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DECREE 25/2022: NEW REGULATIONS ON POSTAL SERVICE BUSINESS IN VIETNAM



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Since the Government issued Decree No. 47/2011/ND-CP dated June 17, 2011 detailing the implementation of a number of provisions of the Postal Law ("Decree 47"), the Postal service industry in Vietnam has experienced strong growth. The postal service revenue increased from approximately VND 4,135 billion in 2010 to VND 36,950 billion in 2020, contributing about 0.8 per cent to the national GDP. However, after nearly 10 years of implementation, some contents of Decree 47 have revealed to be inconsistent with reality and out of date with the modern technological development trends. To address these issues and limitations, the Government issued Decree No. 25/2022/ND-CP

on April 12, 2022, amending and supplementing a number of articles of Decree 47 ("Decree 25"). On June 1, 2022, Decree 25 came into force. The followings are some salient points of Decree 25:

1. Abolishing requirements on appraisal of investment projects

Decree 47 previously stipulates that "Foreign-invested projects with a capital of less than 15 billion VND must be appraised but not required to submit to the Prime Minister for decision on investment policies" and "Foreign-invested project with a capital of 15 billion Vietnam dong or more must be appraised before submitting to the Prime Minister for decision on investment policies". This regulation, however, is currently incompatible with the Investment Law 2020 and its guiding documents. On the other hand, this regulation also discriminates between domestic investors and foreign investors when they engage in postal services business in Vietnam. Therefore, Decree 25 abolished this provision.

2. Abolishing regulations on financial conditions of postal enterprise

Decree 25 officially abolishes the requirement that enterprises must have a minimum capital of 02 billion VND in case of providing intra – and inter - provincial postal services and 05 billion VND in case of providing

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international postal services due to the ineffectiveness of this regulation in terms of state management and the barriers on market entry.

3. Supplementing regulations on notification and publication of postal service charges

The notification of postal service charges is not specified in Decree 47 but specified in Article 5 of Circular 02/2012/TT-BTTTT dated March 15, 2012 of the Ministry of Information and Communications providing detailed regulations on the supply and use of postal services. Under this regulation, enterprises must notify the postal licensing agency of any changes to the applicable postal service charges and any newly arising postal service charges within 30 days from the effective date of the new postage rates.

Decree 25 has upgraded and accomplished regulations on notification of postal service charges from Circular 02/2012/TT-BTTTT, in which the time limit for enterprises to notify changes of postal charges or apply newly arising postal charges is reduced to 05 working days from the effective date of the new postal charges. Notifications can be made through the online information system. The postal licensing agency shall be entitled to use the postage rate information announced by companies for the purpose of analyzing, synthesizing, forecasting

market price fluctuations and building a database and shall take responsibility for supervising, examining and inspecting the content of notices of postal service charges in accordance with law.

In addition to the aforementioned notification requirements, the enterprise is also obliged to

publicize the postal service charges since it commences offering the service in one or several forms, such as posting at the service points, notifying in writing, publishing on the website, or in other forms to facilitate the observation and recognition of all entities. The postal service charges publicized by the companies must be consistent with those that are announced to the competent postal state agencies.

Decree 25 officially abolishes the requirement on a minimum capital of enterprises providing postal services and requirements on appraisal of investment projects

4. Abolishing the requirement to analyze the feasibility and socio-economic benefits in the application for a postal license

Previously, Decree 47 required enterprises applying for a postal license to provide analysis on the feasibility and socio-

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economic benefits of the business plan included in the application dossier through the indicators of output, revenue, cost, number of employees, tax payable to the state budget, rate of return on investment in the next 3 years from the year of application for a postal license. However, through the practice of appraising applications, the Ministry of Information and Communications found that this requirement contributes little in proving the feasibility of the business plan, causing difficulties and costly damage for enterprises as well as interfering deeply in production and business activities of enterprises. Therefore, Decree 25 has been abolished this regulation to facilitate enterprises in participating in investment and trading in postal services.

5. Legal validity of the electronic document certifying the acceptance of a postal articles

In the context that technology postal services becoming more and more popular in the market, Decree 25 for the first time has added regulations on recognition of the legal value of electronic documents certifying the acceptance of postal articles between postal enterprises and the senders which shall have the same legal validity as a written contract between the parties.

6. Postal licensing documents must be submitted online

Decree 25 requires that the application for a postal license and the written confirmation of postal activities notice must be submitted through the online public service system instead of a hard copy submitted in person or by post to the postal authority as previously. The quantity of the application dossier to be submitted is also reduced from 03 sets (01 set of original and 02 sets of copies) to 01 set. Those revised regulations are made in line with the context that state agencies are strongly applying information technology in providing online and connective public services and in sync with the current administrative procedures improvement in all areas.

Request to amend or supplement the dossier or refusal of the dossier by competent postal state agency shall be made in writing through the online public service system. The results of handling procedures for granting postal licenses, written confirmations of notifications of postal activities are delivered directly or via the public postal service.

7. Supplementing regulations on promotion in the provision of postal services

Decree 25 stipulates that the maximum postal charge discount must not exceed 50% of

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the most recent postal charge that has made public. This is a brand new regulation of Decree 25. This regulation is intended to avoid the situation where enterprises take advantage of the provisions of the general law on promotion to carry out prolonged "promotions and discounts" for large customer groups, leading to unfair competition with other postal enterprises.

8. Amending and supplementing the changes to be notified

According to Decree 25, enterprises obtained a postal license and/or a written confirmation of postal activities notice must notify on either of the following changes:

- Legal representative
- Phone number of legal representative;
- Charter capital of the enterprise
- Postal service charges;
- Postal service quality indexes;
- Sample contract for the supply and use of postal services;

Internal regulations on complaints and compensation for damage related to postal services provided by enterprises

Accordingly, Decree 25 stipulated more clearly the changes that enterprises granted with written confirmation of postal activities notice must notify to the licensing authority. In addition, compared with the previous regulations, Decree 25 has removed the requirement to notify when there is a change in the address of the head office and contact phone number of the enterprise. the address of the head office and contact phone number of the enterprise.

9. Responsibility for storing information and documents of postal enterprises

Decree 25 supplements the postal enterprise's responsibility to keep records of documents as follows: (i) To archive contracts on provision and use of postal services and documents confirming the acceptance of postal items for at least 5 years; (ii) To store information about senders and recipients (i.e full name, address and phone number) and information related to postal items (i.e contents of packages and parcels, accompanying documents when transported according to the provisions of law) for at least 01 year from the receipt date.

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Chúng tôi giữ quyền sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này hoặc bất kỳ phần nào của bản tin mà không thông báo trước. Chúng tôi không chịu bất kỳ trách nhiệm nào về các sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này.

Nếu bạn có vấn đề nào cần tư vấn, hãy liên hệ với chúng tôi hoặc yêu cầu luật sư của bạn tư vấn về vấn đề đó cho bạn.

Tất cả các quyền, bao gồm cả quyền sở hữu, quyền tác giả, quyền liên quan và các quyền sở hữu công nghiệp đối với nội dung thông tin, thiết kế, trình bày mỹ thuật của bản tin này thuộc chúng tôi và được bảo vệ theo Luật Sở hữu Trí tuệ Việt nam, các hiệp định, hiệp ước quốc tế mà Việt nam đã ký kết.

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