

## **LAW**

### **ON THE QUALITY CONTROL OF THE AGRICULTURAL AND FOOD PRODUCTS IN THE FOREIGN TRADE CIRCULATION**

(This Law is published in the Official Gazette of the RM n° 5/98, 13/99)

#### Article 1

This Law regulates the manner of performing quality control of certain agricultural and food products and their remanufactured articles in the foreign trade circulation.

#### Article 2

The quality control is performed over certain agricultural and food products and their manufactured articles (hereinafter referred to as: the products) that are intended for export or are imported.

The Government of the Republic of Macedonia (hereinafter referred to as: the Government) stipulates which products that are intended for export or are imported are subject of quality control according to this law.

The products that are temporarily imported for refining (processing, finishing and cultivation) are not subject of quality control, except the quantity of these products with which this refining is paid.

#### Article 3

A quality control of the products from Article 2 of this Law is (considered to be) a control of the physical and chemical perceivable characteristics of the product, quality, declaration, packing, labeling, means of transportation and transportation (hereinafter referred to as: the quality control).

The quality control within the meaning of this law does not include health, veterinary-sanitary and phytosanitary control of the property of the products from Article 2 of this law, which is performed according to special regulations.

#### Article 4

With the quality control of the products intended for export, it is determined whether these products comply with the export quality.

The term export quality within the meaning of this law is the quality agreed on with the foreign buyer, if for certain products for export there is no special export quality prescribed.

An export quality, within the meaning of this law, is also the quality to which, according to the requirements of the foreign market, that is, the foreign buyers, the products that are sold from the consignment warehouses must comply.

If the export quality has not been agreed with the foreign buyer, the products that are exported regarding the quality shall conform to the regulations for opening at the domestic market.

#### Article 5

With the quality control of the imported products it is determined whether these products comply with the quality and other characteristics stipulated for opening of these products at the domestic market.

With the quality control of the imported products, for which there is no stipulated quality for opening at the domestic market, it is determined whether these products in regard to the perceptible characteristics and contents comply with the features characteristic for those products.

#### Article 6

The quality control of the products intended for export is performed at the loading point of these products.

As an exception to the provision of paragraph 1 of this Article, on the request of the exporter, the quality control of certain products that are intended for export may be performed at other place, on the basis of previous consent by the Minister of Trade.

#### Article 7

The quality control of the products that are imported is performed at the place of customs clearance of the goods, prior to the customs clearance.

As an exception to the provision of paragraph 1 of this Article, on the request of the exporter, the quality control of certain products that are intended for export may be performed at other place, on the basis of previous consent by the Minister of Trade.

#### Article 8

The Republic Market Inspectorate performs the quality control of the products.

As an exception, under the conditions set by this law, other legal entities may perform quality control of certain products.

The Government, upon a proposal of the Ministry of Trade determines the products from paragraph 2 of this Article, over which other legal entities from paragraph 2 of this article may perform the control.

#### Article 9

The quality control of the products from Article 8 of this law may be performed by other legal entity if:

- has been registered to perform such activity;
- has suitable technical equipment;
- has an employee with adequate higher education depending on the type of products over which is authorized to perform control and
- no protective measure has been imposed for prohibiting the legal entity to perform quality control of the products;

The Minister of Trade in agreement with the Minister of Agriculture, Forestry and Water Economy closer determines the conditions from paragraph 1 item 2 of this article.

#### Article 10

The Minister of Trade, with a decision may authorize a legal entity to perform quality control of certain products, provided it fulfills the conditions from Article 9 of this law.

The decision from paragraph 1 of this Article determines the products and types of products over which the quality control may be performed by the authorized legal entity.

The decision from paragraph 1 of this article is published in the "Official Gazette of the Republic of Macedonia".

#### Article 11

The authorized legal entities (hereinafter referred to as: the legal entities) that are commissioned to perform quality control of certain products, in performing the control shall comply with the instructions adopted by the Minister of Trade.

The legal entities from paragraph 1 of this article are obligated to submit reports for the performed quality control on the request of the Minister of Trade.

#### Article 12

For the products that comply with the quality from article 4 and 5 of this law, a quality certificate shall be issued (hereinafter referred to as: certificate).

The certificate shall also be issued for the products that are not subject of quality control according to this law, if that is requested by the foreign buyer.

The certificate shall also be issued for exported products that diverge from the stipulated quality in the country, in accordance with the Article 34 from the Law on Standardization.

The Republic Market Inspectorate, that is the legal entity that performed the quality control, shall issue the certificate on the request of the exporter, that is, the importer.

The Minister of Trade stipulates the contents of the request for issuing a certificate and the application form.

The exporter, that is the importer, is obligated in the application for issuing a certificate to provide complete and correct information.

The legal entity that issued the certificate is obligated to submit a copy of the certificate to the Ministry of Trade.

#### Article 13

If the products do not comply with the quality from articles 4 and 5 of this law, the application for issuing a certificate shall be rejected with a decision.

If the certificate is issued only on the basis of previously performed laboratory examination, and the result of the performed analyses show that the product does not comply with the quality from article 4 of this law, that is article 5 of this law, before issuing a decision with which the application for issuing the certificate will be rejected, the Republic Market Inspectorate, that is the legal entity, will inform the exporter, that is the importer, that they have the right to request another analyses of the product to be made (super-analyses), in the institution authorized by the Minister of Trade.

The exporter, that is the importer, is obligated to submit the request for super-analyses within 3 days after receiving the decision.

In case the request is not submitted within stipulated period, the Republic Market Inspectorate that is the legal entity shall without delay adopt a decision for rejecting the application for issuing the certificate.

If according to the results of the super-analyses, the product complies with the stipulated quality, the Republic Market Inspectorate, that is the legal entity, will issue certificate for the product, otherwise, after receiving the result of the super-analyses shall adopt a decision for rejecting the issue of certificate.

Against the decision referred in paragraph 1 of this article adopted by the Republic Market Inspectorate, that is the legal entity, the exporter that is the importer, may, within 8 days from the day of receiving the decision, lodge an appeal to the Commission of the Government of the Republic of Macedonia.

After the enforcement of the decision referred in paragraph 1 of this article the exporter is obligated to return or to exterminate the products that do not comply with the quality.

#### Article 14

The exporter, that is the importer, covers the expenses for quality control.

The amount and the modality of payment of the fee for covering the expenses of the Republic Market Inspectorate for the quality control referred in paragraph 1 of this article, are stipulated by the Minister of Trade.

The amount and the modality of payment of the fee for covering the expenses for the quality control performed by legal entity are determined by the legal entity after previous consent of the Minister of Trade.

For the products for which, according to this law, a certificate may be issued on the basis of previously performed analyses or super-analyses, the exporter, that is the importer, covers the expenses for the analyses.

For repeated quality control referred in articles 19 and 20 of this law, no fee is charged.

#### Article 15

Export, that is import of products stipulated by article 2 paragraph 2 of this law for which no certificate is issued, is prohibited.

The Customs organ will not permit export, that is import, and the legal entities that organize and perform transportation (hereinafter referred to as: carrier) will not provide transport for the products referred in paragraph 1 of this article.

As an exception from the provision of paragraph 2 of this article, the customs authorities shall allow import and customs clearance of products without certificate, and the carrier shall transport the products without certificate, provided these are products for which it is stipulated that a certificate can be issued only on the basis of previously performed examination, that is analyses or super-analyses, after previously issued certificate by the Republic Market Inspectorate, that is the legal entity, that perceptible examination of these products has been performed and that samples have been taken for laboratory examination, that is, analyses or super-analyses for final determination of the quality of these products and issuing of certificate, that is, adoption of a decision for rejecting the application for issuing a certificate.

The importer shall not distribute products referred in paragraph 3 of this article before receiving a certificate, and by that time the products shall be in quarantine.

While in quarantine the products shall be kept under conditions, which prevent change of quality, or mixture or substitution with other products.

#### Article 16

The Minister of Trade in agreement with the Minister of Agriculture, Forestry and Water Economy, will determine the method and the procedure for performing quality control, the conditions that the exporter, that is the importer should provide regarding the performance of this control, as well as the information that the certificate shall contain.

The provision referred in paragraph 1 of this article also indicates the products for which a certificate can be issued only on the basis of previously conducted examination, that is, analyses or super-analyses of these products.

#### Article 17

The Ministry of Trade carries out the supervision of the work of the legal entities that are authorized for performing the quality control.

#### Article 18

If during the inspection supervision the Republic Market Inspectorate determines that the legal entity does not fulfill the stipulated conditions, it shall order a certain period for these shortcomings to be removed. If the legal entity does not remove the shortcomings in the determined period, the Republic Market Inspectorate shall adopt a decision for prohibiting further performance of quality control and shall propose to the Minister of Trade to revoke the authorization for performing quality control.

The Republic Market Inspectorate shall also adopt a decision for prohibition of further performance of quality control and shall propose to the Minister of Trade to revoke the authorization of the legal entity for performing quality control in case when during the inspection supervision determines that the legal entity in performing the control and issuing the certificates does not comply with the valid provisions.

Against the decision of the Republic Market Inspectorate for prohibition of further performance of the quality control, the legal entity may lodge an appeal to the

Commission of the Government of the Republic of Macedonia within eight days from the day of receiving the decision.

#### Article 19

The Republic Market Inspectorate may perform repeated quality control of the products for which a certificate has been issued by the legal entity.

For the products intended for export a repeated quality control may be performed from the loading point of these products to the border, and for the products that are imported from the border, that is, the customs terminal, to the head office of the whole buyer.

If the Republic Market Inspectorate upon repeated quality control referred in paragraph 1 of this article determines that the product for which a certificate has been issued, does not comply with the stipulated conditions for issuing a certificate, will adopt a decision for annulment of the certificate. The Republic Market Inspectorate shall submit a copy of the decision to the competent customs service, to the carrier, to the legal entity that has issued the certificate and to the exporter, that is the importer.

Against the decision referred in paragraph 3 of this article an appeal may be lodged to the Commission of the Government of the Republic of Macedonia.

#### Article 20

If the Republic Market Inspectorate upon the quality control pursuant to article 19 determines that the actual condition of the product regarding the quality, quantity or other features does not comply with the information given in the already issued certificate, and the product has export, that is import quality, shall issue another certificate, in accordance with the actual condition.

For issuing new certificate, that is substitution of the previously issued certificate, the Republic Market Inspectorate shall immediately inform the exporter, that is the importer, competent customs service and the legal entity that issued the former certificate.

## Article 21

The legal entity shall be punished with a monetary fine from 100.000 to 300.000 denars if:

1. Issues a certificate for products whose quality and other characteristics are not determined in a prescribed manner or the certificate contains false information (Articles 4,5 and 12);
2. Does not return or exterminate the products for which a certificate has not been issued (Article 13 paragraph 7);
3. Imports or exports products without certificate (Article 15 paragraph 1);
4. Accepts to transport, or organizes transport for products for which a certificate has not been issued (Article 15 paragraph 2);
5. Distributes products from Article 15 paragraph 3 of this Law without certificate (Article 15 paragraph 4) and
6. Does not keep the product from Article 15 paragraph 3 of this law in quarantine under the conditions prescribed in Article 15 paragraph 5 of this law.

For the offence referred in paragraph 1 of this article the person in charge within the legal entity shall also be punished with monetary fine from 15.000 to 45.000 denars.

For the activities referred in the paragraph 1 item 2, 3, and 5 of this article a protective measure shall be imposed prohibiting the performance of certain activity in the foreign trade circulation, for a period of one to three years, as well as a protective measure of seizure of products.

For the activities referred in the paragraph 1 item 1 and 4 of this article, a protective measure shall be imposed prohibiting the performance of quality control, that is transport or organizing transportation for a period of one to three years.

#### Article 22

A legal entity shall be punished with a monetary fine from 30.000 to 100.000 denars if in the application for a certificate gives incorrect information for the product it intends to export, that is, to import (Article 12 paragraph 6)

For the misdemeanor referred in paragraph 1 of this article the person in charge within the legal entity shall also be punished with a fine from 3.000 to 10.000 denars.

#### Article 23

The Republic Market Inspectorate shall be punished with a monetary fine from 30.000 to 100.000 denars if it issues certificate for products whose quality and other characteristics are not determined in a stipulated manner or the certificate contains incorrect information (Article 12).

The misdemeanor referred in paragraph 1 of this article represents a heavy violation of the working duties.

#### Article 24

The person in charge within the customs service shall be punished with monetary fine from 3.000 to 10.000 denars for a misdemeanor for permitting export, that is import of products that are not provided with a certificate (Article 15 paragraph 2 and 3).

#### Article 25

The regulations referred in article 2 paragraph 2 and article 8 paragraph 3 of this law will be adopted by the Government within 3 months from the day this law becomes effective.

The regulations referred in article 9 paragraph 2, article 12 paragraph 5, article 14 paragraph 2 and article 16 paragraph 1 will be adopted by the Minister of Trade within 6 months from the day this law becomes effective.

Until the enactment of the regulations from paragraphs 1 and 2 of this article, regulations that have been valid until the day this Law becomes effective shall be implemented.

Article 26

The legal entities that perform quality control on the basis of the regulations that have been valid until the day this law becomes effective, shall continue with their work until new authorization is issued according Article 10 of this law.

Article 27

On the day this law becomes effective, the Law on Quality Control of the Agricultural and Food Products in the Foreign Trade (“Official Gazette of SFRJ” n° 28/75; 70/78; 54/86; and 30/90) shall cease to be valid.

Article 28

This Law shall become effective on the eighth day of its publication in the “Official Gazette of the Republic of Macedonia”.