

MINISTRY OF ECONOMY

DRAFT LAW ON STATE INSPECTORATE

Skopje, June 2003

Unofficial translation: Technical Assistance to Draft Trade Laws

I. Constitutional basis to enact the law

Constitutional basis to enact this law is article 68 paragraph (1) line 2 from the Constitution of Republic of Macedonia, according to which the Parliament of Republic of Macedonia enacts laws.

II. Reasons to enact the law

The matters of inspection supervision in Republic of Macedonia are regulated, among others, with the Law on market inspection (OG of RM n. 35/97, 23/99 and 7/2002), Law on labour inspection (OG of RM n. 35/97), Law on technical inspection (OG of RM n. 48/99), Law on agricultural inspection (OG of RM n.39/77), Law on forests (OG of RM n.47/97), Law on animal breeding (OG of RM n.61/97), Law on veterinary health (OG of RM n.28/98), Law on hunting (OG of RM n.62/93), Law on sanitary and health inspection (OG of RM n.19/95), Law on fishery etc.

This structure of the inspection services comes from the existing solutions for organisation and operation of state administration bodies according to which the inspection authorities are part of different ministries depending on the areas that fall under their competences. Although the Law on organisation and operation of state administration bodies requests that the bodies collaborate between themselves, it is believed that this bodies would be far more efficient and rational in doing the matters of their competences if coordinated and synchronized acting, rational and efficient mechanism for their acting and high technical equipment are provided.

Taking into account the level of possibilities which are at disposal, it is estimated that major part of their realization can be achieved by legislative changes which will create legal framework on state level for merging of state inspection authorities. In this way, the possibility will be created for standardized procedures and transparency of these bodies.

Having in mind the implementation of the principles of coordinated acting in control or supervision, it is believed that equal conditions will be created in the overall operation of the inspection bodies for the operation of legal and natural persons who are engaged in production, trade and provision of services. In this way consumers will be given greater protection against the subjects who do not abide by the standards in the sale of products and providing services. This refers particularly to creating possibilities and greater rights for the inspection bodies to undertake measures for consumer protection.

Providing synchronized acting of the inspection authorities is believed to contribute to the cost reduction in the operation of these authorities as well as in the use of means while supervising. Therefore, it is required that this bodies should be well technically equipped in order to achieve more efficient results in their work. Based on the forementioned, it is considered necessary to enact this law that will provide for coordinated and united acting of the inspection authorities.

III Basic principles of the law

The law is based on the following principles:

- legality,
- synchronized and coordinated acting,
- consumer protection,
- transparency.

IV Contents of the law

The contents of the law is given as a proposal of law

LAW ON STATE INSPECTORATE

I GENERAL PROVISIONS

Article 1

- (1) This law regulates the organization and operation of the State Inspectorate and the manner of performing the inspection matters.
- (2) The main office of the State inspectorate is in Skopje.

Article 2

- (1) The operation of the State inspectorate is managed by a Director.
- (2) The Director has deputies.
- (3) The Director and the deputies of the Director of the State Inspectorate are appointed and dismissed by the Government of Republic of Macedonia.
- (4) The Director of the State Inspectorate (hereafter referred to as the Director) is accountable for his work to the Government of Republic of Macedonia.
- (5) The deputies of the Director are accountable for their work to the Director.

Article 3

- (1) The State Inspectorate carries out inspection supervision over the application of laws and regulations in the fields of: trade, labor relations and protection at work, matters of technical inspection (electroenergy, geological research and mining, gas appliances and pressure vessels), agriculture, animal breeding, river and lake fishing, forestry, veterinary, hunting areas, sanitary-higyenical-epidemological and health protection of the population, construction, calculation and payment of the residence fee, catering, tourism and crafts.
- (2) The State Inspectorate carries out inspection activities in other administrative fields when specified in separate law.
- (3) The Director and the Minister of Defense, i.e. the Minister of Interior jointly prescribe the supervision activities of the State Inspectorate which shall be performed respectively for the needs of the Ministry of Defense, i.e. the Ministry of Interior.

Article 4

The internal organization for the operation of the State Inspectorate is regulated by specific Books of rules adopted by the Director.

II. INSPECTION ACTIVITIES

Article 5

Activities of inspection supervision shall be performed by inspectors from the State Inspectorate, namely: market inspector, labor inspector, electroenergy inspector, geological and mining inspector and inspector for gas appliances and pressure vessels, agriculture inspector, hunting inspector, forestry inspector, sanitary-health inspector, veterinary inspector and construction inspector (hereafter referred to as: inspector).

Article 6

The inspectors stated in article 5 of this law carry out the inspection supervision activities in accordance with the existing laws and regulations which regulate the inspection supervision, as well as with the powers defined by the laws and other regulations in the fields stated in article 3, paragraph 1 of this law.

Article 7

The inspector is independent in performing the inspection supervision, he delivers decisions and undertakes measures within the scope of his rights, obligations and powers set forth in a law and other regulations.

Article 8

The Director shall determine, through an annual program, the manner of performing supervision over the application of regulations that fall under the scope of the work of the State Inspectorate

Article 9

- (1) The inspector makes records of the inspection supervision performed and of the measures taken, the content, form, and way of operating of which are determined in a Book of rules adopted by the Director.
- (2) The Director prescribes the way of sealing, when a decision based on this law and other laws orders sealing.

Article 10

The inspection matters are considered matters which are performed under special conditions.

Article 11

(1) Unless a separate law prescribes competences for other state administration authorities, the Inspectors stated in Article 5 of this law shall also supervise the implementation of the law and other regulations which regulate: general conditions for performing of activities (registration, approval for operation, decision, consent and other forms of approval from the competent authorities which are subject of the scope of operation, registered office and business name); consumer protection (indication of prices of products and services, and other regulations relevant to Consumer law).

TRANSITIONAL AND FINAL PROVISIONS

Article 12

(1) The Government of the Republic of Macedonia shall appoint the Director immediately, and at the latest one month after this law enters into force.

(2) The Directors of the existing Inspectorates shall continue to perform the activities as deputies of the State Inspectorate Director, until they are appointed by the Government of the Republic of Macedonia.

(3) Civil servants, regarding the performance of activities stated in article 6 from this law, shall continue to perform the activities in accordance with the provisions from this law and other regulations.

(4) The Director shall adopt the Book of rules for the internal organization of the State Inspectorate within 30 days from the day of his appointment.

(5) The Director shall adopt decisions for appointing and nominating of the retained civil servants and their allocation according to paragraph (3) from this article, within a period of 30 days from the day of the adoption of the Book of rules stated in paragraph (4) from this article.

(6) Beginning from the day this law enters into force, the State Inspectorate shall take over for utilizing the offices, the equipment and financial means which have been used until the day this law enters into force.

(7) If the employed civil servants stated in paragraph (3) of this article, as well as others employees from the existing Inspectorates are not allocated in the State Inspectorate on working positions set forth in the Book of rules under paragraph (4) of this article, the provisions from the Law on civil servants shall be applied.

Article 13

The Director and the Minister for Defense, or respectively the Minister for Interior shall adopt the regulations stated in article 2 paragraph (3) of this law within a period of 3 months from the day this law enters into force.

Article 14

The infractions procedures initiated in accordance with the regulations adopted before the entering into force of this law shall be completed in accordance with the regulations that were effective up to the day of entering into force of this law.

Article 15

Beginning from the day of entering into force of this law, the provisions regulating the organization of the existing state inspectorates set forth in the following laws shall cease to be legally binding:

1. Law on market inspection (Official Gazette of Republic of Macedonia No. 35/97, 23/99 and 7/2002)
2. Law on labor inspection (Official Gazette of Republic of Macedonia No. 35/97)
3. Law on technical inspection (Official Gazette of Republic of Macedonia No. 48/99)
4. Law on agricultural inspection (Official Gazette of Republic of Macedonia No. 39/77)
5. Law on sanitary and health inspection (Official Gazette of Republic of Macedonia No. 19/95)
6. Provisions from the Law on hunting (Official Gazette of Republic of Macedonia No. 62/93)
7. Provisions from the Law on animal breeding (Official Gazette of Republic of Macedonia No. 61/97)
8. Provisions from the Law on veterinary health (Official Gazette of Republic of Macedonia No. 28/98)
9. Provisions from the Law on forests (Official Gazette of Republic of Macedonia No. 47/97)
10. Provisions from the Law on waters (Official Gazette of Republic of Macedonia No. 4/98)

Article 16

This law shall enter into force on the eighth day after the day of its publication in the Official Gazette of Republic of Macedonia.

Explanation

Evaluation of the conditions and the goal to be accomplished with this law

The matters of inspection supervision in Republic of Macedonia are regulated, among others, with the Law on market inspection (OJ of RM n. 35/97, 23/99 and 7/2002), Law on labour inspection (OG of RM n. 35/97), Law on technical inspection (OG of RM n. 48/99), Law on agricultural inspection (OG of RM n.39/77), Law on forests (OG of RM n.47/97), Law on animal breeding (OG of RM n.61/97), Law on veterinary health (OG of RM n.28/98), Law on hunting (OG of RM n.62/93), Law on sanitary and health inspection (OG of RM n.19/95), Law on fishery etc.

The inspection organs are allocated in several ministries, according to the Law on organization and operation of the state administration bodies, and this creates non-coordination in performing inspection supervision and greater expenses in their work. Moreover, the current technical equipment in some inspection bodies does not allow common use of the equipment. These are the reasons for the need to enact this law.

The provisions of this law allow for the State Inspectorate to carry out inspection supervision over the application of laws and regulations in the field of: trade, labor relations and protection at work, matters of technical inspection (electroenergy, geological research and mining, gas appliances and pressure vessels), agriculture, animal breeding, river and lake fishing, forestry, veterinary, hunting areas, sanitary-higiyenical-epidemological and health protection of the population, construction, calculation and payment of the residence fee, catering, tourism and crafts.

According to this law, the Director and his deputy manage the State Inspectorate. This structure will contribute for coordinated and synchronized acting of the control of inspection supervision in the state, which will provide for an equal control and inspection over the legal and natural persons, and in this way consumers will be given greater protection.

Basicly, this law enables the inspections authorities to be able to perform inspection supervision and examination of the business premises and the relevant documentation at any time, as well as to undertake relevant mesures in case of disrespect of the provisions of the laws and other regulations in the relevant area.