

LAW ON THE CERTIFICATION OF PRODUCTS AND SERVICES

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The Parliament adopts the present law.

The present law establishes the legal framework of certifying products, equipment, processes, technologies, systems of production and potentially dangerous works, software, systems of quality and services, in order to ensure national security, avoid fraud, assure the rights, the objectives of life and health of consumers, and to protect flora and fauna, and the environment in line with the objectives of the World Trade Organization (WTO).

The present law establishes the rights and the obligations of participants at the process of certification, as well as the legal framework for certifying personnel who work in the field of quality management.

CHAPTER I

GENERAL PROVISIONS

Article 1. General definitions

The following definitions shall be used in the meaning of the present law:

- a) Certification – a procedure, by which a third party (an organization independent of the supplier and/or the consumer) gives a written guarantee on the conformity of the product with the specified conditions.
- b) Mandatory (legal) certification - the certification of products in a legally regulated domain, that ensures, with a sufficient level of confidence, that a specific product conforms to the given standards or technical regulations. The products included in the Nomenclature of products subject to mandatory certification are themselves subject to mandatory certification;
- c) Voluntary certification - the certification of products done exclusively on a supplier's or consumer's initiative, on the basis of the conditions specified in the normative acts, within the contract for delivery of goods or under other formulated conditions. The products that are not included in the Nomenclature of products subject to mandatory certification are themselves subject to voluntary certification;
- d) Hygiene certification – a study procedure done by the Hygienic Service –to confirm the fitness of goods for the consumers and for the environment, and to permit the production or importation and sale of the goods.
- e) Personnel certification – a procedure by which an appropriate qualified certification body gives a written guarantee that a given person is competent to operate in a certain area of expertise.
- f) Certification system – a system destined to give conformity certification having its own rules and procedures of management;
- g) Hygienic certification subsystem - a certification system, within the National Certification System, destined for hygienic assessment having its own rules and procedures of management coordinated with the National Certification System.
- h) National Certification Body – the public administration authority empowered by the Government to elaborate and implement state policy in the certification field;
- i) Certification body – a body, regardless the form of ownership, which has been formally granted the accreditation to make conformity certification;
- j) Conformity – the specified conditions met by a product;
- k) Conformity assessment – the systematic examination of the degree of conformity of a product with the specified requirements;
- l) Procedure of conformity assessment – any procedure used directly or indirectly in order to determine the level of conformity of a product with standards or technical regulations;

- m) Certificate of conformity– a document that is issued on the basis of the rules of the certification system to convey adequate confirmation that a specified product is in accordance with the standards or technical regulations, criteria for the safe use of potentially harmful objects and technologies;
- n) Hygienic certificate – a document issued by the State Sanitary-Epidemiological Service on the basis of hygiene certification;
- o) National mark of conformity– an established mark, issued and applied according to the rules of National Certification System, conveying an assurance that the given product is in conformity with the standards or technical regulations;
- p) Supplier – the person who is responsible for a product and can ensure its relevant quality. This definition is applied to producers, distributors, importers, assemblers, service providers etc;
- q) Supplier's declaration – a document by which a supplier gives a written guarantee that the product for sale is in conformity with the specified conditions;
- r) Accredited testing laboratory (center) – a testing laboratory, regardless of the form of ownership, to which was granted accreditation to carry out the tests needed to certify products within the National Certification System;
- s) Laboratory Accreditation Authority – a body empowered by the national certification body to accredit the laboratories of the hygienic certification subsystem;
- t) National mark of accreditation – a protected mark, issued and applied according to the rules of the National Certification System to confirm accreditation under the National Certification System;
- u) Product – the result of activities or processes, that can include services, hardware, processed materials, software or a combination thereof. A product can be tangible (for example processed materials) or intangible (for example knowledge or concepts), as well as a combination thereof. A product can be either intended (for example an offer to customers) or unintended (for example a pollutant or unwanted effects);
- v) Potentially dangerous products – products that can become dangerous for customers or for the environment as a result of non compliance with the technology, the rules of use or the keeping conditions;
- w) Service – the interaction between the supplier and the client, and activities of the supplier to satisfy the needs of the customer;
- x) Nomenclature– the list of products subjected to mandatory certification and approved by the national certification body;
- y) Expert – a person who has been granted a competence certificate to estimate conformity in a certain field;
- z) Quality auditor - a person with a recognized qualification to make quality audits.

Article 2. Legislation in the certification field

Activities in the certification of products are regulated by the relevant laws on consumer protection, standardization, sanitary-epidemiological protection of population, environment protection, quality of constructions, control of individual fire arms, protection against fire, labor protection, marks and names of products origin, as well as by the body of the present law and normative documents issued on the basis of these.

