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Legal News

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Highlights

1. 38 violations for which hotels and tourist guest houses will be fined from 1 August 2019

This is the highlights of Decree No. 45/2019/ND-CP dated 21 May 2019 on administrative sanctions in tourism.

Accordingly, violating hotels and motels will be fined, in particular:

- (a) A monetary fine from VND 500,000 to VND 1,000,000 shall be imposed for one of the following violations:
 - (i) Notification of operation is not made on time as prescribed.
 - (ii) Failure to display prices of goods and services publicly as prescribed.
- (b) A monetary fine from VND 1,000,000 to VND 3,000,000 for one of the following violations:
 - (i) Failure to give a notice of change of the address as prescribed.
 - (ii) Failure to give a written notice before going into operation as prescribed.
- (c) A monetary fine from VND 3,000,000 to VND 5,000,000 shall be imposed for failure to display the internal rules and regulations publicly as prescribed.
- (d) A monetary fine from VND 10,000,000 to VND 15,000,000 shall be imposed for failure to ensure legal rights and interests of tourists in accordance with the signed contracts.
- (e) A monetary fine from VND 1,000,000 to VND 3,000,000 shall be imposed for one of the following violations:
 - (i) Failure to provide face towels or bath towels as prescribed;
 - (ii) Failure to change bed sheets or mats or blanket covers or pillow covers for new guests; etc.

Note: The above-mentioned monetary fines are applied to individuals, those to be applied to organizations will be twice of those applied to individuals for the same administrative violation...

This Decree shall take effect on 1 August 2019.

2. 7.19% increase in pensions, allowances for 8 groups

On 20 May 2019, the Government issues Decree No. 44/2019/ND-CP on adjustment of pensions, social insurance allowances and monthly allowances.

Accordingly, as from 1 July 2019, there shall be a 7.19% increase of pensions, social insurance allowances and monthly allowances for the month of June 2019 for the followings:

- (a) Cadres, public officials and servants, employees, military staff, police officers and intelligent officers who are entitled to monthly pensions.
- (b) those currently receiving monthly allowances for work related-accident or occupational disease.
- (c) Cadres of communes, wards and towns as prescribed in Decrees No.92/2009/ND-CP, No. 121/2003/ND-CP and No. 09/1998/ND-CP who are entitled to monthly pensions and allowances.
- (d) Military staff currently entitled to monthly allowances pursuant to Decision No. 142/2008/QD-TTg and Decision No. 38/2010/QD-TTg of the Prime Minister.
- (e) Police officers currently entitled to monthly allowances pursuant to Decision No. 53/2010/QD-TTg dated 20 August 2010.
- (f) Those currently entitled to monthly allowances for loss of working capacity as prescribed by law; those entitled to monthly allowances pursuant to Decision No. 91/2000/QD-TTg, Decision No. 613/QD-TTg dated 6 May 2010; and rubber workers entitled to monthly allowances.
- (g) Cadres of communes, wards and towns currently entitled to monthly allowances pursuant to Decision No. 130/CP dated 20 June 1975 and Decision No. 111-HDBT dated 13 October 1981.
- (h) Military staff, police officers, and intelligent officers who receive salary the same as military staff and police officers currently entitled to monthly allowances pursuant to Decision No. 62/2011/QD-TTg.

This Decree shall take effect on 1 July 2019.

3. 5 groups of food under specialized inspection

On 20 May 2019, the Ministry of Health issued Decision No. 1899/QD-BYT announcing the List of conditions for business investment and the list of products and goods under specialized inspection under the State management of the Ministry of Health.

Accordingly, there are 5 groups of food within the scope of management of Ministry of Health, which are subject to specialized inspection, including:

- (a) Bottled drinking water;
- (b) Natural mineral water;

- (c) Functional food (Supplementary food, Health Supplement/Dietary Supplement, Medical nutrition food);
- (d) Food additives (including food flavourings)/ processing aids;
- (e) Packaging materials and utensils for food.

