

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 ADMINISTRATION AUTHORITY RESPONSIBLE FOR TOBACCO

Responsibility

Article 3

The administration authority responsible for tobacco (hereinafter referred to as: the Administration Authority) shall carry out expert and expert-related administrative operations referring to:

- 1) organization and implementation of public tenders and issuance of licenses for the production of tobacco products;
- 2) issuance of licenses for tobacco processing;
- 3) issuance of licenses for conducting wholesale and retail trade in tobacco products;
- 4) issuance of licenses for conducting the activity of importation and exportation of tobacco, processed tobacco and tobacco products;
- 5) keeping registers and records of tobacco product retailers;

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- 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

Conditions

Article 5

The production of tobacco may be conducted by any company or entrepreneur, as well as any natural person who is not an entrepreneur (hereinafter referred to as: the tobacco producer) that meets in particular the following requirements:

- 1) has concluded a contract on tobacco production with the tobacco processor unless tobacco processor is at the same time the tobacco producer;
- 2) is the owner or the tenant of cultivable agricultural land;
- 3) has the required machinery for cultivation and preparation of soil;
- 4) has proper conditions for primary processing of tobacco (curing, sorting, packing and storage of tobacco);
- 5) uses tobacco seeds produced in accordance with regulations on seed material;
- 6) the company, entrepreneur, or the responsible person in a company, as well as the natural person to produce tobacco has not been convicted for the criminal offence of unauthorized production or trade in tobacco within three consecutive years prior to the date of concluding the contract with the tobacco processor.

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 to as: the tobacco processor) that meets the following requirements in particular:

- 1) to have been entered in the Central Register of the Commercial Court (hereinafter referred to as: the CRCC) for performing the activity of tobacco processing;
- 2) to have appropriate premises for the purchase of tobacco, storage of the purchased tobacco, processing and classification of tobacco;
- 3) to have the equipment for processing of at least one type of tobacco;
- 4) to have laboratory for analysis and determining the tobacco quality, or to have concluded a contract with an authorized laboratory;
- 5) to have appropriate expert staff for tobacco processing;
- 6) to have concluded contracts with tobacco producers;
- 7) the company, entrepreneur, or the responsible person in a company has not been convicted of the criminal offence of unauthorized tobacco production or unauthorized trade in tobacco, processed tobacco and tobacco products within three consecutive years prior to the date of submitting application for the license for tobacco processing.

If tobacco processor has the equipment for processing only one type of tobacco, for processing any other type of tobacco it may conclude the contract with the registered tobacco processor that fulfils the requirements for processing those types of tobacco.

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

A public tender procedure shall be administered for the purpose of issuing licenses for the production of tobacco products, in accordance with this Law.

The public tender procedure referred to in paragraph 1 of this Article shall be initiated by a decision on invitation to public tender adopted by the Administration Authority with a prior approval from the Government of Montenegro (hereinafter referred to as: the Government).

The decision referred to in paragraph 2 of this Article shall be adopted in accordance with the projected macroeconomic policy, fiscal interest and market circumstances.

The public tender procedure shall include in particular: the preparation of tender documentation, the announcement of a public invitation for collection of bids, the collection of bids, opening and evaluation of bids, establishing the list of bidders and establishing the final list of bidders.

The tender documentation shall include in particular: public invitation, information on the situation on the domestic market of tobacco, processed tobacco and tobacco products, the bid form, elements for evaluation of bids, information on the financial security instrument, and conditions for participation in the public tender.

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 the CRCC for performing the activity of the production of tobacco products;
- 2) it has appropriate premises that meet the prescribed conditions for production and storage of tobacco products;
- 3) it has the equipment which enables the production in all phases from the tobacco preparation (moisturizing, deleafing, cutting, aromatizing) to the manufacturing of tobacco products and their hygienic packing;
- 4) it has capacities for the production of the cigarettes from its product range of at least 1,000,000,000 pieces a year;
- 5) it has appropriate laboratory for analysis and determining the quality of tobacco products;
- 6) it employs the appropriate expert staff for the production and quality control of tobacco products;
- 7) it offers a realistic estimate of the realization of annual production of tobacco products that are manufactured according to the relevant quality and quantity, in accordance with market circumstances;
- 8) a company, entrepreneur or the responsible person in a company has not been convicted of the criminal offence of unauthorized tobacco production or the criminal offence of unauthorized trade in tobacco, processed tobacco and tobacco products within three consecutive years prior to the announcement of the public tender.

