

DECREE OF PRESIDENT OF THE REPUBLIC OF BELARUS
No 3, February 29, 2008

**ON ISSUES OF STATE REGULATION OF PRODUCTION,
DISTRIBUTION AND ADVERTISING OF BEER, ALCOHOL AND
TOBACCO PRODUCTS**

(as amended by Decrees of President of the Republic of Belarus No 4 dated
05/05/2009,
No 12 dated 30/11/2009)

Pursuant to article 101 (3) of the Constitution of the Republic of Belarus,
I hereby DECREE:

1. To introduce the following amendments into the Decree of President of the Republic of Belarus No 28 dated December 17, 2002 "On State Regulation of Production, Distribution, Advertising and Consumption of Tobacco Materials and Tobacco Products" (National Register of Legal Enactments of the Republic of Belarus, 2002, No 143, 1/4234; 2005, No 163, 1/6860; 2007, No 251, 1/9033):

1.1. exclude the word “, advertising” from the title and item 1;

1.2. in preamble:

Exclude the word ", advertising <*>";

Exclude the footnote "<*>";

1.3. exclude sub-item 3.1 of item 3;

1.4. in the Regulations on State Regulation of Production, Distribution, Advertising and Consumption of Tobacco Materials and Tobacco Products, approved by the said Decree:

Exclude the word ", advertising" from the title;

In item 19:

replace "Ministry of Finance" by "Ministry of Economics" in paragraph two;

replace "Ministry of Finance" by "Council of Ministers of the Republic of Belarus" in paragraph three;

exclude paragraph one from item 20;

exclude section "State Regulation of Tobacco Products Advertising".

2. Introduce the following additions and amendments into the Decree of President of the Republic of Belarus No 11 dated September 9, 2005 "On Improving State Regulation of the Production, Distribution and Advertising

of Alcohol, Non-food Alcohol-Containing Products and Non-food Ethyl Alcohol" (National Register of Legal Enactments of the Republic of Belarus, 2005, No 142, 1/6770; 2007, No 2, 1/8174; No 83, 1/8464):

2.1. excluded;

(sub-item 2.1 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.2. excluded;

(sub-item 2.2 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.3. replace ", distribution and advertising" by "and distribution" in item 1;

2.4. excluded;

(sub-item 2.4 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5. in item 2:

2.5.1. excluded;

(sub-item 2.5.1 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.2. excluded;

(sub-item 2.5.2 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.3. excluded;

(sub-item 2.5.3 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.4. excluded;

(sub-item 2.5.4 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.5. excluded;

(sub-item 2.5.5 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.6. excluded;

(sub-item 2.5.6 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.7. excluded;
(sub-item 2.5.7 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.8. excluded;
(sub-item 2.5.8 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.5.9. in sub-item 2.10:

exclude "and distribution";

replace "of the imposed prohibition" by "imposed prohibitions on the production of fruit wines using ethyl alcohol extracted from food raw materials, fruit wine materials, fermented-alcoholised and alcoholised juices of foreign production,";

Sub-item 2.5.10 comes into force from the day of coming into force of the amendments and/or additions into the Code of the Republic of Belarus on Administrative Offenses dated 21/04/2003 on the issues of liability for violating the established rules of advertising alcoholic beverages (item 7 of the document).

2.5.10. exclude sub-item 2.15;

2.6. in item 3:

2.6.1. in sub-item 3.1:

replace numbers "2.7 - 2.10, 2.12 - 2.18" by numbers "2.7 - 2.18", exclude words "of internal affairs," in paragraph two;

complement sub-item following the second paragraph with paragraph as follows:

"in sub-items 2.7 - 2.10, 2.12 - 2.14, 2.16 - 2.18 of item 2 herein, - by the authorized officials of the internal affairs agencies;"

Paragraphs three to five shall become, respectively, paragraphs four to six;

Paragraph 6, sub-item 2.6.1, comes into force from the day of coming into force of the amendments and/or additions into the Code of the Republic of Belarus on Administrative Offenses dated 21/04/2003 on the issues of liability for violating the established rules of advertising alcoholic beverages (item 7 of the document).

exclude numbers ", 2.15" from paragraph four;

exclude words "and distribution" from paragraph six;

2.6.2. complement sub-item 3.2, following words "in sub-items 2.7 - 2.10", with words "(except violations connected with shipment by producing legal entities of alcoholic beverages, intended for exporting from the customs territory of the Republic of Belarus into the customs territory of member

states of the Agreement on the Customs Union and Common Economic Space dated February 26, 1999, which are not marked in conformance with the laws of the country of destination)";

2.6.3. draft sub-item 3.4 as follows:

"3.4. cases of administrative violations under sub-item 2.10 (regarding shipment by producing legal entities of alcoholic beverages, intended for exporting from the customs territory of the Republic of Belarus into the customs territory of member states of the Agreement on the Customs Union and Common Economic Space dated February 26, 1999, which are not marked in conformance with the laws of the country of destination) and sub-item 2.11 of item 2 herein shall be considered by authorized officials of the State Control Committee and the Ministry of Taxes and Collections.";

2.7. replace numbers "2.7 - 2.10, 2.12 - 2.18" by "2.7 - 2.18" in item 3-1;

2.8. in the Regulations on State Regulation of Production, Distribution and Advertising of Alcoholic, Non-food Alcohol-Containing Products and Non-food Ethyl Alcohol, approved by the said Decree:

2.8.1. replace the words ", distribution and advertising" by "and distribution" in the title;

(as amended by the Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.2. excluded;

(sub-item 2.8.2 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.3. excluded;

(sub-item 2.8.3 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.4. excluded;

(sub-item 2.8.4 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.5. excluded;

(sub-item 2.8.5 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.6. excluded;

(sub-item 2.8.6 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.7. excluded;

(sub-item 2.8.7 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.8. excluded;

(sub-item 2.8.8 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.9. excluded;

(sub-item 2.8.9 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.10. excluded;

(sub-item 2.8.10 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2.8.11. excluded.

(sub-item 2.8.11 excluded. - Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

(see previous text)

2-1. Secure the exclusive right to import alcohol products to the state.

The provision of paragraph one of this item shall not be applied to the alcohol products brought to the territory of the Republic of Belarus by organizers and participants of international exhibitions and fairs as samples and exhibits, or for selling in tax-free shops.

(item 2-1 introduced by the Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

2-2. The state exclusive right to import alcohol products shall be exercised by legal entities who win tenders for selecting legal entities ensuring the implementation of the state exclusive right to import alcohol products, except for the case prescribed in paragraph two of this item.

(as amended by the Decrees of President of the Republic of Belarus No 4 dated 05/05/2009, and No 12 dated 30/11/2009)

(see previous text)

In case the tender proposal comes from just one legal entity and the entity conforms with the conditions of the tender for selecting legal entities ensuring the implementation of the state exclusive right to import alcohol products, such legal entity shall be granted the right to import alcohol products upon the decision of the inter-departmental commission.

(item 2-2 (part 2) introduced by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

2-3. The Ministry of Trade shall be responsible for conducting tenders for selecting legal entities ensuring the implementation of the state exclusive

right to import alcohol products and supervision over the fulfillment of their obligations on the import of such products.

(item 2-3 introduced by the Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

2-4. The limitations and prohibitions on the alcohol products advertising, imposed by other legal enactments, shall not be applied to the advertisements of alcoholic beverages placed by manufacturers of such alcohol products on their web sights and containing information on the physical, chemical and other consumer properties of the alcohol products, their prices, images of the alcohol products and their market containers (packing), and the names of the said beverages.

(item 2-4 introduced by the Decree of President of the Republic of Belarus No 4 dated 05/05/2009)

3. To approve the Regulations on Conducting Tenders for Selecting Legal Entities Ensuring the Implementation of the State Exclusive Right to Import Alcohol Products, attached herein.

4. To establish that the non-government legal entities, which have no state share in their authorized fund or if the state share in their authorized fund is less than 30 percent or equal, may produce cognacs, brandies and cognac beverages on the basis of appropriate special permits (licenses) issued prior to this Decree coming into force, prior to September 1, 2008.

5. The following shall be invalidated:

Paragraph thirty-four, sub-item 1.7.2, item 1 of the Decree of President of the Republic of Belarus No 1 dated February 16, 2004 "On Introducing Amendments and Additions into Decrees of President of the Republic of Belarus" (National Register of Legal Enactments of the Republic of Belarus, 2004, No 27, 1/5326);

Decree of President of the Republic of Belarus No 14 dated October 17, 2005 "On Amending the Decree of President of the Republic of Belarus No 28 dated December 17, 2002" (National Register of Legal Enactments of the Republic of Belarus, 2005, No 163, 1/6860);

Sub-item 1.1.7, item 1 of the Decree of President of the Republic of Belarus No 20 dated December 26, 2006 "On Introducing Amendments and Additions into the Decree of President of the Republic of Belarus No 11 dated September 9, 2005" (National Register of Legal Enactments of the Republic of Belarus, 2007, No 2, 1/8174).

6. Within two months, the Council of Ministers of the Republic of Belarus shall:

Define the procedure of conducting beer tasting for marketing purposes;

Bring the legislative enactments into conformance with this Decree and undertake other measures on its implementation.

7. This Decree shall come into force from the day of its official publication, except sub-item 2.5.10 and paragraph six of sub-item 2.6.1, item 2, which shall come into force from the day of coming into force of the law on introducing amendments and/or additions into the Code of the Republic of Belarus on Administrative Offenses dated April 21, 2003, on the issues of liability for violating the established rules of advertising alcoholic beverages; it shall be temporary and, in conformance with Article 101(3) of the Constitution of the Republic of Belarus, shall be submitted for the consideration of the National Assembly of the Republic of Belarus.

President of the Republic of Belarus

A.LUKASHENKO

APPROVED BY
Decree of President of
The Republic of Belarus
No 3 dated 29/02/2008

**REGULATIONS
ON CONDUCTING TENDERS FOR SELECTING LEGAL ENTITIES
ENSURING THE IMPLEMENTATION OF THE STATE EXCLUSIVE
RIGHT TO IMPORT ALCOHOL PRODUCTS**

(as amended by the Decree of President of the Republic of Belarus No 12
dated 30/11/2009)

1. These Regulations establish the procedure of conducting tenders for selecting legal entities ensuring the implementation of the state exclusive right to import alcohol products (hereinafter, the tenders).

2. The tenders shall be open and conducted at least once per year, and the legal entities ensuring the implementation of the state exclusive right to import alcohol products shall be selected upon their results.

3. The tenders shall be conducted and the winners determined by the standing inter-departmental commission chaired by the Deputy Prime Minister of the Republic of Belarus. The commission shall include the chairpersons of the President's Administrative Affairs Office, State Control Committee, Ministry of Internal Affairs, Ministry of Taxes and Collections, Ministry of Trade, Ministry of Health, Ministry of Economics, Ministry of Finance, Belarusian National Union of Consumer Societies, Committee of

State Security, Belarusian State Concern of Food Industry "Belgospischeprom", and State Customs Committee. The composition of the inter-departmental commission shall be approved by the President of the Republic of Belarus.

The inter-departmental commission shall conduct its activity in conformance with these Regulations.

The Ministry of Trade shall provide the organizational and logistical support of the inter-departmental commission activity.

4. No later than 30 days prior to the tender, the inter-departmental commission shall publish in mass media, specified by the Council of Ministers of the Republic of Belarus, a notification on its conduct announcing the subject and the conditions of the tender, the date and venue, the dates of beginning and end of accepting tender proposals, the address and contact telephones (fax) of the inter-departmental commission.

The information on the announced tender and its subject shall be additionally placed on the web sight.

Access to the information on the web sight shall be provided to the interested parties free of charge and without concluding agreements.

Prior to the tender start, the participants must be informed on the expenses for organizing and conducting the tender, including the costs connected with preparing and providing the documentation necessary for its conduct, the procedure and time limits for their reimbursement.

(item 4 as amended by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

(see previous text)

5. The following legal entities shall not be admitted to take part in the tender:

Entities in the process of reorganization, liquidation or declared insolvent (bankrupt);

Entities which submitted wrong information about themselves to the inter-departmental commission;

Entities which sent tender proposals after the expiry of the submission term;

Entities which do not process alcohol products (except alcoholic beverages), but which submitted tender proposals.

The decision on refusing admittance to the tender participation shall be passed by the inter-departmental commission.

6. In order to take part in the tender, the legal entity (hereinafter, the tender participant) shall submit a tender proposal specifying the following:

6.1. Particulars of the tender participant (name, location, telephone, fax);

6.2. Family name, Christian name and patronymic name of the person authorized to act on behalf of the tender participant and to sign all required documents during its conduct;

6.3. A list of alcohol products with their names and codes as per Foreign Economic Activity Commodity Nomenclature of the Republic of Belarus, which the tender participant intends to import into the Republic of Belarus;

6.4. Purpose of importing alcohol products (use for own production, wholesale and/or retail trade);

6.5. Volume of alcohol products import in natural and monetary terms;

6.6. Volume of using imported alcohol products for own production in natural and monetary terms (if applicable);

6.7. Volume of alcohol products production in natural and monetary terms (in case of using imported alcohol products for producing goods);

6.8. Volume of wholesale and/or retail trade in alcohol products in natural and monetary terms, profitability of alcohol products sales (if applicable);

6.9. Average staffing number;

6.10. Average monthly salary of employees;

6.11. Amount of paid taxes, collections (duties) and other mandatory contributions to the state budget, including state special-purpose budgetary and extra-budgetary funds (hereinafter, the payments);

6.12. Amount of paid customs duties, value-added tax and excise duties for imported alcohol products;

6.13. Availability of arrears on payments as of the first day of the month preceding the tender date.

The information specified in sub-items 6.5 - 6.12 of this item shall be submitted for three last calendar years on a year-by-year basis.

The tender participant shall attach the following copies to the tender proposal:

Certificate of state registration, the statute (articles of association – for the legal entities acting exclusively on the basis of articles of association); (as amended by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

(see previous text)

Financial statements as of the last reporting date (balance sheet, profit and loss account, reports on change of capital);

ConsultantPlus: note.

See Resolution of the Belarusian Council of Ministers No 1233 dated 04/11/2005 on the issue of licensing the activity connected with production of alcohol (except the production of unique alcohol beverages at cultural and ethnographic centres, national parks and nature reserves of the Republic of Belarus for the purpose of reconstructing original Belarusian traditions), non-

food alcohol-containing products (except antiseptic medicines and veterinary preparations referred to non-food alcohol-containing products), non-food ethyl alcohol and tobacco products.

See Resolution of the Belarusian Council of Ministers No 1221 dated 02/11/2005 on the issue of licensing retail trade (including alcohol beverages and tobacco products) and public catering; and the activity connected with the turnover (except retail trade, export and import) of alcohol, non-food alcohol-containing products (except antiseptic medicines and veterinary preparations referred to non-food alcohol-containing products), non-food ethyl alcohol and tobacco products.

Special permit (license) for the activity connected with the production of alcohol (except the production of unique alcohol beverages at cultural and ethnographic centres, national parks and nature reserves of the Republic of Belarus for the purpose of reconstructing original Belarusian traditions), non-food alcohol-containing products (except antiseptic medicines and veterinary preparations referred to non-food alcohol-containing products), non-food ethyl alcohol and tobacco products, or special permit (license) for the activity connected with the turnover (except retail trade, export and import) of alcohol, non-food alcohol-containing products (except antiseptic medicines and veterinary preparations referred to non-food alcohol-containing products), non-food ethyl alcohol and tobacco products, and/or special permit (license) for retail trade (including alcohol beverages and tobacco products) and public catering, except the cases when, in conformance with legislative enactments, no special permit (license) is required.

The copies of the documents listed in paragraph three of this item must be certified by the head of the legal entity which takes part in the tender or by the authorized person appointed by him.

7. The tender proposals shall be submitted in sealed lighttight double envelopes. The external envelope must contain an accompanying letter while the internal one – the tender proposal and copies of the documents listed in paragraph three, item 6 herein. The external envelope must carry the name of the tender and the address of the inter-departmental commission, the name, address and the contact telephone of the tender participant. The envelopes shall be registered by the inter-departmental commission secretary in the order they are received, with the indication of the registration date and number.

8. The envelopes shall be opened at the sitting of the inter-departmental commission which, no later than 7 calendar days after the deadline for receiving tender proposals, shall check the availability of the required documents in them and appoint the date of consideration and evaluation of the tender proposals.

At opening envelopes with tender proposals, the name and location of each tender participant shall be announced, together with the names and codes of the alcohol products as per Foreign Economic Activity Commodity Nomenclature of the Republic of Belarus, applied for import.