In addition, 100% of imported health supplement and medical nutrition foods, which have been registered, shall be exempt from the State inspection.

This Decision took effect on 20 May 2019.

4. Monetary fines up to VND 1 billion for administrative violations by individuals in the fishery

This is the highlight of the Decree No. 42/2019/ND-CP dated 16 May 2019, on administrative sanctions for violations in the fishery

Accordingly, the maximum monetary fine for administrative violations committed by an individual will increase from VND100,000,000 to VND1,000,000,000.

If an organization commits the same violation as an individual does, the penalty will be twice that for an individual.

In addition, the new Decree prescribes a one-year statute of limitations for administrative penalties for violations in the fishery.

The statute of limitation for administrative penalties for violations in manufacturing, trading, exporting and importing fish vessels, aquatic animal species, aquatic feeds and products for aquaculture treatment and aquatic resource protection will be two years.

This Decree shall take effect as from 5 July 2019 and replaces Decree No. 103/2013/ND-CP dated 12 September 2013.

5. The 2-year time limit for re-inspection by the Inspectorate of the People's Procuracy

On 15 May 2019, the Chief Prosecutor of the Supreme People's Procuracy (SPP) issued Decision No. 192/QĐ-VKSTC on the regulation of organization and operations of the Inspectorate of the People's Procuracy (PP).

Accordingly, the time limit for re-inspection by the Inspectorate of the PP shall be 2 years as from the signing date of inspection conclusion.

The re-inspection shall be conducted where there is any of the following grounds:

- (a) There is a serious violation of inspection order and procedures;

- (b) There is a mistake in the application of the law to making inspection conclusion;
- (c) The contents of inspection conclusion are not relevant to evidence collected during the inspection process;
- (d) There are signs of serious violation committed by the inspected subject, which have not fully been detected through the inspection;
- (e) The head of the inspection team, members of the inspection team of the SPP intentionally falsify the dossier of the case or advise the Chief Prosecutor of the SPP to make inspection conclusion against the law;
- (f) Chief Prosecutors of the SPP, chief prosecutors of provincial People's Procuracies, the head of the inspection team, members of the inspection team, and public officials intentionally falsify the dossier of the case, advise on or intentionally make inspection conclusion against the law.

This Decree took effect on 15 May 2019.

6. Subjects permitted to import scrap since 1 July 2019

This is the highlight content of Decree No. 40/2019/ND-CP dated 13 May 2019, amending Decrees on guidelines for the Law on Environment Protection issued by the Government on 13 May 2019, specifically:

Only entities and individuals with manufacturing facilities for using scrap is permitted to import scrap to be used as production materials, and shall meet the following requirements:

- Meeting the requirements and responsibilities for environment protection;
- Having an environment impact assessment report approved by the Ministry of Natural Resources and Environment, in which the contents regarding the use of imported scrap as production materials is included;
- Having a written certification of completion of environment protection works or a license for hazardous waste treatment;
- Having a written certificate of satisfaction of conditions for environment protection in scrap importation.

In addition, imported scrap may only be permitted to be unloaded into ports when

- for goods declared in a Manifest, there is a written certificate of satisfaction of conditions for environment protection in scrap importation which remains valid and shows unused quota for imported scrap;
- For goods declared in E-Manifest, there is a written confirmation of deposit for scrap importation.

This Decree shall take effect on 1 July 2019.

7. Small and medium size start-up businesses will be supported by loan

This is the highlight content of Decree No. 39/2019/ND-CP dated 10 May 2019 on organization and operations of small and medium-size enterprise development fund (referred to as “Fund”).

Accordingly, a small or medium size enterprise is qualified to apply for a direct loan from the Fund if it satisfies 4 following conditions:

- Satisfying the conditions in Article 4 of the Law on support to small and medium-size enterprises;
- Having a feasible production or business project and plan, exploiting various intellectual property assets or new technology or new business model as prescribed by specialized laws;
- Ensuring that the equity resources participating in the production or business project and plan is at least 20% of the total investment capital to implement such project and plan;
- Satisfying the provisions on loan security as prescribed in this Decree.

The maximum amount of a loan for each production or business project or plan shall not exceed 80% of the total amount of investment capital of such project or plan.

The interest rate on direct loans for enterprises shall equal to 80% of the lowest commercial loan interest rate.

This Decree shall take effect on 1 July 2019.

8. From 1 July 2019, the lump-sum allowance for birth increases by VND 200,000

Pursuant to Article 38 of Law on Social Insurance 2014 and the new basic salary stipulated in Decree No. 38/2019/ND-CP dated 09 May 2019, from 01 July 2019, the lump-sum allowance for birth or adoption of a child below 6 months of age child shall be increased; specifically:

As from 01 July 2019, the basic salary shall increase from VND 1,390,000 per month to VND 1,490,000 per month, therefore the maternity allowance shall be increased accordingly.

The lump-sum allowance shall be VND 2,980,000 (2 times the basic salary) for each child (an increase of VND 200,000 for each child in comparison with the current level).

Subjects who are entitled to such allowance include:

- (a) Female employees giving birth have paid social insurance premiums for at least full 06 months within 12 months before childbirth.

The mother having her child by a surrogate mother shall be entitled to lump-sum allowance if she has paid the social insurance premiums for at least full 6 months within 12 months to the date of receiving the child and the surrogate mother does not pay compulsory social insurance premiums or is not eligible.

- (b) Female employees have paid social insurance premiums for at least full 12 months and need to take a leave for maternity care as prescribed by a competent health facility and have paid social insurance premiums for at least full 3 months within 12 months before childbirth.

- (c) Male employees have paid social insurance premiums for at least full 06 months within 12 months before childbirth, whose wives have not paid compulsory social insurance premiums.

The husband of the mother having her child by a surrogate mother have paid social insurance premiums for at least full 06 months within 12 months to the date of receiving the child if both his wife and the surrogate mother do not pay compulsory social insurance premiums or are not eligible.

- (d) Employees adopting under-6-month children have paid social insurance premiums for at least full 06 months within 12 months before child adoption.

9. Guidance for Law on Planning 2017

On 7 May 2019, the Government issued Decree No. 37/2019/ND-CP detailing some Articles of the Law on Planning.

Pursuant to the new Decree, requirements for organizations of planning consultancy are as follows:

- (a) Having at least 01 consultant who is the head of a planning project, holds a bachelor degree or higher with the relevant major and has led at least 01 planning scheme or has directly participated in at least 02 planning schemes of the same level or higher.
- (b) Having at least 05 consultants who have led the planning component or contents and hold a bachelor degree with the major of planning and have directly participated in at least 01 planning schemes of the same level.

In the case where the national planning is formulated in Vietnam for the first time, any consulting professional that leads the planning component or contents of the national planning must meet the following requirements:

- (i) Hold a bachelor or higher degree majoring in the planning component or contents to be formulated;
- (ii) Have already led at least 01 planning scheme or directly participated in at least 02 planning schemes at the regional level or planning schemes for interprovincial river basins.

This Decree took effect on 7 May 2019.

10. Published 5 new administrative procedures in the field of Labour - Salary

This is the highlights of Decision No. 636/QĐ-LĐTBXH dated 5 May 2019 of the Ministry of Labour, War Invalids and Social Affairs (MoLISA) on publication of the new, amended, or cancelled administrative procedures in the field of labour and salary within the scope of State management of the MoLISA;

Accordingly, 05 following newly-issued administrative procedures in the field of Labour – Salary are released:

- Issuance of the License for labour outsourcing services;
- Extension of the License for labour outsourcing services;
- Re-issuance of the License for labour outsourcing services;
- Revocation of the License for labour outsourcing services;
- Withdrawal of deposits of labour outsourcing enterprise;

Furthermore, the following amended administrative procedures under the management of MoLISA are also published:

- Registration of internal labour regulations (since Decree No.05/2015/ND-CP has provided for the amendment or replacement;
- Submission of wage scales, payrolls and work level of enterprises.

This Decree took effect on 5 May 2019.

Other sectors:

Health

- Consolidated Document No.1864/VBHN-BLDTBXH dated 15 May 2019 of the Minister of Labour, War Invalids and Social Affairs, combining Decrees on conditions and procedures for licensing and management of operations of voluntary drug detoxification establishments.
- Consolidated Documents No. 1866/VBHN-BLDTBXH dated 15 May 2019 of the Ministry of Labour, War Invalids and Social Affairs, combining Decrees providing for the regime for applying administrative measures in the form of compulsory admission to detoxification establishments.
- Resolution No. 33/NQ-CP dated 19 May 2019 of the Government, on pilot autonomy of 4 hospitals under the Ministry of Health.
- Decision No. 1941/QD-BYT dated 22 May 2019 of the Minister of Health, on the template of traditional medical records for use in traditional medical examination and treatment facilities.
- Decision No. 330/QD-QLD dated 22 May 2019 of the Director of the Drug Administration of Vietnam on "Standard requirements for the output of data by information technology application software connecting pharmaceutical distribution entities" Version 1.0.
- Decision No.1763/QD-BYT dated 10 May 2019 of the Minister of Health, on the list of shared codes of bed and hospital for day-care inpatient treatment at the traditional medical examination and treatment facilities.
- Decision No.1730/QD-BYT dated 09 May 2019 of the Minister of Health, on internal processes in the field of reproductive health applying the quality management system ISO 9001: 2015.

Education

- Decision No. 2049/QD-UBND dated 15 May 2019 of the People's Committee of Ho Chi Minh City, publishing the list of administrative procedures under the management of Department of Education and Training of Ho Chi Minh City.
- Consolidated Document No.04/VBHN-BGDDT dated 7 May 2019, combining Circulars on Regulation of full-time university admission; full time college admission of teacher training courses issued by the Ministry of Education and

Training.

- Consolidated Document 03/VBHN-BGDDT dated 3 May 2019, combining Circulars on Regulation on junior high school and high school admission issued by the Minister of Education and Training.

Transport

- Decision No.954/QD-BGTVT dated 16 May 2019 of the Minister of Transport, publishing the list of Vietnams' inland container depots.
- Decision No.1755/QD-UBND dated 8 May 2019 of the People's Committee of Ho Chi Minh City, publishing the list of administrative procedures under the management of Department of Transport of Ho Chi Minh City.
- Circular No. 27/2019/TT-BTC dated 14 May 2019 of the Minister of Finance, amending Circular No. 246/2016/TT-BTC on the collection rates and regime for collection, submission, management and use of fees for inspection, evaluation and issuance of international certificates of ship security and Circular No.247/2016/TT-BTC, on the collection rates and regime for collection, submission, management and use of fees for transfer of the right to operate an airport.
- Circular No. 17/2019/TT-BGTVT dated 3 May 2019 of the Minister of Transport, on the price frame for passenger transport service on domestic air flights.

Construction - Real Estate

- Decision No. 398/QD-BXD dated 22 May 2019 of the Minister of Construction, on Plan to implement Directive No. 11/CT-TTg on solutions for promoting stable and healthy development of real estate market;
- Decision No. 393/QD-BXD dated 21 May 2019 of the Minister of Construction, on Technical Instructions "Using gypsum and FGD gypsum as raw material for producing plasterboard".

Information - Communications

- Decision No. 684/QD-BTTTT dated 8 May 2019 of the Ministry of Information and Communications, on Plan to implement Decision No. 274/QD-TTg approving the Project for National Public Service Portal of the Ministry of Information and Communications.

- Circular No. 03/2019/TT-BTTTT dated 6 May 2019 of the Ministry of Information and Communications, providing for posting and broadcasting of foreign affairs information on newspapers.

Energy

- Decree No. 41/2019/ND-CP dated 15 May 2019, providing guidelines for the formulation, appraisal, approval, publication, implementation, evaluation and adjustment of the planning for development and application of atomic energy.
- Decision No.2173/QD-UBND dated 3 May 2019 of the People's Committee of Hanoi on criteria for economical and efficient use of energy for facilities using energy in industrial production and construction projects in Hanoi.

Administration - Judiciary

- Resolution No. 32/NQ-CP dated 14 May 2019 of the Government, on Plan for implementation of arranging district and commune administrative units in the period of 2019-2021.
- Decision No. 1407/QD-TCHQ dated 15 May 2019 of the Director General of the General Department of Customs on the Professional process of radioactive inspection for goods exported, imported, in transit or transshipment of containers at international seaport border-gates; entrants/luggage in transit (including lost, abandoned and forgotten luggage) at international airport border-gates.
- Decision No. 1920/QD-BQP dated 15 May 2019 of the Ministry of National Defense, publishing new electronic administrative procedures in the field of border management within the scope of management of the Ministry of National Defense.
- Decision No. 201/QD-VKSTC dated 20 May 2019 of the Supreme People's Procuracy, on the process of receiving, classifying, processing, handling and resolving applications for review of legally enforceable judgments and decisions of the Court according to judicial review or new trial procedures.
- Decision No. 94/QD-TANDTC dated 15 May 2019 of the Supreme People's Court, on Plan for implementation of "Enhancing transparency and improving the quality of hearing practice in Vietnamese courts" in 2019.

Agriculture - Forestry - Fishery

- Decision No. 1821/QD-BNN-CN dated 21 May 2019 of the Ministry of

Agriculture and Rural Development, publishing the amended administrative procedures in the fields of livestock and fishery under the management of the Ministry of Agriculture and Rural Development.

- Circular No. 05/2019/TT-BNNPTNT dated 2 May 2019 of the Minister of Agriculture and Rural Development, providing for the system and process of maintenance of irrigation infrastructure assets.

Investment

- Decision No. 682/QD-BKHDT dated 15 May 2019 of the Minister of Planning and Investment, publishing the list of administrative procedures under the jurisdiction of the Ministry of Planning and Investment for receiving and returning results of administrative procedures through public postal services or not through public postal services.
- Decision No. 1863/QD-UBND dated 13 May 2019 of People's Committee of Ho Chi Minh City, publishing the list of administrative procedures under the management of the Department of Planning and Investment of Ho Chi Minh City.
- Decision No. 654/QD-BKHDT dated 8 May 2019 of the Minister of Planning and Investment, publishing the list of amended, supplemented or cancelled administrative procedures in the field of establishment and operation of cooperative federation and cooperatives under the management of the Ministry of Planning and Investment.
- Decision No. 644/QD-BKHDT dated 7 May 2019 of the Minister of Planning and Investment, publishing the list of receipt and non-receipt of administrative procedures at the Dossier receiving and Result returning unit under the authority of the Ministry of Planning and Investment; List of online receipt of administrative procedures on the Public Service Portal of the Ministry of Planning and Investment.
- Circular No. 08/2019/TT-BKHDT dated 17 May 2019 of the Minister of Planning and Investment, on the norms for planning.

Miscellaneous

- Decree No. 46/2019/ND-CP dated 27 May 2019, on administrative sanctions in the field of sports.
- Decree No. 43/2019/ND-CP dated 17 May 2019, on amendments to Decree

No.26/2014/ND-CP on organization and operation of Banking Inspection and Supervision;

- Decision No. 1753/QD-UBND dated 8 May 2019 of the People's Committee of Ho Chi Minh City, publishing the list of administrative procedures under the management of the Department of Science and Technology of Ho Chi Minh City.
- Decision No. 632/QD-LDTBXH dated 04 May 2019 of the Ministry of Labour, War Invalids and Social Affairs on announcement of the amended administrative procedures in the field of employment within the scope of management of the Ministry of Labour, War Invalids and Social Affairs.

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