

THE GOVERNMENT

DECREE No. 21/2005/ND-CP OF MARCH 1, 2005 DETAILING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LAW ON INLAND WATERWAY NAVIGATION

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 15, 2004 Law on Inland Waterway Navigation;

At the proposal of the Transport Minister,

DECREES:

Article 1.- Scope of regulation

This Decree details the implementation of a number of articles of the Law on Inland Waterway Navigation on channel protection corridor; safety conditions of vessels subject to registration but not to registry and inspection; conditions of establishments building, transforming, repairing or restoring inland waterway vessels; vessel owners' responsibilities to sufficiently arrange titles and complement of crewmembers; the conditions for cargo loading and unloading as well as passenger service business; coordination of operations among the State management agencies at inland waterway

ports and landing stages which receive foreign waterway vessels and the conditions for inland waterway transport business.

Article 2.- Subjects of application

This Decree applies to organizations and individuals involved in inland waterway navigation activities.

In cases where international agreements which the Socialist Republic of Vietnam has signed or acceded to contain provisions different from those of this Decree, the provisions of such international agreements shall apply.

Article 3.- Scopes of channel protection corridors

1. The scopes of channel protection corridors prescribed in Clause 4, Article 16 of the Law on Inland Waterway Navigation are determined according to technical grades of inland waterways and the following regulations:

a/ In cases where the channel is not close to banks, the scope of the channel protection corridor shall stretch at least 10 meters but not exceeding 25 meters, measuring from the channel edge toward each bank.

b/ In cases where the channel is close to a bank, the scope of the channel protection corridor on the side close to the bank measured from the natural bank edge inward shall be at least 5 meters wide; for channels within cities, provincial capitals or district townships, the scope of each channel protection corridor may be under 5 meters wide as

decided by provincial-level People's Committee presidents.

c/ In cases where the channel protection corridor coincides with a road or railway safety corridor, its scope shall be measured from the channel edge to the natural bank edge.

d/ In cases where the scope of the channel protection corridor coincides with a road bridge or railway bridge safety corridor, the regulations on protection of bridge safety corridors shall be complied with.

e/ In cases where the scope of the channel protection corridor coincides with the protection area of a flood and storm prevention and combat work or a dike protection work, the provisions of the legislation on flood and storm prevention and combat and the legislation on dikes shall be complied with.

2. Natural bank edge mentioned at Points b and c, Clause 1 of this Article is a cross-line of river ground and river banks.

Natural bank edges shall be specifically determined by the transport management agencies in coordination with provincial-level irrigation management agencies on the basis of characteristics of each region.

3. The Transport Minister shall specify scopes of channel protection corridors according to technical grades of inland waterways, prescribe the implanting, specifications and protection of marker posts on the ground within the scopes of channel protection corridors.

Article 4.- Safety conditions of vessels which are subject to registration but not to registry and inspection

1. Vessels which are subject to registration but not to registry and inspection are non-motorized vessels with a gross tonnage of between 1 ton and under 5 tons or with a carrying capacity of between 5 and 12 persons, motorized vessels with main engine capacity of under 5 horse powers or with a carrying capacity of under 5 persons.

2. The Transport Minister prescribes the safety conditions of vessels defined in Clause 1 of this Article to serve as basis for the registration, inspection and control of operation of vessels.

Article 5.- Conditions of establishments which build, transform, repair or restore inland waterway vessels

Conditions of establishments which build, transform, repair or restore inland waterway vessels defined in Clause 1, Article 27 of the Law on Inland Waterway Navigation are prescribed as follows:

1. Having suitable material foundations, facilities and equipment; having plans on production organization suitable with types and sizes of manufactured vessels.

2. Having sections for quality supervision and management to guarantee that their products fully satisfy the quality, technical safety and environmental protection standards.

3. Having at least one technician, who:

a/ has graduated in the shipbuilding specialty from an intermediate or higher-level school, for those working in establishments which build, transform, repair or restore vessels with a carrying capacity of up to 12 persons, non-motorized vessels with a gross tonnage of up to 50 tons, and motorized vessels with main engine capacity of up to 50 horse powers;

b/ has graduated in the shipbuilding specialty at university or higher level, for those working in establishments which build, transform, repair or restore vessels with a carrying capacity of over 12 persons, non-motorized vessels with a gross tonnage of over 50 tons, and motorized vessels with main engine capacity of over 50 horse powers.

4. Having plans on fire prevention and fight and environmental pollution prevention, which have been approved or granted certificates by competent agencies.

Article 6.- Vessel owners' responsibilities to sufficiently arrange the titles and complement of crewmembers and make crew lists

1. Vessel owners defined in Clause 1, Article 29 of the Inland Waterway Navigation mean one of the following subjects:

a/ Persons who own vessels;

b/ Persons who are empowered by persons who own vessels to manage and use vessels;

c/ Persons who charter vessels without crew for transport exploitation;

d/ Captains.

