

## **LEGAL DOCUMENTS**

### **THE MINISTRY OF INDUSTRY AND TRADE**

#### **Circular No. 39/2012/TT-BCT of December 20, 2012, detailing a number of articles of the Government's Decree No. 94/2012/ND-CP of November 12, 2012, on liquor production and trading**

*Pursuant to the Government's Decree No. 189/2007/NĐ-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade, and Decree No. 44/2011/ND-CP of June 14, 2011, amending and supplementing Article 3 of Decree No. 189/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;*

*Pursuant to the Government's Decree No. 94/2012/ND-CP of November 12, 2012, on liquor production and trading;*

*The Minister of Industry and Trade details a number of articles of the Government's Decree No. 94/2012/ND-CP of November 12, 2012, on liquor production and trading, as follows:*

#### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1. Scope of regulation**

This Circular provides dossiers and procedures for granting, re-granting, modifying, supplementing and revoking licenses for industrial production of liquor, licenses for small-scale production of liquor for sale, certificates of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, licenses for liquor distribution, licenses for liquor wholesale, licenses for liquor retail as prescribed in the Government's Decree No. 94/2012/ND-CP of November 12, 2012, on liquor production and trading (below referred to as Decree No. 94/2012/ND-CP).

##### **Article 2. Subjects of application**

This Circular applies to domestic and foreign organizations and individuals that participate in liquor production and trading, and other activities related to liquor production and trading within Vietnam's territory.

##### **Article 3. Interpretation of terms**

1. Copy referred to in this Circular is presented in one of the following suitable forms:

a/ Certified copy as prescribed (applicable to dossiers sent by post or administrative letters);

b/ Copy enclosed with the original for comparison (applicable to dossiers directly submitted);

c/ Scanned copy of the original (if the administrative procedures allow online submission).

2. A license is re-granted when it is damaged, burned, lost or revoked or expires.

**Article 4. Liquor regulations**

Liquor products must satisfy current Vietnamese regulations. The applicable regulation is Regulation QCVN 6-3: 2010/BYT promulgated together with Circular No. 45/2010/TT-BYT of December 22, 2010, of the Ministry of Health.

Chapter II

LIQUOR PRODUCTION

**Article 5. Dossier of application for a license for industrial production of liquor**

1. An applying enterprise shall compile a dossier of application for a license for industrial production of liquor in two sets, sending one set to the licensing agency and keeping the other, each comprising:

a/ An application for a license for industrial production of liquor (made according to the form in Appendix 1 to this Circular);

b/ Copies of the investment license, enterprise registration certificate or business registration certificate (for the provision of liquor or alcoholic drinks in accordance with law and consistent with the production process) and the certificate of tax identification number;

c/ A written description of the production process, physical facilities (workshops), machinery and equipment (a list of specialized machinery and equipment and their capacities serving the main stages such as boiling, fermentation, distillation, preparation, extraction, etc., consistent with the production stages and scale of the enterprise; devices for measuring

and testing the quality of liquor yeast, sugar content, alcohol concentration, etc.);

d/ A statement of the area and plans of the workshop, warehouse, offices, and auxiliary constructions;

e/ Copies of the relevant and valid diplomas and certificates of qualifications, the labor contracts signed with technicians holding key positions; the written commitment of the employer that the employees and workers in the factory are physically fit for food production without suffering any infectious disease;

f/ Copies of the receipt of the announcement of conformity and the certificate of satisfaction of food safety conditions;

g/ A list of liquor products that the enterprise plans to produce, enclosed with copies of their labels;

h/ Copies of the decision approving the report on assessment of environmental impacts or the certificate of registration of the written commitment on environment protection granted by a competent agency.

2. For new projects

Before liquor products are marketed, the enterprise that applies for a license for liquor production shall submit to the licensing agency copies of the certificate of label registration, the receipt of the announcement of conformity and the certificate of satisfaction of food safety conditions.

**Article 6. Small-scale production of liquor for sale**

1. Organizations and individuals engaged in the small-scale production of liquor being members of liquor villages are exempted from applying for a license for small-scale production of liquor for sale. Organizations and individuals that represent a liquor village shall apply for a license for small-scale liquor production for their liquor village, and take responsibility for the liquor production conditions applicable to all members of the liquor village.

2. The applicant shall compile a dossier of application for a license for small-scale production of liquor for sale in two sets, sending one set to the licensing agency and keeping the other, each comprising:

- An application for a license for small-scale production of liquor for sale (according to the form in Appendix 10 to this Circular);

- A valid copy of the business registration certificate, certificate of tax identification number or enterprise registration certificate;

- Copies of the receipt of the announcement of conformity and the certificate of satisfaction of food safety conditions;

- A list of liquor products that the applicant plans to produce, enclosed with copies of their labels.

**Article 7.** Small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing

1. An applicant for registration for small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing shall compile a dossier of application in two sets,

sending one set to the People's Committee of the commune or ward where the small-scale liquor facility is located and keeping the other.

A dossier of application for registration for small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing comprises:

- The written registration for small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, made according to the form in Appendix 16;

- A copy of the purchase and sale contract between the applicant and the enterprise licensed to produce liquor.

2. Order and procedure for granting a certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing:

- a/ Within 7 working days after receiving a complete and valid dossier, the People's Committee of the commune or ward where the facility is located shall consider and grant a certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, or issue a written reply stating the reason for refusal to grant the certificate;

- b/ If the dossier is invalid, within 3 working days after receiving the dossier, the certificate-granting agency shall send a written request for supplementation.

3. The certificate of registration of small-scale production of liquor for sale to enterprises

licensed to produce liquor for further processing is valid for 5 years.

**Article 8.** Grant and preservation of licenses for liquor production and certificates of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing

1. A license for industrial production of liquor are granted in 4 copies: 2 copies are kept at the licensing agency, 1 copy sent to the applicant and 1 copy sent to the Ministry of Industry and Trade (applicable to licenses granted by the provincial-level Departments of Industry and Trade according to the form in Appendix 7 to this Circular) or to the provincial-level Department of Industry and Trade (applicable to licenses granted by the Ministry of Industry and Trade according to the form in Appendix 4 to this Circular).

2. A license for small-scale production of liquor for sale are granted in 4 copies: 2 copies are kept at the licensing agency, 1 copy sent to the applicant and 1 copy sent to the provincial-level Department of Industry and Trade managing the locality. The form of the license is provided in Appendix 13 to this Circular.

3. The certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing are granted in 4 copies: 2 copies are kept at the licensing agency, 1 copy sent to the applicant and 1 copy sent to the provincial-level Department of Industry and Trade managing the locality. The form of the certificate is provided

in Appendix 19 to this Circular.

**Article 9.** Liquor production volume

Liquor producers may not produce liquor in excess of the production capacity and inconsistent with the types of liquor products licensed by competent agencies.

Chapter III

LIQUOR TRADING

**Article 10.** Dossier of application for a license for liquor distribution

The enterprise that applies for a license for liquor distribution shall compile a dossier in two sets, sending one set to the licensing agency and keeping the other, each comprising:

1. An application for a license for liquor distribution (according to the form in Appendix 27 to this Circular).

2. Copies of the investment certificate, enterprise registration certificate or business registration certificate (for the wholesale of alcoholic drinks or liquor trading) and the certificate of tax identification number.

3. The documents on the business location, including:

a/ The address, area and description of the liquor shop;

b/ Copies of the documents proving the right to use the business location (ownership or co-ownership or renting for at least 1 year);

c/ A list of devices for testing and adjusting the temperature and humidity in the liquor shop

(in order to ensure that the shop is always airy and cool and liquor products are kept away from direct sunlight;

d/ The written commitment of the enterprise to assure conformity with all requirements of fire prevention and fighting and environmental protection for business locations as prescribed by law.

4. The report on business results of the enterprise:

a/ The report on business results of the previous 3 years, enclosed with a list of the purchase and sale contracts and their copies signed with other liquor producers and liquor distributors and the taxes paid;

b/ The form of sale and method of managing the distribution system.

5. A list of traders, copies of the investment certificates, enterprise registration certificates or business registration certificates (for the wholesale of alcoholic drinks or liquor trading) and the certificates of tax identification number and the licenses for liquor trading (if having already traded in liquor) of the enterprises that belong or will belong to the liquor distribution system in at least 6 provinces (each province must have at least 3 liquor wholesalers).

6. Copies of the documents of introduction and purchase and sale contracts of other liquor producers or liquor distributors (specifying the areas and liquor products to be traded in).

7. Copies of the certificates of announcement of conformity or certificates of standards of liquor products to be traded in.

8. Documents related to means of transport, including copies of the papers proving the right to use means of transport (ownership or co-ownership under a joint venture contract or capital contribution contract or a rent contract that suits the business scale of the enterprise with a term of at least 1 year); there must be at least 3 vehicles each having a tonnage of at least 500 kg, and meeting the requirement of ensuring the quality of liquor products during transportation.

9. Documents on financial capacity: The financial capacity must ensure normal operation of the entire distribution system of the enterprise (having a written certification of at least one billion Vietnam dong, granted by a bank).

10. Documents related to the warehouse (or warehousing area), including:

a/ Documents proving the right to use the warehouse (ownership or co-ownership under a joint venture contract or capital contribution contract of the enterprise; or a rent contract with a term of at least 1 year); the area must reach at least 300 m<sup>2</sup>, or the total space must reach at least 1,000 m<sup>3</sup>, and meet the requirement of ensuring the quality of liquor products in storage;

b/ The written commitment of the enterprise to assure conformity with all requirements of fire prevention and fighting and environmental protection for warehouses as prescribed by law.

11. Copies of charge and fee receipts as prescribed by the Ministry of Finance.

**Article 11.** Dossier of application for a license for liquor wholesale

The enterprise that applies for a license for liquor wholesale shall compile a dossier in two sets, sending one set to the licensing agency and keeping the other, each comprising:

1. An application for a license for liquor wholesale, made according to the form in Appendix 29 to this Circular.

2. Copies of the investment certificate, enterprise registration certificate or business registration certificate (for the wholesale of alcoholic drinks or liquor trading) and the certificate of tax identification number.

3. Documents on the business location, including:

a/ The address, area and description of the liquor trading area;

b/ Copies of the documents proving the right to use the business location (ownership or co-ownership or renting for at least 1 year);

c/ The list of devices for testing and adjusting the temperature and humidity in the liquor trading area (in order to ensure that the trading area is always airy and cool and liquor products are kept away from direct sunlight);

d/ The written commitment of the enterprise to assure conformity with all requirements of fire prevention and fighting and environmental protection for business locations as prescribed by law.

4. The report on business results and plan of the enterprise:

a/ The report on business results of the previous 3 years, enclosed with a list of

purchase and sale contracts and their copies signed with other liquor producers and liquor distributors, and the taxes paid;

b/ The form of sale and the method of managing the wholesaling system.

5. A list of traders and copies of the investment certificates, enterprise registration certificates or business registration certificates (for the wholesale of alcoholic drinks or liquor trading) and the certificates of tax identification number, and the licenses for liquor trading (if having already traded in liquor) of the enterprises that belong or will belong to the liquor wholesale system (there must be at least 3 liquor retailers).

6. Copies of the documents of introduction and purchase and sale contracts with liquor producers or liquor distributors (specifying the areas and liquor products to be traded in).

7. A copy of the certificate of announcement of conformity or the certificate of standards of liquor products to be traded in.

8. Documents related to means of transport, including copies of the papers proving the right to use means of transport (ownership or co-ownership under a joint venture contract or capital contribution contract; or a rent contract that suits the business scale of the enterprise with a term of at least 1 year); there must be at least 1 vehicle with a tonnage of at least 500 kg, and meeting the requirement of ensuring the quality of liquor products during transportation.

9. Documents proving the financial capacity: The financial capacity must ensure the normal operation of the entire wholesaling system of the enterprise (having a written certification of at least 300 million Vietnam dong granted by a bank).

10. Documents related to the warehouse, including:

a/ Documents proving the right to use the warehouse (ownership or co-ownership under a joint venture contract or capital contribution contract; or a rent contract with a term of at least 1 year); the area must reach at least 50 m<sup>2</sup>, or the total space must reach at least 150 m<sup>3</sup>, and meet the requirement of ensuring the quality of liquor products in storage;

b/ The written commitment of the enterprise to assure conformity with all requirements of fire prevention and fighting and environmental protection for warehouses as prescribed by law.

11. Copies of charge and fee receipts as prescribed by the Ministry of Finance.

**Article 12.** Dossier of application for a license for liquor retail

The liquor retailer applying for a license for liquor retail shall compile a dossier in two sets, sending one set to the licensing agency and keeping the other, each comprising:

1. An application for a license for liquor retail, made according to the form in Appendix 31 to this Circular.

2. Copies of the investment certificate, enterprise registration certificate or business

registration certificate (for the wholesale of alcoholic drinks or liquor trading) and the certificate of tax identification number.

3. The documents on the business location, including:

a/ The address, area, and description of the liquor shop;

b/ The copies of the documents proving the right to use the business location (ownership or co-ownership or renting for at least 1 year);

c/ The list of devices for testing and adjusting the temperature and humidity in the liquor shop (in order to ensure that the liquor shop is always airy and cool and liquor products are kept away from direct sunlight;

d/ The written commitment of the trader to assure conformity to all requirements of fire prevention and fighting and environmental protection for business locations as prescribed by law.

4. Copies of the documents of introduction and purchase and sale contracts with liquor wholesalers (specifying liquor products to be traded in).

5. A copy of the certificate of announcement of conformity or the certificate of standards of liquor products to be traded in.

6. Documents related to the warehouse, including:

a/ Documents proving the right to use the warehouse (ownership or co-ownership under a joint venture contract or capital contribution contract; or a rent term of at least 1 year)

meeting the requirement of ensuring the quality of liquor products in storage;

b/ The written commitment of the trader to assure conformity with all requirements of fire prevention and fighting and environmental protection for warehouses as prescribed by law.

7. Copies of charge and fee receipts as prescribed by the Ministry of Finance.

**Article 13.** Making and keeping licenses for liquor trading

1. For licenses for liquor distribution:

a/ The form of the license for liquor distribution is provided in Appendix 28 to this Circular;

b/ The license for liquor distribution is made into many copies: 2 copies are kept by the licensing agency; 1 copy kept by the licensed enterprise; 1 copy sent to the Department of Market Management; 1 copy sent to each provincial-level Department of Industry and Trade listed in the license (in charge of the trading area) and the locality in which the enterprise is headquartered; and 1 copy sent to each liquor producer or liquor distributor listed in the license (that sells liquor to the enterprise).

2. For licenses for liquor wholesale:

a/ The form of the license for liquor wholesale is provided in Appendix 30 to this Circular;

b/ The license for liquor wholesale is made in many copies: 2 copies are kept by the licensing

agency; 1 copy kept by the licensed enterprise; 1 copy sent to the Ministry of Industry and Trade; 1 copy sent to the Sub-Department of Market Management; and 1 copy sent to each liquor producer or liquor distributor listed in the license (that sells liquor to the enterprise).

3. For licenses for liquor retail:

a/ The form of the license for liquor retail is provided in Annex 32 to this Circular;

b/ The license for liquor retail is made in many copies: 2 copies are kept by the licensing agency; 1 copy kept by the licensed trader; 1 copy sent to the provincial-level Department of Industry and Trade; 1 copy sent to the Sub-Department of Market Management; and 1 copy sent to each liquor producer or liquor wholesaler listed in the license (that sells liquor to the trader).

#### Chapter IV

#### GRANT OF MODIFIED AND SUPPLEMENTED LICENSES, RE- GRANT OF LICENSES FOR LIQUOR PRODUCTION, LICENSES FOR SMALL-SCALE PRODUCTION OF LIQUOR FOR SALE, CERTIFICATES OF REGISTRATION OF SMALL-SCALE PRODUCTION OF LIQUOR FOR SALE TO ENTERPRISES LICENSED TO PRODUCE LIQUOR FOR FURTHER PROCESSING, AND LICENSES FOR LIQUOR TRADING

**Article 14.** Grant of modified and supplemented licenses for industrial production of liquor, licenses for small-scale production

of liquor for sale, certificates of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, and licenses for liquor distribution, wholesale or retail

1. When wishing to change the content of the license for industrial production of liquor, the license for small-scale production of liquor for sale, the certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, or the license for liquor distribution, wholesale or retail, an organization or individual shall compile a dossier in two sets, sending one set to a competent state management agency and keeping the other.

2. A dossier comprises:

a/ An application for modification and supplementation (according to the form in Appendix 3, 11, 17 or 33 to this Circular);

b/ A copy of the granted license or certificate;

c/ The documents proving the need for the modification and supplementation.

3. Order and procedure for granting a modified and supplemented license

a/ Within 10 working days after receiving a complete and valid dossier, the competent state agency shall consider and grant the modified and supplemented license for industrial production of liquor, license for small-scale production of liquor for sale, certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor

for further processing, or license for liquor distribution, wholesale or retail (according to the form in Appendix 6, 9, 15, 21, 35, 36 or 37 to this Circular). In case of refusal, it shall issue a written reply clearly stating the reason:

b/ If the dossier is invalid, within 3 working days after receiving the dossier, the agency in charge of granting modified and supplemented licenses and certificates shall send a written request for supplementation.

**Article 15.** Re-grant of licenses for industrial production of liquor, licenses for small-scale production of liquor for sale, certificates of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, and licenses for liquor distribution, wholesale or retail

1. When the license or certificate expires:

The organization or individual shall submit a dossier of application for the re-grant of the license (including the license for industrial production of liquor, license for small-scale production of liquor for sale and license for liquor distribution, wholesale or retail) or the certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing at least 30 days prior to the date of expiration. The dossier, competence, order and procedure for the re-grant are similar to those applicable to the new grant.

2. When the license or certificate is lost, partly or completely damaged, torn or burnt:

a/ The licensed organization or individual

shall compile a dossier of application for the re-grant in two sets, sending one set to a competent state management agency and keeping the other, each comprising:

- An application for the re-grant (according to the form in Appendix 2, 12, 18 or 34 to this Circular);

- The original or a copy of the granted license or certificate (if available);

b/ Depending on the preserved dossier and the submitted dossier of application for the re-grant, the licensing agency shall re-grant the license or the certificate;

c/ The validity term of the new license is the same as that of the old one (in case the old license is lost or damaged).

3. Order and procedure for re-granting a license or certificate

a/ Within 10 working days after receiving a complete and valid dossier, the competent state agency shall consider and re-grant the license for industrial production of liquor, license for small-scale production of liquor for sale, certificate of registration of small-scale production of liquor for sale to enterprises licensed to produce liquor for further processing, or license for liquor distribution, wholesale or retail (according to the form in Appendix 5, 8, 14, 20, 38, 39 or 40 to this Circular). In case of refusal, it shall issue a written reply clearly stating the reason;

b/ If the dossier is invalid, within 3 working days after receiving the dossier, the agency in charge of re-granting the license

or certificate shall send a written request for supplementation.

## Chapter V

### THE REPORTING REGIME

**Article 16.** The reporting regime

1. Before January 31 every year, liquor producers and traders shall send reports on the statistics of the quantity and types of liquor products produced and traded in (within their distribution and wholesaling system) in the previous year to the competent agencies that have granted the licenses, according to the form in Appendix 22, 41, 42 or 50 to this Circular; the People's Committees of communes or wards shall send the district-level Sections of Industry and Trade the lists of local small-scale liquor producers that sell liquor to enterprises licensed to produce liquor according to Appendix 23 to this Circular.

2. Before February 28 every year, the district-level Sections of Industry and Trade shall send reports on the investment, production, trading and licensing of small-scale production of liquor for sale, the total registered small-scale production volume of liquor for sale to enterprises licensed to produce liquor for further processing, to their superior provincial-level Departments of Industry and Trade according to the form in Appendix 24a or 24b to this Circular.

3. Before March 31 every year, the provincial-level Departments of Industry and Trade shall send reports on local investment, production

and licensing of the industrial production of liquor, small-scale production of liquor and liquor trading (wholesaling and retailing) to the Ministry of Industry and Trade according to the form in Appendix 25a, 25b, 43 or 44 to this Circular.

4. Before July 15 and January 15 every year, liquor distributors shall send report on their business in the previous six months and the previous year according to the form in Appendix 49 to this Circular.

5. Before July 15 and January 15 every year, liquor wholesalers shall send report on their business in the previous six months and the previous year according to the form in Appendix 48 to this Circular.

6. Before July 15 and January 15 every year, liquor retailers shall send report on their business in the previous six months and the previous year according to the form in Appendix 47 to this Circular.

## Chapter VI

### IMPLEMENTATION PROVISIONS

#### **Article 17.** Organization of implementation

1. The Department of Light Industries and the Domestic Market Department shall assume the prime responsibility for, and coordinate with other units under the Ministry in:

a/ Receiving dossiers and conducting inspection, supervision and appraisal, and sending proposals on the investment in liquor

production and licensing of liquor production and distribution to the Ministry's leadership for approval;

b/ Guiding and inspecting the implementation of this Circular and relevant laws on liquor production and trading.

2. Provincial-level Departments of Industry and Trade shall announce the local master plans for the liquor retailing systems; receive dossiers and conduct inspection, supervision and appraisal and license liquor production and liquor wholesale as guided in this Circular.

3. District-level Sections of Industry and Trade shall receive dossiers, conduct inspection and appraisal, and license small-scale production of liquor for sale and liquor retail.

4. The People's Committees of communes or wards shall receive written registrations for small-scale production of liquor for sale to licensed enterprises for further processing.

5. Enterprises and other organizations and persons related to liquor production and trading shall comply with this Circular.

#### **Article 18.** Effect

1. This Circular takes effect on February 5, 2013.

2. Circular No. 10/2008/TT-BCT of July 25, 2008, of the Ministry of Industry and Trade, guiding a number of articles of the Government's Decree No. 40/2008/ND-CP of April 7, 2008, on liquor production and trading, is annulled.

3. The granted and unexpired licenses for liquor production or trading may be used until they expire.

4. Organizations or individuals holding the unexpired licenses for liquor production or trading under Decree No. 40/2008/ND-CP of April 7, 2008, are exempted from applying for new licenses, including import permits. When such licenses expire, they shall apply for new licenses under Decree No. 94/2012/ND-CP and this Circular.

5. Traders that wish to change their licenses shall comply with this Circular.

6. Enterprises that wish to modify and supplement their licenses shall comply with this Circular.

7. A license is revoked in the following cases:

a/ The license is granted one year before this Circular takes effect but the business does not operate yet by the time this Circular takes effect;

b/ The enterprise having the license has not operated for consecutive 12 months, counting from the effective date of this Circular.

8. Any problems arising in the course of implementation should be reported to the Ministry of Industry and Trade for prompt settlement.-

*For the Minister of  
Industry and Trade*  
Deputy Minister  
NGUYEN NAM HAI

*Note: All appendices to this Circular are not translated.*

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