

LAW OF THE REPUBLIC OF MOLDOVA

ON LICENSING OF CERTAIN TYPES OF ACTIVITY

No. 451-XIV of 30.07.2001

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The Parliament adopts the present organic Law.

Article 1. Scope of the Law

(1). The present Law establishes the legal, organisational and economic basis for licensing of certain types of activity, defines the types of activity subject to licensing and aimed to ensure the state control over observance of requirements and conditions, necessary for the implementation of the given types of activity.

(2). The licensing procedure established by the present Law shall not be applied to licensing of activity of financial institutions, professional participants in equity market, energy sector, telecommunications and informatics, television and broadcasting, which are subject to licensing in accordance with the legislation regulating the relations in these specific areas.

Article 2. Main definitions

For the purposes of the present Law the definitions used herein shall have the following meaning:

License – an official document, issued by an authorised licensing authority, certifying the right of the licensee to perform the activity specified in it during a certain period of time under the obligatory observance of the licensing conditions.

Declarant – a legal or natural person, registered in accordance with the established procedure of the Republic of Moldova in the capacity of an enterprise irrespectively of the type of ownership and its organisational-legal form, who submitted the request and necessary documents in order to be obtained the license.

Licensee – an enterprise, which has obtained the license.

Licensing conditions – the totality of the established requirements and conditions, obligatory for fulfilment by the licensee while carrying out the activities subject to licensing.

Licensing – the totality of actions, relating to issuance, redrafting, suspension, renewal and cancellation of licenses, issuance of duplicates and counterparts, administration of license cases and keeping of license registers, control over the observance of license conditions by the licensee, giving instructions to eliminate the violations of licensing conditions.

License register – the totality of information on issued, redrafted, suspended, renewed and cancelled licenses.

Suspension of a license – deprivation of licensee's right to perform a certain type of activity during a given period of time.

Cancellation of a license - deprivation of licensee's right to perform a certain type of activity.

Article 3. The main principles of licensing

The main principles of licensing are the following:

- a) assurance of equal rights and legal interests of all enterprises;
- b) confirmation of the declarant's ability to perform a certain type of activity within his own responsibility;
- c) protection of rights, legal interests and health of citizens, protection of the environment and provision of the state security;
- d) establishment of a uniform licensing procedure on the territory of the Republic of Moldova;
- e) publicity and transparency of the licensing procedure.

Article 4. The criteria for determination of activities subject to licensing

Types of activity the improper realisation of which may prejudice the rights and inflict damages to the legal interests and health of citizens, as well as to the environment and to the state security, and the regulation of which cannot be done by other means except for licensing, shall be considered as the types of activity subject to licensing.

Article 5. The participants in the process of licensing

The participants in the process of licensing are the following:

- a) the Licensing Chamber;
- b) the National Bank of Moldova;
- c) the National Agency for regulation in energy sector;
- d) the National Agency for regulation in the area of telecommunication and informatics;
- e) the Co-ordinating Board for television and broadcasting;
- f) Local Public Authorities;
- g) Central Branch Public Authorities;
- h) Declarants;
- i) Licensees.

Article 6. Licensing authorities

- (1). The Licensing Chamber shall have the right to license the types of activity specified in Section (1) of Article 8, except for those in paragraphs 43)-55).
- (2). The executing local public authorities (city halls) shall have the right to license the types of activity, specified in paragraphs 53)-55) of Section (1) of Article 8. The licensing shall be done in accordance with the present Law and on the basis of regulations, approved by the appropriate representative of local public authorities.

Article 7. The Licensing Chamber

- (1). The Licensing Chamber (hereinafter the Chamber) shall have the status of a legal person and a stamp with its name and a picture of the State Emblem on it. The Chamber shall perform its activity in accordance with the regulation approved by the Government.
- (2). The Chamber shall execute the following powers:
 - a) to follow the state policy and to guarantee the observance of the licensing legislation;
 - b) to issue and redraft licenses, to suspend and renew licenses, to cancel licenses or declare them invalid, to issue duplicates and copies of licenses;
 - c) in common with the central branch public authorities and as agreed with the Ministry of Economy, to establish the licensing conditions for certain types of activity, to work out

the list of additional documents, to be submitted by the declarant, confirming his ability to carry out a certain type of activity;

- d) to establish control over observance of the licensing conditions by the licensees;
- e) to give instructions to eliminate the violations of the licensing conditions;
- f) to administer the license case and to keep the license register;
- g) to summarise the experience in the sphere of licensing and to put forward proposals on its perfection;

(3). The decisions of the Licensing Chamber may be appealed in the court.

Article 8. Types of activity subject to licensing

(1). The following types of activity shall be subject to licensing:

- 1) auditing activities;
- 2) insurance activities;
- 3) pawnshop activities;
- 4) activities relating to precious metals and stones;
- 5) activities relating to gambling business, organisation and holding of lotteries, maintaining of casinos, operation of gambling machines with cash winnings, setting of stakes at the sporting events;
- 6) import and (or) wholesale of imported alcoholic drinks, ethyl alcohol and beer;
- 7) production and (or) storing, wholesale of ethyl alcohol, alcoholic drinks and beer;
- 8) import and (or) processing of tobacco, production and wholesale of tobacco products;
- 9) production and (or) wholesale of planting and seed stock;
- 10) pedigree cattle breeding;
- 11) fruit trees and vineyards planting design;
- 12) production for sale of biological material of horses, cattle, pigs, sheep, poultry and fish;
- 13) veterinary-pharmaceutical activity and provision of veterinary help (except for the activities performed by the estate veterinary service);
- 14) import and (or) sale of chemicals and biological mixtures for plant protection and plant growth stimulants;
- 15) collection and (or) storing and export of waste and scrap of iron-and-steel and non-ferrous metals;
- 16) conveyance of passengers by motor transport (except for inside and between the municipalities and urban transportation);
- 17) designing of all types of constructions, city planning and (or) engineering structures, reconstruction and restoration work;
- 18) construction of buildings and (or) engineering structures and networks, reconstruction, reinforcement and restoration;
- 19) activities on asset management of private pension funds;
- 20) activities relating to the employment assistance inside the country and (or) abroad;
- 21) pharmaceutical activities (including the use of drugs and psychotropics);
- 22) provision of medical assistance (except for the activities performed by the budgetary institutions and organisations);
- 23) activities in the sphere of genetics and microbiology;
- 24) activities of educational institutions of all levels, grades and forms of education (except for the activities performed by the budgetary institutions and organisations);
- 25) prospecting work and archaeological investigations;
- 26) activities on carrying out the legal expertise;

- 27) repair of sporting and (or) hunting guns;
- 28) private detective activities or security service and accident prevention;
- 29) import and (or) export, trade in arms and ammunition;
- 30) making and destruction of stamps;
- 31) provision of information and encoding services;
- 32) import and (or) sale, storing of toxic chemical agents and substances;
- 33) storing and (or) use of explosive materials, conduct of shot-firing or blasting operations;
- 34) drilling activity (except for the technical survey in construction engineering);
- 35) activities connected with the use of ionising radiation sources and radioactive materials;
- 36) production and bottling of mineral and natural drinking water;
- 37) extraction of minerals;
- 38) assembling and (or) set-up of computer-based detection and fire extinguishing systems, and systems of smoke protection of buildings;
- 39) topographic-geodetic and cartographic activities;
- 40) valuation of immovable property;
- 41) tourist and travel activities;
- 42) activities on carrying out of commodity expertise;
- 43) activity of financial institutions;
- 44) activity of professional participants in equity market;
- 45) import and (or) wholesale or retail of petrol, diesel fuel or liquefied gas;
- 46) production and (or) supply, transmission and distribution of electric energy;
- 47) supply and (or) transmission and distribution of natural gas;
- 48) provision of local, interurban and international fixed telephone communication services;
- 49) provision of cellular and (or) satellite mobile telephone communication services;
- 50) provision of services in the sphere of informatics;
- 51) construction and (or) maintenance, operation and building of television or broadcasting stations, cable networks;
- 52) television and broadcasting activities;
- 53) retail of alcoholic drinks;
- 54) retail of tobacco products;
- 55) conveyance of passengers by motor transport, including taxi, inside and between the municipalities and urban transportation of passengers;
- (2). Types of activity not included in Section (1) shall be carried out without licensing.
- (3). Introduction of licensing of other types of activity is possible only after making alterations and additions to the list of activities subject to licensing which are specified in Section (1).

