

**THE GOVERNMENT**

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No.: 103/2017/ND-CP

**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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*Hanoi, September 12, 2017*

## **DECREE**

### **ESTABLISHMENT, ORGANIZATIONAL STRUCTURE, OPERATION, DISSOLUTION AND MANAGEMENT OF SOCIAL SUPPORT FACILITIES**

*Pursuant to the Law on Government Organization dated June 19, 2015;*

*Pursuant to the Law on Domestic Violence Prevention and Control dated November 21, 2007;*

*Pursuant to the Law on the Elderly dated November 23, 2009;*

*Pursuant to the Law on Disabled People dated June 17, 2010;*

*Pursuant to the Law on Actions against Administrative Violations dated June 20, 2012;*

*Pursuant to the Law on Children dated April 05, 2016;*

*At the request of Minister of Labour, War Invalids and Social Affairs;*

*The Government promulgates a Circular providing for the establishment, organizational structure, operation, dissolution and management of social support facilities.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

This Decree deals with the establishment, organizational structure, operation, dissolution and management of social support facilities.

#### **Article 2. Regulated entities**

Social support facilities refer to both public and private social support facilities (hereinafter referred to as the “facility”).

1. A public social support facility is established, managed and invested by a state agency that shall provide funding for all operations of this facility.

2. A private social support facility is established, managed and invested by a domestic or foreign individual, or organization, or enterprise, that shall provide funding for all operations of this facility.

### **Article 3. Incentives for private sector involvement in social support**

1. The Government encourages domestic and foreign entities to establish social support facilities so as to take care of and provide social assistance for persons in such need in the territory of Vietnam.

2. Any entities investing in construction of social support facilities are eligible to enjoy incentives for private sector involvement in social support in accordance with laws.

### **Article 4. Legal status, seal, account, name, logo and head office of a social support facility**

1. A social support facility has legal status, its own seal and account.

2. It must have a Vietnamese name and a foreign language name, and its own logo (if any). Such names and logo must:

a) not be identical or confused with the duly registered ones of another social support facility; and

b) not violate historical, cultural and ethical traditions or fine customs and practices of the nation.

3. Its head office must be located in the territory of Vietnam and identified by a particular address.

### **Article 5. Types of social support facilities**

1. Social protection facilities for caring the elderly.

2. Social protection facilities for caring children with special circumstances.

3. Social protection facilities for caring people with disabilities.

4. Social protection facilities for caring and rehabilitating people with mental health problems.

5. General social protection facilities for caring social protection beneficiaries or persons in need of social assistance.

6. Social work centers that provide advice or emergency care or social assistance for persons in such need with other necessities.

7. Other types of social support facilities as prescribed by laws.

## **Chapter II**

### **TASKS AND POWERS OF A SOCIAL SUPPORT FACILITY**

#### **Article 6. Persons eligible to receive benefits from a social support facility**

1. Social protection beneficiaries as defined in Clause 1 Article 25 of the Government's Decree No. 136/2013/ND-CP dated October 21, 2013 providing for social support policies for social protection beneficiaries.
2. Persons in need of emergency protection, including:
  - a) Victims of domestic violence; victims of sexual assaults; trafficking victims; victims of forced labour;
  - b) Children and beggars pending taken to shelters.
3. Minors of no fixed address who are liable to compulsory education at communes, wards or commune-level towns in accordance with regulations of the Law on actions against administrative violations dated June 20, 2012, the Government's Decree No. 111/2013/ND-CP dated September 30, 2013 providing for imposition of administrative penalty that is compulsory education at communes, wards or commune-level towns, and the Government's Decree No. 56/2016/ND-CP dated June 29, 2016 on amendments to the Government's Decree No. 111/2013/ND-CP dated September 30, 2013 providing for imposition of administrative penalty that is compulsory education at communes, wards or commune-level towns.
4. Persons other than the social protection beneficiaries mentioned in Clause 1, Clause 2 and Clause 3 of this Article, who are in need of social assistance and voluntarily make contributions or have contributions made by their relatives or sponsors (hereinafter referred to as "voluntary beneficiaries").
5. Other beneficiaries under support programs or projects, or decisions by Chairpersons of People's Committees of provinces or central-affiliated cities.

#### **Article 7. Tasks of a social support facility**

A social support facility shall perform several or all of the following tasks:

1. Provide emergency services, including:
  - a) receive persons in need of emergency protection;
  - b) evaluate the needs of beneficiaries; select and classify beneficiaries. Where necessary, the social support facility shall transfer beneficiaries to health facilities, education institutions, police agencies, judicial agencies or other appropriate agencies or organizations;

c) ensure safety and meet certain emergency needs of beneficiaries such as temporary residence, foods, clothes and travel.

2. Provide advice and treatment for mental disorder or psychological crisis, and physical rehabilitation for beneficiaries.

3. Provide consultancy and assistance for beneficiaries of social support policies; cooperate with relevant agencies and organizations to protect and help eligible beneficiaries; look for and arrange appropriate caring forms.

4. Formulate plans to intervene and assist beneficiaries; supervise and review intervention and assistance activities, and then modify such plans.

5. Receive, manage, care for, and nurture social protection beneficiaries who face special difficulties, are unable to earn their living as well as live in their families or communities.

6. Provide initial medical treatment services.

7. Combine rehabilitation and assistance activities for beneficiaries with self-management, cultural, or sports activities and other activities according to age and health status of each group of beneficiaries in accordance with laws.

8. Take charge and cooperate with relevant units/ organizations to organize education courses, vocational training courses and/or career-oriented education courses so as to assist beneficiaries in developing their physical strength, understanding and personality as well as getting social inclusion.

9. Provide social education and capacity improvement services. To be specific:

a) provide social education services to help beneficiaries develop skills in handling situations, including teaching parenting skills to persons in such need, and providing life skills training for children and minors;

b) cooperate with education and training institutions to provide training courses in social works for both full-time and part-time social workers or persons working for social work service providers;

c) organize training courses or seminars to improve knowledge and skills for beneficiaries in such need.

10. Manage beneficiaries of social work services.

11. Implement measures to protect beneficiaries from difficult circumstances, assaults, violence or abuse.

12. Facilitate community development activities. To be specific:

a) contact people and governments at all levels to determine problems in their communities so as to formulate suitable community assistance programs or plans;

b) propose community development policies to competent authorities;

c) establish the network of social workers and volunteers.

13. Organize awareness-raising and communications activities.

14. Take charge and cooperate with local government help persons who are qualified to leave the social support facility or voluntarily apply for family reunion and community integration; support and facilitate beneficiaries in stabilizing their life.

15. Manage financial sources, assets, officials, public employees and contractual employees in accordance with laws.

16. Mobilize and receive financial supports in cash and in kind from domestic and foreign agencies, organizations and/or individuals.

17. Provide services at the request of and perform other tasks assigned by competent authorities.

#### **Article 8. Powers of a social support facility**

1. Provide social support services for persons in such need in accordance with regulations.

2. Refuse a request for social support services if it is not conformable with its functions and tasks, unless a decision is made by a competent authority or an authorized person.

3. Select appropriate social support measures and concepts to help beneficiaries in accordance with laws.

4. Exercise other powers as regulated by laws.

#### **Article 9. Operating funding of a social support facility**

1. A public social support facility shall have the following sources of funding:

a) Funding from state budget;

b) Service charges paid by voluntary beneficiaries;

c) Revenues from its production and service provision;

d) Grants from domestic and foreign organizations and/or individuals;

dd) Other sources of funding as regulated by law.

2. A private social support facility shall have the following sources of funding:

- a) Its owner's equity;
- b) Grants from domestic and foreign organizations and/or individuals;
- c) Service charges paid by voluntary beneficiaries;
- d) Other sources of funding as regulated by law;
- dd) Funding allocated by state budget to provide social support services.

#### **Article 10. Financial and asset management**

- 1. A social support facility shall manage its financial sources and assets in accordance with laws.
- 2. Sources of funding must be managed and used in a public and transparent manner in accordance with its regulations on operation and expenditures.
- 3. It must prepare and submit periodic and annual financial reports to competent authorities in accordance with laws.