Article 3. The purposes of certification

The certification is carried out for the following purposes:

- a) to create adequate conditions for the activity of economic agents on the market of the Republic of Moldova, as well as to make possible economic, international technical-scientific collaboration and integration in the world market;
- b) to ensure the national security, avoid fraud, assure the rights, the objectives of life, health and fortune of population, and to protect the environment;
- c) to protect the domestic market from counterfeit or lower quality products;
- d) to assist consumers in choosing products;
- e) to confirm the declared quality of products by the suppliers.

Article 4. The National Certification System

- (1) The National Certification System represents an unique organizational structure, capable of ensuring the collaboration of all participants in the certification process according to the principles and rules laid down for making and conducting the certification;
- (2) The conduct and the coordination of certification is managed by the national standardization body – the Department of Technical Supervision, Standardization and Metrology;
- (3) The Department of Technical Supervision, Standardization and Metrology has the function of a national certification body;
- (4) The National Certification System complies with the general criteria issued by the International Standardization Organization and International Electrotechnical Commission, European standards and the objectives of the World Trade Organization;
- (5) Mandatory and voluntary certification is done within the National Certification System. Mandatory certification excludes certification bodies that have their residence outside the Republic of Moldova and that are not accredited by the National Certification System;
- (6) The certification bodies of the certification subsystems, except the subsystem of hygienic certification, are obliged to obtain authorization for mandatory certification from the national certification body.

Article 5. The competence of the National Certification Body

According to present law, the National Certification Body:

- (a) elaborates and implements state policy in the domain of certification, and sets the basic rules and regulations for organizing certification in the Republic of Moldova;
- (b) ensures the functioning of the National Certification System;
- (c) coordinates the activity of the Information Center for certification problems according to the requirements of the World Trade Organization;
- (d) supervises the state registration of voluntary certification bodies;
- (e) prepares proposals concerning the opportunity or the necessity of accession to international (regional) certification systems;
- (f) concludes agreements with other countries and international (regional) bodies for mutual recognition of activities in the domain of certification;
- (g) sets rules and procedures for the recognition of certificates and foreign conformity marks and arrays their recognition;
- (h) elaborates and publishes normative acts in the domain of certification within its competence;
- (i) represents the Republic of Moldova in international (regional) organizations in the domain of certification;
- (j) organizes and coordinates all types of activities in the domain of certification within the National Certification System;
- (k) approves the functional regulations of the certification bodies and the process of accreditation within the National Certification System;
- (l) elaborates rules and procedures to accredit accreditation bodies, certification bodies and testing laboratories;
- (m) participates, when necessary, at the creation of specific certification systems within the National Certification System;
- (n) sets rules and procedures to certify products;
- (o) elaborates instruction programs, sets the rules and the procedures for training and certifying the auditors, and oversees their certification;
- (p) sets rules and procedures for issuing licenses governing the activities in the domain of certification;
- (q) issues certificates of conformity and licenses according to the established rules and procedures;
- (r) sets rules and procedures on the control and the supervision of certified products and carries out these activities;
- (s) administrates the State Register of the National Certification System;
- (t) has the exclusive right to issue accreditation certificates, conformity certificates and other official documents of the National Certification System;
- (u) approves the Nomenclature and coordinates its elaboration;
- (v) suspends or cancels any activity in the certification domain, which is not in conformity with the rules of the National Certification System;

- (w) cancels or suspends certificates and national conformity marks, which do not conform to the established rules of the National Certification System;
- (x) appoints the certification bodies accredited in the National Accreditation System to pursue mandatory certification.

Article 6. The functions of other bodies of public administration in the domain of certification.

According to their competence, other public administration bodies may:

- a) elaborate and approve product fitness certificates in relation to the life, health and rights of consumers and for the protection of the environment;
- b) elaborate proposals concerning the Nomenclature;
- c) participate in the creation of specific subsystems for product certification (certification bodies, testing laboratories) within the National Certification System;
- d) organize the certification of products at subordinated enterprises;
- e) participate through appropriate education institutions in the training and the professional re-training for testing and quality management, according to the programs coordinated by the national certification body.

Article 7. The competence of the hygienic certification subsystem

The hygienic certification subsystem, within the limits of its competence:

- a) elaborates and approves normative documents in the domain of hygienic certification;
- b) elaborates and approves rules and procedures for organizing and issuing hygienic certification;
- c) organizes and issues hygienic certification of products for human consumption.

CHAPTER II

NATIONAL MARKS OF CONFORMITY AND ACCREDITATION

Article 8. National Marks of Conformity

1. The national marks of conformity for the mandatory and voluntary certification within the National Certification System are elaborated by the national certification body. The graphic image, sizes and the rules of application of National marks of conformity are established by the appropriate standard.