Any company or entrepreneur that meets the requirements referred to in paragraph 1 items 1, 2, 3, 5, 6, 7 and 8 of this Article shall also have the right to participate in a public tender for issuing licenses for the production of other tobacco products.

Any company or entrepreneur that, in addition to the application for participation in the public tender, submits a detailed project envisaging the manner and time schedule for meeting the requirements referred to in paragraphs 1 and 2 of this Article, with a reasoning of the project, a determined amount of funds required for the project's implementation, a bank guarantee against such amount or the evidence of other security from a bank or other financial organization, shall have the right to participate in the public tender.

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;

- 4) it has means of transport for undisturbed supplying with tobacco products to retailers on the territory of Montenegro, which shall be marked by a special mark;
- 5) it has concluded a contract or precontract on supplying with tobacco products with the registered producer, or an importer of tobacco products;
- 6) that a company, entrepreneur or the responsible person within a company has not been convicted of the criminal offence of unauthorized trade or unauthorized production of tobacco, processed tobacco and tobacco products within three consecutive years prior to applying for a license;
- 7) it has paid the fee referred to in Articles 13 paragraph 3 and 22 paragraph 3 of this Law.

Detailed conditions referred to in paragraph 1 of this Article and the procedure for determining the fulfillment of requirements shall be prescribed by the ministry responsible for trade affairs.

Application and Issuing of Licenses

Article 13

In addition to the application for issuing of a license for wholesale trade in tobacco products, a company or entrepreneur shall submit evidence on fulfillment of requirements referred to in Article 12 paragraph 1 items 1 to 6 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 the entrepreneur to submit, within three working days from the day of receiving notification, the following:

- the contract with producer or importer of tobacco products, where a precontract has been submitted with the application for issuing a license;
- the evidence on the payment of the first installment or the entire amount of the fee for issuing a license for wholesale trade in tobacco products, in accordance with the calculation of the Administration Authority.

A fee amounting to 150,000 Euros shall be paid for issuing a license for wholesale trade in tobacco products, while a fee amounting to 30,000 Euros shall be paid for 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.

The company or entrepreneur that has met the requirements referred to in this Article shall be issued a license for wholesale trade in tobacco products for the term of five years and shall be entered in the Register of the Wholesalers of Tobacco Products by the Administration Authority.

2. Retail Trade in Tobacco Products

Conditions for Issuing Licenses

Article 14

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

- 1) it has been entered in the CRCC for carrying out activities of retail trade in tobacco products;
- 2) it meets the prescribed minimum of technical conditions for retail trade in goods;
- 3) it has concluded contracts or precontracts with wholesalers of tobacco products;
- 4) that the company, entrepreneur or the responsible person within a company has not been convicted for the criminal offence of unauthorized trade or unauthorized production of tobacco, processed tobacco and tobacco products within three consecutive years prior to applying for a license;
- 5) it has paid the fee amounting to 100 Euros per sales facility.

Issuing of Licenses and Records

Article 15

In addition to the application for issuing license for retail trade in tobacco products, a company or an entrepreneur shall submit evidence on fulfillment of requirements referred to in Article 14 of this Law.

Any company or entrepreneur referred to in paragraph 1 of this Article shall be issued a license for retail trade in tobacco products for the term of two years and shall be entered in the Records of Retailers of Tobacco Products by the Administration Authority.

