entrepreneur may register in several registers maintained in accordance with this Law, if it meets the requirements for registration in each of these registers.

Data entered in registers referred to in paragraph 1 items 1 to 5 of this Article shall be published by the Administrative Authority in the Official Gazette of Montenegro within eight days from the day of entry in the register.

Records Article 33

Administrative Authority shall maintain the Records of Retailers in Tobacco Products, based on the issued license.

The Ministry and the ministry responsible for trade shall prescribe the contents and the manner of maintaining registers and records prescribed by this Law.

Deletion from Registers and Records Article 34

Company or entrepreneur entered in the register or records in accordance with this Law shall be deleted from the register or the records if:

1) the license validity has expired, or if the application for extension of the

- 5) initiate the procedure for the license revocation with the Administrative Authority.

Market Inspector Article 41

In addition to the administrative measures and actions prescribed by the law governing inspection supervision, market inspector shall also undertake the following administrative measures and actions:

- 1) temporary prohibit trade in tobacco products that is not performed under the conditions and in the manner prescribed by this Law, in particular:
 - without issued license;
 - without a decision on entry in the Register of Trademarks of Tobacco Products;
 - at retail prices that are not in accordance with this Law;
 - and in other cases;
- 2) temporarily deprive tobacco products in case referred to in paragraph 1 item 1 indents 1 and 2, as well as in case of placing in circulation the tobacco products without evidence on purchase, in accordance with the Law;
- 3) order keeping and submission of the prescribed special records and removal of other irregularities, in accordance with this Law;
- 4) prohibit transport of tobacco products in means of transport that do not have the prescribed mark, and if the transport is performed simultaneously with other goods;
- 5) initiate the procedure of license revocation with the Administrative Authority.

Sanitary Inspector Article 42

In addition to the administrative measures and actions prescribed by the law governing inspection supervision, sanitary inspector shall also undertake the following administrative measures and actions:

- 1) prohibit the use of premises and equipment in the production and trade in tobacco, processed tobacco and tobacco products that do not meet prescribed sanitary, technical and hygienic conditions;
- 2) initiate the procedure of license revocation with the Administrative Authority.

XI PENAL PROVISIONS

Article 43

A company or entrepreneur shall be fined for the offence in the amount ranging from 200-fold to 300-fold the amount of minimum monthly salary in Montenegro, if:

- 1) it produces tobacco contrary to Article 5 paragraph 1 of this Law;**
- 2) it places in the circulation tobacco contrary to this Law (Article 6);**
- 3) it engages in tobacco processing contrary to Article 7 of this Law;**
- 4) it sells processed tobacco without being entered in the Register of Tobacco Processors (Article 8);**

- keep special records 5 years and fails to submit data to the Administrative Authority in the prescribed period (Article 25 paragraphs 1, 2 and 3);
- 4) it fails to notify the Administrative Authority on the termination of contract referred to in Article 16 paragraph 1 item 3, in the manner and timeframe prescribed by this Law (Article 28 paragraph 3);
 - 5) if transports tobacco products by means of transport that are not marked in accordance with this Law and transports tobacco products simultaneously with the transport of other goods (Article 29 paragraphs 1 and 3);
 - 6) it supplies tobacco products for its own purposes and has no more than 10 retail premises and means of transport that is not marked in accordance with this Law (Article 29 paragraph 2);
 - 7) it fails to submit the application for extension of license no later than 30 working days prior to the expiry of license validity (Article 30 paragraph 1).

For the offence referred to in paragraph 1 of this Article, a responsible person within the company shall also be fined in the amount ranging from 15-fold to 20-fold the amount of minimum monthly salary in Montenegro.

Article 45

A natural person shall be fined for offence in the amount ranging from 5-fold to 20-fold the amount of minimum monthly salary in Montenegro, if:

- 1) it engages in the production of tobacco contrary to this Law (Article 5);
- 2) it places in the circulation tobacco contrary to this Law (Article 6).

A protective measure of depriving tobacco and deletion from the records of tobacco producers shall be imposed in addition to the fine for offence referred to in paragraph 1 of this Article.

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with this Law no later than six months from the day the regulation referred to in Article 46 paragraph 1 of this Law comes into force.

Article 48

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