### **Chapter III**

#### **ESTABLISHMENT, RESTRUCTURING AND DISSOLUTION OF PUBLIC AND PRIVATE SOCIAL SUPPORT FACILITIES**

##### **Section 1. ESTABLISHMENT, RESTRUCTURING AND DISSOLUTION OF PUBLIC SOCIAL SUPPORT FACILITIES**

#### **Article 11. Establishment, restructuring and dissolution**

Eligibility requirements, formalities, procedures, applications, and power to establish, restructure and dissolve public social support facilities; classification of public social support facilities shall be performed in accordance with regulations in the Government's Decree No. 55/2012/ND-CP dated June 28, 2012 on establishment, restructuring and dissolution of public service providers (hereinafter referred to as the “Decree No. 55/2012/ND-CP”).

#### **Article 12. Application for establishment**

An application for establishment of a public social support facility includes types of documents prescribed in Article 8 of Decree No. 55/2012/ND-CP, and the following:

- 1. The application form for establishment of a public social support facility using the Template No. 01 stated in the Appendix enclosed herewith.

2. The establishment plan using the Template No. 02 stated in the Appendix enclosed herewith.
3. The draft of operating regulations of the public social support facility using the Template No. 03a stated in the Appendix enclosed herewith.

### **Article 13. Application for restructuring or dissolution**

An application for restructuring or dissolution of a public social support facility includes types of documents prescribed in Article 15 of Decree No. 55/2012/ND-CP, and the following:

1. The application form for restructuring or dissolution of a public social support facility using the Template No. 04a stated in the Appendix enclosed herewith.
2. The plan for restructuring or dissolution of a public social support facility using the Template No. 05 stated in the Appendix enclosed herewith.

## **Section 2. ESTABLISHMENT AND DISSOLUTION OF PRIVATE SOCIAL SUPPORT FACILITIES**

### **Article 14. Rights to establish and manage private social support facilities**

1. Organizations and individuals have the right and obligation to establish and manage private social support facilities in accordance with regulations herein.
2. An organization or individual that wants to establish a private social support facility shall prepare the application for registration of establishment of a private social support facility, and assume responsibility for the legality, truthfulness and accuracy of the information stated in such application.
3. The authority or person that has the power to issue a certificate of establishment (hereinafter referred to as the “issuing authority”) shall assume responsibility for the validity of the application and assume no responsibility for any acts of violation committed by such private social support facility before and after the registration.
4. The issuing authority shall bear no responsibility to resolve disputes arisen between the members of a private social support facility, or between such private social support facility with another organization or individual during its operation.

### **Article 15. Application for registration of establishment**

An application for registration of establishment of a private social support facility shall include:

1. The application form for registration of establishment of a private social support facility using the Template No. 06 stated in the Appendix enclosed herewith.
2. The establishment plan.

3. The draft of operating regulations of the private social support facility using the Template No. 03b stated in the Appendix enclosed herewith.

4. Certified copies of documents proving land and house ownership or agreements on lease of land, material facilities and property on land to serve social support activities.

5. Criminal records of founders.

6. Copies of the following documents:

a) Citizen Identity Card or ID card. In case founder is a foreigner, a copy of passport or other personal identification paper shall be submitted;

b) Establishment decision or other document of equivalent validity made by founding organization, and power of attorney; Citizen Identity Card or ID card or Passport or other personal identification paper of authorized representative of such organization.

The copy of establishment decision or other document of equivalent validity made by a foreign founding organization must be legalized by a consular agency.

#### **Article 16. Operating regulations**

1. Operating regulations of a private social support facility shall have the following contents:

a) Name, head office's address, telephone number and fax number of the private social support facility;

b) Tasks of private social support facility;

c) Charter capital;

d) Full name, permanent residence, nationality, number of Citizen Identity Card or ID card or passport or other personal identification paper of founders; contribution amount and percentage of each founder;

dd) Rights and obligations of founders;

e) Organizational structure;

g) Legal representative;

h) Voting method for the facility's decision; principles for resolving internal disputes;

i) Grounds and method of calculation of remuneration, salary and bonus for the facility's officials and employees;



k) Cases where a member may request the facility to receive transfer of his/her contributed amount;

l) Principles for dividing profit after tax and dealing with loss;

m) Cases of dissolution, procedures for dissolution and liquidation of the facility's assets;

n) Methods for modifying the facility's operating regulations.

2. The draft of the facility's operating regulations which is included in the application for registration of establishment must bear signatures and full names of founders.

3. The facility's modified operating regulations must bear full names and signatures of founders.

### **Article 17. