

THE LAW OF UKRAINE

On Milk and Dairy Products

This Law determines legal and organizational basics for assurance of quality and safety of milk and dairy products for the life and health of the public and the environment in the course of their manufacturing, transporting, processing, storage and sale, importing into the customs territory and exporting outside of the customs territory of Ukraine.

Article 1. Definition of Terms

The terms used below in the present Law shall have the following meanings:

certification shall mean the procedure of assessment of conformity to the requirements of regulatory documents of sanitary and epidemiological, veterinary and sanitary, and technical state of production of milk, milk raw materials and dairy products;

producer of milk and milk raw materials shall mean a legal entity regardless of its ownership form, an individual – a business entity, private farm, an individual, who keeps cows, sheep, goats, buffalo cows, mares and produces milk and milk raw materials;

recoverable raw materials shall mean wastes obtained in the process of manufacturing of dairy products, and which may be used for production of other products or are subject to recycling;

quota arrangement shall mean establishment of a quota for milk production and sale output by processing enterprises and volumes of supply of dairy products to the state reserve;

marking shall mean information on milk, milk raw materials and dairy products, placed on the packaging in compliance with the requirements of normative acts and normative documents;

raw milk shall mean product of normal secretion of lacteal gland from one or more healthy cows, sheep, goats, buffalo cows, mares, the temperature of which does not exceed 40° C, and which was not subjected to any processing (hereinafter referred to as milk);

milk raw materials shall mean milk designated for processing that was subjected to preliminary physical processing (filtration, cooling), as well as cream and skim milk, obtained by means of skimming, and meet the established requirements of normative documents;

dairy products shall mean products, where milk raw materials constitute at least 50 per cent of the total composition of the product;

national sour milk products shall mean dairy products, historically produced within Ukraine in the assortment depending on the type of starters and specific technologies: boiled fermented milk, curdled milk, acidophilus milk, sour cream, lactic cheese, produced of milk raw materials with the use of starters and pure cultures on kefir corns;

packing shall mean putting of milk raw materials in consumer packaging or packaging material;

processing enterprise shall mean an enterprise that purchases milk or milk raw materials, has production capacities and conditions for production of dairy products of guaranteed quality and safety according to normative documents;

business entity shall mean a legal entity regardless of its ownership form, a natural person – subject of entrepreneurial activity engaged in production, processing and sale of milk, milk raw materials and dairy products;

thermal processing shall mean processing with heating in special equipment;

coordination commission shall mean the commission set up from representatives of enterprises and organizations engaged in production of milk, its processing and sales of dairy products;

milk and dairy product development fund shall mean the fund, formed from contributions of milk producers – business entities from each sold kilogram of milk and each kilogram of milk purchased by processing enterprises.

Article 2. Domain of the Law

This Law regulates relationships, arising in the process of production, transportation, processing, storage and sales, importing into and exporting outside the customs territory of Ukraine of milk, milk raw materials and dairy products, and extends to business entities engaged in commercial activities in this area.

Article 3. Fundamentals of the State Policy regarding Quality Assurance and Safety of Milk and Dairy Products

The fundamentals of the state policy regarding assurance of quality and safety of milk and dairy products for the life and health of the public are as follows:

ensuring of internal needs of the state for dairy products of wide range and increase of their export;

conducting control over quality and safety of milk, milk raw materials and dairy products;

promotion of integration processes among the producer, the processor and the seller;

monitoring of the milk and dairy products market;

improvement of the customs and tariff, and price policy in the part of protection of domestic producers of milk and dairy products;

elaboration of national development programs of selection and breeding activity.

Article 4. Requirements to Indicators of Quality and Safety of Milk, Milk Raw Materials and Dairy Products

Milk, milk raw materials and dairy products, produced in Ukraine and imported into the customs territory of Ukraine should meet the indicators of quality and safety established by the effective Ukrainian legislation.

Basic norms of weight fraction of fat and protein in milk are developed and approved of by the central executive authority for agrarian policy jointly with the central executive authority in the sphere of technical regulation and consumer policy.

Article 5. Requirements to Packing and Marking of Milk Raw Materials and Dairy Products

Tare and packaging for milk raw materials and dairy products should be manufactured of materials, allowed for use by the central healthcare executive authority.

Packing and marking of milk raw materials shall be done in compliance with the effective Ukrainian legislation.

The use of names of dairy products in own names of products and trademarks shall not be allowed, if such products are not produced with the use of raw materials of non-milk origin.

Separation of the process of packing of dairy products from the technological production cycle shall be prohibited.

Article 6. Conformity Assessment of the Quality and Safety of Milk, Milk Raw Materials and Dairy Products

Conformity assessment of the quality and safety of milk, milk raw materials and dairy products shall be carried out as established by the effective legislation of Ukraine.

The use of fats and proteins of non-milk origin, as well as any stabilizers and preservatives in production of national sour milk products shall be prohibited.

Milk raw materials and dairy products imported into the customs territory of Ukraine shall be subject to control in accordance with the effective legislation of Ukraine.

The requirements to the quality and safety of milk, milk raw materials and dairy products – upon their approval – shall be subject to publication in mass media of the central executive authority in the sphere of agrarian policy.

Article 7. Removal from Circulation, Processing, Recycling, Destruction or Further Use of Milk, Milk Raw Materials and Dairy Products that Do Not Meet the Requirements, Established by the Effective Legislation of Ukraine

Removal from circulation, processing, recycling, destruction or further use of milk, milk raw materials and dairy products that do not meet the requirements, established by the effective legislation of Ukraine shall be conducted in keeping with the procedure provided for by law.

Milk, milk raw materials and dairy products that do not meet the established requirements, and

cannot be returned to circulation by means of decontamination (neutralization), processing, shall be subject to recycling or destruction in keeping with the procedure provided for by law.

Article 8. Requirements to Technological Equipment and Related Materials

Technological equipment, related materials and vehicles, used for transportation and storage of milk, milk raw materials and dairy products, should be manufactured of materials allowed by the central healthcare executive authority to be used for the special purpose and contact with foodstuffs.

Article 9. Veterinary and Sanitary Requirements to Production of Milk, Milk Raw Materials and Dairy Products

Production of milk, milk raw materials shall be conducted upon obtaining the permit of state institutions of veterinary medicine, dairy products – upon obtaining of the permit from the state sanitary and epidemiological service, issued in keeping with the procedure established by law.

Sale of milk and dairy products without a document certifying epizootic safety of animals in farms, issued free of charge by state institutions of veterinary medicine according to the effective legislation of Ukraine, shall be prohibited.

Article 10. Organization of Quality Assurance, Safety of Milk, Milk Raw Materials, Dairy Products and Secondary Raw Materials by Producers

Control over the quality and safety of milk, milk raw materials and dairy products shall be carried out by their producers according to the effective legislation by means of:

observation of the conditions of production, storage and sale of milk, milk raw materials, dairy products and secondary raw materials in accordance with normative documents;

establishment and activity of laboratories, equipped with up-to-date devices and appropriate reagents for determination of the indicators of milk, milk raw materials and dairy products.

Article 11. Attestation of Production of Milk, Milk Raw Materials and Dairy Products

Business entities of all ownership forms (except for private farms, natural persons), engaged in production of milk, milk raw materials and dairy products shall be subject to attestation for compliance with mandatory requirements of legal and normative acts.

Objects of attestation of production of milk, milk raw materials and dairy products shall be normative documents for products, as well as technological equipment, measuring and controlling devices, and testing equipment.

The effect of the certificate may be suspended by the issuing authority in the event of violation by the producer of the requirements of legal and normative documents on the quality and safety of milk, milk raw materials and dairy products.

Grounds for re-attestation of production of milk, milk raw materials and dairy products shall be

the following:

change associated with performing of a new activity by a business entity;

change of location of a business entity;

expiry of the term of the certificate.

The certificate of production of milk, milk raw materials and dairy products may be cancelled in the event of violation of the statutory requirements in the sphere of production of specified products, failure to fulfill instructions of an appropriate authority on elimination of violations of production conditions.

Certificate of production of milk, milk raw materials and dairy products shall be issued by an appropriate regional executive authority for agrarian policy.

Attestation of production of milk, milk raw materials and dairy products shall be conducted every 5 years.

The procedure of attestation of production of milk, milk raw materials and dairy products, and the form of the certificate shall be approved by the central executive authority for agrarian policy jointly with the central executive authority for technical regulation and consumer policy.

Production and processing of milk, milk raw materials and dairy products without the certificate of production is prohibited.

A private farm, natural persons that keep cows, sheep, goats, buffalo cows or marrows for production of milk and milk raw materials shall have to obtain appropriate certificates from a veterinary medicine institution at the place of animal keeping.

Article 12. Registration of Certified Production

Information on certified business entities of all ownership forms, engaged in production and processing of milk, milk raw materials and dairy products, shall be included in the registry kept by the central executive authority for agrarian policy, with giving a registration number to each business entity.

The registry shall be kept in accordance with the procedure established by the central executive authority for agrarian policy jointly with the central executive authorities for healthcare, technical regulation and consumer policy.

The registry of certified producers shall be published in mass media by the central executive authority for agrarian policy.

Article 13. Rights and Obligations of Producers of Milk, Milk Raw Materials and Dairy Products

Business entities – producers of milk, milk raw materials and dairy products shall have the right

to:

obtain information, legislative and other normative acts on the quality and safety of products from appropriate state authorities in accordance with the established procedure;

apply for protection of violated rights to the court according to the effective legislation.

Business entities – producers of milk, milk raw materials and dairy products shall be under the obligation to:

comply with the requirements of normative documents in production of milk, milk raw materials and dairy products, as well as in their storage, transportation and sale;

ensure compliance with the requirements of sanitary and veterinary/sanitary norms and rules, as well as carry out antiepidemic and antiepzootic measures to prevent spreading of diseases common for human beings and animals, upon instruction of officials of the state sanitary and epidemiological service and the state veterinary medicine institution;

ensure control over the quality and safety of products;

keep records of the documents confirming assurance of proper quality and safety of products, in accordance with the statutory procedure;

provide information, required for performing the state control and supervision, samples of milk, milk raw materials, components of the composition of dairy products for conducting laboratory research in quantities provided for by normative acts;

fulfill other obligations established by law;

ensure full processing of secondary raw materials in the event of availability of appropriate production capacities, and in their absence – sale secondary raw materials to enterprises that process or recycle such raw materials.

Article 14. The State Control and Supervision in the Area of Production, Processing, Sale, Export and Import of Milk, Milk Raw Materials and Dairy Products

The state control and supervision in the area of production, processing, sale, export and import of milk, milk raw materials and dairy products shall be performed by:

in issues of observation of veterinary and sanitary requirements in the process of keeping animals, production of milk, milk raw materials, use of equipment, tare, vehicles, permanent control, supervision with monitoring research over indicators of their safety during export and import – state veterinary medicine institutions;

in issues of observation of sanitary norms and rules in the process of development of technical conditions, technical regulations for dairy products, determination of the indicators of their safety and carrying out regular supervision in the process of production of dairy products, as well as over the use of equipment, wastes of secondary raw materials, tare, vehicles – institutions and

establishment of the state sanitary and epidemiologic service;

in issues of observation by the producer of the requirements of normative documents, technical regulation, associated with the quality of products (except for veterinary and sanitary requirements), the requirements of periodical state metrological supervision and the requirements of legislation in the area of protection of consumer rights – executive authorities for technical regulation and consumer policy.

Charging of a fee from producers of milk, milk raw materials and dairy products for carrying out inspections by government controlling agencies is prohibited.

Article 15. Powers of Government Officials that Perform the State Control and Supervision in the Area of Production, Processing and Sale of Milk, Milk Raw Materials and Dairy Products

Officials that perform the state control (supervision) and the state sanitary and epidemiological supervision, as well as the state supervision over observation of consumer rights, standards, norms and rules with the purpose of tasks entrusted to them within their competence, shall have the right to:

visit without obstacles objects of inspection, receive information, required for conducting the state control, documentation, samples of raw materials and finished products for conducting research in the quantity, provided by acts of legislation;

provide instructions mandatory for carrying out sanitary, antiepidemic, veterinary and sanitary, and antiepzootic measures, as well as on elimination - within established time – standards, norms, rules and requirements of the state metrological supervision, established according to the effective Ukrainian legislation;

prohibit production, processing and sale of milk, milk raw materials and dairy products in the event of detection of inconsistency with veterinary and sanitary requirements, requirements to their quality and safety, and failure to comply with the requirements of the present Law;

prohibit production, processing and sale of milk, milk raw materials and dairy products before conducting required sanitary, antiepidemic, veterinary and sanitary, and antiepzootic measures, as well as measures to eliminate violations of standards, norms, rules established according to the effective legislation and legal requirements of the state metrological supervision;

notify the authority that performed attestation of a business entity about detected violations.

Article 16. The State Support of Producers of Milk, Milk Raw Materials and Dairy Products

The state support of producers of milk, milk raw materials and dairy products shall be provided based on the priorities of development of the milk industry of the agrarian and industrial complex, in particular, through financing from the State Budget of Ukraine:

programs of development of selection and breeding activity in cattle-raising, antiepzootic

measures of the national importance;

subsidized prices for milk;

support of production of baby food products;

support of export of dairy products;

providing of beneficial short-term and long-term credit resources;

leasing services as to purchasing of equipment of domestic and foreign production for technical re-equipment and introduction of up-to-date production technologies and processing of milk and dairy products by business entities subject to regulation by the present Law;

stimulation of improvement of milk quality that complies with the requirements of the state standard of Ukraine, by means of additional payment as percentage of the purchasing price:

for top grade milk - 25 per cent;

for first grade milk - 20 per cent.

Provisions on accrual and payment of the funds specified in part one of this Article for the state support of producers of milk, milk raw materials and dairy products shall be approved by the Cabinet of Ministers of Ukraine upon coordination with the Parliament Committees for agrarian policy and land relations, and budget issues.

Article 17. Pricing in the Area of Production of Milk, Milk Raw Materials and Dairy Products

The minimum purchasing price for milk and milk raw materials, the level of which should cover average industry normative expenditures and ensure minimum profit to the producer, shall be established by the Cabinet of Ministers of Ukraine.

The minimum level of prices shall be established before the beginning of the budget year. Based on such level the Cabinet of Ministers of Ukraine shall determine the volume of budget funding of measures for support of milk producers, coordinated with the Ukrainian Parliament Committees for agrarian policy and land relations, and budget issues.

In selling dairy products (milk, animal oil, kefir) in a retail network, the Cabinet of Ministers of Ukraine shall establish a limit value (top level) for trade markups.

Article 18. Quota Arrangement of Dairy Products

With the purpose of regulation of the milk and dairy products market, quotas for agricultural producers shall be established for the output and sales volume of milk to processing enterprises, and volumes of supply of dairy products to the state material reserve.

Quotas for production of milk and supply of dairy products to the state reserve in general shall be

established on an annual basis by the Cabinet of Ministers of Ukraine, by oblasts and enterprises – by the central executive authority for agrarian policy with involvement of industry organizations and oblast state administrations.

Article 19. Milk and Dairy Product Development Fund

The development fund for the milk and dairy products market (hereinafter referred to as the Fund) shall be set up by the central executive authority for agrarian policy with the purpose of:

improvement of the quality of milk and dairy products;

advertising of dairy products;

support of voluntary professional organizations that represent interests of agricultural and processing enterprises in governmental authorities;

assistance in arrangement of exhibits and participation in trade.

Contributions to the Fund shall be paid by:

business entities producing milk – from each kilo of milk sold for processing in the size of 0.2 copecks;

milk processing enterprises – from each kilo purchased for industrial processing in the size of 0.2 copecks.

The procedure of accrual of contributions to the Fund and the use of its funds shall be approved by the Cabinet of Ministers of Ukraine upon the proposal from the central executive authority for agrarian policy.

Article 20. The Coordination Commission

The Coordination Commission (hereinafter referred to as the Commission) shall be established by the central executive authority for agrarian policy with the purpose of coordination and providing recommendations as to purchasing prices for milk, wholesale selling prices for dairy products and trade markups.

The Commission shall be a collegial authority and be composed of the equal number of representatives of producers of milk, milk raw materials, enterprises or organizations that unite processing enterprises, as well as organizations representing interests of enterprises selling dairy products.

Commission members may be recalled upon the petition from the organization, which offered their candidacies.

The term of office of the Commission is two years.

Article 21. Liability for Violation of the Norms of this Law

Managerial officials and individuals shall be held liable pursuant to law for violation of the norms of this Law regarding production, processing and sale of milk, milk raw materials and dairy products.

Financial sanctions shall be applied to business entities in the form of fines in the event of absence of the certificate and other documents permitting to perform production and processing of milk, milk raw materials and dairy products, as well as for violation of the requirements to handling of wastes of raw materials, in the event of violation of the requirements to indicators of their quality, safety and technology – in the size of 100 per cent of the cost of products sold.

Financial sanctions shall be applied pursuant to the procedure established by the Cabinet of Ministers of Ukraine.

Article 22. International Cooperation in the Sphere of Ensuring of Proper Quality of Milk, Milk Raw Materials and Dairy Products

International cooperation in the sphere of ensuring of proper quality of milk, milk raw materials and dairy products shall be conducted through:

participation in the work of international organizations;

signing of international agreements;

bringing normative documents, norms and rules with international standards, norms and rules, which establish the requirements to the quality and safety of milk, milk raw materials and dairy products, as well as veterinary and sanitary requirements;

exchange of information on measures taken for ensuring proper quality and safety of milk, milk raw materials and dairy products.

If international treaties of Ukraine, approved by the Verkhovna Rada of Ukraine provide for the rules other than those established by the present Law, the rules of international treaties of Ukraine shall apply.

Article 23. Final Provisions

1. The Law shall take legal effect from the day of its publication.

2. Business entities engaged in production of milk, milk raw materials and dairy products may conduct appropriate activity without obtaining a certificate and without being included in a relevant registry, but no longer than one year from taking legal effect by the present Law.

3. The Cabinet of Ministers of Ukraine shall within three months submit for consideration to the Verkhovna Rada of Ukraine proposals as to making amendments to laws of Ukraine, arising from this Law, and bring its regulations in line with the requirements of the present Law.

President of Ukraine

L. KUCHMA

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