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in Kosovo



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au Kosovo

PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

LAW NO. 2003/10

LAW ON ARTIFICIAL FERTILIZERS

The Assembly of Kosovo,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/9 of 15 May 2001 in the Constitutional Framework for Provisional Self-Government, Articles 9.1.26 (a) and 5.1 (j), and

For the purpose of establishing rules for the protection of producers and consumers of artificial fertilizers and regulating the system of artificial fertilizers in Kosovo,

Hereby approves the following:

Chapter I

General Provisions

Article 1

Definitions

In this Law:

1. **Analyst** means a person appointed or designated pursuant to Article 6.
2. **Artificial Fertilizers** means an organic or inorganic substance containing one or more recognized plant nutrient(s) which is used for its plant nutrient content.
3. **Inspector** means a person appointed or designated pursuant to Article 6.
4. **Label** means the display of all written, printed, or graphic matter upon the immediate container, or a statement accompanying artificial fertilizers.

5. **Law on Artificial Fertilizers** is the legal act that regulates the activities of production, import, use and trade of artificial fertilizers in Kosovo.
6. **Minister**, according to this law is the Minister of MAFRD.
7. **MAFRD** means the Ministry of Agriculture, Forestry and Rural Development.
8. **Artificial Fertilizers Regulatory Service** means the body designated by the Ministry to have charge and control of the execution of this Law.
9. **Artificial Fertilizers Regulatory Service Administrator** means the individual appointed by the Ministry to administer the Artificial Fertilizers Regulatory Service.
10. **Board** means the Artificial Fertilizers Advisory Body as specified in this Law.
11. **Person** means any natural or legal entity.
12. **Registration** means the process of approval for a Person to Sell or produce Artificial Fertilizers in Kosovo.
13. **Registrant** means a Person who has obtained a certificate of registration pursuant to Law.
14. **Sell** includes offer for sale, expose for sale, sell, distribute or have in possession for sale or distribution.
15. **Violation** means a violation of the provision of this Law.

Article 2

Purpose

1. The purpose of this Law is to assure the maintenance of Artificial Fertilizers quality in Kosovo

Article 3

Organization

1. The Ministry shall prescribe the structure and organization of the Artificial Fertilizers Regulatory Service.

2. The Ministry shall prescribe the structure and organisation of the Kosovo Artificial Fertilizers Advisory Board which shall make recommendations to the Artificial Fertilizers Regulatory Service on matters affecting this Law.

Article 4

Registration

1. Any person including a manufacturer, importer or dealer who intends to Sell or offer for sale Artificial Fertilizers in Kosovo shall do so under and in accordance with the terms and conditions of a certificate of registration.

2. An application for a certificate of registration shall include:

(a) the name and address of Registrant.

(b) the name and address of each of the Registrant's distribution points in Kosovo.

3. The application for a certificate of registration shall be accompanied by the Prescribed fee and shall be on forms furnished by the Artificial Fertilizers Regulatory Service.

4. Every certificate of Registration granted shall, unless suspended or cancelled, be valid for a maximum period of three years from the date of issue and the certificate of registration shall be renewed upon payment of the required registration fee.

5. The Registration fee shall be prescribed with a special administrative Instruction by the Government.

6. The Registrant shall inform the Artificial Fertilizers Regulatory Service in writing of additional distribution points established during the period of the certificate of registration.

7. The Artificial fertilizers Regulatory Service shall grant a certificate of registration within 30 days of the receipt of application to any Person who applies provided that no certificate of registration shall be granted to a Person

- a. If the previous certificate of registration is under temporary suspension.
- b. If the Person has been convicted of an offense under this Law within the three years immediately preceding the date of making the application.
- c. If the Person fails to enclose with the application the registration fee.
- d. If the application is incomplete in any respect.

8. If the Artificial fertilizers Regulatory Service fails to issue a certificate of registration within the prescribed time period and the applicant has valid documentation to show that a proper application has been submitted to the Artificial fertilizers Regulatory Service, the applicant may begin selling artificial fertilizers while awaiting a response from the Artificial fertilizers Regulatory Service.

9. The Artificial fertilizers Regulatory Service shall notify the applicant in writing, within 30 days of the receipt of application of any reasons as stated in point (7) of this Article why a certificate of registration can not be issued and failure to do so shall be considered permission for the applicant to begin selling artificial fertilizers while awaiting a response.

10. The Artificial fertilizers Regulatory Service shall provide the Registrant with a copy of this Law at the time the certificate of registration is issued.

Article 5

Quality and Harmful Properties

1. The production, import, repacking, distribution or Use of Artificial Fertilizers not complying with quality and other conditions according to designated standards:
 - a. does not contain sufficient nutritive active ingredients;
 - b. contains destructive ingredients (such as heavy metals or radio-nuclear waste) or when used according to the directions, has properties harmful to plant growth, is prohibited.

Chapter II

Enforcement

Article 6

Inspectors and Analysts, Appointment

1. The Inspectors and Analysts that administer and implement this Law shall be appointed by the Ministry in accordance with the conditions prescribed by the Administrative Instruction.

Article 7

Powers of Inspectors

1. An Inspector may always:
 - (a). enter any place in which he/she believes on reasonable grounds there is any article to which this Law applies.
 - (b) open any container found in that place that he/she believes on reasonable grounds contains any such article.
 - c. examine the article and take samples thereof.

2. Assistance to Inspectors

The owner or Person in charge of any place described in (1) of this Article and every Person found in that place shall give an Inspector all reasonable assistance to enable the Inspector to carry out the Inspectors duties and functions under this Law and shall furnish the Inspector with any information the Inspector may reasonably require with respect to the administration of this Law.

Article 8

Obstruction of Inspectors

1.No Person shall obstruct or hinder an Inspector in the carrying out of the Inspectors duties or functions under this Law.

2.False or misleading statement either orally or in writing to an Inspector or other officer engaged in carrying out that Inspector or other Officers duties or functions under this Law is prohibited.

Article 9

"Stop Sale" Orders

1.The Inspector shall issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of Artificial Fertilizers and hold it at a designated place up to 8 days when the Inspector finds the said Artificial fertilizers is being offered or exposed for sale in Violation of any of the provisions of this Law.

2.The Inspector shall release the Artificial Fertilizers so withdrawn when the requirements of this Law have been complied with and all costs and expenses incurred in connection with the justified withdrawal have been paid.

Article 10

Seizure, Condemnation, and Sale

1. A lot of Artificial fertilizers not in compliance with this Law shall be subject to seizure through inspector's decision. In the event the inspector finds the said Artificial fertilizers to be in Violation with designated standards, the said condemned Artificial fertilizers shall be disposed of in consistent manner in compliance with the applicable laws of Kosovo. Unsatisfied party could appeal to Minister within 15 days after receiving the inspector's decision for artificial fertilizers disposal. Claimant could initiate the administrative dispute in authorized Court within 30 days from the decision-receiving day. Complaint does not suspend enforcement of the decision.

Chapter III

Offenses and Punishment

Article 11

Violations

1. The Artificial fertilizers Regulatory Service, after a hearing with a concerned Registrant, may refuse to renew, or may suspend or revoke a certificate of registration for repeated Violations. After the loss of a certificate of registration, the Person so deprived has a right of appeal to the appropriate authority.

2. It shall be a Violation for any Person to Sell or offer for sale any Artificial Fertilizers without complying with the conditions of this Law.

3. When an Inspector seizes any lot of Artificial Fertilizers, he shall immediately issue a hold decision or notice, and he may affix to the lot or container of such material a warning tag which states that the lot is so held.

4. Any lot of Artificial Fertilizers for which a hold decision or notice is issued shall be held by the Person having control of such material and shall not be distributed or moved except under the specific directions of the Artificial Fertilizers Regulatory Service, pending final disposition pursuant to this Law. This shall not prevent the Person having control of the material from inspecting any material so seized, nor from taking therefrom in the presence of a Person designated by the Artificial Fertilizers Regulation Service, a reasonable sample for analyses.

5. Upon demand of the Person having control of the seized Artificial fertilizers, at or prior to the time of the sampling by an Inspector, the sample which is drawn shall be divided into two approximately equal parts, one part of which shall be sealed and given to the Person in control of the seized Artificial fertilizers and one part of which shall be kept for analysis by the Artificial fertilizers Regulatory Service.

6. If the analysis of the seized and held lot, as determined by an Analyst, is not in Violation, the Inspector shall immediately release the seized and held lot and remove the hold order or tag.

7. If the seized and held lot is found to be in Violation, the Artificial Fertilizers Regulatory Service shall take either of the following actions:

(a) Continue to hold the lot until such time as the requirements of this Law have been complied with, at which time the lot shall be released.

(b) Undertake the procedure specified in Article 10 of this Law.

8. The Person having control of a seized or held lot found to be in Violation may appeal the result of analysis to the Artificial Fertilizers Regulatory Service in writing within the Prescribed time period. Upon receipt of such appeal, the Inspector shall take a further sample of the lot in question for super-analysis, and the cost of sampling

and analysis shall be at the expense of the Person that requests the appeal analysis. The findings from the appeal analysis shall be final.

Article 12

Misbranding Artificial Fertilizers

1. Offering for sale or distribution of misbranded Artificial Fertilizers is prohibited.
2. Artificial Fertilizers shall be deemed to be misbranded:
 - (a). If its identification or labeling is false or misleading in any manner.
 - (b). If it is distributed, offered for sale or sold under the name of another Artificial fertilizers product.
 - (c). If it is not identified or labeled as Prescribed.

Article 13

Adulteration

1. Distribution of an adulterated artificial fertilizers product is prohibited.
2. Artificial fertilizers shall be deemed to be adulterated:
 - (a). If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label.
 - (b). If its composition falls below or differs from that which it is purported to possess by its identification and labeling.
 - (c). If it contains unwanted crop seed or weed seed or other unwanted supplements.

Article 14

Short Weight

- (1). If any Artificial fertilizers container in the possession of a Registrant is found to be short in weight by more than one percent the Registrant shall be in Violation.

Article 15

Punitive measures

1. With a fine of 5.000 to 20.000 shall be punished a person for civil violation:

- Producing, importing, repacking or distributing artificial fertilizers not complying with quality according to designated standards (article 5).
- Produces, imports, repacks or sells non-registered artificial fertilizers (article 4).
- Distributes artificial fertilizers conflicting with conditions given in the certificate.
- Sells the artificial fertilizers lot for which sale prohibition order is issued (article 9).
- Sells adulterated artificial fertilizers products (article 13).

2. For civil violation from point 1 of the present article, except punishment the protection measure shall be sentenced for seizing the profit gained from sale of non-quality artificial fertilizers as well as seizure of the whole lot of imported artificial fertilizers when does not correspond to designated quality or contains harmful ingredients.

(3) With a fine of 1.000 to 15.000 shall be punished a person for civil violation

- Distributes misbranded artificial fertilizers (article 12).
- Distributes artificial fertilizers without package label.
- Imports artificial fertilizers not-accompanied with certificate of quality and certificate of origin (article 12.2c).
- Hinder the inspector in carrying out official duty or making false statement to inspector (article 8).
- Does not provide assistance to inspector in carrying out his duties (article 7.2).
- Distributes artificial fertilizers short in weight (article 14).

Article 16

Revenues Generated

(1). Revenues generated, fees collected or penalties shall be forwarded to the Ministry of Economy and Finance for depositing in the Kosovo Consolidated Budget

Chapter IV

Administrative Instructions

Article 17

Instructions

(1). The MAFRD is responsible for issuing administrative instructions and decisions regarding the Artificial Fertilizers.

Chapter V

Final Provisions

Article 18

Contravention

1. Any disposition that contravenes these regulations is repealed.

Article 19

Reserved Powers of the Special Representative of the Secretary General of the United Nations.

All functions powers reserved to Special Representative of the Secretary General of the United Nations for Kosovo (“SRSG”) as referred to in UNMIK Regulation No 2001/9 on a Constitutional Framework for Provisional Self-Government in Kosovo shall be temporarily subject to monitoring and endorsement by the SRSG.

Article 20

Coming into force of this Law

This Law shall come into force on first day after approval.

Law Nr. 2003/10

22 May 2003

President of the Assembly of Kosovo

Dr. Nexhat Daci