2. When vessels operate on inland waterways, vessel owners must sufficiently arrange titles and complement of crewmembers and make crew lists according to regulations.

Article 7.- Conditions for cargo loading and unloading or passenger service business at inland waterway ports or landing stages

Conditions for cargo loading and unloading or passenger service business at inland waterway ports or landing stages mentioned in Clause 3, Article 69 of the Law on Inland Waterway Navigation are prescribed as follows:

1. Organizations and/or individuals have made registration of cargo loading and unloading or passenger service business;

2. Inland waterway ports and landing stages have been permitted by competent agencies for operation.

Article 8.- Coordination of operation among State management agencies at inland waterway ports or landing stages which receive foreign waterway vessels

1. Foreign waterway vessels mean inland waterway or seagoing vessels granted registration certificates by foreign countries.

2. Assuming the prime responsibility for activity coordination among State management agencies at inland waterway ports or landing stages which receive foreign waterway vessels, the inland waterway port authorities have the responsibilities:

a/ To take prime charge and administer the

coordination of managerial activities among specialized State management agencies at inland waterway ports or landing stages;

b/ To organize and chair conferences and meetings with other specialized State management agencies or relevant agencies, organizations and enterprises at inland waterway ports or landing stages for unanimity in handling of arising problems;

c/ To request other specialized State management agencies at inland waterway ports or landing stages to promptly notify results of procedure clearance and measures to solve arising problems; request enterprises exploiting inland waterway ports or landing stages, vessel owners and captains of foreign waterway vessels and other relevant organizations and individuals to supply necessary data and information;

d/ To propose presidents of People's Committees of provinces or centrally-run cities where exist inland waterway ports or landing stages to promptly solve, according to their powers, arising problems related to the specialized State management at inland waterway ports or landing stages.

3. Other specialized State management agencies at inland waterway ports or landing stages have the responsibilities:

a/ To closely coordinate with one another in promptly and lawfully settling procedures related to foreign waterway vessels, cargoes, passengers and crewmembers onboard such foreign waterway vessels which are operating at inland waterway

ports or landing stages according to the provisions of this Decree and relevant provisions of law;

b/ To promptly notify the inland waterway port authorities of results of settlement of procedures related to foreign waterway vessels, cargoes, crewmembers and/or passengers on board such foreign waterway vessels, which are operating at inland waterway ports or landing stages;

c/ After processing information supplied by inland waterway port authorities or foreign waterway vessel owners, or in cases where problems arise, to promptly notify such to inland waterway port authorities for coordinated solution thereof.

4. The inspection, examination and supervision by specialized State management agencies and other competent agencies of foreign waterway vessels, cargoes, passengers, crewmembers and other subjects operating at inland waterway ports and landing stages which receive foreign waterway vessels shall comply with the provisions of this Decree and relevant provisions of law.

5. Foreign waterway vessels, when arriving at and leaving inland waterway ports or landing stages, shall carry out the procedures according to the provisions of maritime legislation on ships and boats arriving at and leaving seaports.

Article 9.- Responsibilities of the ministries, ministerial-level agencies and provincial-level People's Committees for operations of specialized State management agencies at inland waterway ports and landing stages which receive foreign

waterway vessels

1. To direct and guide operations of their attached specialized State management agencies in well performing the coordinated State management at inland waterway ports and landing stages which receive foreign waterway vessels.

2. To examine and inspect operations of their attached specialized State management agencies, and strictly handle violation acts according to law provisions.

Article 10.- Inland waterway transport business conditions

1. The inland waterway transport business conditions mentioned in Clause 2, Article 77 of the Law on Inland Waterway Navigation are prescribed as follows:

a/ Organizations and individuals have registered for inland waterway transport business.

b/ Vessels to be used in transport business fully meet the conditions for operation as prescribed in the Law on Inland Waterway Navigation;

c/ Crewmembers and vessel operators must have professional diplomas or certificates compatible with their titles and be in the prescribed age group.

2. Apart from the conditions prescribed in Clause 1 of this Article, organizations and individuals engaged in passenger transport business must also satisfy the following conditions:

Having registered with competent agencies in charge of State management over inland waterway transport their shipping plans and shipping charts on fixed routes (for mode of transportation along fixed routes) or operation areas (for mode of transportation not along fixed routes).

3. For cross-river transport of passengers, apart from the conditions prescribed in Clause 1 of this Article, the landing stages for passenger embarkation and disembarkation must also satisfy the safety conditions and be permitted by competent agencies for operation.

Article 11.- Implementation effect

This Decree takes effect 15 days after its publication in the Official Gazette and replaces the Government's Decree No. 91/2001/ND-CP of December 11, 2001 on conditions for dealing in a number of inland waterway transport business lines.

Article 12.- Implementation responsibilities

The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI