

LAW ON CONTROL OF PRECIOUS METAL ARTICLES
(Official Gazette of Montenegro, No. 40/10 as of July 22, 2010)

I. BASIC PROVISIONS

Article 1

This Law regulates the mandatory marking, assaying and hallmarking of precious metal articles that are manufactured, imported and placed on the Montenegrin market, as well as other matters of importance to the control of precious metal articles.

Article 2

- (1) In terms of this Law, precious metal articles shall be jewelry, adornments or other articles made from alloys containing precious metals of the required fineness.
- (2) Precious metal articles may be placed on the market, kept prepared for placing on the market, or exhibited as samples only if they fulfill conditions for marking, assaying and hallmarking as provided for in this Law.
- (3) The provisions of this Law shall not apply to:
 - 1) articles of gold of a mass up to 1 g and articles of silver of a mass of up to 3 g;
 - 2) precious metal articles originating from earlier manufacture and having scientific, historical and cultural value;
 - 3) instruments made from precious metals, which are used in production, industry and for scientific purposes;
 - 4) forged coins made from alloys containing precious metals, which serve as legal tender;
 - 5) gemstone, pearl or other article holders containing insignificant mass of precious metals as compared with the total mass of the article;
 - 6) precious metal articles owned by natural persons, except when they are placed on the market;
 - 7) precious metal articles intended for export, except when a foreign importer requires so.

Article 3

- (1) A manufacturer of precious metal articles shall be any business organisation or entrepreneur with the seat in Montenegro and registered for performing the activity of manufacturing precious metal articles, which, according to this Law, has been assigned the manufacturer's mark (hereinafter referred to as: the manufacturer).
- (2) Precious metal articles importer shall be any business organisation or entrepreneur based in Montenegro and registered for performing the

activity of importing precious metal articles, which, according to this law, has been assigned the importer's mark (hereinafter referred to as: the Importer).

- (3) Precious metal articles trader shall be any business organisation or entrepreneur with the seat in Montenegro and registered for performing the activity of wholesale and retail of precious metal articles, which places precious metal articles on the market in line with this Law (hereinafter referred to as: the Trader).

Article 4

For the purpose of this law, the following terms mean:

- 1) precious metals are platinum, gold, palladium and silver;
- 2) alloys for manufacturing precious metal articles is a solid solution containing at least one precious metal and one or more other metals;
- 3) fineness is a mass portion of precious metal in the total mass of an article, expressed in parts per thousand (x/1000);
- 4) standard of fineness is the minimum mass portion of precious metal in the total mass of an article, stipulated by this Law;
- 5) precious metal articles marking is affixing the manufacturer's mark, the importer's mark and corresponding fineness mark on precious metal articles respectively;
- 6) the manufacturer's mark is the mark on a precious metal article, by which a manufacturer identifies the precious metal article they manufacture;
- 7) the importer's mark is the mark on a precious metal article, by which an importer identifies the precious metal article they import in line with the corresponding Customs Declaration;
- 8) precious metal articles assaying is the procedure of determining their composition and fineness, as well as checks of the marks (the fineness mark and the manufacturer's and/or the importer's mark) on precious metal articles;
- 9) national hallmark is the mark that attests the authenticity of assayed precious metal articles as regards the type of precious metal, fineness and marks prescribed by this Law;
- 10) precious metal articles hallmarking is the procedure of affixing the national hallmark on precious metal articles.

II. CONTROL OF PRECIOUS METAL ARTICLES

Article 5

- (1) The state administration authority in charge of the control of precious metal articles (hereinafter referred to as: the Ministry) shall monitor the performance of activities in the area of controlling precious metal articles.
- (2) Professional and related administrative activities in the area of the control of precious metal articles as provided for in the Law shall be performed by the administrative authority in charge of precious metal articles control (hereinafter referred to as: the Bureau).

- (3) In performing the activities referred to in paragraph 2 of this Article, the Bureau shall:
- 1) assign respective manufacturers / importers' marks;
 - 2) perform assaying and hallmarking of precious metal articles;
 - 3) carry out inspection supervision over the control of precious metal articles;
 - 4) cooperate with other competent inspection authorities and deliver expert assistance in controlling precious metal articles;
 - 5) prepare expert grounds for drafting regulations to govern the control of precious metal articles;
 - 6) decide in administrative procedures concerning the control of precious metal articles;
 - 7) represent Montenegro in international and regional organisations and establish cooperation in the area of precious metal articles control;
 - 8) keep records of manufacturers / importers' marks;
 - 9) perform also other activities in the control of precious metal articles, as prescribed by the Law.

III. COMPOSITION AND FINENESS OF PRECIOUS METAL ARTICLES

Article 6

- (1) Precious metal articles must be of the prescribed standard of fineness, as follows:
- 1) Platinum articles
999 parts per thousand (999/1000) - 1st degree of fineness
950 parts per thousand (950/1000) - 2nd degree of fineness
900 parts per thousand (900/1000) - 3rd degree of fineness
850 parts per thousand (850/1000) - 4th degree of fineness
 - 2) Gold articles:
999 parts per thousand (999/1000) - 1st degree of fineness
950 parts per thousand (950/1000) - 2nd degree of fineness
916 parts per thousand (916/1000) - 3rd degree of fineness
900 parts per thousand (900/1000) - 4th degree of fineness
840 parts per thousand (840/1000) - 5th degree of fineness
750 parts per thousand (750/1000) - 6th degree of fineness
585 parts per thousand (585/1000) - 7th degree of fineness
 - 3) Palladium articles:
999 parts per thousand (999/1000) - 1st degree of fineness
950 parts per thousand (950/1000) - 2nd degree of fineness
500 parts per thousand (500/1000) - 3rd degree of fineness

- 4) Silver articles:
999 parts per thousand (999/1000) - 1st degree of fineness
950 parts per thousand (950/1000) - 2nd degree of fineness
925 parts per thousand (925/1000) - 3rd degree of fineness
800 parts per thousand (800/1000) - 4th degree of fineness
- (2) Those precious metal articles with the fineness exceeding a prescribed one assigned to particular fineness degree referred to in paragraph 1 of this Article, while less than the next higher fineness degree, shall be considered to have lower fineness degree.

Article 7

- (1) Precious metal articles' fineness referred to in Article 6 hereof shall be marked by the fineness mark comprising three digits.
- (2) The fineness mark referred to in paragraph 1 of this Article shall be shaped as rectangle and of clearly visible dimensions.
- (3) The fineness mark shall be affixed on a precious metal article right next to the manufacturer's, and/or the importer's mark.

Article 8

- (1) Precious metal articles are deemed be the articles made from platinum, gold, palladium or silver or from their alloys containing palladium, iridium or other metals of a fineness prescribed by this Law.
- (2) More detailed conditions that must be fulfilled by precious metal articles manufacture and composition, which comply with Montenegrin, European and international standards, shall be prescribed by the Ministry.

IV. MANUFACTURER'S MARK AND IMPORTER'S MARK

Article 9

- (1) Manufacturer of precious metal articles shall be under an obligation to mark the precious metal articles they manufacture by their manufacturer's mark and the fineness mark, in line with this Law.
- (2) Manufacturer of precious metal articles shall not mark the precious metal article they manufacture by any other marks or identifications, i.e. they may mark them by one manufacturer's mark and one fineness mark only.

Article 10

An importer of precious metal articles shall be under an obligation to ensure marking of the precious metal articles by their importer's mark and the fineness mark, in line with this Law.

Article 11

- (1) Upon a manufacturer and/or importer's request, the Bureau shall assign the manufacturer's mark, and/or the importer's mark.

- (2) The Bureau shall decide upon the request referred to in paragraph 1 of this Article by a written decision.
- (3) Decision on the manufacturer's mark shall have a 10-year validity.

Article 12

- (1) The Bureau shall assign a manufacturer's mark only if the manufacturer concerned has met all the requirements prescribed to be met by equipment and business premises intended for manufacture.
- (2) A manufacturer shall be under an obligation to meet the manufacture requirements during the whole validity period granted by the decision referred to in paragraph 3 of Article 11 hereof.
- (3) The Ministry shall prescribe both the manufacture conditions referred to in paragraph 1 of this Article and the method of establishing their being fulfilled.

Article 13

- (1) In accordance with the decision on the manufacturer's mark, manufacturer shall ensure to have the stamp with their mark and the stamp with fineness mark in line with Article 7 hereof.
- (2) The matrix of the manufacturer's mark and the imprint of a fineness mark shall be kept with the Bureau.
- (3) The Ministry shall prescribe the shape, contents and dimensions of the manufacturer's mark.

Article 14

- (1) A manufacturer shall be under an obligation to inform the Bureau without a delay if a cessation of manufacturing activity takes place, while within eight days at latest as of the day of the manufacturing activity cessation.
- (2) The Bureau shall make a decision on depriving a manufacturer of their manufacturer's mark prior to the expiration of the deadline referred to in paragraph 3 of Article 11 hereof, if such manufacturer:
 - 1) does not fulfill conditions for manufacturing in terms of equipment and business premises;
 - 2) has ceased to perform the activity of precious metal articles manufacturing;
 - 3) committed a criminal offence of forging the marks regulated hereunder and has faced the conviction therefore;
- (3) A manufacturer must not use the manufacturer's mark that is subject to a decision on depriving thereof.
- (4) The decision referred to under paragraph 1 above may be subject to a complaint procedure before the Ministry.
- (5) The complaint referred to in paragraph 4 of this Article shall not postpone the enforcement of such decision.
- (6) A decision made upon such complaint shall be final.
- (7) The decision referred to in paragraph 6 of this Article may be subject to administrative dispute procedure.

Article 15

- (1) In accordance with the decision on the importer's mark, any importer shall ensure to have the stamp with their mark.
- (2) The matrix of an importer's mark and the imprint of such importer's stamp shall be kept with the Bureau.
- (3) The Ministry shall prescribe the shape, contents and dimensions of the importer's mark.

Article 16

- (1) An importer shall be under an obligation to inform the Bureau without a delay if a cessation of importing activity takes place, while within eight days at latest as of the day of the importing activity cessation.
- (2) The Bureau shall make a decision on depriving an importer of their importer's mark if such importer:
 - 1) has ceased to perform the activity of precious metal articles importing;
 - 2) committed a criminal offence of forging the marks regulated hereunder and has faced the conviction therefore;
- (3) The decision referred to in paragraph 2 above may be subject to a complaint procedure before the Ministry.
- (4) The complaint referred to in paragraph 3 above shall not postpone the enforcement of such decision.
- (5) A decision made upon such complaint shall be final.
- (6) The decision referred to in paragraph 5 above may be subject to administrative dispute procedure.

V. ASSAYING AND HALLMARKING PRECIOUS METAL ARTICLES

Article 17

- (1) Prior to placing them on the market, precious metal articles shall be subject to mandatory assaying and hallmarking.
- (2) The assaying and hallmarking of precious metal articles shall be performed in the business premises of the Bureau.
- (3) The Ministry shall prescribe the method of assaying and hallmarking precious metal articles and the assaying equipment to be used for the purpose, as well as the shape, contents and dimensions of national hallmark.

Article 18

- (1) Upon the request of a manufacturer, the Bureau shall perform precious metal articles assaying and hallmarking.
- (2) Precious metal articles that such manufacturer subjects to assaying and hallmarking must be marked by both the manufacturer's mark and the corresponding fineness mark.

- (3) The request referred to in paragraph 1 above shall contain the data of: the type of precious metal articles; the number of pieces; the mass; alloy composition; and the fineness of precious metal articles.

Article 19

- (1) Upon the request of an importer, the Bureau shall perform precious metal articles assaying and hallmarking.
- (2) Precious metal articles that such importer subjects to assaying and hallmarking must be marked by both the importer's mark and the corresponding fineness mark.
- (3) The request referred to in paragraph 1 above shall contain, in addition to the data referred to in paragraph 3 of Article 18 hereof, the data of the precious metal articles origin and the pertaining Customs Declaration.

Article 20

- (1) If the Bureau establishes through assaying that a precious metal article submitted for assaying and hallmarking was made from an adequate precious metal type and is of any fineness prescribed hereunder, as well as that it bears the marks in line with this Law and the regulations passed based on it, the Bureau shall perform the hallmarking of such article.
- (2) If the Bureau establishes through assaying that a precious metal article submitted for assaying and hallmarking is without even the lowest fineness degree referred to in Article 6 hereof, but that it is with more than two hundred parts per thousand (200/1000) of precious metal in the alloy, the Bureau shall not perform the hallmarking of such article and they shall inform the applicant in writing that within eight days as of the day of receiving such information, the applicant should state whether they accept the assay findings.
- (3) If the applicant accepts the assay findings referred to in paragraph 2 above, i.e. if no response is received within the stated deadline, the Bureau shall make such articles unsuitable to be placed on the market (by cutting or breaking them, or alike).
- (4) If the applicant does not accept the assay findings referred to in paragraph 2 above, the Bureau shall assay the article concerned by means of quantitative chemical analysis.
- (5) If the assaying referred to in paragraph 4 above has confirmed the assay findings referred to in paragraph 2 above, the Bureau shall not perform the hallmarking of such articles and they shall make them unsuitable for placing on the market (by cutting or breaking them, or alike).
- (6) If the assaying referred to in paragraph 4 above has found that the articles concerned have an adequate composition and fineness prescribed hereunder, the Bureau shall perform hallmarking of such articles.

Article 21

If a hallmarked precious metal article has been altered or remanufactured, it must be re-assayed and re-hallmarked prior to placing it on the market.

Article 22

- (1) If hallmarking of precious metal articles is detrimental to their aesthetic, the Bureau shall grant the hallmark certificate instead of hallmarking them.
- (2) The Ministry shall prescribe the contents and format of the certificate referred to in paragraph 1 above.

VI. TRADE IN PRECIOUS METAL ARTICLES

Article 23

- (1) A trader may place on the market, keep prepared for placing on the market or exhibit as samples only hallmarked precious metal articles, i.e. the ones accompanied by their respective hallmark certificates, as stipulated herewith.
- (2) In addition to the trade operation conditions prescribed by regulations governing national trade, a trader shall be under an obligation to
 - 1) show the national hallmarks photo, place it at visible place and make it available for examination upon the purchaser's request;
 - 2) have an instrument (such as magnifier, and alike) for making an article's hallmarks identifiable, and to make it available for use upon the purchaser's request;
 - 3) have a weighing device with $d=0.01$ g and $e\leq 0.1$ g, verified in accordance with a separate Law,
in their store.
- 3) A trader that is also precious metal articles manufacturer, and/or importer shall be under an obligation also to put at visible place in their store the Decision on manufacturer's and/or the importer's mark.

Article 24

- (1) A trader shall be under an obligation to keep exhibited, separately from other articles, the precious metal articles and to label them with respective inscriptions "Gold Articles", "Silver Article" and alike.
- (2) Precious metal articles placed on the market must be accompanied by their respective labels indicating:
 - 1) precious metal article's designation;
 - 2) the manufacturer's/the importer's name, i.e. the first and family name;
 - 3) the country of origin;
 - 4) article's mass and fineness.

VII. FEES

Article 25

- (1) Costs of assaying and hallmarking associated with precious metal articles and those of chemical analyses of alloys and precious metal articles, testing the equipment used for precious metal articles assaying, checking the fulfillment of conditions for assigning the manufacturer's mark and other prescribed costs relating to precious metal articles assaying and hallmarking, as well as the fee for granting a decision on the manufacturer's mark, i.e. the importer's mark, shall be paid by the applicant.
- (2) With the exception of paragraph 1 above, the applicant shall not pay the costs of assaying referred to in paragraph 4 of Article 20 hereof if it has been found that articles concerned have an adequate composition and fineness regulated hereunder.
- (3) The amount of the fee referred to in paragraph 1 above must be equal to the actual costs incurred.
- (4) The Government of Montenegro shall prescribe the amount of the fee referred to in paragraph 1 above and the method of their payment.
- (5) The funds generated from the collection of the fee referred to in paragraph 1 above shall be the National Budget revenues and they may be used solely for metrology activity development purposes.

VIII. SUPERVISION

Article 26

Supervision of the enforcement of this Law and of the regulations adopted based on this Law shall be performed by the Ministry.

Article 27

- (1) Inspection supervision shall be the control of the exactness of marking by the fineness mark and by the manufacturer's mark, and/or the importer's mark of precious metal articles already on the market and the supervision of maintenance of conditions prescribed for manufacturing within the premises of the manufacturer holding the Decision on manufacturer's mark.
- (2) The supervision referred to in paragraph 1 above shall be performed by the Bureau via metrology inspectors, while in line herewith and with the law regulating the inspection supervision.
- (3) While performing inspection supervision, a metrology inspector shall be empowered to perform the control of:
 - a. the fulfillment with the manufacture premises-related conditions prescribed for precious metal manufacturers during manufacturing activity;
 - b. whether the manufacturer, and/or the importer has the seal with the manufacturer's, and/or the importer's mark;

- c. whether precious metal articles already on the market or kept for placing on the market or exhibited as samples have been marked and hallmarked, i.e. whether they are accompanied by the hallmark certificate, in accordance herewith;
- d. whether the store displays at visible place the photograph of the national hallmarks;
- e. whether the trader subject to supervision uses the weighing device referred to in item 3 of paragraph 2 in Article 23 hereof;
- f. whether the store displays at visible place the decision on manufacturer's, and/or the importer's mark;
- g. the manner of precious metal articles exhibiting in stores;
- h. the adequacy of precious metal articles as regards the composition and fineness.

Article 28

Market inspectors shall perform inspection supervision of precious metal articles trade.

Article 29

Besides administrative measures and actions regulated by the law governing the inspection supervision, a competent inspector shall put a temporary ban on performing the activity of:

- 1) manufacturing, and/or importing in the case referred to in paragraph 2 of Article 14, and/or in paragraph 2 of Article 16 and shall institute a procedure before the Bureau for annulling the decision on manufacturer's mark, and/or the importer's mark;
- 2) precious metal articles trade if it has been found that the precious metal articles concerned already on the market or kept for placing on the market or exhibited as samples are without hallmarks and/or are not accompanied by the hallmark certificate, in accordance with this Law.

IX. PENAL PROVISIONS

Article 30

- (1) A fine amounting from fifty times to three hundred times the minimum wage paid in Montenegro shall be imposed for a violation by a legal person or an entrepreneur who places on the market, keeps intended for placing on the market or exhibits as samples precious metal articles without hallmarks, i.e. not accompanied by the hallmark certificate, in accordance with this Law (paragraph 1 of Article 23).
- (2) For a violation referred to in paragraph 1 above, also the responsible person in a legal entity shall be imposed a fine amounting from ten times to twenty times the minimum wage paid in Montenegro.

- (3) In addition to the fine referred to in paragraph 1 above, also injunctive relief ranging from six months to one year may be imposed against performance of this activity.

Article 31

- (1) A fine ranging from thirty times to eighty times the minimum wage paid in Montenegro shall be imposed to a legal entity or to an entrepreneur for the violation made by:
 - 1) using the manufacturer's mark if the validity period of the decision on the manufacturer's mark has expired (paragraph 3 of Article 11);
 - 2) using the manufacturer's mark that is subject to a decision on depriving such manufacturer's mark (paragraph 3 of Article 14);
- (2) For the violation referred to under paragraph 1 above, also the responsible person in a legal entity shall be imposed the fine ranging from five times to fifteen times the minimum wage paid in Montenegro.

Article 32

- (1) A fine ranging from thirty times to eighty times the minimum wage paid in Montenegro shall be imposed to a legal entity or to an entrepreneur for the violation if in his store he does not have the weighing device referred to in item 3, paragraph 3 of Article 23 hereof.
- (2) For the violation referred to under paragraph 1 above, also the responsible person in a legal entity shall be imposed a fine ranging between five times and fifteen times the minimum wage paid in Montenegro.

Article 33

- (1) A fine amounting from twenty times to sixty times the minimum wage paid in Montenegro shall be imposed to a legal entity or an entrepreneur for a violation made by:
 - 1) not showing at visible place in the store the photograph of the national hallmarks and not making it available for examination upon a purchaser's request (item 1, paragraph 2 of Article 23);
 - 2) absence of an instrument (such as magnifier, and alike) in the store, by means of which hallmarks on an article can be identified, or by not making such an instrument available for use upon a purchaser's request (item 2, paragraph 2 of Article 23).
- (2) The fine referred to in paragraph 1 above shall be imposed on a legal entity or to an entrepreneur that is also a manufacturer, and/or an importer if at visible place in the store there is no decision on manufacturer's, and/or importer's mark (paragraph 3 of Article 23).
- (3) The violation referred to in paragraphs 1 and 2 above shall entail imposing to the responsible person in a legal entity a fine ranging from five times to ten times the minimum wage paid in Montenegro.

Article 34

- (1) A fine ranging from fifteen times to fifty times the minimum wage paid in Montenegro shall be imposed to a legal entity or to an entrepreneur for the violation made by:
 - 1) not exhibiting in the store precious metal articles separately from other articles or if they are not labeled in the prescribed manner (paragraph 1 of Article 24);
 - 2) placing precious metal articles on the market without the prescribed labels (paragraph 2 of Article 24);
- (2) For the violation referred to in paragraph 1 above, also the responsible person in a legal entity shall be imposed a fine ranging from three times to eight times the minimum wage paid in Montenegro.

Article 35

- (1) A fine ranging from ten times to thirty times the minimum wage paid in Montenegro shall be imposed to a legal entity or an entrepreneur for a violation made by :
 - a. ceasing to perform manufacturing of precious metal articles without notifying the Bureau thereof within the prescribed deadline (paragraph 1 of Article 14);
 - b. ceasing to import precious metal articles without notifying the Bureau thereof within the prescribed deadline (paragraph 1 of Article 16).
- (2) For the violations referred to in paragraphs 1 and 2 above, also the responsible person in a legal entity shall be imposed a fine ranging between three times to five times the minimum wage paid in Montenegro.

Article 36

For violations referred to in paragraph 1 of Article 33, the competent inspector may impose to and collect from the responsible person in a legal entity on-the-spot fine amounting from two times to three times the minimum wage paid in Montenegro, whereas, in case of an entrepreneur, a fine ranging from three times to five times the minimum wage paid in Montenegro.

X. TRANSITIONAL AND FINAL PROVISIONS

Article 37

- (1) Regulations based on authorities granted hereby shall be adopted within one year as of this Law entering into force.
- (2) Until adopting the regulations referred to in paragraph 1 above, the regulations enacted based on the Law on the Control of Precious Metal Articles (Official Gazette of the FRY, No. 80/94) shall be applicable if they are not contrary to this Law.

Article 38

- (1) Decisions on manufacturer's marks issued prior to entering of this Law into force shall remain in force until the expiration of the validity period

granted by them, while until December 31st 2012 at latest, provided that the manufacturers concerned shall be under an obligation to renew their respective requests for the decision on manufacturer's mark granted in accordance with the conditions prescribed by this Law.

- (2) The weighing device referred to in item 3, paragraph 2 of Article 23 of this Law shall be provided by manufacturers, importers and traders within six months as of the day of entering into force of this Law.

Article 39

Upon the day of entering into force of this Law, the Law on the Control of Precious Metal Articles (Official Gazette of the FRY, No. 80/94) shall cease to be effective.

Article 40

This Law shall enter into force on the eighth day as of its publishing in the Official Gazette of Montenegro.

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