

"Official Gazette of the Republic of Montenegro", Nos. 80/2004, 5/2005

By virtue of Article 88 item 2 of the Constitution of the Republic of Montenegro, I herewith enact this

EDICT

ON PROMULGATION OF THE TOBACCO LAW

Tobacco Law is being pronounced, as passed by the Assembly of the Republic of Montenegro, at the third session of the second regular meeting in 2004, held on the day of the 22nd of December 2004.

No: 01-1671/2

In Podgorica, on the 27th of December 2004

Signed by the President of the Republic of Montenegro,
Mr. **Filip Vujanović**

TOBACCO LAW

I MAIN PROVISIONS

Subject of Regulation

Article 1

This Law shall regulate the conditions and manner of production, processing and circulation of tobacco, and manufacturing, trade, and classification of tobacco products.

Meaning of Certain Terms

Article 2

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

- 1) tobacco means leaves of a cultivated plant species *Nicotiana tabacum L.*, in all forms and stages of plant production, processing, and packing, not intended for end use;

- 2) Fermented tobacco is tobacco that has been processed in a technological process, specifically by seasonal and non-seasonal fermentation (Oriental tobacco) and thermal processing (Virginia and Burley);
- 3) Tobacco products are the products which, according to the quality, comply with the standards prescribed by the law, specifically:
 - Cigarettes;
 - Cigars;
 - Cigarillos;
 - Cut tobacco;
 - Pipe tobacco;
 - Chewing tobacco;
 - Snuff tobacco;
- 4) Tobacco production includes production of tobacco nursery plants, cultivation of tobacco in the field, harvesting, drying, sorting, and packing of tobacco in the facilities of the tobacco producer;
- 5) Tobacco processing includes arranging and fermentation, and other steps in the technological process of tobacco processing and packing;
- 6) Tobacco circulation includes sale and purchase of produced raw tobacco in leaves, or processed tobacco, as well as importation and exportation of tobacco;
- 7) Tobacco products manufacturing includes industrial process in preparing, manufacturing, and packing the products referred to in item 3 of this Article;
- 8) Tobacco products circulation is importation, exportation and transit of, and wholesale trade and retail trade in, the products referred to in item 3 of this Article.

Ban on Importation of Cut and Chopped Tobacco

Article 3

Tobacco manufacturers are forbidden to place on the market cut tobacco or the tobacco chopped in any other way (unprocessed).

Ban on Sale to Minors and Health Warning

Article 4

It shall not be allowed to sell cigarettes and other tobacco products to minors.

Every packet of cigarettes, namely every package of other tobacco product, must contain the prescribed warning about harmfulness of smoking, in accordance with the law.

II ADMINISTRATIVE AUTHORITY IN CHARGE OF TOBACCO

Scope of Authority of the Tobacco Administration

Article 5

Administrative authority in charge of tobacco (hereinafter: the administrative authority) shall carry out the expert tasks and related administrative tasks with regard to the following:

- 1) organizing and implementing a public tender for companies, or entrepreneurs, with the aim of obtaining the license for tobacco products manufacturing, establishing the compliance with the requirements for participation in a public tender, and granting the licenses for pursuing the tobacco products manufacturing to a company, or entrepreneur, complying with the prescribed requirements;
- 2) establishing the compliance with requirements for pursuing the wholesale trade in tobacco products, and issuing the license for pursuing the wholesale trade in tobacco products to a company, or entrepreneur, and to a importer which is entered in the Register of Tobacco and Tobacco Products Importers, if complying with the prescribed requirements;
- 3) establishing the compliance with requirements for pursuing the retail trade in tobacco products, and issuing the license to a company, or entrepreneur, for pursuing the retail trade in tobacco products;
- 4) Coordinating the activities of the authorities and organizations involved in suppression of illegal circulation of tobacco products;
- 5) Monitoring the situation in the market of tobacco products;
- 6) Keeping the registers prescribed by Article 29 of this Law;
- 7) Other expert tasks and related administrative tasks, in accordance with the law.

III TOBACCO PRODUCTION, PROCESSING, AND CIRCULATION

Tobacco Types and Sorts

Article 6

Only the tobacco types and sorts that are specified in a separate legislation may be produced.

Tobacco Seed

Article 7

For the production of tobacco nursery plants, tobacco seed produced in accordance with the legislation governing the seed shall be used.

Requirements for Tobacco Processors

Article 8

The company, or entrepreneur, may pursue tobacco buying off and processing, quality and quantity assessment of the raw tobacco in leaves, as well as circulation of processed tobacco (hereinafter: the tobacco processor), if having:

- 1) Suitable premises for buying off the tobacco, storing the bought off tobacco, sorting, processing and classification of tobacco;
- 2) Equipment for tobacco processing;
- 3) Laboratory for tobacco quality analysis and assessment, or for those purposes concluded contract with an authorized laboratory.

If not complying with the requirements referred to in paragraph 1 of this Article for processing of a certain type of tobacco, tobacco processor may conclude a contract on processing of such type of tobacco with a company or other legal person which complies with such requirements.

Circulation of fermented tobacco may be pursued only by a tobacco processor.

Transportation and transfer of tobacco shall be carried out in the manner that provides for its sanitary compliance.

The means of transportation and the packaging intended for the transportation, or transfer of tobacco may not be used for other purposes at the same time.

The Ministry in charge of agricultural issues, in cooperation with the Ministry in charge of health issues, shall specify in detail the requirements referred to in paragraph 1 of this Article.

Compliance with requirements referred to in paragraph 1 of this Article shall be established by the administrative authority, after previously obtaining the opinion of the Ministry in charge of agricultural issues and the Ministry in charge of health issues.

The company or entrepreneur complying with the requirements referred to in paragraph 1 of this Article shall be entered in the Register of Tobacco Processors.

Managing of Technological Process

Article 9

Tobacco processor shall be under obligation to provide expert management of the processes of tobacco production and processing.

The Ministry in charge of agricultural issues shall specify in detail the requirements to be met by a person managing the processes of tobacco production and processing.

Records

Article 10

Tobacco processor shall be under obligation to keep records about:

- 1) Quantity and quality of the raw tobacco produced in his own facilities;
- 2) Quantity and quality of the bought of raw tobacco;
- 3) Quantity and quality of the imported and exported tobacco;
- 4) Quantity and quality of the processed and sold tobacco, according to types and classes.

The processor shall submit the report with the data contained in the records referred to in paragraph 1 of this Article to the Ministry in charge of agricultural issues and the administrative authority, on quarterly basis, within 10 days after the expiry of the quarter.

The Ministry in charge of agricultural issues shall specify in detail the content of the records and reports referred to in paragraphs 1 and 2 of this Article.

IV TOBACCO PRODUCTS MANUFACTURING AND CIRCULATION

Specific Requirements for Pursuing Tobacco Products Manufacturing and Circulation

Article 11

Tobacco products manufacturing and wholesale trade may be pursued by a company or entrepreneur, provided they are entered in a suitable register with the administrative authority, in accordance with this Law.

Tobacco products retail trade may be pursued by a company or entrepreneur who was granted the approval in accordance with this Law.

1. Manufacturers

Public Tender

Article 12

Public tender for acquiring the license for pursuing the tobacco products manufacturing shall be arranged and implemented by the administrative authority, taking into account the fiscal interest, situation on the market, and previously assumed commitments of the Republic of Montenegro (hereinafter: the Republic) related to the tobacco products manufacturing.

Public Tender Procedure

Article 13

The procedure of public tender shall include in particular: preparing of the public tender, public invitation for submission of bids, submission and receipt of bids, and opening and evaluation of bids.

The procedure of public tender shall be regulated in detail in a regulation of the Government of the Republic of Montenegro (hereinafter: the Government).

Public invitation

Article 14

Public invitation for participation in public tender shall be published by the administrative authority.

Public invitation shall contain the requirements for obtaining the right to participate in public tender, and other data of relevance for notification of the participants in public tender.

Eligibility for Participation

Article 15

Eligible to participate in public tender shall be a company or entrepreneur which:

- 1) Have on their disposal the equipment that enable them to carry out the production in all phases, from the preparation of tobacco (dampening, blooming, cutting, aromatizing), to manufacturing of cigarettes and other tobacco products and their hygienic packaging;
- 2) Have installed facilities to manufacture cigarettes from their range of products with minimum annual output of 1,500,000,000 cigarettes;
- 3) Have installed facilities to manufacture other tobacco products (cigars, cigarillos, cut tobacco, pipe tobacco, chewing tobacco, and snuff tobacco);
- 4) Have on their disposal a suitable laboratory for tobacco products analysis and quality assessment;
- 5) Have on their disposal suitable premises complying with the prescribed requirements for production or circulation of the articles of general use;
- 6) Employ suitable skilled work force in manufacture and quality assessment;
- 7) Commit to, every year, produce or buy domestic processed tobacco in the quantity of at least 40% of their own annual production of cigarettes and other tobacco products in the Republic, provided such quantity is not less than 700 tons a year;
- 8) Offer a realistic estimate of annual output of cigarettes and other tobacco products according to the suitable quality and quantity and in accordance with the situation on the market.

Eligible to participate in a public tender shall also be a company, or entrepreneur if submitting a detailed project that envisages the requirements referred to in paragraph 1 items 1) through to 6) of this Article and which present the offer referred to in paragraph 1 item 8) of this Article, along with the elaboration of the project, the determined amount of the financial funds necessary for implementation of the project, the bank guarantee on such amount, or the evidence about the funds provided in any other allowed manner, in such amount and by the bank or other financial organization.

The Ministry in charge of agricultural issues, in cooperation with the Ministry in charge of health issues, shall specify in detail the requirements referred to in paragraph 1 of this Article.

Compliance with the requirements referred to in paragraph 1 of this Article shall be determined by the administrative authority, upon previously obtained opinion of the Ministry in charge of agricultural issues and the Ministry in charge of health issues.

Decision on Granting License

Article 16

The administrative authority shall decide on granting the license to a company, or entrepreneur, based on compliance with the requirements referred to in Article 15 of this Law.

Register of Tobacco Products Manufacturers

Article 17

The company, or entrepreneur, being granted a license for pursuing the activity of tobacco products manufacturing shall be entered in the Register of Tobacco Products Manufacturers.

Revocation of License for Tobacco Products Manufacturing

Article 18

A company or entrepreneur ceasing to comply with the requirements referred to in Article 15 paragraph 1 items 1) do 6) of this Law shall be revoked the license for tobacco products manufacturing.

The license shall be also revoked from a company or entrepreneur who has been sentenced, by a final and enforceable decision, for the offence related to tobacco products manufacturing, in accordance with this Law.

Administrative authority shall decide on revocation of license from the company, or entrepreneur referred to in paragraphs 1 and 2 of this Article.

Obligations of the Manufacturer

Article 19

The Tobacco Product Manufacturer shall ensure professional managing of the process of tobacco product manufacturing.

The domestic tobacco product manufacturer may determine retail prices for the types of tobacco products it manufactures, and shall notify the administrative authority thereof.

The Ministry in charge of agriculture shall set forth the requirements to be met by a person responsible for technological process of tobacco product manufacturing.

Register of Tobacco Product Brands

Article 20

Tobacco products referred to in Article 2, item 3 of the Law that are put on sale on the market in the Republic, shall be classified and entered into the Register of Tobacco Product Brands by the administrative authority, pursuant to the regulation to be issued by the ministry in charge of economic issues.

2. Wholesalers

Licensing Requirements

Article 21

A company and/or entrepreneur will submit to the administrative authority an application for obtaining license for wholesale trade in tobacco products, enclosing evidence of compliance with the requirements set out in paragraphs 2, 3, 4 and 7 of this Article.

The company or entrepreneur referred to in paragraph 1 hereof may pursue wholesale trade in tobacco products provided:

- 1) It has available appropriate infrastructure allowing for orderly storage of at least 30 tons of cigarettes and other tobacco products within the entire warehouse space;
- 2) It disposes of appropriate means of transport which have to be visibly marked, so that out of its warehouses it may freely and regularly supply the retailers with registered office in the territory of the Republic;
- 3) It has entered into a preliminary agreement on supply of tobacco products with a registered manufacturer or importer of tobacco products.

The right to apply for a license may be also exercised by a company or entrepreneur that has submitted a detailed project providing for the conditions specified in paragraph 2 of this Article, including argumentation for the project, determined amount of funds needed for project implementation, bank guarantee to that amount or evidence of other lawful financing in said amount granted by a bank or any other financial institution, as well as evidence of the funds set out in Articles 22 and 24 of this Law.

The company referred to in paragraphs 2 and 3 of this Article shall not be granted license for wholesale trade in tobacco products if within a three-year period preceding the date of applying for the license in the territory of the Republic a person authorized to represent the company was fined or sentenced to prison for criminal offense of unauthorized trade in cigarettes and other tobacco products.

The condition set out in paragraph 4 of this Article shall also apply to an entity related to the company being entered in the Register of Tobacco Product Wholesalers, as well as to a legal entity whose legal successor is the legal person being entered in the above Register.

The related entity referred to in paragraph 5 of this Article means the entity enjoying the status of a related entity by virtue of the law on corporate profit taxation.

The entrepreneur referred to in paragraphs 2 and 3 of this Article will not be granted license for tobacco product wholesale trade if within a three-year period preceding the date of applying for the license in the Republic the entrepreneur was fined or sentenced to prison for criminal offense of unauthorized trade in cigarettes and other tobacco products.

Compliance with requirements referred to in paragraphs 2, 3, 4 i 7 of this Article shall be established by the administrative authority, within 30 days from the application submission date.

The requirements set out in paragraphs 2 and 3 of this Article shall be further laid down by the Minister in charge of economic issues.

Means of transportation and packaging intended for transport and handling of tobacco and tobacco products may not be at the same time used for any other purposes whatsoever.

Transport and handling of tobacco and tobacco products must be performed in such a way so as to ensure sanitary compliance.

The Ministry in charge of health issues shall further lay down the requirements for the form, contents and mode of displaying the sign referred to in paragraph 2 item 2 of this Article.

Decision on Granting License

Article 22

Administrative authority will decide on granting license for wholesale trade in tobacco products for a five-year period to the company and/or entrepreneur that has met the requirements set out in Article 21 of this Law.

For obtaining the license referred to in paragraph 1 above a fee amounting to EUR 150,000 shall be paid, which fee shall be considered as revenue in the budget of the Republic.

The company, or entrepreneur, referred to in paragraph 1 of this Article may pay the fee referred to in paragraph 2 of this Article in five equal annual installments.

The company, or entrepreneur, referred to in paragraph 1 of this Article shall be under obligation to pay each subsequent installment referred to in paragraph 3 of this Article upon expiry of one-year period following the payment of the previous installment, increased by the retail price rise index.

Administrative authority will decide on granting a five-year license to the importer duly entered in the Register of Tobacco and Tobacco Products Importers in accordance with the regulations governing the foreign trade, who also intends to engage in wholesale trade in tobacco products, provided such importer has met the requirements referred to in Article 21 of this Law.

A fee in the amount of EUR 150,000 is payable for obtaining the license referred to in paragraph 5 of this Article.

If the importer referred to in paragraph 5 of this Article engages solely in importation of other tobacco products (cigarillos, cut tobacco, pipe tobacco, chewing tobacco, and snuff tobacco), the fee for obtaining the license is payable in the amount of EUR 30,000, which fee shall be considered as revenue in the budget of the Republic.

The importer referred to in paragraphs 5 and 7 of this Article may pay the fee set out in paragraphs 6 and 7 of this Article in five equal annual installments.

The importer referred to in paragraphs 5 and 7 of this Article shall be under obligation to pay each subsequent installment referred to in paragraphs 6 and 7 of this Article upon expiry of one-year period following the payment of the previous installment, increased by the retail price rise index.

Register of Tobacco Product Wholesalers

Article 23

The company and/or entrepreneur that are granted license to engage in tobacco product wholesale shall be entered in the Register of Tobacco Product Wholesalers.

The company and/or entrepreneur referred to in paragraph 1 of this Article shall be deleted from the Register of Tobacco Product Wholesalers immediately after the decision on revoking the license set out in Article 24 of this Law has been reached.

Revocation of the License

Article 24

The license shall be revoked from the tobacco product wholesaler which does not fulfill any longer the requirements set out in Article 21 of this Law or from the one which, pursuant to its own decision, ceases to pursue wholesale trade in tobacco products, or fails to pay the subsequent installment of the license fee within the term specified in Article 22, paragraphs 4 and 9 of this Law.

The license shall be also revoked from the tobacco product wholesaler if punished for offence in wholesale trading in tobacco products as provided for under this Law and/or if the person authorized to represent the company and/or entrepreneur has been punished for criminal offense of unauthorized trade in cigarettes and other tobacco products.

The wholesaler referred to in paragraph 2 of this Article and a related person i.e. his legal successor may not be granted license within the period of at least six months to one year, or three years from the date of revoking the license.

If, prior to the expiry of the license, the tobacco product wholesaler ceases to pursue wholesale trade in tobacco products pursuant to its own decision, the remaining amount of the license fee shall be refunded to that wholesaler and that wholesaler will be released for the liability to pay the remaining installments of the fee referred to in Article 22 paragraphs 3 and 8 of this Law.

The year during which the wholesaler referred to in paragraph 4 of this Article ceases to pursue wholesale trade in tobacco products pursuant to its own decision, shall be considered as the past year regardless of the time during the year when the business activity was discontinued.

The wholesaler referred to in paragraph 4 of this Article shall notify the administrative authority in writing about its decision to cease the wholesale trade in tobacco products.

In case the sentence for the violation referred to in paragraph 2 of this Article, and/or the sentence for criminal offense on the grounds of unauthorized trade in cigarettes and other tobacco products is overruled by a final decision, the license shall be returned to the wholesaler.

The administrative authority shall decide on revoking the license from the wholesaler referred to in paragraphs 1 and 2 of this Article.

Obligations of the Tobacco Product Wholesalers

Article 25

The tobacco product wholesaler shall sell tobacco products exclusively through a tobacco product retailer who has been granted license under this Law.

The wholesaler in cigarettes and tobacco products, and/or the importer will determine retail prices and notify the administrative authority.

In case of deliveries to retailers any discrimination in respect of the kind and quantity of tobacco products is forbidden.

3. RETAILERS

Licensing Requirements for Tobacco Product Retailers

Article 26

A company and/or entrepreneur will submit to the administrative authority an application for a license for retail trade in tobacco products, enclosing evidence of compliance with the requirements set out in paragraphs 2, 3 and 6 of this Article.

A company or an entrepreneur referred to in paragraph 1 of this Article may pursue retail trade in tobacco products if:

- 1) it has entered into preliminary agreement on the supply of tobacco products with tobacco product wholesalers;
- 2) it has the facilities which satisfy sanitary, health and other conditions in accordance with the law on sanitary control;
- 3) it has no outstanding obligations in respect of public revenues.

The company referred to in paragraph 2 of this Article shall not be granted license for retail trade in tobacco products if within a three-year period preceding the date of applying for the license in the Republic the person authorized to represent the

company was fined or sentenced to prison for criminal offense on the grounds of unauthorized trade in cigarettes and other tobacco products.

The condition set out in paragraph 3 of this Article shall also apply to an entity related to the company being entered in the Register of Tobacco Product Wholesalers, as well as to a legal entity whose legal successor is the legal person being entered in the above Register.

The related entity referred to in paragraph 4 above means the entity enjoying the status of a related entity by virtue of the law on corporate profit taxation.

The entrepreneur referred to in paragraph 2 of this Article will not be granted license for tobacco product retail trade if, within a three-year period preceding the date of applying for the license in the Republic, it was fined or sentenced to prison for criminal offense on the grounds of unauthorized trade in cigarettes and other tobacco products.

Within 30 days from the date of applying, the administrative authority shall establish whether the requirements set out in paragraphs 2, 3 and 6 of this Article have been met.

Retail License Granting

Article 27

The administrative authority shall decide on granting the license for pursuing retail trade in tobacco products for the period of two years to the company and/or entrepreneur who meets the requirements referred to in Article 26 of this Law.

A fee amounting to EUR 100 per sales outlet shall be paid in order to obtain a retail license, and such fee shall be considered as budget revenue of the Republic.

The company and/or entrepreneur referred to in paragraph 1 of this Article may pay the fee referred to in paragraph 2 of this Article in two equal annual installments.

Upon expiry of two-year period following granting of tobacco product retail license the company and/or entrepreneur shall furnish evidence of payment of the fee referred to in paragraph 2 of this Article in order to renew the license.

The company and/or entrepreneur that has been granted license or extended the validity of the license referred to in paragraph 1 of this Article is obliged to display a special sign issued by the administrative authority in a visible place on the outlet where retail trade in tobacco products is being carried out.

The costs of making the special sign set out in paragraph 5 of this Article shall be covered by the company and/or entrepreneur that has been granted license.

A company and/or entrepreneur engaged in tourism or catering (HORECA) which has been also registered for retail trade in cigarettes and other tobacco products is obliged to display a special sign referred to in paragraph 5 of this Article in a visible place in the respective outlet for having obtained the license or renewal of the license set out in paragraph 1 of this Article.

The Ministry of economic issues shall further lay down the form, contents and the mode of displaying special sign referred to in paragraph 5 of this Article.

Revocation of Retail Licenses

Article 28

The license shall be revoked from the tobacco product retailer if it does not fulfill any longer the requirements set out in Article 26 of the Law.

Also, the license shall be revoked from the tobacco product retailer if punished for violation in respect of tobacco product retail trade as provided for in this Law and/or if the person authorized to represent the company and/or entrepreneur has been punished for criminal offense of unauthorized trade in cigarettes and other tobacco products.

The administrative authority shall decide on revoking licenses from the company and/or entrepreneur referred to in paragraphs 1 and 2 of this Article, as well as the special signs assigned by virtue of Article 27 of this Law immediately upon receiving notification from the competent governmental or other authority or person.

The administrative authority shall notify the tobacco product wholesaler with which the company or entrepreneur referred to in paragraph 1 of this Article has concluded a contract on supply of tobacco products about revocation of the license.

The competent authority that has pronounced a sentence for the violation or the criminal offense referred to in paragraph 2 of this Article shall notify the administrative authority within three days from the date of pronouncing the sentence.

Within three days following the receipt of the notice referred to in paragraph 5 above, the administrative authority shall pass a decision on revocation of the license and of special sign set out in Article 27 of this Article for the sales outlet found to have committed violation.

In case the sentence set out in paragraph 5 of this Article and/or a sentence for criminal offense of unauthorized trade in cigarettes and other tobacco products is overruled by a final decision, the administrative authority shall, upon request of the retailer referred to in paragraph 2 of this Article, cancel the decision referred to in paragraph 6 above.

V REGISTER OF LEGAL AND NATURAL PERSONS

The Register

Article 29

The administrative authority shall keep registers of the following:

1. Tobacco processing entities;
2. Tobacco product manufacturers;
3. Tobacco product importers;
4. Tobacco product exporters;
5. Tobacco product carriers;
6. Tobacco product wholesalers;
7. Brands of tobacco products placed on the market in the republic.

The persons in respect of which the registers referred to in paragraph 1, items 1 to 6 of this Article are kept, shall notify the administrative authority, without delay, about any change in their name, address of registered office, business activity, owner and all other relevant data required for orderly register keeping.

The ministry in charge of economic issues shall set forth the contents of the forms and the manner of keeping the registers set out in paragraph 1, items 1, 2, 6 and 7 of this Article.

VI SUPERVISION

Article 30

Supervision of the enforcement of this Law and the regulations passed by virtue of this Law shall be conducted by the ministry in charge of agricultural issues, the ministry in charge of health issues, and the ministry in charge of economic issues.

The inspection control within the scope of authority of the ministries referred to in paragraph 1 of this Article shall be carried out by the Republic Agricultural Inspector, the Republic Sanitary Inspector and the Republic Market Inspector, in accordance with the law.

The Republic Agricultural Inspector shall supervise the production of tobacco sorts and classes; supervise the use of tobacco seeds for nursery plants production; supervise the production of tobacco nursery plants, raw tobacco in leaves, the procedure of establishing quality and quantity of raw tobacco in leaves and the production of processed tobacco; check the quantities of raw tobacco in leaves by sorts and classes purchased from tobacco producers; check the quantities of processed tobacco by sorts and classes; supervise and establish the conditions for tobacco processing, the conditions for manufacture of tobacco products and check records of tobacco processing entities and tobacco product manufacturers; check validity of licenses, validity and submittal of records and reports provided for under this Law.

The Republic Sanitary Inspector shall carry out sanitary control in respect of: the facilities in which tobacco and tobacco products are made and stored; plants, equipment and accessories used for the production of tobacco and tobacco products; persons that are in contact with tobacco and tobacco products at their job positions in production and trade; harmful substances in tobacco and tobacco products; means of transportation and packaging used for putting tobacco and tobacco products on sale.

The Republic Market Inspector is entitled and responsible to: inspect tobacco products for the purpose of establishing the fulfillment of labeling requirements in terms of appropriate excise stickers; check business books, licenses for wholesale trade in tobacco products, licenses for retail trade in tobacco products, special signs, records or other documents relating to the operation of the company and/or the entrepreneur in respect of trade in tobacco products.

Administrative Measures and Actions

Article 31

In addition to the measures and actions set out in the Law on Inspection Surveillance, the Republic Agricultural Inspector shall be authorized to take the following measures and actions: to forbid production of a tobacco sort if not included in the list of the tobacco sorts; to forbid cultivation or order extermination of tobacco nursery plants if the tobacco seeds which are not produced according to the regulations on seeds are being used; to forbid tobacco processing or processing of tobacco products if the prescribed requirements are not met or if there is no decision by competent authority on the fulfillment of those requirements; to confiscate tobacco and cut tobacco produced or placed on the market contrary to the provisions of this Law; destroy tobacco nursery plants and planted tobacco if produced or placed on the market contrary to the provisions of this Law; order due record keeping and submittal of records and reports.

VII PENALTY CLAUSES

Article 32

A fine in the amount of ten to twenty times the amount of minimum wage in the Republic shall be imposed on a company and/or entrepreneur if:

1. it puts on sale cut tobacco or tobacco chopped otherwise (Article 3);
2. for the production of tobacco nursery plants it uses the seeds that were not produced according to the regulations on seeds (Article 7);
3. it does not keep records and fails to submit the required report (Article 10);
4. it sells tobacco products to minor persons and if tobacco products do not have attached the warning about harmfulness of smoking (Article 4).

A fine in the amount of ten to twenty times the amount of minimum wages in the Republic shall be imposed on the responsible person in the legal entity for the acts referred to in paragraph 1 of this Article.

A fine in the amount of one to five times the amount of minimum wages in the Republic shall be imposed on a natural persons for the acts referred to in paragraph 1, items 1, 2 and 4 of this Article.

Article 33

A fine in the amount of hundred to two hundred times the amount of minimum wages in the Republic will be imposed on a company or entrepreneur if it engages in quality and quantity assessment of raw tobacco in leaves or in tobacco processing without having met the requirements set out in Articles 8 and 9 of this Article.

A fine in the amount of twenty times the amount of minimum wages in the Republic shall be imposed on the responsible person in the company for the acts referred to in paragraph 1 of this Article.

Article 34

A fine in the amount of two hundred to three hundred times the amount of minimum wages in the Republic will be imposed on a company or entrepreneur if it engages in retail trade of tobacco products:

1. which are not labeled with proper excise stickers;
2. without permission of the competent authority (Articles 26 and 27);
3. with permission of the administrative authority, but in the outlet in which special sign is not displayed (Article 27 paragraphs 5 and 6).

A fine in the amount of twenty times the amount of minimum wages in the Republic shall be imposed on the responsible person in the company for the violation referred to in paragraph 1 of this Article.

For the violation referred to in paragraph 1 items 1 and 2 of this Article, precautionary measure of tobacco and tobacco products confiscations shall be pronounced.

Article 35

A fine in the amount of two hundred fifty times to three hundred times the amount of minimum wages in the Republic will be imposed on a company or entrepreneur if it:

1. engages in tobacco processing and the administrative authority has not established that the requirements for pursuing the business activity have been met, i.e. without the decision on entry into the Register of Tobacco Processors (Article 8 paragraphs 8 and 9);
2. engages in manufacture of tobacco products without the decision on entry into the Register of Tobacco Product Manufacturers (Article 17);
3. engages in wholesale trade in tobacco products without the decision on entry into the Register of Tobacco Product Wholesalers (Article 23 paragraph 1);

4. when manufacturing the cigarettes, does not adhere to the registered data indicated in the applications for entry in the Register of Tobacco Product Brands, or engages in tobacco products manufacturing in violation of the provisions of this Law (Article 20);
5. does not carry out wholesale trade in tobacco products through registered tobacco products wholesalers and retailers that were granted the license, or approval in accordance with this Law (Article 25 paragraph 1).

A fine in the amount of twenty times the amount of minimum wages in the Republic will be imposed on the responsible person in the company for the violation referred to in paragraph 1 hereof.

A fine in the amount of ten times the amount of minimum wages in the Republic shall be imposed on a natural person for the violation referred to in paragraph 1, item 1 of this Article.

For the violation referred to in paragraph 1 items 2 and 4 of this Article, a precautionary measure of prohibiting tobacco product manufacturing and deleting the particular cigarette brand from the Register of Tobacco Product Brands will be pronounced for a maximum period of one year.

The competent body shall notify the administrative authority immediately about the violation referred to in paragraph 4 of this Article.

VIII TRANSITIONAL AND CLOSING PROVISIONS

Article 36

The companies and entrepreneurs engaged in production and processing of tobacco and tobacco products, and/or in wholesale and retail trade thereof, are obliged to adjust their business operation to the provisions of this Law within six months from the date of coming into force of the Law.

Article 37

The by-laws provided for under this Law shall be enacted within three months from the date of coming into force of this Law.

Until the regulations referred to in paragraph 1 of this Article shall have been passed, current regulations shall apply, provided they are not contrary to this Law.

Article 38

The Government shall establish the administrative authority referred to in Article 5 of this Law within 30 days from the date of coming into force of this Law.

Article 39

On the date of coming into force of this Law, the Tobacco Law ("Official Gazette of the Republic of Montenegro", Nos. 17/73 and 53/75) shall cease to apply.

Article 40

This Law shall come into force eight day after its publishing in the "Official Gazette of the Republic of Montenegro".

"Official Gazette of the Republic of Montenegro", No. 45/93, 27/94