

Decree of the Cabinet of Ministers of Ukraine

On State Supervision over the Observance of Standards, Norms and Rules and Responsibility for their Violation

No.30-93

April 8, 1993

With amendments made by the Law No.288/95, of July 11, 1995, Law No.332/97, of June 11, 1997, Law No. 622/97, of November 5, 1997.

Decree determines legal basis for state supervision over the observance of standards, norms and rules by the agents of entrepreneurial activity /entrepreneurs/, determines their responsibility for the violation of these standards, norms and rules.

CHAPTER I. GENERAL PROVISIONS

Article 1. Definition of terms used in the Decree.

In this Decree below indicated terms are used in the following meanings:

state supervision – activity of the special authorities of the state executive power to control observance by the entrepreneurs of standards, norms and rules when producing and selling products /execution of works, rendering services/ with the purpose of satisfying demands of the society and consumers with proper quality, safety for life, health and property of people and environment;

products – scientific and research products, products for manufacturing and technical purposes, consumer goods;

quality of products – combination of characteristics reflecting safety, novelty, longevity, reliability, efficiency, esthetical beauty, etc which allow them to satisfy consumer according to their purposes;

standard – state standard, sector standard, technical conditions and other normative documents adopted by the respective body providing general principles, characteristics or technical requirements regarding definite objects of standardization which shall be met by the definite products;

norms – metrological, construction, sanitary and other compulsory requirements adopted by the respective authority that determine indexes and concentration of substances ensuring quality of products;

rules adopted by the respective authority – metrological, sanitary, fire-prevention, environmental, organizational, technological and other requirements to the products manufacturing;

certified productions – productions that are able to constantly manufacture and sell products meeting determined requirements. This should be officially confirmed by the specially authorized body.

Article 2. State supervision authorities

1. State supervision over the observance of standards, norms and rules, condition of the measuring means and other requirements connected with the quality of products /hereinafter referred to as standards, norms and rules/ shall be performed by State Committee of Ukraine on Standardization, Metrology and Certification /Derzhstandard of Ukraine/ and its regional authorities – centers of standardization, metrology and certification /hereinafter referred to as state supervision authorities/ and also other specially authorized for this bodies.

Activity of the specially authorized bodies is covered by the definite legislative acts.

2. Head of the Derzhstandard of Ukraine simultaneously occupies position of the Chief Inspector of Ukraine and his deputies – deputies of the Chief State Inspector of Ukraine on the state supervision over the quality of products, observance of standards, norms and rules.

Directors of the standardization, metrology and certification centers of the Derzhstandard of Ukraine simultaneously occupy positions of the Chief State Inspectors of the Republic of Crimea, region, city and their deputies – deputies of the Chief State Inspector of the Republic of Crimea, region, city on the state supervision over the quality of products, observance of standards, norms and rules.

Heads of the departments, their deputies, heads of the divisions, experts of the Derzhstandard of Ukraine, heads of the subdivisions, their deputies and experts of the standardization, metrology and certification centers performing state supervision over the observance of standards, norms and rules simultaneously occupy positions of the state inspectors supervising quality of products, observance of standards, norms and rules.

Officials performing state supervision over observance of standards, norms and rules shall be certified according to the procedure determined by the Derzhstandard of Ukraine.

Chief State Inspectors, their deputies and state inspectors shall enjoy rights determined by this Decree.

3. Derzhstandard of Ukraine is responsible for coordination of works on the state supervision over the observance of standards, norms and rules including cooperation with similar authorities of other countries.

CHAPTER II. OBJECTS AND FORMS OF THE STATE SUPERVISION OVER OBSERVANCE OF STANDARDS, NORMS AND RULES.

Article 3. Objects of the state supervision

There are following objects of the state supervision:

1. products for the production and technical purposes, consumer goods, cattle-breeding and plant-growing products, food products including certified products - to comply with standards, norms and rules;
2. imports - to comply with valid in Ukraine standards, norms and rules regarding safety for life, health and property of people and environment;

3. exports - to comply with standards, norms and rules or separate requirements provided by the agreement (contract);
4. certified productions - to comply with established requirements regarding certification of products.

Article 4. Forms of the state supervision

State supervision shall be performed in accordance with plans of the bodies of the state supervision or by the requests of citizens by checking the observance of the following:

standards, norms and rules except construction norms and rules when developing, producing, selling, storing, transporting, using and utilizing products except sale of products in trade, production and sale at the enterprises of public catering and rendering services to the citizens as to consumers by conducting regular or constant examinations through the selective or total control;

(paragraph 2 of the Article 4 amended according to the Law # 288/95-BP of 11.07.95)

quality of the certified products, rules of examination of products.

Examination on the request of citizens shall be conducted according to the legislation on the procedure of considering proposals and applications of citizens.

Results of the examination shall be stated in the Protocol which form and filling in procedure shall be determined by the Derzhstandard of Ukraine.

CHAPTER III. FUNCTIONS OF THE AUTHORITIES OF STATE SUPERVISION OVER THE OBSERVANCE OF STANDARDS, NORMS AND RULES. RIGHTS, OBLIGATIONS AND RESPONSIBILITY OF THEIR OFFICIALS.

Article 5. Functions of the state supervision authorities

State supervision authorities perform following functions:

1. supervise observance of standards, norms and rules;
2. make according to the established procedure proposals on elimination, restriction of the validity or examination of standards, norms and rules if they do not endure quality of products, safety of life, health and property of people and environment or contradict with current legislation of Ukraine;
3. analyze performance of the entrepreneur to examine observance of standards, norms and rules;
4. summarize results of the state supervision, analyze reasons of the violation of standards, norms and rules.
5. ensure effective utilization of measures to prevent violation of standards, norms and rules, elimination of reasons causing them;

6. inform state authorities about observance of standards, norms and rules;
7. based on the conclusions of the state supervision make proposals to the bodies of the state executive power, local and regional self-government authorities on improvement of measures to improve quality of products;
8. develop and introduce measures with the purpose of increasing efficiency of the state supervision;
9. ensure cooperation with law-enforcing and other authorized for the state supervision bodies, consumers partnerships supervising quality of products.

Article 6. Rights, obligations and responsibilities of the officials of the state supervision bodies

1. Chief State Inspectors, their deputies, state inspectors (hereinafter referred to as state inspectors) performing state supervision over the observance of standards, norms and rules represent state executive power (paragraph 1 item 1 of the Article 6 is amended according to the Law # 288/95-BP of 11.07.95)

State inspectors have the following rights:

1. visit without any restrictions, when presenting identity card and document confirming examination, enterprises, institutions and organizations (their associations) regardless of the type of ownership (taking into account established working hours) to perform their duties;
2. to receive when performing state supervision necessary information and materials regarding observance of standards, norms and rules;
3. select specimens of products from entrepreneur or (and) consumer or (and) trade (distribution) organizations to check their compliance with standards, norms and rules. Value of the selected specimens, if after examination they cannot be used for initial purposes, and also the cost of examination shall be considered as expenses of the agent examining these products;
(subitem 3 of the item 1 of the Article 6 is amended according to the Law # 288/95-BP of 11.07.95)
4. to use, if necessary, with the consent of the management, technical facilities and experts of the enterprises, institutions and organizations (their associations) to conduct examinations connected with state supervision of standards, norms and rules;
5. to issue obligatory instructions to the entrepreneurs regarding elimination of violations of standards, norms and rules;
6. to prohibit utilization (in production) and handing to the to the customer construction, technological and project documents which do not meet requirements of standards, norms and rules regarding quality of products and technological processes; to inform respective specially authorized state supervision bodies if these documents do not meet requirements of safety standards, norms and rules;

7. to prohibit production, distribution (including after repairmen), storage, transportation, utilization, sale of products including imported products and separate consignments with violation of standards, norms and rules;
(subitem 7 of the item 1 of the Article 6 is amended according to the Law # 288/95-BP of 11.07.95)

8. to prohibit production and sale of products subject to the obligatory certification but not certified in due terms and also products manufactured without special permission (license) if this is provided by the legislation; (subitem 8 of the item 1 of the Article 6 is amended according to the Law # 288/95-BP of 11.07.95)

9. execute documents regarding penalties imposed on the entrepreneur if he is violating standards, norms and rules;

10. execute protocols on administrative infringements in the area of standardization, products quality and metrology;

11. to send documents to the public prosecutor's office to make a decision on criminal responsibility of people for violating standards, norms and rules;

12. to apply to the bodies authorized to issue special permission (license) to conduct definite types of entrepreneurial activity with the proposal to terminate issued licenses if entrepreneur violates standards, norms and rules when carrying out such activity;

13. to introduce to the entrepreneur, according to the established by the Derzhstandard of Ukraine procedure, special regime of products examination if he is systematically violating standards, norms and rules when manufacturing or selling these products;

14. when exercising official duties to use tickets for transportation in the city passenger transport (except taxi) that may be purchased from the allocations provided by the organization's estimate.

(subitem 14 is added to the item 1 of the Article 6 according to the Law # 288/95-BP of 11.07.95)

(subitem 14 of the item 1 of the Article 6 is amended according to the Law # 332/97-BP of 11.06.97)

2. Only Chief State Inspector of Ukraine and his deputies have the right to give to the entrepreneur obligatory instructions to stop manufacturing products if he is violating standards, norms and rules until the elimination of the reasons causing them.

Resumption of the production, distribution and sale of products shall be allowed based on the positive results of the examination performed by the state inspector. Expenses for the examination shall be covered by the entrepreneur.

(paragraph 2 is added to the item 2 of the Article 6 according to the Law # 288/95-BP of 11.07.95)

3. When performing state supervision over observance of standards, norms and rules state inspectors are obliged to fulfill the entire range of operations provided by the Article 5 of this Decree.

4. State inspectors bear responsibility determined by the current legislation if they are exercising their rights illegitimately. They also bear responsibility for the disclosure of the commercial secrecy.

5. Heads of the enterprises, institutions and organizations (their associations) of all types of ownership are obliged to ensure to the officials performing state supervision proper conditions for the execution of their duties.

6. Authorities performing state supervision over the observance of standards, norms and rules shall cooperate with central and local authorities of the state executive power, local and regional self-government bodies, public organizations.

CHAPTER IV. FINANCING OF THE STATE SUPERVISION

Article 7. Sources of the state supervision financing

Financing of the state supervision over the observance of standards, norms and rules shall be performed from the state budget.

CHAPTER V. RESPONSIBILITY OF THE AGENTS OF ENTREPRENEURIAL ACTIVITY FOR VIOLATION OF STANDARDS, NORMS AND RULES

Article 8. Responsibility of the agents of entrepreneurial activity

1. In the case of violation of standards, norms and rules agent of entrepreneurial activity (entrepreneur) bears responsibility for the following:
 2. if person that develops designer, technological and draft documents, which do not meet requirements of standards, norms and rules regarding quality of products, and technological processes, submits them to the customer or for production purposes he shall pay penalty equaling to 25 % of the value of this innovation;
 3. if entrepreneur sales products that do not correspond to the standards, norms and rules he shall pay a penalty equaling to 25 % of the value of the sold products;
 4. if entrepreneur sales at the territory of Ukraine imported products that do not correspond to the Ukrainian standards, norms and rules regarding safety for life, health, property of people and environment he shall pay a penalty equaling to 50 % of the value of the sold products;
 5. if entrepreneur evades to present to the state supervision authorities products subject to control he shall pay a penalty equaling to 25 % of the value of products manufactured starting from the moment of avoidance;
 6. if entrepreneur sales products that are subject to obligatory certification but were not certified, he shall pay penalty equaling to 25 % of the value of the sold products;
 7. if entrepreneur sales exported products that do not correspond to standards, norms and rules, and this fact is confirmed by consumer in written form, he shall pay penalty equaling to 25 % of the value of the sold products;
 8. if entrepreneur sales products which are prohibited for manufacturing and sale by the state supervision authorities, he shall pay penalty equaling to 100 % of the value of the sold products;
 9. if entrepreneur produces or sales highly dangerous products (poisons, chemicals, explosive and inflammable substances, etc) without proper preliminary marking and without operational manuals, storing and transportation instructions,

he shall pay penalty equaling to 50 % of the value of the manufactured or sold products;

10. if entrepreneur manufactures, sells products which is due to the violation of standards, norms and rules are dangerous for the life, health and property of people and environment, he shall pay penalty equaling to 100% of the value of the manufactured or sold products.

2. Value of documents and products developed, manufactured and sold (distributed) with the violation of requirements provided by the item 1 of this Article and also products that were sold when entrepreneur evaded control over them shall be calculated by their selling prices.

3. Payment of the penalty provided by the item 1 of this Article does not exempt entrepreneur from obligatory remuneration of damages to the consumers of products caused by the violation of standards, norms and rules, non fulfillment of the terms and conditions of the contract for the supply of products.

4. Based on the examination act, executed according to the established procedure, in the case of violations provided by the item 1 of this Article, entrepreneur shall receive obligatory for execution resolution on the payment of penalties according to the procedure established by the Derzhstandard of Ukraine.

Resolution on penalties shall be issued by the Chief State Inspector of the Crimean Republic, region, city or his deputies. In the cases provided by the subitems 7 and 9 of the item 1 of this Article resolution shall be issued by the Chief State Inspector of Ukraine or by his deputies.

One copy of the Resolution shall be sent to the state taxation inspection by the place of entrepreneur's location to perform control over the payment of penalties.

If violator does not fulfill Resolution within 15 days from the day of its issuance, penalty shall be levied unconditionally by the state taxation inspection.

The act upon which Resolution is based shall indicate the following:

type of violation - parameters and indicators according to which products do not meet requirements of standards, norms and rules, deviations and their influence at the quality of products;

period when violation of standards, norms and rules took place; volume of products that does not correspond to this requirements in natural terms and in terms of value (for each month) when the violation took place;

data confirming the fact of manufacturing or sale of products which do not meet requirements of standards, norms and rules.

If necessary, data confirming evasion of the entrepreneur from presenting products to the state supervision authorities for their examination shall be indicated.

Other required documents may be attached to the act.

5. Penalties amounting to 60 % shall be paid to the state budget, 30 % - to the non-budget funds of the local self-government authorities, 10 % to the Derzhstandard of Ukraine with the purpose of creating its material, technical, scientific and research base.

6. Unreasonably collected to the budget penalties shall be returned by the financial authorities based on the decision of the authority that canceled payment of penalties.

7. Penalties shall not be levied in the following cases:

there is a decision of the Cabinet of Ministers of Ukraine allowing sale of the agricultural products with deviation of quality from the requirements of standards in favor of the state order;

if entrepreneur has a permission for the temporary deviation from requirements of the respective standards regarding quality of products issued in every definite case by the Derzhstandard of Ukraine, intercession on behalf of the interested authority of the state executive power, consent of the consumer and special authorized body performing state supervision over the safety of these products. Along with this, in all cases, during the validity of this permission entrepreneur shall pay according to the procedure established by the Ministry of Finance of Ukraine to the state budget 10 % of the value of such products but not more than 90 % of the profit of enterprises left after the obligatory payments.

(item 7 of the Article 8 amended according to the Law # 622/97-BP of 05.11.97)

CHAPTER VI. LEGAL PROTECTION OF THE OFFICIALS OF DERZHSTANDARD OF UKRAINE AND ITS REGIONAL AUTHORITIES

Article 9. Relationships of the Derzhstandard of Ukraine and its regional authorities with law enforcing authorities

Law enforcing officers shall assist officials of the Derzhstandard of Ukraine and its regional authorities in performing their official duties, related to state supervision over observance of the standards, norms and rules.

Article 10. Protection of private and proprietary rights of the officials of Derzhstandard of Ukraine and its regional authorities

1. The officials of the Derzhstandard of Ukraine and its regional authorities shall be under protection of the law when performing their official duties, related to state supervision over the observance of standards, norms and rules. State shall guarantee protection of life, health, honor, dignity and property of the officials and members of their families against criminal offences and other criminal actions.

2. Officials of the Derzhstandard of Ukraine and its regional authorities charged with performing state supervision over the observance of standards, norms and rules are subject to obligatory state insurance. Cabinet of Ministers of Ukraine shall determine procedures and terms of officials' insurance.

3. When injured or disabled due to performance of official duties, the official shall be paid compensation ranging from one- through five-year wage (depending upon caused injury), when perished - the family of the perished shall be paid one-time aid amounting to ten-year wage according to his last official post. The damages, caused to the property of the

official of Derzhstandard of Ukraine and its regional authorities or members of his family related to performing official duties, are compensated in the full scale at the expense of the state budget with consequent collection of this amount from the guilty person.

(The Chapter VI is added to the Decree according to the Law # 288/95- BP of 11.07.95)
(Due to this amendment, the Chapter VI shall be considered the Chapter VII and Article 9 - Article 11.)

CHAPTER VII. FINAL PROVISIONS.

Article 11. Coming into force of the Decree

This Decree comes into force from the day of its publication.