3. Importation of Tobacco, Processed Tobacco and Tobacco Products

Conditions for Issuing Licenses

Article 16

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

- 1) it has been entered in the CRCC for the foreign trade activity;
- 2) it meets the prescribed minimum technical conditions for wholesale trade in goods;
- 3) it has concluded contract on the purchase of tobacco, processed tobacco or tobacco products with a foreign producer or an authorized distributor of a foreign producer of tobacco, processed tobacco or tobacco products, as well as that an importer of cigarettes has been authorized by a foreign producer or an authorized distributor of a foreign producer to distribute such cigarettes on the Montenegrin market;
- 4) that the company, entrepreneur or the responsible person within a company has not been convicted for the criminal offence of unauthorized trade or unauthorized production of tobacco, processed tobacco and tobacco products within three consecutive years prior to applying for a license;

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 person within a company has been convicted of the criminal offence of unauthorized production or of the criminal offence of unauthorized trade in tobacco, processed tobacco and tobacco products or of the offence in accordance with this Law.

The authority that adopted the decision referred to in paragraph 1 item 3 of this Article shall inform the Administrative Authority thereof, within three working days from the day of adopting the decision.

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 license has been rejected;
- 2) the license has been revoked;
- 3) it ceased to perform its business activities prior to expiry of the license.

Deletion from the register or records in respect of paragraph 1 of this Article shall be conducted at the latest within the period of eight working days from the day:

- 1) of expiry of the license validity or of day the decision on rejection of the application for extension of the license became final and enforceable;
- 2) the decision on license revocation became final and enforceable;
- 3) of receipt of a written notification on termination of performance of the business activities.

Consequences of Deletion from the Registers or Records Article 35

Administrative Authority shall, within eight working days from the day of deletion from the register referred to in Article 34 of this Law, inform thereof the other contracting party to the contract enclosed with the application for issuance of the license by the company or entrepreneur being deleted from the register.

Company or entrepreneur entered in several registers or records shall be deleted from such registers or records in case when deletion from one register or records is caused by license revocation due to conviction for a criminal act or an offence, in respect of this Law.

Company or entrepreneur referred to in Article 34 paragraph 1 item 3 of this Law shall be refunded the remaining amount of the fee paid for license issuance or shall be released from payment of remaining installments.

The year in which a company or entrepreneur referred to in paragraph 3 of this Article ceases to perform its business activity shall be considered as a full year, regardless of the time of the year when it ceased to perform the business activities.

X SUPERVISION

Responsible Authorities Article 36

Supervision of the enforcement of this Law and regulations adopted based on this Law shall be performed by the Ministry, ministry responsible for trade and the ministry responsible for health, within their specified responsibilities.

Inspection supervision within responsibilities of the ministries referred to in paragraph 1 of this Article shall be performed by agricultural inspector, market inspector and sanitary inspector, in accordance with the Law.

Authorizations

Agricultural Inspector

Article 37

Agricultural inspector shall supervise: the production of the type and variety of tobacco; the use of tobacco seeds for the production of tobacco seedlings; the production of tobacco seedlings; the production of tobacco leaves; the quality and quantity of tobacco at the occasion of purchasing of tobacco and processed tobacco; the quantity of purchased tobacco by types and classes of tobacco producers; the quantity of processed tobacco; the specifying of conditions for tobacco processing; the conditions for production of tobacco products and supervise the records of tobacco producers and registered tobacco processors and producers of tobacco products, as well as the maintenance of records and submission of reports in accordance with this Law.

Market Inspector

Article 38

Market inspector shall supervise: the tobacco trade, processed tobacco, and wholesale and retail trade in tobacco products; fulfillment of requirements for performing trade in processed tobacco and wholesale and retail trade in tobacco products, as well as special marks, records, registers and other documentation that relates to tobacco trade, processed tobacco and tobacco products.

Sanitary Inspector

Article 39

Sanitary inspector shall supervise the fulfillment of sanitary, technical and hygienic conditions of premises and equipment in production and trade in tobacco, processed tobacco and production of tobacco products.

