

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

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Hanoi, October 05, 2018

DECREE

AMENDING CERTAIN DECREES PROVIDING FOR REGULATORY REQUIREMENTS FOR TRADE AND INVESTMENT IN THE ENVIRONMENT AND NATURAL RESOURCE SECTOR

Pursuant to the Law on government organization dated June 19, 2015;

Pursuant to the Law on meteorology and hydrology dated November 23, 2015;

Pursuant to the Law on environmental protection dated June 23, 2014;

Pursuant to the Law on land dated November 29, 2013;

Pursuant to the Law on water resources dated June 21, 2012;

Pursuant to the Law on minerals dated November 17, 2010;

Pursuant to the Law on investment dated November 26, 2014;

At the request of the Minister of Natural Resources and Environment;

The Government promulgates the Decree amending certain Decrees providing for regulatory requirements for trade and investment in the environment and natural resource sector.

Article 1. Amendments to and abrogation of certain regulations of the Government's Decree No. 43/2014/ND-CP dated May 15, 2014 on the implementation of certain articles of the Law of land

(as amended and supplemented in the Government's Decree No. 01/2017/ND-CP dated January 06, 2017 on amendments to certain decrees on the implementation of the Law of land)

1. Article 5a is amended as follows:

“Article 5a. Competence of an organization or individual surveying and assessing land

1. A public service provider or an enterprise can survey and assess land upon its satisfaction of the following requirements:

- a) Its function, if it is a governmental public service provider, is to survey and assess land;
- b) It employs at least 02 (two) individuals who meet the requirements defined in Clause 2 of this Article.

2. An individual from an organization whose function is to survey and assess land shall conduct the survey and assessment of land upon his/her satisfaction of the following requirements:

- a) Possess university or higher qualifications in land management, cadastral management, land science, pedology, environment and other specializations that concern land surveying and assessment;
- b) Have worked in the sector of land resource management or land survey and assessment for at least 30 (thirty) months.

3. Organizations analyzing soil samples are required to have or hire a soil analysis laboratory certified by competent authorities”.

2. Clause 1 and Clause 2 Article 5b are amended as follows:

“1. The requirements to be satisfied by organizations and individuals engaged in the construction of infrastructure facilities and software of the land information system shall be subject to applicable regulations on management, investment and application of information technology and relevant laws.

2. A public service provider or an enterprise can establish the land database upon its satisfaction of the following requirements:

- a) Its function, if it is a governmental public service provider, is to establish the land database;
- b) It employs at least 05 (five) persons or at least 10 (ten) persons who meet the requirements defined in Clause 3 of this Article for establishing a district-level land database or for establishing a provincial or central land database respectively.”

3. Point b Clause 1 Article 10 is amended as follows:

“b) It employs at least 02 (two) individuals who meet the requirements defined in Clause 2 of this Article”.

4. Point a Clause 3 Article 5b, the third dash of Point a Clause 5 Article 5b and Point a Clause 2 Article 10 are abrogated.

Article 2. Amendments to Article 20 of the Government’s Decree No. 44/2014/ND-CP dated May 15, 2014 on land pricing

(as amended and supplemented in the Government's Decree No. 01/2017/ND-CP dated January 06, 2017 on amendments to certain decrees on the implementation of the Law of land)

1. Clause 2 is amended as follows:

“2. An individual can provide consultancy on land pricing if working for an organization whose function is to provide consultancy on land pricing and satisfying one of the following requirements:

a) Possess a certificate in land valuation as regulated by the Law on land; or

b) Possess a valuer certificate or certificate in real estate appraisal and certificate of completion of supplemental training in land valuation according to the Ministry of Natural Resources and Environment’s program for supplemental training in land valuation”.

2. Clause 3 is amended as follows:

“3. The holder of a certificate in land valuation must meet all of the following requirements:

a) Possess university or higher qualifications in land management, cadastral management, real estate, pricing, valuation, economics, finance, accounting, auditing, banking, technical economics, engineering or law;

b) Have worked in the sector of training specialization for at least 36 (thirty six) months counted from the date of obtainment of the qualification prescribed in Point a of this Clause to the date of submission of the application for the certificate in land valuation;

c) Possess a certificate of completion of supplemental training in land valuation according to the Ministry of Natural Resources and Environment’s program for supplemental training in land valuation”.

Article 3. Amendments to or abrogation of certain regulations of the Government's Decree No. 127/2014/ND-CP dated December 31, 2014 providing regulatory requirements to be satisfied by providers of environmental monitoring service

1. Clause 1 Article 8 is amended as follows:

“1. Possess a decision on establishment or certificate of registration of scientific and technological activities or certificate of business registration issued by competent authorities”.

2. Point dd Clause 3 Article 8 is amended as follows:

“dd) Have a working office and particular area sufficient for ensuring the field monitoring quality”.

3. Clause 1 Article 9 is amended as follows:

“1. Possess a decision on establishment or certificate of registration of scientific and technological activities or certificate of business registration issued by competent authorities”.

4. Point c Clause 2 Article 9 is amended as follows:

“c) The laboratory manager must possess university or higher qualifications in chemistry, environment, biology, pedology, nuclear physics, radioactivity, geography or geology and has worked in the sector of environmental analysis for at least 04 (four) years, 03 (three) years or 01 (one) year if possessing a university’s degree, a master’s degree or doctoral degree respectively”.

5. Point e and Point g Clause 3 Article 9 are amended as follows:

“e) Have a working office with sufficient area for conducting environmental analysis and maintain good conditions of the laboratory (in terms of light, power supply, humidity, temperature, sterilization and air ventilation of the laboratory) to meet requirements of analytical methods provided for by competent authorities or to meet manufacturer’s requirements;

g) Adopt environmental protection measures and strictly comply with regulations on management, collection and treatment of laboratory waste”.

6. Point a Clause 2 Article 8, Point d Clause 3 Article 8, Point a Clause 2 Article 9 and Point d Clause 3 Article 9 are abrogated.

Article 4. Article 9 and Article 13 of the Government’s Decree No. 18/2015/ND-CP dated February 14, 2015 on environmental protection planning, strategic environmental assessment, environmental impact assessment and environmental protection plans are abrogated

Article 5. Point d Clause 5 Article 22 of the Government’s Decree No. 19/2015/ND-CP dated February 14, 2015 on elaboration of the Law on environmental protection is abrogated

Article 6. Amendments to and abrogation of certain regulations of the Government’s Decree No. 38/2015/ND-CP dated April 24, 2015 on management of waste and discarded materials

1. Point a Clause 5 Article 9 is amended as follows:

“a) A hazardous waste treatment facility must employ at least a person in charge of management affairs and at least a person in charge of providing professional and technical instructions, who must have professional qualifications in either environment or chemistry;”.

2. Point c Clause 5 Article 9 and the fourth dash of Point a and Point b Clause 1 Article 56 are abrogated.

Article 7. Amendments to and abrogation of certain regulations of the Government’s Decree No. 60/2016/ND-CP dated July 01, 2016 providing for certain regulatory requirements for trade and investment in the environment and natural resource sector

1. Article 4 is amended as follows:

“Article 4. Licensing requirements for groundwater drilling

An institutional or individual entity operating groundwater drilling must fully meet the following requirements:

1. Obtain a decision on establishment of an institutional entity from a competent authority, or one of the following qualifications, such as business registration certificate, business and tax registration certificate, enterprise registration certificate as required of such institutional entity, or household business registration certificate as required of an individual group or a family household granted by a competent authority.

2. The person appointed as the head of an institutional entity (Director or General Director), or the person assuming prime responsibility for technical issues of an institutional or individual entity (hereinafter referred to as “technical responsible person”) must meet the following requirements:

a) Accredited small-scale groundwater drilling:

Complete at least a technical or vocational associate degree in geological disciplines (including exploration geology, hydrogeology, engineering geology and geotechnical engineering) or drilling practices, or graduate from a drilling worker’s degree at the level 3/7 or at least equivalent; get directly involved in designing, reporting or drilling a minimum of 03 (three) groundwater drilling projects.

Unless the abovementioned degrees or certificates are presented, (s)he is required to have been directly involved in a minimum of 05 (five) groundwater drilling works;

b) Accredited medium-scale groundwater drilling:

Complete at least a technical or vocational associate degree in geological disciplines (including exploration geology, hydrogeology, engineering geology and geotechnical engineering) or drilling practices; get directly involved in formulating exploration projects or reports, designing a system of abstraction wells, or take charge of a minimum of 03 (three) groundwater drilling works that each has their water flow of at least 200 m³/day-night;

c) Accredited large-scale groundwater drilling:

Complete at least a university degree in geological disciplines (including exploration geology, hydrogeology, engineering geology and geotechnical engineering) or drilling practices; get directly involved in formulating exploration projects or reports, designing a system of abstraction wells, or take charge of a minimum of 03 (three) groundwater drilling works that each has their water flow of at least 3,000m³/day-night.”.

2. Clause 2 Article 5 is amended as follows:

“2. Their professional personnel taking part in execution of programs, projects or preparation of relevant reports must meet the following requirements:

a) With respect to basic water resource investigation or planning programs or projects, their professional personnel is required to meet requirements referred to in Article 6 and their technical responsible person is required to meet regulations laid down in Article 7 hereof;

b) With respect to the formulation of required programs or reports constituting the application dossier for water resource licenses, their professional personnel is required to meet requirements referred to in Article 8 hereof”.

3. Article 6 is amended as follows:

“Article 6. Requirements regarding the professional personnel of the organizations getting involved in implementation of basic water resource investigation or planning programs or projects

These organizations must employ persons who have been trained in academic disciplines relating to surface and sea water (hydrography, oceanography, engineering hydrology, environmental hydrology and water resource engineering), groundwater (geology, hydrogeology, engineering geology, exploration drilling practice, geophysics and geotechnical engineering), environment (environmental science, environmental technology, environmental engineering and environmental management), water resource management or other academic ones relating to water resources. Professional personnel structure must accord with specific contents of each basic water resource investigation program or project, or each water resource planning project.”

4. Point b Clause 1 Article 7 is amended as follows:

“b) Working experience: Have a minimum of 03 (three) years’ experience in basic water resource investigation and planning activities, or get directly involved in implementing a minimum of 02 (two) basic water resource investigation or planning programs or projects.”.

5. Point b Clause 2 Article 7 is amended as follows:

“b) Working experience: Have a minimum of 05 (five) years’ experience in basic water resource investigation and planning activities, or get directly involved in implementing a minimum of 03 (three) basic water resource investigation or planning programs or projects.”.

6. Clause 1 Article 8 is amended as follows:

“1. Professional personnel: Employ officers who have completed training programs in disciplines referred to in Clause 2 of this Article.”

7. Clause 3 Article 8 is amended as follows:

“3. Working experience: Technical responsible persons of projects or reports must get directly involved in developing a minimum of 03 (three) projects or reports;”

8. Clause 2 Article 9 is amended as follows:

“2. Working experience: Be appointed as technical responsible persons of a minimum of 05 (five) projects or reports”.

9. Point d Clause 1 Article 14 is amended as follows:

“d) With respect to hazardous mineral exploration programs, the mineral exploration program leader must acquire experience in at least 01 (one) hazardous mineral exploration program as a geological engineer, or act as the leader of at least 01 (one) mineral exploration program from the time of formulating the program to the time of making reports on mineral exploration outcomes approved by an authorized superior”.

10. Clause 3 Article 14 is amended as follows:

“3. At the same time, a mineral exploration program leader shall only be allowed to take on his/her assigned duties for a maximum of 02 (two) mineral exploration programs.

11. Article 31 is amended as follows:

“Article 31. Licensing requirements for hazardous waste treatment

Organizations or individuals submitting the registration application for a license for hazardous waste disposal and treatment must meet requirements referred to in Article 9 of the Government’s Decree No. 38/2015/ND-CP dated April 24, 2015, and technical requirements and management procedures concerning licensing requirements for hazardous waste treatment, including:

1. Equipment or appliances used for storage, transport and treatment of hazardous wastes (including primary treatment, recycling, co-processing of, recovery of energy from hazardous wastes) must conform to technical requirements and management procedures referred to in the Appendix V of this Decree.

2. Transport units carrying hazardous wastes must be equipped with internet-connected GPS devices to identify their positions and record their trips.

3. Each piece of equipment or device shall only be allowed to get one license for hazardous waste treatment, except sea, rail and air transport units.

4. Environmental protection facilities associated with hazardous waste treatment premises and hazardous waste transit stations (where appropriate) must conform to technical requirements and management procedures referred to in the Appendix V of this Decree.

5. Organizations or individuals submitting the registration application for a license for hazardous waste treatment practices must design safe operation instruction boards as regulated in Clauses 6, 7 and 8 Article 9 of the Government's Decree No. 38/2015/ND-CP dated April 24, 2015 in the simplified or flowchart form which have proportionate size and are installed at visible places on transport units, inside dangerous waste treatment premises and transit stations (if any)”.

12. Clause 4 and Clause 5 Article 5, Article 10, Article 15, Article 16, Article 26, Article 27, Article 28, Article 29 and Article 30 are abrogated.

Article 8. Amendments to and abrogation of certain regulations of the Government's Decree No. 104/2009/ND-CP dated November 09, 2009 providing the list of dangerous goods and transport of dangerous goods by road vehicle equipment

1. Point c Clause 2 Article 10 is amended as follows:

"The Ministry of Industry and Trade shall formulate and provide additional regulations on petrol, oil, gas, hazardous chemicals and dangerously toxic chemicals;"

2. Point dd Clause 2 Article 10 and Clause 5 Article 18 are abrogated.

Article 9. Amendments to certain regulations of the Government's Decree No. 201/2012/ND-CP dated November 27, 2012 on elaboration of the Law on water resources

1. Clause 2 Article 14 is amended as follows:

"2. Organizations or individuals executing groundwater exploration projects must fully meet requirements concerning groundwater drilling practice and obtain the license to drill groundwater from competent authorities."

2. Clause 2 Article 20 is amended as follows:

"2. Have a project or report that must accord with the approved water resource planning or the capacity of the water source and its capacity to receive wastewater in case where the water resource planning is not available. Such project or report must be formulated by an organization or individual that meets relevant competency requirements as regulated, and contain sufficient, clear, accurate and truthful data and figures"

Article 10. Amendments to Clause 1 and Point a Clause 2 Article 11 of the Government's Decree No. 45/2015/ND-CP dated May 06, 2015 on geodesy and cartography

1. Clause 1 is amended as follows:

"1. Be an enterprise or public service provider whose function and duty is to perform geodetic and cartographic activities"

2. Point a Clause 2 is amended as follows:

"a) The person responsible for geodetic and cartographic techniques must possess a university degree or higher in geodesy and cartography, have at least 05 (five) years' experience in at least one geodetic and cartographic sector of the organization applying for the license and not act as the person responsible for geodetic and cartographic techniques for another organization;"

Article 11. Amendments to Clause 3 Article 9 of the Government’s Decree No. 38/2016/ND-CP dated May 15, 2016 on elaboration of the Law on hydro-meteorology

“3. Its personnel structure is comprised of at least 01 (one) person who must possess a university degree or higher in hydro-meteorology and have at least 03 (three) years’ experience in hydro-meteorological forecasting and warning.”.

Article 12. Transition

1. Regulatory authorities shall not impose further regulatory requirements, receive and process applications according to trade and investment requirements, and simplified administrative procedures herein.

2. Applications received before the date of entry into force of this Decree shall be processed in accordance with regulations of decrees applicable at the time of application receipt.

Article 13. Effect

This Decree comes into force from the date on which it is signed.

Article 14. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of the Government’s affiliates, Chairpersons of people’s committees of provinces and central-affiliated cities, and relevant organizations and individuals shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc