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## **THE TOBACCO LAW**

### **I. GENERAL OBJECTIVES**

#### **Article 1.**

This Law regulates the relations in tobacco growing, buying, processing and trading as well as in tobacco products processing in Republic of Croatia.

#### **Article 2.**

For the purpose of this Law, tobacco is defined as the leaves of the cultivated plant species *Nicotiana tabacum* L. in all the forms and stages of growing, processing and packing which is not used for the final consumption.

For the purpose of this Law, tobacco products are defined as the products made from tobacco for smoking, chewing and snuffing.

#### **Article 3.**

The tobacco can be grown, produced, processed and distributed in accordance with the provisions of this Law.

The following types of tobacco are grown in Republic of Croatia: Flue-Cured Virginia, Light Air-Cured Burley and Sun-Cured tobacco type Hercegovački. The other types of tobacco may be produced if production possibilities for them are determined or if certain level of demand is expressed.

#### **Article 4.**

The term tobacco production means the production of tobacco seedlings, growing tobacco on field, harvesting, drying, sorting and packing of tobacco by producer.

The term tobacco processing means classifying and industrial fermentation of tobacco as well as other operations in technological processing and packaging.

The term tobacco products processing means the industrial procedures in production and packaging the products made from tobacco which are aimed for smoking, chewing or snuffing.

The term tobacco trade means the trade of processed tobacco until the completion of finished industrial product (tobacco manufacture).

### **II. TOBACCO PRODUCTION AND TRADE**

#### **Article 5.**

Physical and legal persons (hereinafter: the tobacco producers) may produce tobacco leaves only on the basis of a written contracted production with legal persons registered as tobacco production and processing holder according to Article 6. of this Law.

#### **Article 6.**

The tobacco production holder is a legal person who is registered for the production and processing of tobacco and who is entered into the Register of tobacco production holders with the Ministry of agriculture and forestry (hereinafter: Ministry) .

#### **Article 7.**

Tobacco seedlings for own production and production based on the contract can be produced and distributed only by legal persons from Article 5 of this Law, tobacco production holders from Article 6, of this Law and scientific institutions for scientific purposes.

Tobacco seed and tobacco seedlings can be sold, given for sowing only by the tobacco producers who meet the requirements for tobacco production as prescribed in Article 5 of this Law as well as by scientific institutions.

#### **Article 8.**

Only the tobacco seed for the tobacco seedling production, which is produced according to the regulations on agricultural seed, can be used.

#### **Article 9.**

The Ministry can prescribe certain regions where certain tobacco varieties and types can be produced.

On the basis of the proposal of Croatian Tobacco Interest Association (hereinafter: CTIA) Ministry can approve the production of tobacco types other than existing noted in Article 3. Paragraph 2 of this Law, in the cases of justifiable need for domestic processors of tobacco products of for known foreign buyer.

#### **Article 10.**

The contract on tobacco production, which is concluded between the tobacco producer and tobacco production holder, must contain:

1. the cadastre plot and area on which the tobacco will be grown;
2. the name of the tobacco variety which will be grown;
3. the way in which contracting parties provide tobacco seed and tobacco seedlings;
4. obligations regarding the application of measures for pest control on tobacco and other obligatory growing measures;
5. the tobacco price according to the classes;
6. the obligation of producer to submit all the produced tobacco to the tobacco production holder within the contracted period of time and the obligation of production holder to take over all the produced tobacco;
7. the provision that the contract on tobacco production with other legal person who is the tobacco production holder was not made at the same time for the same area from paragraph 1 herein.

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**Article 11.**

The tobacco producer who is the landowner or the holder of the land concludes the contract on tobacco production.

The landowner or the holder of land under paragraph 1 herein, can give a power of attorney for concluding Contract on the tobacco production to one member of his household only.

**Article 12.**

Legal persons who are not registered for tobacco processing are not allowed to deliver tobacco for processing.

**Article 13.**

Contracts on tobacco production under Article 10 are concluded for one year and can be concluded until 31st March of the current year.

**Article 14.**

Tobacco production holder keeps record of all concluded contracts on tobacco production.

Tobacco production holder is obliged to submit to the County Offices for Agriculture within determined periods the following reports:

1. the concluded contracts on tobacco production;
2. the land area contracted for growing of certain quantities of tobacco and
3. quantities, type, varieties and classes of produced and took over tobacco on the bases of the contracted production.

The contents of the records form article 1. and the report from article 2. above are prescribed by the minister of agriculture and forestry (in further text: minister).

**Article 15.**

Tobacco production holders are obliged to keep separate storage and other records on the quantities of tobacco produced and took over from their own or contracted production.

The records under paragraph 1 herein must contain the data on producer, quantity, type, varieties, class and total purchase price paid for tobacco that was produced or took over.

The contents of the records form article 1. above are prescribed by minister.

**Article 16.**

Tobacco producer under contracted production is obliged to allow the supervision of the fulfilment of contractual obligation in the production as well as the estimation of tobacco yield during the vegetation.

**Article 17.**

Total tobacco produced under contracted production has to be delivered and took over as follows:

- nonaromatic tobacco types Virginia, Burley until December 31<sup>st</sup> of the current year,
- other tobacco types until March 31<sup>st</sup> of the next year for the production of the previous year.

**Article 18.**

Tobacco grading according to the established standards is made during the taking over of the tobacco from the producer.

The proposal of the standards for tobacco grading is made by the CTIA, and is verified by The Ministry.

**Article 19.**

The commission composed of three members, who are tobacco production holders, takes over the tobacco.

One of the commission member under paragraph 1 herein has to be graduated engineer of agriculture.

**Article 20.**

If the tobacco producer is not satisfied with tobacco grading he can, within 24 hours since estimation has been made, submit a claim to County Commission Tobacco Grading (hereinafter: County commission) to make a new estimation.

The County commission has to estimate the tobacco quality at the latest within the three days since the claim was submitted.

Estimation of County commission is final.

The tobacco whose grading is denied will be held in the commissions' storehouse until the estimation will be finished.

**Article 21.**

The counties in which the tobacco is purchased establishes A County Commission which is consisted by three members from article 20. herein.

One member of The commission has to be nominated from the tobacco producers and one is a tobacco production holder representative while the third member has to be the graduated engineer of agriculture with working experience in growing, production, treating or tobacco processing.

**III.THE TOBACCO PROCESSING**

**Article 22.**

The produced tobacco can be processed only by the tobacco production holder.

The tobacco processing is accomplished according to the procedure and as prescribed by Croatian standards.

**Article 23.**

The tobacco production holder has to provide adequate equipment and space for storage and tobacco processing as well as the qualified person to lead the process of processing.

On the basis of tobacco production holder's written request, the Ministry will issue a Decision on the fulfilment of the requirements under paragraph 1 herein.

Tobacco processing is also entered in the Court Register as a business activity of the tobacco production holder.

If the tobacco production holder does not submit the Decision under paragraph 3 herein together with Registration form, Commercial Court will refuse to register him with the Court Register as the tobacco processing business activity.

Minister will prescribe the conditions, which have to be fulfilled by the tobacco production holder under paragraph 1 of this Article.

#### **IV. TOBACCO PRODUCTS PROCESSING**

##### **Article 24.**

Legal persons who are involved in processing of tobacco products must fulfil the following technical conditions:

- to have available an installed equipment which enables them all production phases from preparation and cutting the tobacco to hygienically packaging of tobacco products,
- to have available adequate technological equipment corresponding to production capacities,
- to have available adequate laboratory for analysis and quality control of tobacco products,
- to have available adequate storage for tobacco and final products,
- to employ adequate expert staff in production and quality control.

Detailed conditions from paragraph above are prescribed by minister.

##### **Article 25.**

On the basis of written request from tobacco processors Ministry brings a decision on fulfilling the conditions from article 24. and decides on registering into Processors of tobacco products register.

As a business activity of legal person the processing of tobacco products is registered into trade court register.

Trade court will refuse registering into trade court register the processing of tobacco products as a business activity if legal person with his request for registration doesn't attach the decision from Paragraph 1 herein.

## **V. THE MONITORING OF TOBACCO USAGE IN THE CIGARETTES ON THE DOMESTIC MARKET**

### **Article 26.**

According to the provisions of this Law the tobacco products are: cigarettes, cigars, cigarillos, tobacco for smoking, tobacco for chewing and other tobacco products.

The tobacco products on the market of the Republic of Croatia are classified and entered in The Tobacco Products Label Register (Article 30, Paragraph 1, Item 4) with the purpose of tobacco usage controlling.

### **Article 27.**

The cigarette classification is made according to the quality of tobacco mixtures and their organoleptic characteristics at smoking, according to characteristics of technical manufacturing meaning characteristics of package and presence of filter and according to the cigarette label.

According to the quality of tobacco mixtures and their organoleptic characteristics at smoking, the cigarettes are divided into cigarettes based on the mixture with at least 60 percent of non-aromatic Virginia hot air dried and Burley dried in shade tobacco types and into cigarettes based on the mixture with more than 40 percent of other tobacco types.

According to the technical manufacturing meaning, characteristics of package and presence of filter, the cigarettes are classified:

- according to the package on hard and soft package;
- according to built in filter to cigarettes with filter and cigarettes without filter.

According to the label, the cigarettes are classified with regard to the place of first releasing to the market of the certain cigarette.

### **Article 28.**

According to the characteristics under Article 27, paragraph 1, the cigarettes are divided on three groups as follows:

- group A (popular group)
- group B (standard group)
- group C (extra group).

### **Article 29.**

Group A includes the cigarettes based on the mixture with at least 60 percent of non-aromatic large-leaves tobacco (types of Virginia hot air dried, Burley dried in shade) from which at least one-fourth is from lower purchased classes or from their substitutes (tobacco foil or technologically manufactured leaf veins). They can be with or without filter and they are packed in soft packages and their first appearance on the market is made in the Republic of Croatia.

Group B includes the cigarettes based on the mixture with at least 60 percent of non-aromatic large-leaves tobacco (types of Virginia, Burley, etc.) or on their substitutes (tobacco foil or technologically manufactured leaf veins). They are with filter and packed in hard packages and their first releasing to the market is made in the Republic of Croatia.

Group C includes all other cigarettes, which do not meet the conditions for the cigarettes under groups A and B.

The Ministry will check the data in the registration form whenever the registration in Brand Register under Article 30, paragraph 1, item 4 herein is made.

## **VI. THE REGISTER OF THE PRODUCERS, IMPORTERS, TRADERS, BRANDS AND THE PRICES**

### **Article 30.**

Within the scope of its activities and tasks the Ministry will keep The Registers containing the following data:

1. the tobacco production and processing holders;
2. the importers and exporters of the tobacco or tobacco products;
3. the brands of tobacco products which appear on the market of the Republic of Croatia;
4. the producers of the tobacco products.

Register under paragraph 1 herein will include all the legal persons who have the seat or the residence in the Republic of Croatia.

Any change of the name, the address, the residence or the activity has to be reported to the Ministry.

Legal or natural persons who are not registered in the Register under paragraph 1 herein can not be involved in any tobacco activity.

The Minister will issue a Decision on establishing the Register under paragraph 1 herein.

### **Article 31.**

The tobacco production holder, the processors of tobacco and tobacco products and the importers of tobacco and tobacco products are obliged to keep record of production, trade, consumption, export, import and storage of tobacco and tobacco products. The legal persons are obliged to keep record during five-year period.

The legal persons under paragraph 1 herein are obliged to submit the reports on any changes during the year.

The Ministry is obliged to control the production, trade and the storage of tobacco and tobacco products.

For usage or delivery of tobacco for some other purposes, the approval from the Ministry has to be requested.

Contents, form and way of keeping records under paragraph 1 herein will be prescribed by minister of agriculture and forestry.

## **VII. CONTROLLING**

### **Article 32.**

The Ministry will carry out the administrative controlling of the implementation of this Law and other regulations based on this Law.

The Regional offices for plant protection inspection (hereinafter: Regional agricultural inspection) will perform the first level inspection controlling prescribed by this Law and other regulations based on this Law, and the Ministry will perform the second level inspection (hereinafter Agricultural inspection at the Ministry).

The State Inspectorate shall control tobacco trade according to the special law.

**Article 33.**

The agricultural inspector is authorised:

1. to control the tobacco production and demand the data and the information from the tobacco producer in order to conclude whether tobacco production is performed according to the provisions of this Law;
2. to control production, trade and usage of tobacco seedlings as well as trade and usage of tobacco seed;
3. to prohibit trade on tobacco seed, tobacco seedlings or tobacco if trade is not in full compliance with the provisions of this Law;
4. to control correctness and completeness of the records of signed contracts on the tobacco production as well as the tobacco produced and took over;
5. to control the grading and taking over of tobacco according to the prescribed measures;
6. to control if tobacco processing is made according to the prescriptions of this Law;
7. to control if the tobacco production tobacco processing holder fulfils all prescribed requirements;
8. to prohibit the tobacco processing if the tobacco production and the tobacco processing holder does not fulfil all prescribed conditions;

**Article 34.**

Tobacco or cut tobacco produced or distributed contrary to the provisions of this Law will be taken away.

The agricultural inspector will make a decision on destruction of produced or distributed tobacco seedlings and of planted out tobacco, if production or trade is performed contrary to the provisions of this Law.

**Article 35.**

The planted out tobacco under Article 34, paragraph 2 herein will not be destroyed if tobacco producer agrees to complete initiated tobacco production, and to deliver produced tobacco to the tobacco production holder what will be determined in a Decision by inspector.

The Decision under paragraph 1 herein will also determine obligations of the tobacco producers with regard to the application of the measures for pest control on tobacco, the time, the place and the way of tobacco delivery and as well as the other obligations of tobacco producers in the view of tobacco production and delivery.

The Decision under paragraph 1 herein has no influence on the responsibility for violations of tobacco producer.

**Article 36.**

The producer, the owner or the possessor of destroyed tobacco seedlings, planted out tobacco or took away tobacco according to provisions of this Law, has no right to compensation.

**IX. TRANSITIONAL AND FINAL PROVISIONS****Article 42.**

Minister will issue the regulations concerning implementation of this Law within six months from the day when this Law enters into force.

Until the day of coming into force of Paragraph 1 of this Article the Regulations based on The Law on Tobacco (Official Gazette No 40/75, 26/93 and 29/94) will stay in force.

**Article 43.**

Legal persons engaged in tobacco processing are obliged to comply with the provisions of this Law within one year from the day the regulations under Article 23 paragraph 5 and Article 24. paragraph 2. herein are adopted.

If legal persons will not act according to paragraph 1 herein, minister of agriculture and forestry issue a decision by which the tobacco processing shall be deleted from the Court Register as the business activity of the legal person by the Commercial Court.

The decision from paragraph 2 herein will be delivered to Trade court with the purpose to delete mentioned activities.

**Article 44.**

For the purpose of stimulating and rationing of the domestic tobacco growing, classifying of cigarettes according to the quality of tobacco mixtures and organoleptic characteristics at smoking into groups A and B according to the provisions under Articles 27 and 29 herein, will be carried out if the cigarettes contain at least 60 per cent of domestic non-aromatic large leaves from tobacco types Virginia and Burley.

The paragraph 1 herein will be implemented until the date of accession of the Republic of Croatia to the World Trade Organisation.

Since the day of accession of the Republic of Croatia to the World Trade Organisation, the import of the cigarettes originating from the member countries of this organisation, will be submitted to the classification according to the provisions under Articles 27 and 29 herein, with the exception of the place of the first release on the market criteria.

**Article 45.**

From the day of entrance of this Law into force, The Law on Tobacco (Official Gazette No 40/75, 26/93 and 29/94) will be terminated.

**Article 46.**

This Law will enter into force the eight day after its publication in Official Gazette.