

Note: Additions to the existing law are shown by underline and deletions are shown by ~~strike through~~.

L A W OF THE KYRGYZ REPUBLIC ON CERTIFICATION OF GOODS AND SERVICES

This Law shall establish the legal and organizational bases of certification of goods and services (hereinafter- “product”) in the Kyrgyz Republic, which are obligatory for the participants of certification, for the bodies of state and local power, for legal entities and natural persons (hereinafter-”businesses”).

Section I. General

Article 1. Definitions of Certification

Certification of the product (hereafter- “certification”) shall be an activity on certifying accordance of the product to the established requirements.

Certification shall be carried out in order:

- to create the conditions for participation of the businesses in international, economic, scientific and technical cooperation and trade;
- to assist consumers in competent selection of the product;
- to promote export and increase competitiveness of the product;
- to protect domestic market from poor quality and nonsafe products, including the imported one;
- to control safety of the product for the life, health and property of citizens, to protect environment, flora and fauna;
- to overcome technical barriers when carrying out trade transactions

Certification may have obligatory or voluntary nature.

Article 2. Certificate and the Mark of Accordance.

Terms and Definitions Used in This Law

Certificate of accordance (hereafter-”certificate”) shall be the document issued on the basis of the rules of the certification system for confirmation of accordance of the certified product to the requirements established.

Mark of accordance (compliance) shall be the mark registered according to the established order, which on the basis of the rules established in this certification system,

confirms the accordance of the product, marked by the mark, to the established requirements.

National body of the Kyrgyz Republic on certification of the product shall be the body of state management on carrying out the uniform state policy in the sphere of certification.

National system of certification of the Kyrgyz Republic shall be the system of certification, established by the national body on certification and acting in the territory of the Kyrgyz Republic.

Certification system shall be the system which has its own rules, procedures and management for carrying out the certification of the product.

The body on certification shall be the body carrying out the certification of the product.

Accredited testing laboratory shall be the testing laboratory which has received the official permission to carry out certain tests.

Article 3. The Legislation of the Kyrgyz Republic on Certification

Relationships in the sphere of certification shall be regulated by this Law and other legislative acts of the Kyrgyz Republic.

Article 4. International Agreements

If the international agreement, the participant of which is the Kyrgyz Republic, establishes the provisions other than ones in the legislation of the Kyrgyz Republic on certification of the product, then the provisions of the international agreement shall be applied.

Article 5. Participants of Certification and Their Main Functions

Participants of certification shall be the State Inspectorate on Standardization and Metrology under the Cabinet of Ministers of the Kyrgyz Republic (hereafter- "Kyrgyzstandard"), other bodies of the state management of the Kyrgyz Republic, specially authorized to carry out the works on certification, bodies on certification, testing laboratories (centers), accredited in the national system of certification, producers (sellers, executors) of the product.

Kyrgyzstandard being the national body on certification and other specially authorized bodies of the state management in accordance with this Law shall:

- carry out the state policy in the sphere of certification;
- form the national system of certification;
- establish the general rules and procedures of carrying out certification in the territory of the Kyrgyz Republic;
- carry out registration of the systems within the national system of certification;

- carry out the works on certification of the product, issue licenses for the right to use the mark of accordance of the national certification system;
- prepare proposals on joining the international (regional) systems of certification, also conclude agreements with international (regional) organizations on mutual recognition of the results of certification;
- represent the Kyrgyz Republic in international, regional and other organizations on the issue of certification;
- establish the rules of recognition of foreign certificates, marks of accordance and results of tests;
- accredit the bodies of certification, organize the accrediting of testing laboratories and issue licenses for the right to carry out certain types of works;
- conduct the state register book of participants and objects of certification;
- consider appeals on the issues of certification;
- create the systems of certification, establish the rules and procedures of carrying out certification in these systems;
- organize preparation and participate in accrediting of the bodies in certification and testing laboratories;
- provide publication of information on the amount of time normally required for the implementation of conformity assessment procedure

Bodies on certification of homogenous types of the product shall:

- present for the state registration in Kyrgyzstandard the systems of certification and the marks of accordance;
- elaborate the systems of certification of homogenous types of the product;
- certify the product, issue the certificates of accordance and licenses for the use of the mark of accordance;
- cease or cancel the effectiveness (validity) of the certificates issued by them;
- present to the applicant, at his request, the necessary information within their competence.

Testing laboratories (centers), accredited in the national system of certification, shall carry out the tests of the certain product or certain types of tests and issue protocols of tests for the purpose of certification.

Producers (sellers, executors) of the product shall:

- sell the product subject to obligatory certification, only if the certificate is available, issued or recognized by the body authorized to it;
- provide the quality of the produced (sold) product to the requirements of the normative documents, to the accordance of which they are certified, and mark it with the mark of accordance according to the established order;

- mention in the accompanying technical documentation the information on certification and normative documents, to which the product shall accord, provide the communication of this information to the consumer (purchaser, customer);
- provide free execution of their authorities by the officials of the bodies, carrying out obligatory certification of the product, supervision and control over the certified product;
- notify the body on certification on the changes introduced into the technical documentation or into the technological process of the production of the certified product according to the established order;
- cease or eliminate the sale of the product subject to obligatory certification, if:
 - it does not respond the requirements of the normative documents to the accordance of which it has been certified;
 - effectiveness of the certificate has been ceased or canceled by the decision of the body on certification, as well as after the term of the certificate validity is over.

Article 6. System of Certification

Within the national system of certification there may be certification systems created according to the types of the product and certain indicators.

Rules and procedures of certification shall be based on requirements of international standards and shall be developed, adopted and applied so that they are the same both for imports and domestically produced products.

Rules and procedures of certification in the system shall not be established with a view to or with the effect of creating additional obstacles in international trade. Information requirements shall be restricted to what is necessary for conformity assessment and fixing payment.

The system of certification of the product shall be created by the bodies of the state management, organizations, agencies and enterprises and makes up the combination of the participants of certification carrying out certification on the basis of the rules established in this system in accordance with this Law.

The system of certification may comprise organizations, agencies and enterprises irrespective of the forms of ownership, as well as the public unions.

The systems of certification shall be subject to the state registration according to the established order.

Businesses, which wish to be accredited in the systems of certification of foreign states, shall be preliminarily accredited and introduced into the state register book of the Kyrgyz Republic.

Section II Obligatory Certification

Article 7. Obligatory Certification

Obligatory certification shall be carried out in the cases stipulated by the Law and other legislative acts of the Kyrgyz Republic.

Organization and carrying out of the works on obligatory certification shall be entrusted to Kyrgyzstandard, and in the cases stipulated by the legislative acts of the Kyrgyz Republic in relation to certain types of the product or certain indicators they may be done by other specially authorized bodies of the state management.

The list of the product, which is subject to the obligatory certification, shall be formed by Kyrgyzstandard at the proposals of the other bodies of state management and adopted by the Cabinet of Ministers of the Kyrgyz Republic.

In carrying out of the works on obligatory certification the participation of the businesses, which have received the licenses to carry out these works in Kyrgyzstandard or in the specially authorized body of the state management, shall be allowed, provided that they are accredited as a body of certification and registration of their system of certification in the national system of certification.

Certification of imported products shall be carried out according to the same rules and procedures as certification of similar domestically produced products.

All certification-related legislative acts and normative documents, after they have been adopted, shall be promptly published and shall not have legal force before their publication.

Except urgent circumstances, when developing new certification-related legislative acts and normative documents, texts of their drafts shall be published at least two months before their adoption so that interested organizations shall be able to prepare and submit proposals and comments.

Except in urgent circumstances, the date of implementation of a published certification-related legislative act and normative document shall be determined taking into account required time for a manufacturer (seller, executor) to become acquainted with new requirements established in this legislative act or normative document.

It shall be prohibited to advertise the product which is subject to obligatory certification, but does not have the certificate of accordance.

Article 8. Conditions of Import of the Product to the Territory of the Kyrgyz Republic

Under the conditions of contracts (agreements) concluded for supply into the Kyrgyz Republic of goods subject (in accordance with the Law of the Kyrgyz Republic) to obligatory certification, the presence of the certificate and the mark of accordance, which confirm their accordance to the established requirements, shall be stipulated. The certificates and marks of accordance mentioned shall be issued or recognized by the national bodies on certification of the Kyrgyz Republic.

Certificates of accordance shall be presented to the customs bodies along with the commodity customs return and are the integrated documents for the receipt of the allowance to import of the product to the territory of the Kyrgyz Republic.

The procedure of import to the territory of the Kyrgyz Republic of the goods, subject to obligatory certification, shall be established by the State Customs Inspectorate under the Cabinet of Ministers of the Kyrgyz Republic and by Kyrgyzstandard in agreement with other bodies of state management in accordance with the Law of the Kyrgyz Republic.

Article 9. State Control and Supervision over the Compliance with the Rules of Obligatory Certification and of the Certified Product

State control and supervision of the compliance with the rules of obligatory certification and of the certified goods by producers (sellers), testing laboratories (centers) and certification bodies shall be carried out by Kyrgyzstandard and other specially authorized bodies within their competence and in accordance with the legislation of the Kyrgyz Republic.

Article 10. Financing of the Works on Obligatory Certification

The sources of finance of the works on obligatory certification of the goods shall be the resources:

- of the republican budget (including the hard currency), centrally landed to Kyrgyzstandard and other bodies of the state management, authorized by the Cabinet of Ministers of the Kyrgyz Republic to carry out the works on certification;
- of producers (sellers, executors) of the product, contributed by them in the form of consideration for the work on carrying out the certification of the goods presented by them;
- from the receipts gained from levying of penalties for the violation of this Law. In this case the certain amount of the sum is established by the legislative acts of the Kyrgyz Republic;
- from the profit created from giving assistance by Kyrgyzstandard and other bodies of the state management, specially authorized to carry out the works on certification;
- from loans and investments.

Payment for the works on carrying out certification of the certain product shall be made by the applicant according to the procedure established by Kyrgyzstandard and other specially authorized bodies of state management which bear the responsibility of

organization and carrying out obligatory certification according to the legislation of the Kyrgyz Republic.

Section III. Voluntary Certification

Article 11. Voluntary certification

Goods which are not subject to obligatory certification in accordance with the law of the Kyrgyz Republic, and requirements which are not subject to obligatory certification in accordance with the Law of the Kyrgyz Republic, may undergo voluntary certification on the basis of the initiative of legal entities and natural persons under the conditions of the agreement between the applicant and the body on certification.

Voluntary certification may be carried out by any person, who takes the responsibility of the body on voluntary certification, provided the accreditation and registration of his system of certification and the mark of accordance in the national system of certification.

Chapter IV. Rights of Applicant

Article 12. Rights of the Applicant at Obligatory and Voluntary Certification

If in the national system of certification several bodies on certification of one and the same homogenous product are accredited, then the applicant shall have the right to carry out certification in any of them.

At concluding of the agreement on carrying out certification the applicant shall have the right to receive the necessary information on the rules of certification of the goods from the body on certification.

The applicant shall have the right to appeal to the appealing commission of the national body on certification if he does not agree with the results of certification. In the event of considering a complaint fair corrective actions shall be taken.

The applicant shall have the right to appeal to the court if he does not agree with the decision made by the national body of the Kyrgyz Republic on certification.

Section V. Responsibility for Violation of the Provisions of this Law

Article 13. Responsibility for Violation of the Rules of Obligatory Certification

The body on certification, testing laboratories (centers), if they violate the rules and procedures of certification, which resulting in the wrong issue of the certificate, shall pay penalties to the republican budget, amounting the value of the works performed.

Kyrgyzstandard and other specially authorized bodies of the state management which, within their competence, carry out state control and supervision of the compliance with

the rules of certification and certified product, shall have the right to cease or prohibit the activity in the sphere of certification and sales of the certified product.

If the producer (executor, seller) violates the rules of certification, sells the goods subject to obligatory certification, without certificates of accordance, marks non certified goods with the mark of accordance, he shall be subject to financial penalties amounting 100% of the value of the goods sold.

In the exceptional cases, if the value of the goods sold can not be determined or the required reporting documentation has not been presented, legal persons shall be subject to financial penalties amounting 250 minimum rates, and natural persons - the penalty to 20 minimum rates.

Financial penalties shall be imposed by Kyrgyzstandard and other specially authorized bodies of the state management, which carry out control and supervision of the production of goods which are subject to obligatory certification in accordance with the current legislation of the Kyrgyz Republic.

Article 14. Criminal, Administrative, Civil and Legal Liability

Legal and natural persons, as well the bodies of state management which are guilty of the violation of the provisions of this Law, shall bear the responsibility in accordance with the current legislation of the Kyrgyz Republic.

President of the Kyrgyz Republic
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Government House of the Kyrgyz Republic

A. Akaev