

**DECREE  
MAKING DETAILED PROVISIONS  
FOR IMPLEMENTATION OF THE COMMERCIAL LAW WITH RESPECT TO THE  
BUSINESS OF COMMERCIAL ASSESSMENT SERVICES**

**The Government**

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

Pursuant to the *Commercial Law* dated 14 June 2005;

On the proposal of the Minister of Trade;

**Decrees:**

CHAPTER I

**General Provisions**

**Article 1** *Governing scope*

This Decree makes detailed provisions for implementation of the *Commercial Law* with respect to the business of commercial assessment services in the territory of the Socialist Republic of Vietnam.

**Article 2** *Applicable entities*

Vietnamese business entities and other organizations and individuals with trade related activities as stipulated in the *Commercial Law*.

**Article 3** *Principles for provision of commercial assessment services*

1. Commercial assessment services shall be provided pursuant to an agreement of the parties, or at the request of one party to a contract relating to goods and services which need to be assessed, or pursuant to a request made by an individual or organization or pursuant to a request made by a State body.
2. Commercial assessment services shall be provided on the principle that such services are independent, objective, scientific and accurate.
3. Commercial assessment services shall not be provided in a case where such services relate to the interest of the enterprise or assessor providing such services.

**Article 4** *Authority to exercise State administration of commercial assessment services*

1. The Ministry of Trade shall be responsible before the Government to exercise uniform State administration of commercial assessment services activities with the following specific administrative tasks:
  - (a) To promulgate in accordance with its authority, or to recommend that the Government promulgate, amend or supplement legal instruments relating to business activities of the provision of commercial assessment services;
  - (b) To guide and inspect Departments of Trade (Departments of Trade and Tourism) in the registration of professional stamps of business entities engaged in the provision of commercial assessment services;
  - (c) When necessary, to directly check and inspect business activities of the provision of commercial assessment services;
  - (d) To construct an information system in order to uniformly administer the registration of professional stamps of business entities engaged in providing commercial assessment services;
  - (dd) To resolve complaints and denunciations and to deal in accordance with its authority with breaches of the law on commercial assessment services business.
2. Ministries, ministerial equivalent bodies and Government bodies shall, within the scope of their respective powers, exercise State administration of commercial assessment services business.
3. People's committees of provinces and cities under central authority in places where business entities have registered their business shall provide guidelines in accordance with the provisions of this Decree for registration of professional stamps of business entities providing commercial assessment services.

**Article 5** *Provision of commercial assessment services by foreign business entities*

1. Any foreign business entity which establishes an enterprise to conduct the business of providing commercial assessment services in accordance with the law on investment in Vietnam consistent with undertakings in international treaties of which Vietnam is a member shall be permitted to conduct assessments and to issue assessment certificates in accordance with current regulations for the lines of business stipulated in its business registration certificate or document with equivalent value.
2. The provision of commercial assessment services pursuant to authorization from another foreign business entity as stipulated in article 267 of the *Commercial Law* shall be implemented in accordance with the provisions in Section 3 of Chapter II of this Decree.

## CHAPTER II

### **Assessors, Professional Stamps and Assessment Pursuant to Authorization**

#### Section 1

#### **Assessors**

##### **Article 6** *Recognition of assessors*

1. A business entity (director of the enterprise) providing commercial assessment services may issue a decision recognizing an assessor being a person who satisfies the criteria stipulated in article 259 of the *Commercial Law*, and shall be legally liable for such decision.
2. Only a person who has a decision recognizing him or her as an assessor of the business entity providing the commercial assessment services shall be permitted to operate as an assessor pursuant to authority delegated by such business entity.

##### **Article 7** *Rights and obligations of assessors*

Assessors shall have the following rights and obligations when they carry out assessments pursuant to authority delegated by the business entity providing commercial assessment services:

1. To independently conduct the assessment task assigned and to refuse to carry out such task if the assessment relates to the interests of the assessor.
2. To conduct an assessment honestly, objectively, scientifically, promptly, accurately and correctly in accordance with the proper request as agreed with the party requesting the assessment.
3. To have the right to require the provision of necessary information and data relating to the assessment task delegated to the assessor.
4. To have the right to refuse interference by any individual or organization in the conduct of the assessment leading to inaccuracy or dishonesty in the provision of assessment services.
5. To honestly report the results of an assessment in an assessment certificate and to sign such certificate.
6. To be liable to retain confidentiality of information and data relating to the results of an assessment if so requested by the client.
7. To be liable for the accuracy of the results of an assessment before the law and before the business entity providing the commercial assessment services.

