

Law No. 03/L-138

ON AMENDMENT AND SUPPLEMENTATION OF LAW NO. 2004/5 ON TRADE OF PETROLEUM AND PETROLEUM PRODUCTS IN KOSOVO

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

LAW ON AMENDMENT AND SUPPLEMENTATION OF LAW NO. 2004/5 ON TRADE OF PETROLEUM AND PETROLEUM PRODUCTS IN KOSOVO

Article 1

The Article 1 of law in power, paragraph 1.1 is amended and replenished with following text:

“The purpose of the present law is to regulate the Petroleum Sector in Kosovo which has to deal with trading and security of supply of Petroleum and Petroleum Products through competition encouragement and elimination of unlawful trade practices”.

Article 2

Definition “**Transport**” shall be deleted and is valid for the whole text of the Law no. 2004/5 and Law no. 02/L-89, on amendment and supplementation of the Law no. 2004/5 on Trade of Petroleum and Petroleum Products in Kosovo (if it is in the context of transportation).

Article 3

1. In Article 2, the definition of terms from the law are amended and supplemented as following:

Petroleum Products – shall mean products gained from fuel, as: gasoline, diesel fuel, auto diesel (gas oil), industrial diesel, kerosene, lubricating oil, motor oil, liquefied petroleum gas, anti-freeze, glycerin for breaks and heavy fuel oil.

Definition “**Council**” is replaced with “**Licensing Office**” throughout all text of the law.

“**Emergency reserves of Petroleum products**” shall mean petroleum products amount dedicated for utilization during big natural accidents and emergency condition.

In definition “**Customs service**” word “**UNMIK**” shall be replaced with word “**Kosovo**”.

“**License**”- shall mean written document, issued by Licensing Office, foreseen by this law, recognizing the right to exercise the respective activity of a person in section of petroleum and petroleum products in Kosovo.

Definition “**Note**” is amended as “**Basic data**” (throughout the whole text of the law). Text of this definition is reworded as following:

“**Basic data**” shall mean notes registered by the Licensing Office in respect of the name, address, number of identification of tax payer and if they apply, number of registered certificate of the applicant evidenced in the Licensing Office.

2. In Article 2 of the law four definitions are added for with following text:

Processing – shall mean the processing of petroleum and petroleum product raw material for gaining final product.

The Commission - shall mean the Committee on Claim, aiming to review claims against decisions of the Licensing Office.

Customs Certificate - shall mean the certificate issued by Kosovo Customs Service Authority for import-export activity.

“Authorized Body” shall mean body on assessment of conformity that may be: inspection body accredited under ISO/IEC 17020 standards, tested accredited under ISO/IEC 17025 standards or certified accredited under ISO/IEC 4011 standard.

Article 4

The title of article 3 of the law is amended as **“ESTABLISHMENT AND SCOPE OF THE COUNCIL”** and the whole text of the article as following:

Article 3 ESTABLISHMENT AND SCOPE OF THE COUNCIL

- 3.1. Licensing Office is established within the MTI with civil servants, responding to the Minister.
- 3.2. Main activity of the Licensing Office is to issue, extend, dismiss, to amend or revoke licenses in compliance with this law.
- 3.3. Licenses shall be signed by Minister.
- 3.4. Against decision of the Licensing Office, unsatisfied party may claim in term of fifteen (15) days from the day of decision making.
- 3.5. Organization of the Office, number and professional level of civil servants, duties and responsibilities, shall be regulated with sub-legal act of the Ministry.
- 3.6. Member of the Council, (under article 3 of the Law in force), with entrance into force of this law, shall be extended the remained mandate, as a member of the Licensing Office.

Article 5

1. In paragraph 4.1 of the law, is added the word “import” after the word storage, while rest of the text remains the same.
2. In paragraph 4.2 of the law the existing text is deleted and replaced with following text:

“4.2 The Licensing Office shall process and take decision for equipment licensed to operate in movement sector and processing of Petroleum and Petroleum Product. “
3. In paragraph 4.2 of the law is deleted: “a,b,c,d,e,f and replaced with the following text:
 - a) License shall be adopted for import, storage, wholesale, retail sale and processing of petroleum products. “
 - b) The minister through bylaws shall define the petroleum and petroleum products, while their movement shall be licensed, licence types and provisions to be fulfilled for obtaining a licence.”
4. In article “4”, of the law after the paragraph “4.2” is added a new paragraph “4.3” with following text
 - 4.3. “The procedures for company licensing which deals with raw material of petroleum and petroleum products, shall be regulated by special sub-legal acts adopted by Minister. “
5. The Article “4”, of the law, paragraph “4.4” shall be deleted

6. The paragraph "4.3" of the law will be "4.4"

7. The paragraph "4.6" of the law is deleted and reworded with following text:

4.6. Any persons exercising the activity on vehicle servicing, for their own needs, can use: lubricating oil, motor oil, anti-freeze and brake fluid without a License."

8. After paragraph "4.6", of the law 3 paragraphs are added with the following text:

4.7. The minister has the right in case estimates that are not respected legal procedure regarding taking decision to the Licensing Office can to suspend that decision jointly with all material, to bring back the Licensing Office in re-examination."

4.8. If after evaluation, the Licensing Office I does not eliminate unconvinced facts, the Minister shall the case to be decided by the Commission of Claims."

4.9. The Licensing Office Decision shall be considered suspended and dose not has any legal effect until the Decision will be concluded from the Commission for Claims."

9. Paragraphs" 4.7,"4.8" of the law will be: 4.10 dhe 4.11

Article 6

1. In article "5", of the law, paragraph "5.2" existing text is deleted and replaced with following text:

5.2. The minister is authorised through sub-legal acts to define tariffs for each type of license and their renewals."

2. Paragraph 5.6, of the law clause "b) "is deleted

3. In paragraph 5.6, of the law, clause "c)" is reformulated:

c) Verified evidence which shows that all obligations to the government institutions -as: duties, taxes, rents, and other obligations are meet.

4. In paragraph 5.6, of the law, clause "e)" is reformulated:

e) The evidence which shows that general director or manager is not punished for any conscious penalty and for it is punished with 6 months prison"

5. In paragraph 5.6, of the law, clause "h)" is reformulated as:

h) Insurance Policy, the responsibility to the third party defined from 1 €/ per litre, for retail sales/storage of petroleum and petroleum product reserve capacities."

6. In paragraph 5.7 of the law, the existing text is deleted and replaced with following text:

5.7. Within thirty (30) days after the application has been submitted, the Council with take decision for obtaining the license in accordance with defined provisions.

7. The paragraph 5.8 of the law is reformulated as:

5.8. As a part of licensing process, the Licensing Office is authorised to request additional information from the applicant with aim to verify submitted information's.

Article 7

"The Article 6" of law is completely deleted.

Article 8

1. Article “7” of the law is replaced and will be “article 6”, and paragraph “7.1” is reworded and replaced as “6.1” with following text:

6.1. At least sixty (60) before the existing license lapse, the entity is obligated to submit the request for license renew.

After paragraph 6.1. a new paragraph 6.2. is added as following:

6.2. If the Licensing Office does not make decision within sixty (60) days from the day the license was submitted for renewal, the entity shall continue to exercise the activity until it receives a response.

Paragraph 7.2. renumbered as 6.2. shall become paragraph 6.3. and the text remains the same as it is in the law.

Article 9

1. In Article 8 of the law will be article “7 “.

2. Paragraph “8.2” of the law will be “7.2” and shall be reworded as following:

7.2. Licensing Office is authorized to dismiss or revoke license if: (text of sub-points: a, b, c remains as it is in the law)

Article 10

1. “In Article 9” of the law will be Article”8”

Title of Article 9 is amended as “REVIEW AND CLAIM AGAINST DECISION OF THE COUNCIL” with the whole text of the Article as following:

Article 8 ESTABLISHMENT OF COMMISSION OF CLAIM

1. Minister appoints a commission consisting of five (5) members for reviewing claims against decision of the Licensing Office.

2. The commission includes: one representative of MTI, one of MEF, one of MEM, one representative from business of petroleum sector and one from Kosovo Competition Committee.

3. Mandate of the commission members is three years with the right of re-election.

4. Members of the commission meet when necessary and for their work don't receive regular payment, by daily payment in amount of the respective daily payment in Kosovo.

5. Decisions of the commission shall be signed by the chairperson of the commission.

6. Commission of claims for its work is liable to the Minister of MTI.

7. Respective administrative work of the commission are performed by administration service of the Ministry.

8. Against decision of the commission, the unsatisfied party may initiate administrative context in compliance with provisions of the law on administrative procedure.

9. When reviewing claims the Commission, shall apply procedures according to the law on administrative procedure.

Article 11

Article “10” of the law is Article “9”

Title of Article shall be amended and will be: “HARMONIZATION WITH EUROPEAN STANDARDS(EU)” with the all text of the article as following:

Article 9 STANDARDS OF PETROLEUM AND PETROLEUM PRODUCTS

9.1. The Ministry shall review and approve the quality standards for petroleum and petroleum products, taking as a base harmonized standards of EU and international standards.”

9.2. During definition of standards according to the paragraph 1 of this Article, the Ministry always have in its consideration that during their application do not cause any mess during market supply with petroleum and petroleum products, or favourites a producer or a place”.

9.3. The ministry in continuation will process the standards considering as a base their accordance with the country overall economic development.”

Article 12

Article “11” of the law will be article “10”

Title of article 11 is amended “EMERGENCY AND OPERATIONAL RESERVES”

Article 10 EMERGENCY RESERVES AND INTERFERING MEASURES

1. Paragraph “11.1” of the law will be paragraph “10.1”as following:

10.1. The ministry monitors and inspects the quality of petroleum and petroleum products on the market.

2. Text of paragraph 11.2. remains as it is in the law but will be 10.2.

3. Paragraph 11.3. of the law is amended and will be 10.3 as following:

10. 3. All petroleum and petroleum product storage and sale points are obligated at any time to poses the reserves from at list 5 % of their storage capacity for state emergency purpose. In case of market disorganisation, the Minister through special legal acts can determinate the highest percentage for emergency reserves.

4. The paragraphs “11.4, 11.5 and 11.7” shall be deleted, paragraph”11.6” of the law will be as paragraph”10.4” and the text remains the same as it is in the law.

Article 13

After article “11” of the law renumbered as article “10” a new article “11” is added as following

Article 11

11.1. The Government of Republic of Kosovo, with proposal of Minister of MTI can interfere into domestic trade if any mass is occurred, if:"

a) unexpectedly and in permanently is seen lack of petroleum and petroleum products;

b) big natural accident; or

c) ups-down of petroleum and petroleum products prices at the world market and incompatibility of domestic prices reflected by those changes.

11.2. The Government with objective of consumer protection, elimination of market disorganizations or other reasons at the country interests can define maximal/minimal price for wholesale and retail sales, define maximal trade margins for wholesales and retail sales, and take other actions in accordance with law."

11.3. In case of interferences, petroleum and petroleum products price shall be defined in compliance with provisions of this law.

11.4. Application of such measures can be applied only for respective period of time, but not more than ninety (90) days without interruption."

Article 14

1. Article "12" paragraph "12.3" of the law is reformulated:

12.3. It is not allowed usage of précis less measurement equipment during the wholesale and retail sales of petroleum and petroleum products and wholesale of petroleum and petroleum products to the persons who are not licensed.

Article 15

Article "13" of the law is deleted.

Article 16

1. Article "14" of the law will be "13"

2. Paragraph "14.1" of the law will be "13.1" as following:

13.1. The Ministry is obliged to issue sub-legal acts in period of six (6) months to implement this law.

3. Paragraph "14.3" is amended and will be "13.3" as following:

13.3. Inspection shall be performed from competent inspection and authorised Bodies by Ministry."

4. Paragraph "14.4" is amended and will be "13.4" as following:

13.4. Inspectorate in compliance with the law on market inspection, when provisions of this law are violated, issues procedure at the court and other competent bodies.

5. Paragraph "14.5" is amended and will "13.5"

13.5. Inspectorate also, shall have the right to initiate the procedure of cancelling the license in the Licensing Office, because of the violation of provisions of paragraphs: 3, 4, 5, 6, 7, 8, 9, 10 and 11 and article 17 of this law.

6. Paragraph "14.6" of the law is amended and will be "13.5" and remains the same as it is in the law.

Article 17

Article "15" is amended and will be article "14" as following:

"14.1. Any juridical person exercising activity of wholesale and retail sale of petroleum and petroleum products in Fuel Sector without a prior License will be fined an amount from ten thousand (10,000) € to thirty thousand (30,000) € , while responsible persons from this paragraph will be fined an amount from one thousand (1,000) € to three thousand (3,000) €".

"14.2. Any person exercising activity of wholesale and retail sales in Fuel Sector without a prior License will be fined an amount from fifty thousand (50,000) € to one hundred fifty thousand (150,000) €, while responsible person from this paragraph will be fined an amount from five thousand (5,000) to fifteen thousand (15,000) €".

"14.3. Any person who has the licence, but deceive concerning the origin of petroleum and petroleum products, he/she will be fined an amount from thirty thousand (30.000) to fifty thousand (50.000) €, while responsible person from this paragraph will be fined an amount from three thousand (3,000) up to five thousand (5,000) €".

"14.4. Any person who has the license, but use other naming of the petroleum end petroleum products, he/she will be fined an amount from thirty thousand (30.000) to fifty thousand (50.000) €, while responsible person from this paragraph will be fined an amount from three thousand (3,000) up to five thousand (5,000) €".

"14.5. Any person who has the license, but use different name or sealer identity, he/she will be fined an amount from ten thousand (10.000) to thirty thousand (30.000) €, while responsible person from this paragraph will be fined an amount from one thousand (1,000) up to three thousand (3,000)€".

"14.6. Any person who has the license, but deceive about the wholesale and retail sale petroleum and petroleum product quantity, he/she will be fined an amount from ten thousand (10.000) to thirty thousand (30.000) €, while responsible person from this paragraph will be fined on amount from one thousand (1,000) up to three thousand (3,000)€".

"14.7. Any person who has the license, but deceive about the retail sale petroleum and petroleum product quality, he/she will be fined an amount from ten thousand (10.000) to thirty thousand (30.000) €, while responsible person from this paragraph will be fined on amount from one thousand (1,000) up to three thousand (3,000) €".

"14.8. Any person who has the license, but deceives about the wholesale petroleum and petroleum product quality, he/she will be fined an amount from fifty thousand (50.000) up to one hundred fifty (150.000)€, while responsible person from this paragraph will be fined on amount from five thousand (5,000) up to fifteen thousand (15,000) €".

"14.9. Any person who has the license, but use not calibrated measurement means and equipment will be fined an amount from ten thousand (10.000) up to fifty thousand (50.000) €, while responsible person from this paragraph will be fined on amount from one thousand (1,000) up to five thousand (5,000) €".

"14.10. Any person who has the license, but impermissibly cause environment pollutes where he/she operates, he/she will be fined on amount from thirty thousand (30.000) up to fifty thousand (50.000) €, while responsible person from this paragraph will be fined on amount from three thousand (3,000) up to five thousand (5,000) €".

"14.11. Any person who has the license and sales goods to the company which is not licensed by fuel sector will be fined with 30% of total value of sold goods, with same amount will be fined also the company which is not licensed, while responsible person from this paragraph will be fined on amount from one thousand (1,000) up to five thousand (5,000) €".

Article 18

1. After article "14" of the law shall be added three (3) new articles with following text:

Article 15

15.1. If second penalty happen, than its value will be increased for 50%, and if third penalty happens, then its value will be doubled.

15.2. Punishment with fined that are defined with this law dose not excludes responsibility foreseen with special laws."

15.3. Except punishment with penalty, the juridical person to whom are issued at least three (3) penalties within a year, he/she will be punished through forbiddance of excursing the activity in fuel sector in timeframe not less then three months and not more then two years, while the responsible person will punished through forbiddance of exercising the same activity in timeframe not less then one (1) year and not more then three (3) years.

15.4. The Licensing Office based on the proposal may suspend the License until the day of application of the fine pronounced by certain entity, if the within the time frame does not apply the decision of the competent court.

Article 16

With main objective to the full implementation of this law, the Kosovo Customs Service will not allow the movement of goods if for such goods is required a license based to the provisions of this law or other written acts issued by the Minister of MTI.

Article 17

Money collected from fines shall be deposited in the budget of Republic of Kosovo.

Article 19

Law on Amendment and Supplementation of the Law no. 2004/5 on Trade of Petroleum and Petroleum Products, enters into force 15 days after publication in the Official Gazette of the Republic of Kosovo

Law No. 03/L-138
25 June 2009

Promulgated by the Decree No. DL-018-2009, dated 17.07.2009, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.