

LAW OF UKRAINE

“On Introducing Changes to the Law of Ukraine “On State Support for Agriculture of Ukraine”

The Verkhovna Rada of Ukraine hereby r e s o l v e s:

I. To introduce the following changes to the Law of Ukraine “On State Support for Agriculture of Ukraine” (Official Bulletin of Ukraine, 2004, No. 30 (part 1), Art. 1987; 2005, No. 27, Art.1534):

1. Paragraph 1.1. of Article 1 shall be worded as follows:

“1.1. This Law determines the foundations of the state policy in the budget, credit, pricing, insurance, regulatory and other fields of state administration as regards encouraging production of agricultural products and food products and the development of agricultural market, reducing unemployment (increasing employment) of citizens living in the rural area and preventing customs-free imports of agricultural products and food as well as support of the proper level of food security of the state.”

2. In Article 2:

1) paragraph 2.1 after the words “agricultural products” shall be supplemented by the words “and food products as well as logistical resources (agricultural equipment, fuel and oil materials, mineral fertilizers, plant and seed protection means, etc.) supplied to agricultural companies.”

2) paragraph 2.2 shall be worded as follows:

“2.2. Agricultural market shall be an aggregate of legal relations related to the entry into and performance of civil agreements regarding agricultural products and food as well as logistical resources (agricultural equipment, fuel and oil materials, mineral fertilizers, plant and seed protection means, etc.) supplied to agricultural companies”;

3) in paragraph 2.4 the words “exchange system” shall be replaced by the word “institution”;

4) in passage three of paragraph 2.5. after the words “growth” the word “spot” shall be added”;

5) to add a new paragraph 2.7 with the following content:

“2.7. Intervention fund shall be the state food reserve formed by the State Agricultural Fund of Ukraine by carrying out financial interventions and pledge procurement with the view to supporting the proper level of food security of the population.”;

In this connection paragraphs 2.7-2.9 shall be considered paragraphs 2.8-2.10 respectively.

6) paragraph 2.10 shall be worded as follows:

“2.10. Monitoring of agricultural market shall be a system of long time regular observations in the agricultural market by collecting, processing, transferring, storing and analyzing information about demand and supply for agricultural products and food during a marketing period for individual agricultural products and results of their processing with the view to formulating forecasts and preventing crisis situations ”;

7) paragraphs 2.10-2.12 shall be considered paragraphs 2.11-2.13 respectively;

8) to add a new paragraph 2.14 of the following content:

“2.14. Food shall mean food products manufactured from agricultural products intended for use raw and processed complying with the group 15 codes of the DK 016-97 State Classifier of Products and Services”;

9) paragraph 2.13 shall be considered paragraph 2.15 and after the words “food products” the word “(food)” shall be added;

10) paragraph 2.14 shall be considered paragraph 2.16;

11) to add new paragraphs 2.17-2.18 of the following content:

“2.17. Agriculture (agricultural production) shall be a business activity to manufacture products related to biological processes of its growing intended for consumption raw and processed and for use for non-food purposes.

2.18. Agricultural company shall be a legal entity whose main activity is manufacturing of agricultural products and no less than 50 per cent of whose income in the prior calendar year had been received from the sale (supply) of agricultural products of own production”;

12) paragraph 2.15 shall be considered paragraph 2.19 and worded as follows:

“2.19. Agricultural products shall be products manufactured in agriculture complying with the group 01.1-01.42 codes of the DK 016-97 State Classifier of Products and Services.” For the purposes of this Law the concept of “agricultural products” shall include also products manufactured by fisheries complying with the group 05 codes of the above mentioned classifier. Excisable goods shall not be covered by this Law”;

13) to add a new paragraph 2.20 of the following content:

“2.20. Agricultural producer shall be an individual or legal entity engaged in the manufacturing of agricultural products, processing of agricultural products of their own production and their sale (supply)”;

14) paragraph 2.16 shall be considered paragraph 2.21 and worded as follows:

“2.21. Commodity derivative shall be a standard document certifying the right and/or obligation to buy / sell the base asset and or carrying out monetary settlements within the specified term in the future at the price and subject to the conditions determined on the day of taking obligations”;

15) paragraph 2.17-2.18 shall be paragraphs 2.22-2.23 respectively;

16) in paragraph 2.19 the words “free-warehouse at the address of the Main Postal Office of Ukraine” shall be replaced by the words “determined by the agricultural exchanges and approved by the Agricultural Fund” and consider it paragraph 2.24;

17) paragraph 2.20 shall be deleted;

18) paragraph 2.21 shall be considered paragraph 2.25 and worded as follows:

“2.1. Deductible (insurance deductible) shall be a portion of losses not reimbursed by the insurer under the insurance contract.”;

19) in paragraphs 2.22-2.23 the words “forward or futures” shall be deleted and the paragraphs shall be considered paragraphs 2.26-2.27 respectively;

20) paragraph 2.24 shall be supplemented at the end by the word “(contract)” and consider it paragraph 2.28.

3. The title of Section Two shall be worded as follows:

“Section II. State regulation of prices of individual agricultural products and food.

State Agricultural Fund of Ukraine.”

4. In Article 3:

1) in paragraph 3.1 the words “Applying minimum and maximum purchase prices for export or import of such products shall be carried out in accordance with the procedure stipulated by Article 8 of this Law” shall be deleted;

2) in paragraph 3.2 the words “Agricultural Fund” shall be replaced by the words “State Agricultural fund of Ukraine (hereinafter referred to as the “Agricultural Fund)””;

3) in paragraph 3.3:

The words in subparagraph 3.3.1”such goods” shall be replaced by the words “agricultural products and food (hereinafter referred to as the “goods”);

in subparagraph 3.3.2:

passage one shall be revised to read as follows:

“Minimum or maximum purchase prices shall be established in respect of the goods specified in this paragraph, determined in accordance with the national standards for its individual types and classes”;

in passage two the words “(regarding goods items or sub items)” shall be deleted

in subparagraph 3.3.3 the words “agricultural products shall be replaced by the word “goods”.

5. In Article 4:

1) subparagraph 4.2.2 shall be worded as follows:

“4.2.2. The minimum purchase price for an individual object of state price regulation may not be changed during the established period of state price regulation regarding such object except for special conditions stipulated in the following passage of this subparagraph.

If it is not possible to attain the level that makes the average statistical loss operation of an individual object of state price regulation impossible because the actual aggregate production costs index for the object deviates from the forecasts included in the calculation of the minimum purchase price, the central executive authority responsible for forming and ensuring execution of the state agricultural policy shall be entitled to adjust the level of the minimum purchase price in accordance with the methodology specified in paragraph 4.3”;

2) subparagraph 4.2.3 shall be revised to read as follows:

“4.2.3. The minimum purchase price of an individual object of state price regulation shall be the same throughout the entire territory of Ukraine”.

6. In paragraph 5.2 Article 5:

1) subparagraph 5.2.2 shall be supplemented at the end by the following words: “except for cases where the minimum purchase price changes.

In the case of the minimum purchase price change, the maximum purchase price shall be adjusted in accordance with the previous subparagraph”;

2) subparagraph 5.2.3 shall be revised to read as follows:

“5.2.3. The maximum purchase price of an individual object of state price regulation shall be the same throughout the entire territory of Ukraine”.

7. In Articles 6 and 7:

- 1) the word “forward” shall be deleted in all cases;
- 2) subparagraph ”d” of paragraph 6.2 shall be deleted;
- 3) in subparagraph ”b” of paragraph 6.3.1. words «till 1 January 2009» shall be deleted;
- 4) in subparagraph ”d” of paragraph 7.2 the words “state reserve” shall be replaced by the words “intervention fund.”

8. In Article 8:

- 1) subparagraph “d” of paragraph 8.6 shall be deleted ;
- 2) paragraph 8.8 shall be deleted.

9. In Article 9:

1) in subparagraph 9.1.1 of paragraph 9.1 the words “to carry out pricing policy” shall be replaced by the words “as an agent, to take certain measures to implement pricing policy ”;

2) subparagraph 9.2.3 of paragraph 9.2 shall be revised to read as follows:

“9.2.3. The Agricultural Fund may carry out speculative transactions, purchase and sell objects of state price regulation and commodity derivatives whose base asset are such objects outside the organized agricultural market”;

3) in paragraph 9.3:

subparagraph 9.3.1 shall be revised to read as follows:

“9.3.1.3 to maintain the proper level of food security, the Agricultural Fund shall set up an intervention fund that for individual objects of state price regulation may not be smaller (as a percentage of their annual internal consumption volume in the previous marketing year):

in 2006/2007 marketing year - 10 per cent;

in 2007/2008 marketing year - 12 per cent;

in 2008/2009 marketing year - 14 per cent;

in 2009/2010 marketing year - 16 per cent;

in 2010/2011 and future marketing years - 20 per cent.

The annual internal consumption volume of an individual object of state price regulation shall be calculated as a sum of sales of domestically produced and imported objects of state price regulation in the relevant marketing year decreased by their exports volume in the same period.

The intervention fund shall be set up exclusively to carry out commodity interventions in the organized market of Ukraine and to implement the provisions of subparagraph 9.2.2 of paragraph 9.2 of this Article. In 2005/2006 marketing year the intervention fund shall be formed by the rules stipulated in the Final Provisions of this Law ”;

subparagraph 9.3.3 shall be supplemented by part two of the following content:

“If, before the end of the budget year, the intervention fund has not been formed in full in accordance with the indicators stipulated by subparagraph 9.3.1 of this paragraph, the Agricultural Fund may use for this purpose, the funds of the state budget of the following budget year and the funds received as a result of commodity interventions.”

10. In Article 10:

1) in subparagraph 10.1.1 of paragraph 10.1 the words “the person shall be obliged” shall be replaced by the words “Agricultural producer (hereinafter referred to as the “person) shall be obliged”;

11. In Article 11:

1) y subparagraphs 11.3.1 and 11.3.3 of paragraph 11.3 the words “ The Law of Ukraine “On the Procedure for Repaying Taxpayers’ Obligations to Budgets and State Target Funds ” shall be replaced by the words “current legislation”.

12. In Article 12:

1) in paragraph 12.2:

in subparagraph 12.2.1 the words “simple or” and “or warehouse receipt” shall be deleted;

subparagraph 12.2.2 shall be revised to read as follows:

“12.2.2. The amount of budget loan may not exceed 80 per cent of the collateral value.

The collateral value shall be calculated for a specified period of price regulation by the central executive authority responsible for forming and ensuring execution of the state agricultural policy based on the established minimum purchase price and with due regard to the grain market situation ”;

shall be supplemented by subparagraph 12.2.8 of the following content:

“12.2.8. If the borrower before the expiry of the term established by the parties should apply to the creditor to carry out a voluntary sale of the pledged asset to the intervention fund against its financial obligations stipulated by the agreement, the creditor shall be entitled to purchase such asset and compensate the borrower for the difference between the minimum purchase price and the collateral value”.

2) paragraph 12.3 shall be revised to read as follows:

“12.3. A budget loan as part of state pledge procurement may not be provided to a person that is not an agricultural producer.”

13. In Article 13 the title shall be revised to read as follows:

“Loan subsidy to agricultural producers”;

14. In Article 14:

1) subparagraph 14.2.4 of paragraph 14.2 shall be revised to read as follows:

“14.2.4. Storing commodity (grain) in the certified grain warehouse (elevator) covered by the definition of the object of state price regulation shall be obligatory.

The Cabinet of Ministers of Ukraine shall establish in respect of such objects the regime of price regulation of the value of such services:

a) veterinary medicine (conducting laboratory research, formalizing veterinary certificate or statement);

b) bread inspection (review and formalization of certificates);

c) quarantine inspection (review and formalization of certificates, performing fumigation);

d) storing goods in the certified grain warehouse during the relevant marketing year.

The value of such services may not exceed the prices calculated by the 10-per cent profitability rate against the incurred losses.

The decision of the Cabinet of Ministers of Ukraine regarding the imposition of the regulation regime for the value of individual types of services must be publicized 30 days in advance of implementing such regulation regime.”

15. In Article 15:

1) the last passage of paragraph 15.2 shall be revised to read as follows:

“The object of a budget grant shall be also a bee family defined as such in accordance with the Law of Ukraine “On Bee Keeping,” silk production, means of identification and registration of agricultural animals”;

2) in subparagraphs “c” and “c” of paragraph 15.6 the words “breed bee family” in all cases, singular and plural forms shall be replaced by the words “bee family” in the relevant case and singular or plural form;

3) paragraph 15.7 shall be revised to read as follows:

“15.7. The amount of a special budget grant as of the beginning of the next budget year shall be established by the Cabinet of Ministers of Ukraine in hard amounts based on the amount of budget allocation stipulated in the Budget of Ukraine for the relevant year per capita of the object of grant owned by the subject of grant as of the beginning of the next budget year”;

4) paragraph 15.8 shall be deleted.

16. In Article 16:

1) paragraph 16.1 shall be deleted;

2) in paragraph 16.2 the words “such certification” shall be replaced by the words “certification of such objects”.

17. In Article 17:

1) paragraph 17.2 shall be revised to read as follows:

“17.2. To perform calculations and provide (accounting and disbursement) of exchange guarantees for exchange agreements (contracts) entered into, the accounting and clearing institution is being established and the system of guaranteeing the performance of the registered exchange agreements (contracts).

The founders of the accounting and clearing institution are the agricultural exchange and accredited commodity exchanges. The founders make the founders’ contributions to the authorized fund (capital) of such center in the amount meeting the minimum requirements to the authorized capital of a resident bank holding a license to carry out the full scope of bank operations ”;

2) shall be supplemented by paragraph 17.8 of the following content:

“17.8. Overall coordination of the activities of the participants of organized agricultural market including accredited exchanges in the field subject to its regulation shall be carried out by the central executive authority responsible for forming and ensuring execution of the state agricultural policy.

The main tasks of the central executive authority responsible for forming and ensuring execution of the state agricultural policy in the field of exchange trade shall be:

forming and ensuring the single government policy regarding the development and functioning of the organized agricultural exchange market;

coordination of activities of central executive authorities responsible for the functioning of the agricultural exchange market;

issuance to commodity exchanges of conformity opinion regarding the provision of services related to the entry into and registration of purchase and sale agreements for agricultural products and products of their processing, logistical resources and their accreditation for the performance of transactions in the organized agricultural market;

appointment to accredited commodity exchanges of representatives to control the observance by accredited commodity exchanges of legislation of Ukraine.”

18. Shall be supplemented by Article 18 of the following content:

“Article 18. State system for monitoring agricultural products and food market.

18.1. The state system for monitoring agricultural products and food is established to study and freely disseminate up-to-date information to market participants and authorities about the situation in the domestic and international market.

18.2. The state system for monitoring agricultural products and food is established as part of the central executive authority responsible for forming and ensuring execution of the state agricultural policy of Ukraine and, respectively, as part of the Ministry of Agricultural Policy of the Autonomous Republic of Crimea, main departments for agricultural and industrial development of oblast and district state administrations.

18.3. Financing of measures related to the establishment and functioning of the state system for monitoring agricultural products and food shall be at the cost of annual allocations of the State Budget of Ukraine.

18.4. The state system for monitoring agricultural products and food also monitors markets for logistical resources supplied to agricultural companies.”

19. Article 18 shall be considered Article 19 and:

1) paragraph 3 of Article 18 shall be deleted;

In this connection paragraph 4-6 shall be considered paragraphs 3-5;

2) in paragraph 7 the word combination “2005 year” shall be replaced by the word combination “2005/2006 marketing year”, and the numbers “1.5” and “180” shall be replaced by the numbers “1.0” and “100” respectively;

3) in subparagraph “b” of paragraph 9 the word combination “1 October 2004” shall be replaced by the word combination “1 July 2006”.

20. In the text of the Law the words “agricultural products” and “state food reserve” shall be replaced by the words “agricultural products and food” and “intervention fund” in all cases respectively.

II.1. This Law shall take effect from the date of its publication.

2. During two months after the taking effect of this Law, the Cabinet of Ministers shall bring its normative acts into compliance with this Law and ensure the bringing of normative acts issued by central executive authorities into compliance with this Law.