#### Section 2

#### **Professional Stamps on Assessment Certificates**

##### **Article 8** *Signatures and professional stamps*

1. Signatures on assessment certificates shall be regulated as follows:
  - (a) The signature of the authorized representative of the business entity providing the commercial assessment services shall appear at the bottom right hand corner of an assessment certificate;

- (b) The signature of the assessor shall appear on the bottom left hand corner of an assessment certificate.
- 2. The professional stamp on an assessment certificate shall be of a rectangular shape, six (6) centimetres in length and two centimetres wide. The top line of the stamp shall read "on behalf of the company", and the last line of the stamp shall bear the logo (if any) and the name of the business entity providing the commercial assessment services.
- 3. A professional stamp shall be affixed to an assessment certificate so as to cover approximately one third ( $\frac{1}{3}$ ) of the left hand side of the signature of the authorized representative of the business entity conducting the commercial assessment services.
- 4. Blue ink shall be uniformly used on seals.

**Article 9** *Registration of professional stamps*

- 1. The Department of Trade (Department of Trade and Tourism) in a place where business entities providing commercial assessment services are registered for business shall open a separate register to register professional stamps used on assessment certificates by business entities.
- 2. Business entities engaged in the provision of commercial assessment services shall pay a fee for registration of their professional stamps. The Ministry of Finance shall provide guidelines on the amount of the fees and the regime for the management and use of such fees.

**Article 10** *Application file for registration of a professional stamp*

- 1. An application file for registration of a professional stamp by a business entity providing commercial assessment services shall comprise:
  - (a) Application for registration of a professional stamp in the sample form stipulated by the Ministry of Trade;
  - (b) Notarized copy of the business registration certificate or of the investment certificate in the case of a business entity operating pursuant to the law on investment in Vietnam;
  - (c) A sample of the professional stamp placed on an assessment certificate which the business entity proposes for registration.
- 2. If a business entity changes or amends the professional stamp which it uses on assessment certificates, it must re-register with the Department of Trade (Department of Trade and Tourism) in the place where such business entity is registered for business. The application file for re-registration shall be the same as that stipulated in clause 1 of this article.

**Article 11** *Time frame for replying to an application for registration of a professional stamp*

- 1. Within a time frame of ten (10) business days from the date of receipt of a complete application file for registration of a professional stamp as stipulated in article 10.1 of this Decree, the Department of Trade (Department of Trade and Tourism) in the place where the business entity is registered for business shall be responsible to enter into the register the professional stamp to be used on assessment certificates by such business entity and to provide written confirmation of registration to the business entity.

2. In a case of refusal to register a professional stamp, the Department of Trade (Department of Trade and Tourism) must provide a written response specifying its reasons for the refusal within a time frame of ten (10) business days from the date of receipt of a complete application file.

**Article 12** *Cancellation of registration of professional stamps*

1. The body registering professional stamps shall cancel and remove a registration from the register in the following cases:
  - (a) The business entity providing the commercial assessment services suspends business or converts to another line of business;
  - (b) The business registration certificate or investment licence of the business entity is revoked;
  - (c) The business entity or the authorized representative of the business entity commits a serious breach of law during the conduct of assessment activities.
2. If registration of a professional stamp is cancelled, the business entity concerned shall be responsible to hand in its professional stamp to the registration body.
3. The body registering professional stamps shall be responsible to revoke professional stamps and to make a public announcement about any such revocation.

Section 3

**Authorized Assessments**

**Article 13** *Contract authorizing an assessment*

A contract authorizing an assessment must be made in writing or in another form with equal validity pursuant to law.

**Article 14** *Assessment certificate in a case of an authorized assessment*

In a case where a business entity is authorized to conduct an assessment, the assessment certificate must read "implemented pursuant to authority from (state the name of the business entity being the principal)" and the certificate must be stamped by the business entity authorized to conduct the assessment in accordance with article 8 of this Decree.

**Article 15** *Sub-authorization*

1. An authorized party shall only be permitted to sub-authorize a third party if the principal agrees or if the law so stipulates.
2. A contract of sub-authorization must be in the same form as the initial contract of authorization.
3. Sub-authorization may not exceed the scope of the initial authorization.