Article 9. Content of a license

- (1). The license forms are subject to individual registration. The uniform licence forms shall have a registration batch and through numbering. The Government shall approve the license form and its annexes.
- (2). The license shall contain the following information:
 - a) the name of the licensing authority;
 - b) the batch, number and the date of issue;
 - c) the name, organisational-legal form and legal address of the licensee;

- d) the date and state registration number of an enterprise and its fiscal code;
 - e) the type of activity (partially or in full), for the performance of which the licence is being issued;
 - f) the term of a license;
 - g) the signature of the head of the Chamber or his deputy, certified by the stamp of the given authority;
 - h) all licensing conditions shall be specified in the license annex.
- (4). The Chamber shall be responsible for placing of orders, storing, control and registration of the license forms.

Article 10. The documents necessary for submission in order to be obtain a license

- (1). In order to be obtained a license the chief of an enterprise or its authorised representative shall submit a standard application form to the Chamber where the following data is contained:
- a) the name, organisational-legal form, legal address and the fiscal code of an enterprise;
 - b) the type of activity (partially or in full), for the implementation of which the declarant is intended to be obtained a licence;
 - c) the location of branches or other separated subdivisions of an enterprise, where the activity is to be performed on the basis of the license obtained;
 - d) confirmation of the declarant's ability to perform a certain type of activity within his own responsibility and the reliability of submitted documents;
- (2). The following shall be annexed to the application for licence issuance:
- a) the copy of a certificate on state registration of an enterprise, attested by a notary or the document issuing authority;
 - b) additional documents according to the list, provided for in Section (2)c) of Article 7. The documents shall be submitted in the original or in duplicates, attested by a notary or the document issuing authority. The documents shall be accompanied by their copies in the electronic format.
- (3). The requirement to submit the documents different from those specified in the present article shall not be allowed.
- (4). The application for license issuance and the documents attached to it shall be accepted according to the inventory and its copy shall be sent (handed over) to the declarant with an indication of the date the documents were accepted and certified by the signature of the person in charge.
- (5). The application for license issuance shall not be considered if:
- a) the application is submitted or signed by the person who has no authority to do it;
 - b) the documents are drawn up in violation of the requirements of the present article;
- (6). The declarant shall be informed about the refusal of an application for license issuance in writing, indicating the reasons and observing the terms specified for license issuance.
- (7). After elimination of reasons, which served as grounds for refusal of an application for license issuance, the declarant may submit a new application for license issuance, subject to consideration in accordance with the established procedure.

Article 11. The decision on license issuance or license refusal

- (1). The Chamber shall take a decision on license issuance or refusal within no more than 16 working days after the submission of an application for license issuance with all the documents attached to it.

- (2). The written notification of the decision on license refusal or license issuance, indicating the details and number of a bank account and the amount of a fee for license issuance, shall be sent (given) to the declarant within 3 days after the decision has been taken.
- (3). The following shall be considered as grounds for license refusal:
 - a) unreliability of data provided in the documents submitted by the declarant;
 - b) nonconformity of the declarant, according to the documents submitted, with the licensing conditions;
- (4). Where the decision on license refusal is taken on the grounds of unreliable data which has been revealed in the documents submitted by the declarant, the latter may submit a new application for license issuance no sooner than 3 months after the decision on license refusal has been taken.
- (5). Where the decision on license refusal is taken on the grounds of nonconformity of the declarant with the licensing conditions, the latter may submit a new application for license issuance only after the reasons, which were the occasion for license refusal, have been eliminated.

Article 12. Incidence of a license

- (1). The licenses issued by the Chamber shall be valid throughout the territory of the Republic of Moldova.
- (2). The licenses issued by the local public authorities shall be valid on the territory falling within their jurisdiction.
- (3). The licenses obtained on the territory of the Republic of Moldova shall be valid outside its territory in accordance with the international agreements to which the Republic of Moldova is a party.

Article 13. Term of licence validity

- (1). The license shall be issued for a term of 5 years with the exceptions specified in section (2).
- (2). For the types of activity specified in paragraphs 5)-8) of section (1) of Article 8 the license shall be issued for a term of one year and for the types of activity specified in paragraphs 46)-47) of section (1) of Article 8 the license shall be issued for a term up to 25 years.

Article 14. Issuance of a license

- (1). The license shall be registered within 3 working days after the document confirming the payment of a license fee has been accepted. The note of the date of document acceptance, confirming the payment of a licensee fee, shall be made on the inventory of documents received from the declarant.
- (2). In case the declarant does not submit the document confirming the payment of a license fee within 30 days after the notification of the decision on license issuance has been sent (given) to him, or does not apply for a registered license, the Chamber may cancel the decision on license issuance or to declare the license invalid.
- (3). For each affiliated branch or separated subdivision of the licensee, where the activity is to be performed on the basis of a license obtained, certified copies of a license shall be issued and given to the licensee. The copies of a license confirm the right of the subsidiary or

other separated subdivision of the licensee to perform the activity on the basis of a license obtained.

(4). In case a new affiliated branch or other separated subdivision is created by the licensee in order to perform the activity according to the license obtained, the licensee is obliged to submit to the Chamber an application for grant of a license copy together with the documents, specified in paragraph b) of section (2) of Article 10.

(5). In case of liquidation of an affiliated branch or other separated subdivision of the licensee where the activity has been performed according to the license obtained or discontinuation of such activity, the licensee is obliged to give a written notification to the Chamber within 7 working days after the day of liquidation or discontinuance of the activity. The appropriate changes shall be made to the license register no later than the next day after acceptance of such a notification.

(6). Where the licensee is intended to carry out the activity specified in the license at the expiration of the license term, he is obliged to receive a new license in accordance with the procedure, established by the present Law. The new license shall be issued no sooner than the last working day of term of a previously issued license.

(7). The licensee may not transmit the license or license copy to other persons.

Article 15. Redrafting of a license

(1). Change of the licensee's name and other information contained in the license are considered as grounds for redrafting of the license.

(2). Where the grounds to redraft the license arise, the licensee shall be obliged within a period of 10 working days to submit to the Chamber an application for license redrafting together with the license subject to redrafting and the documents (or their copies attested by a notary or the document issuing authority) confirming the aforementioned changes.

(3). The Chamber shall be obliged to give the license redrafted on a new license form taking into account the changes specified in the application as well as the necessary number of copies of such a license within 3 working days after the application for license redrafting has been submitted.

(4). The term of the newly redrafted license shall not exceed the term specified in the previous license.

(5). Where the license is redrafted the Chamber shall take the decision to declare the previous license invalid and to make the appropriate changes to the license register no later than the next day after the decision has been taken.

(6). During the period of consideration of an application for license redrafting the licensee may continue to carry out its activity on the basis of a certificate issued by the Chamber.

(7). The license, which has not been redrafted within a given period of time, shall be considered invalid.

Article 16. Change of data contained in the documents attached to the application for issuance of a license

(1). The licensee is obliged to notify the Chamber of all the changes of data specified in the documents attached to the application for issuance of a license. The written notice shall be given together with the documents (or their copies attested by a notary or the document issuing authority) certifying the specified changes within 10 working days after the changes have appeared.

(2). On the basis of the submitted documents the Chamber may take a decision to suspend the validity of a license.

Article 17. Issuance of a license copy

- (1). The loss or damage of a license shall be considered as grounds for issuance of a license copy.
- (2). In case of the loss of a license, the licensee shall be obliged to submit to the Chamber an application for issuance of a license copy.
- (3). In case of the damage to the license and its unfitness for use, the licensee shall submit to the Chamber an application for issuance of a license copy together with the damaged license.
- (4). The Chamber shall be obliged to issue a license copy within three working days after the application for issuance of a license copy has been submitted.
- (5). The term of validity of a license copy shall not exceed the term specified in the lost or damaged license.
- (6). In case the license copy is issued, the Chamber shall take a decision to declare the lost or damaged license invalid and to introduce the appropriate changes to the license register no later than the next day after the decision has been taken.
- (7). During the period of consideration of an application for issuance of a license copy the licensee may continue to carry out its activity on the basis of a certificate issued by the Chamber.

Article 18. The fee for issuance of a license

- (1). The fee for issuance of a license amounts to 1800 Moldovan Lei with the exceptions provided for in Sections (2)-(4).
- (2). The fee for issuance of a license for types of activity specified in paragraphs 53)-54) of Section (1) of Article 4 amounts to 4500 Moldovan Lei. Such a fee shall be paid annually by equal installments.
- (3). The fee for issuance of a license for types of activity specified in paragraphs (5)-(8) of Section 1 of Article 8 shall be established annually by the law on budget.
- (4). The fee for issuance of a license for provision of mobile telecommunication services and a license for provision of interurban and (or) international fixed telecommunication services shall not be less than a cash equivalent to 1 (one) million USD. The decision about issuance of such a license shall be published in the Official Monitor of the Republic of Moldova.
- (5). The fee for issuance of a redrafted license shall be set in the amount of 10 percent, and for a copy of the license 50 percent of the amount of fee for issuance of the license.
- (6). The amount of fees for licensing shall be placed to the account of the state or local budget.

Article 19. Control in the sphere of licensing

- (1). The control over observance of the licensing conditions by the licensees shall be exercised by the Chamber together with the central branch public authorities by means of planned (no more than once every calendar year) and casual checkouts.

- (2). The casual checkouts shall be carried out only on the basis of written statements of infraction of the licensing conditions or for the purpose of control over carrying out the instructions given in order to eliminate the infractions of the licensing conditions.
- (3). Where the checkouts of observance of the licensing conditions are carried out, the licensee shall provide all the necessary information and to create the conditions for carrying out of checkouts.
- (4). The statement in two copies shall be drawn up by the results of checkouts, one copy to be sent (handed over) to the licensee and another one to be kept by the Chamber.
- (5). Where the infractions of the licensing conditions are revealed, the Chamber shall issue the instruction to eliminate the infractions and give a notice about the possible suspension of the cancellation of a license in case the revealed infractions have not been eliminated within a given period of time.
- (6). The licensee, who has received an instruction to eliminate the infractions of the licensing conditions, shall inform the Chamber about the elimination of infractions of the licensing conditions within a period of time specified in the instruction.
- (7). The state controlling units, local public authorities shall inform the Chamber in case the infractions of the licensing conditions have been revealed.

Article 20. Suspension and renewal of a license

- (1). The grounds for suspension of a license are the following:
 - a) failure by the licensee to carry out the instruction to eliminate the infractions of the licensing conditions within a given period of time;
 - b) partial or temporary loss of the licensee's ability to carry out the type of activity under licensing;
 - c) nonpayment of the annual installment of the license fee, provided for in section (2) of Article 18;
- (2). The decision to suspend the license shall be taken by the Chamber within three working days and be announced to the licensee within 3 working days after the decision has been taken. The term of suspension of a license shall not exceed six months.
- (3). The licensee shall give to the Chamber a written notice of elimination of circumstances, which entailed the suspension of a license.
- (4). The decision to renew the license shall be taken by the Chamber within three working days and be announced to the licensee within three working days after the appropriate notice has been received and the facts of elimination of circumstances which entailed the suspension of a license have been checked.
- (5). The term of a license shall not be extended for the period of suspension of a license.

Article 21. Cancellation of a license

- (1). The grounds for cancellation of a license are the following:
 - a) the licensee's statement about the license cancellation;
 - b) the decision about the cancellation of the state registration of an enterprise-licensee;
 - c) detection of unreliable data contained in the documents submitted in order to be obtained a license;
 - d) establishment of a fact where the license or its copy has been transmitted to another person for the purpose or carrying out the activity subject to licensing;

- e) establishment of a fact where the notice about the change of data, specified in the documents attached to the application for issuance of a license, has not been given within a fixed period of time;
 - f) failure to eliminate the circumstances which entailed the suspension of a license within a fixed period of time;
 - g) the repeated failures to comply with the given instruction aimed to eliminate the infractions of the licensing conditions;
- (2). The decision about the cancellation of a license shall be taken in other cases, stipulated by the legislation regulating the appropriate types of activity.
- (3). The decision about the cancellation of a license shall be taken by the Chamber within 10 working days after the grounds for this have been established and be announced to the licensee indicating the reasons of cancellation within 3 working days after the decision has been taken.
- (4). The date and the number of the decision on license cancellation shall be entered in the license register no later than the next working day after the decision has been taken.
- (5). Where the license is cancelled, the amount of a license fee is not recovered.

Article 22. Record keeping in the sphere of licensing

- (1). The Chamber shall form a license file for each enterprise which has submitted an application for issuance of a license, and for each type of activity subject to licensing the Chamber shall keep a separate register of applications and licenses which have been issued.
- (2). All the documents received from the licensee as well as copies of the decisions and instructions given by the Chamber as regard to the licensee shall be kept in the license file.
- (3). The register of applications and issued licenses shall contain the data about the declarant, the date of document acceptance, the date and number of the decisions taken by the Chamber, the date of issuance of a license and the signature of a person who has obtained the license.
- (4). The Chamber shall create and keep a unified license register individually for each type of activity subject to licensing.
- (5). The following data shall enter the license register:
- a) name of the licensing authority;
 - b) the information about the licensee;
 - c) the date and number of the decision on issuance of a license;
 - d) the batch, number and date of issuance of a license;
 - e) the term of a license;
 - f) the data about redrafting, issuance of a license copy and duplicates;
 - g) the grounds, date and number of the instruction for elimination of the infractions of the licensing conditions;
 - h) the grounds, date and number of the decision on suspension and renewal of the license;
 - i) the grounds, date and number of the decision declaring the license invalid;
- (6). The licensing authorities shall be obliged to keep the license register and to give the information to the Chamber and to keep the unified license register.
- (7). The information contained in the license registers must be open. The fee for extract from the license register in the amount of 50 lei shall be charged and placed to the state budget.
- (8). The public authorities shall be exempt from payments for use of data contained in the license registers.

Article 23. Final and transitory provisions

- (1). The present law shall enter into force 6 months after the day of its publication.
- (2). Within 6 months the Government shall:
 - present to the Parliament the proposals on adjustment of the current legislation to the present Law;
 - bring its normative acts into conformity with the present Law;
 - provide the revision of normative acts contradicting with the present Law by the ministries, departments and other authorities;
 - to adopt the normative acts necessary for the implementation of the present Law;
- (3). The licenses issued before the present law enters into force shall be valid until the expiration of the license terms.
- (4). The licenses for the types of activity not envisaged in the present Law become invalid.
- (5). From the date the present Law takes effect the Law on licensing of certain types of activity (No. 332-XIV of 26 March 1999) shall be abrogated.

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