9. The tender participants may not, upon their own initiative, amend the submitted tender proposals or withdraw them later than three days prior to the tender date.

10. The inter-departmental commission sittings shall be held as required and considered competent if attended by at least two-thirds of its members.

The inter-departmental commission members shall attend its sittings with no power of substitution.

11. The inter-departmental commission decisions shall be taken by open voting and considered as passed if voted in favour by more than half of attending members.

In case of equality of votes, the chair of the inter-departmental commission shall have a casting vote.

The inter-departmental commission decision shall be final and binding on all tender participants.

12. In case a member of the inter-departmental commission has a dissenting opinion on the adopted decision, such opinion shall be reflected in the minutes of the commission sitting or attached to the minutes as a separate document.

13. The tender proposals shall be evaluated within the term fixed by the inter-departmental commission. No tender participants shall be present during the evaluation. In the course of evaluation of the said proposals, the commission shall be entitled to invite tender participants for giving clarifications and to request additional information from them.

14. The inter-departmental commission shall define the winners of the tender by evaluating the proposals according to the criteria adopted at its sittings. The evaluation shall result in the commission arranging the applicants in accordance with the degree of correspondence of their tender proposals to such criteria, and determining the tender winners.

15. No information relating to the consideration and evaluation of tender proposals shall be disclosed.

16. The inter-departmental commission decision shall be formalized in the minutes which must reflect its composition, the names of the tender winners (with the indication of the names and codes of the alcohol products for which the tender is won, as per Foreign Economic Activity Commodity Nomenclature of the Republic of Belarus), and the voting results. The minutes shall be signed by the inter-departmental commission secretary and its chairperson no later than the next day following the commission sitting.

The list of winning legal entities shall be approved by the President of the Republic of Belarus.

17. Copies of the inter-departmental commission sitting minutes shall be sent to the Ministry of Taxes and Collections, the State Customs Committee and the Ministry of Internal Affairs within 10 days after approval of the list of the tender winning legal entities.

18. No later than 10 days after approval of the list of the tender winning legal entities, the inter-departmental commission shall inform in writing all tender participants on the tender results, issue to the winners an excerpt from the commission sitting minutes signed by its chairperson and the secretary.

The excerpt from the inter-departmental commission sitting minutes shall be a document confirming the tender winner's right to conduct import of alcohol products to the Republic of Belarus within the won names and codes as per Foreign Economic Activity Commodity Nomenclature of the Republic of Belarus.

19. The right to import alcohol products shall be granted for no more than one calendar year for which the tender was held, and may not be transferred by the tender winner to a third entity.

20. The tender shall be considered as aborted if less than two tender proposals have been submitted or none of the participants has been named as the tender winner.

In case the tender proposal has been submitted from a single participant, the right to import alcohol products shall be granted to that participant on the conditions proposed by him. In this case, the rules established by these Regulations for the tender winner shall be applied to the said tender participant.

(paragraph two of item 20 as amended by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

(see previous text)

The inter-departmental commission shall be entitled to re-announce the tender and conduct it following the procedure established by these Regulations, in case the tender is considered aborted, the single participant's proposal does not meet the tender conditions, if none of the tender participants has been named as the tender winner or if the winners have failed to be selected on all names of alcohol products.

(paragraph three of item 20 introduced by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

21. The tender winners shall be obliged to:

Reimburse the expenditure on the tender organization and conduct, including the costs connected with preparing and providing the documentation, necessary for its conduct, to the participants;

Submit monthly reports, by the form prescribed by the Ministry of Trade, on import to the Republic of Belarus of alcohol products, their use for own production, sales and the remaining stock, to the Ministry of Trade within the time limits defined by the inter-departmental commission.

The amount of reimbursement of expenses for organizing and conducting the tender should not exceed the actual expenses for organizing and conducting the tender and preparation of the documents required for its conduct, or include the costs of previously held abortive tenders in case of re-announcing the subject of the tender.

(item 21 as amended by the Decree of President of the Republic of Belarus No 12 dated 30/11/2009)

(see previous text)

22. The tender proposals submitted to the inter-departmental commission are not subject to be returned to the tender participants and should be stored at the Ministry of Trade for three years, following which they are to be duly destroyed.