**Article 16** *Rights and obligations of principals*

1. The principal authorizing an assessment shall have the following rights:
  - (a) To require the authorized party to conduct the assessment correctly in accordance with the provisions of the contract of authorization;

- (b) To require the authorized party conducting the assessment to report fully on performance of the contractual work;
  - (c) To claim compensation for loss if the authorized party breaches the obligations stipulated in article 17.2 of this Decree.
2. The principal to a contract of authorization shall have the following obligations:
- (a) To supply the information and data necessary to service the request for an assessment;
  - (b) To be liable to the party requesting the assessment for the results of the assessment;
  - (c) To pay remuneration and other expenses as agreed in the contract of authorization;
  - (d) To discharge other financial obligations in accordance with the law of Vietnam.

**Article 17** *Rights and obligations of authorized parties*

1. The party authorized to conduct an assessment shall have the following rights:
- (a) To require the principal to supply information and data necessary to facilitate the assessment pursuant to the contract of authorization;
  - (b) To hire domestic and foreign experts to provide assessment services; to temporarily import for re-export technical facilities to conduct a professional assessment;
  - (c) To receive remuneration and other expenses pursuant to the provisions in the contract of authorization.
2. The party authorized to conduct an assessment shall have the following obligations:
- (a) To carry out the work in accordance with the contract of authorization and to report to the principal on performance of such work;
  - (b) To protect and preserve the data and facilities assigned in order to perform the contract of authorization;
  - (c) To retain confidentiality of information obtained during implementation of the contract of authorization;
  - (d) To pay compensation for loss and damage caused by breach of the provisions in sub-clauses (a), (b) or (c) of this clause;
  - (dd) To provide an assessment certificate in accordance with the contract of authorization.

**Article 18** *Assessments pursuant to requests from State bodies*

1. When a State body or organization has a need for an assessment, it shall provide a written document selecting a business entity engaged in the business of commercial assessment services which satisfies the conditions and criteria stipulated in the *Commercial Law* and which satisfies the particular requirements for the assessment, in order to conduct such assessment.

2. Any State body or organization which requires an assessment shall be responsible to pay remuneration for the assessment to the business entity engaged in the provision of commercial assessment services in accordance with the agreement between the two parties on the basis of market prices at the date of the request for the assessment.

#### Section 4

### **Breaches of Law During Activities of Commercial Assessment Services**

#### **Article 19** *Conduct which constitutes a breach of the law on commercial assessment services business*

1. Any business entity engaged in the provision of commercial assessment services or any assessor who commits one of the following breaches shall, depending on the nature and seriousness of the breach, be dealt with for an administrative penalty or shall be criminally prosecuted in accordance with law:
  - (a) Conducting a commercial assessment services business without having satisfied all conditions stipulated by law;
  - (b) Providing commercial assessment services outside the sectors registered in the business registration certificate or investment licence;
  - (c) Recognizing an assessor when such person fails to satisfy the criteria stipulated in article 259 of the *Commercial Law*;
  - (d) Using a professional stamp on an assessment certificate when such stamp has not been registered with the competent body stipulated in article 9 of this Decree;
  - (dd) Conducting an assessment which relates to the interests of the business entity or the assessor conducting the assessment;
  - (e) Failing to comply with requests from a competent State body when the latter conducts a check or inspection in accordance with law;
  - (g) Providing commercial assessment services for a foreign business entity without a contract of authorization to provide such services;
  - (h) Committing a breach of any other provision of this Decree.
2. If a breach by a business entity engaged in the provision of commercial assessment services or by an assessor causes loss and damage to the material interests of any individual or organization concerned, then in addition to imposition of an administrative penalty the offender must pay compensation for loss and damage in accordance with law.

#### **Article 20** *Authority and procedures for dealing with breaches*

The authority and procedures for dealing with breaches as stipulated in article 19 of this Decree shall be implemented in accordance with current law.

## CHAPTER III

### Implementing Provisions

#### **Article 21** *Effectiveness*

1. This Decree shall be of full force and effect fifteen (15) days after the date of its publication in the Official Gazette.
2. This Decree shall replace Decree No. 20-1999-ND-CP of the Government dated 12 April 1999 on commercial assessment services business.
3. Any prior provisions on commercial assessment services business which are contrary to the provisions in this Decree are hereby repealed.

#### **Article 22** *Transition provision*

Within a period of three months from the date this Decree takes effect, any business entity which was conducting commercial assessment services prior to the date this Decree took effect shall be responsible to register a professional stamp in accordance with this Decree.

#### **Article 23** *Organization of implementation*

Ministers, heads of ministerial equivalent bodies, heads of Governmental bodies and chairmen of people's committees of provinces and cities under central authority shall be responsible for the implementation of this Decree.

On behalf of the Government  
Prime Minister

PHAN VAN KHAI