Administrative Measures and Actions

Agricultural Inspector

Article 40

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

- 1) prohibit production or order destruction of seedlings and plants of tobacco, if the seeds that are used are not produced in accordance with the regulations on seeds material;
- 2) prohibit the production of tobacco, processing of tobacco or production of tobacco products if the prescribed conditions have not been met or if it does not have license for the performance of the activity or it ceases to meet the conditions prescribed for the performance of the activity;
- 3) deprive tobacco, processed tobacco, tobacco products produced or placed in circulation contrary to this Law;
- 4) order keeping and submission of the prescribed records;

- 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);**

- 5) **it produces tobacco products without license or it is not entered in the Register of Tobacco Products Producers (Article 11 paragraph 4);**
- 6) **it engages in wholesale trade in tobacco products without license, or if it is not entered in the Register of Wholesalers in Tobacco Products (Article 13 paragraph 5);**
- 7) **it engages in retail trade in tobacco products without license or it is not entered in the Register of Retailers in Tobacco Products (Article 15 paragraph 2);**
- 8) **it imports tobacco, processed tobacco and tobacco products without license or it is not entered in the Register of Importers of Tobacco, Processed Tobacco and Tobacco Products (Article 17 paragraph 5);**
- 9) **it exports tobacco, processed tobacco and tobacco products without license or if it is not entered in the Register of Exporters of Tobacco, Processed Tobacco and Tobacco Products (Article 20 paragraph 2);**
- 10) **it produces or imports tobacco products which are not entered in the Register of Trademarks of Tobacco Products (Article 21);**
- 11) **it fails to report retail prices of tobacco products to tax authority and Administration Authority or fails to publish them in the Official Gazette of Montenegro (Article 24 paragraphs 1 and 2);**
- 12) **it performs trade in tobacco products at retail prices different from the published prices (Article 24 paragraph 3);**
- 13) **it sells produced tobacco products contrary to Article 26 of this Law;**
- 14) **it sells or supplies with tobacco products contrary to Article 27 of this Law;**
- 15) **it sells tobacco or processed tobacco to processor or producer of tobacco products that are not entered in the Register of Tobacco Processors or the Register of Producers of Tobacco Products, as well as if it sells tobacco products to wholesalers that are not entered in the Register of Wholesalers in Tobacco Products (Article 28 paragraphs 1 and 2).**

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

A protective measure of prohibition of performing activity from 1 month to 1 year and a protective measure of depriving processed tobacco or tobacco products may be imposed in addition to the penalty for offence referred to in paragraph 1 of this Article.

For the offence referred to in paragraph 1 of this Article, a natural person shall also be fined in the amount ranging from 1-fold to 10 –fold the amount of minimum monthly salary in Montenegro.

Article 44

A company or entrepreneur shall be fined for the offence in the amount ranging from 150-fold to 200-fold the amount of minimum monthly salary in Montenegro, if:

- 1) **it fails to pay a fee in accordance with Article 22 of this Law;**
- 2) **it fails to report each change of the recorded data in the manner and timeframes prescribed in the Article 23 of this Law;**
- 3) **it does not keep special records on data related to the processing and trade in processed tobacco and production and trade in tobacco products, if it does not**

- 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.

XII TRANSITIONAL AND FINAL PROVISIONS

By-Laws Article 46

Regulations for the enforcement of this Law shall be adopted within six months after the date this Law comes into force.

By-laws adopted based on the Law on Tobacco (“Official Gazette of the Republic of Montenegro”, No. 80/04) shall be applied until the adoption of the regulations referred to in paragraph 1 of this Article, if they are not contrary to this Law.

Compliance Timeframes

Article 47

Company or entrepreneur that performs activity prescribed by this Law based on the entry in registers or records, or license, approval or permit issued in accordance with regulations that have been in effect until this Law came into force, shall bring its operations into compliance

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

1.

2. Any procedures initiated before the Administrative Authority in accordance with the Law on Tobacco (“Official Gazette of the Republic of Montenegro”, No. 80/04) shall be finalized according to the regulations under which they have been initiated.

Article 49

Licenses or approvals issued in accordance with the Law on Tobacco (“Official Gazette of the Republic of Montenegro”, No. 80/04) shall be valid until the expiration of the period for which they have been issued.

Article 50

On the date this Law comes into force, the Law on Tobacco (“Official Gazette of the Republic of Montenegro”, No. 80/04) shall cease to apply.

Article 51

This Law shall come into force on the eighth day after its publication in the Official Gazette of Montenegro.