2. The national marks of conformity are the property of the national certification body and are applied to mark certified production according to the rules of the National Certification System and the present law.

3. The national certification body transfers the right to use the national marks of conformity to suppliers on the basis of the conclusion of the licensing agreements made and signed according to the rules of the National Certification System.

4. To ensure their legal protection the information on registered national marks of conformity is published officially at the appropriate times.

5. It is prohibited to register as national marks of conformity, signs and inscription identical or similar to existing registered national marks of conformity.

6. The legal protection of a national mark of conformity is provided by the current legislation, present law, as well as by international legal norms in case of its registration at the World Intellectual Property Organization in Geneva (according to article 6-bis of the Paris Convention from March 20, 1883 revised in Stockholm at July 14, 1967) or in other competent international (regional) organizations.

Article 9. National mark of accreditation

1. The national mark of accreditation is elaborated by the national certification body. The graphic image, sizes and the rules of application of the national mark of accreditation are established by the appropriate standard.
2. The national mark of accreditation is the property of the national certification body and is applied for confirming the accreditation within the National Certification System.
3. The right to use a national mark of accreditation is transmitted to other organizations on the basis of the licensing agreements made and signed according to the rules of the National Certification System.
4. It is prohibited to register as national mark of accreditation, signs and inscriptions identical or similar to the registered national marks of accreditation.
5. The legal protection of a national mark of accreditation is provided by the current legislation, by present law, as well as by international legal norms in case of its registration at the World Intellectual Property Organization in Geneva (according to article 6-bis of the Paris Convention from March 20, 1883 revised in Stockholm at July 14, 1967) or in other competent international (regional) organizations.

CHAPTER III

MANDATORY CERTIFICATION

Article 10. Mandatory Certification

1. Mandatory certification is carried out, according to the provisions of the current legislation and present law, by issuing the certificate of conformity or the declaration of the supplier certifying the conformity of products with the given conditions. The right to declare the conformity of delivered production can be given to the suppliers, who have the certificate of conformity with international standard ISO 9000, issued by a certification body accredited by the National Certification System.
2. The normative documents on products potentially dangerous for the life, health and property of consumers and for the environment should contain mandatory requirements on their safety.
3. Products, on which in the normative documentation the mandatory requirements on safety for life, health and property of the consumers are provided, or requirements for the protection of the environment, are included in the Nomenclature, and are exclusively certified within the National Certification System by certification bodies accredited by the national certification body having the right of mandatory certification.
4. The approval, annual actualization and modification of the Nomenclature is carried out by the national certification body.
5. Products included in the Nomenclature may not be sold without the certificate of conformity and (or) without a national mark of conformity, without a hygienic certificate for food and drugs, and production with double purpose - without the special decision of the specific respective governmental commission.

Article 11. The competence and responsibilities of certification bodies and accredited testing laboratories

1. Certification bodies for products:
 - a) carry out certification and inspection control of certified production in strict conformity with the rules of the National Certification System and current legislation;

b) issue, suspend or cancel certificates of conformity depending on the results of certification or control inspections;

c) supply customers with consultations or necessary information concerning certification within the limits of their competence;

d) secure the confidentiality of the information received during certification, at the written request of the clients, except for questions of safety of production;

2. Accredited testing laboratories:

a) carry out tests of specific products or conduct separate specific kinds of tests with the purposes of certification in conformity with the rules of the National Certification System and the appropriate normative documents in force;

b) secure the confidentiality of the information received during the tests, at the written request of customers, except for questions of safety of the production.

Article 12. The responsibilities of the suppliers regarding the mandatory certification

The suppliers of production, subject to mandatory certification, are obliged:

a) to carry out certification of products included in the Nomenclature, according to the present law and with the rules of certification of the National Certification System;

b) to mark the manufactured production when due hereunder certified in the National Certification System with the national mark of conformity;

c) to sell products included in the Nomenclature, only under the condition of the availability of the certificate of conformity issued by the National Certification System;

d) to certify the conformity of the sold production with the requirements specified in the respective normative documents;

e) to specify in the accompanying documentation the information about the certification of products and about the respective normative documents;

f) to cease the supply of certified production and to withdraw it from the commercial network, where it does not conform to the requirements of the respective normative documents, also in case of nullification or withdrawal of the certificate of conformity when due hereunder;

g) to assist the officials of the national certification body and certification bodies to fulfill their official duties;

h) to operatively inform the appropriate certification body on changes introduced in the normative, technical and technological documentation of the certified products;

i) to execute financial obligations stipulated in the agreements signed with the certification body.

Article 13. The Import of Products

1. Goods which are subject to mandatory certification according to the present law, should be accompanied on importation by the conformity certificate and/or by the national mark of conformity, recognized in the National Certification System, as well as hygienic certificates for food and drugs. Where the indicated certificates of conformity and/or the national mark of conformity are lacking, the production should be certified in the National Certification System.

2. In contracts on imports of goods subject to mandatory certification in the Republic of Moldova is required the presence of the conformity certificates and/or of a mark of conformity recognized in the National Certification System, as well as hygienic certificates for food and drugs.

3. The procedures of conformity assessment applied to imported production are similar to the procedures applied to local production, and should conform to the provisions of Articles 2- 9 of the WTO/TBT Agreements.

Article 14. The control of certified production

1. The control of the certified production is carried out by the appropriate structures of certification bodies and of the national certification body and (or) by bodies under their assignment.
2. The observance of the present law is controlled by the national standardization body and other public administration authorities, as well as by public associations for consumer rights protection within the limits of their competence;
3. The officials of the national certification body and certification bodies, can take part in the control of certification processes within the limits of their competence.

Article 15. Mandatory (legal) certification financing and the inspection of certified products

- (1) The state budget finances:
 - a) the elaboration of the certification policy and its development program;
 - b) the elaboration and updating of standards and organizational-methodical documents of the National Certification System;
 - c) the creation and the activity of the Information Center in certification problems according to the requirements and objectives of the World Trade Organization;
 - d) participation in the works of international (regional) certification bodies and cooperation with national certification bodies from other countries;
 - e) participation in the elaboration of standards, norms, guides and other international (regional) documents in the certification domain;
 - f) keeping the State Register of the National Certification System and materials on the state registration of certification systems and conformity marks;
- (2) The national certification body finances from its own finances:
 - a) Accreditation, certification, audit and expertise, as well as the inspection of certified products;
 - b) Presenting official information to interested institutions, legal entities and natural persons and consultations in the certification domain;
 - c) Organizing training and qualification courses in the quality management and products certification;
- (3) The expenditures related to products certification are correlated with their cost.

CHAPTER IV

VOLUNTARY CERTIFICATION

Article 16. Voluntary certification

1. Voluntary certification is carried out within the National Certification System.
2. Payment for works and services of voluntary certification, as well as for inspection control of certified production, is made by the applicant (supplier, consumer) under the contractual agreements they have entered into.
3. The control of activity of bodies and laboratories accredited in National Certification System is carried out by the national certification body.

Article 17. The responsibilities of the suppliers in the case of voluntary certification

1. For voluntary certification suppliers should insure the conformity of the certified parameters with the requirements of the appropriate documents;
2. Suppliers are obliged to mark fabricated and certified production when due hereunder.

CHAPTER V

THE RIGHTS OF THE SUPPLIERS

Article 18. The rights of the suppliers in case of mandatory and voluntary certification

1. In case of disagreement with the decision of the body on certification or the results of tests, the supplier has the right within 15 days to submit the appeal to the national certification body;
2. The national certification body is obliged to consider the appeal within 30 days and to inform the supplier in writing of its decision;
3. In case of disagreement with the decision of the national certification body, the supplier has the right to submit the appeal to the court within 15 days;
4. The supplier has the right to advertise the certified product in the National Certification System, referring to the number of the certificate of conformity;
5. Advertising production included in the Nomenclature, without making available the certificate of conformity is forbidden.

CHAPTER VI

THE RESPONSIBILITY FOR INFRINGEMENT OF THE PRESENT LAW

Article 24. The responsibility for infringement of the present law

Infringement of the provisions of the present law incurs a penalty under the current legislation.

CHAPTER VII

INTERNATIONAL AGREEMENTS

Article 20. International agreements (interstate)

1. When the international (interstate) agreement, to which the Republic of Moldova is a party, establishes other provisions than those, provided by the legislation of the Republic of Moldova, the provisions of the international (interstate) agreement are applied.
2. The certification of products for export can be carried out in accordance with the requirements of the importing party stipulated in the agreement on delivery.
3. An economic exporter is responsible for the delivery of products in conformity with any certified specific requirements set out in the terms of the appropriate agreement .

CHAPTER VIII
FINAL PROVISIONS

ARTICLE 21

Within 3 months the Government shall:

- a) present to the Parliament proposals on the adjustment of the current legislation according to the present law;
- b) adjust its normative acts in conformity with this law
- c) ensure the review of the normative documentation contradicting to the present law by ministries, departments and local public bodies.

THE PRESIDENT OF PARLIAMENT

Dumitru DIACOV

Chisinau, 28 october 1999.
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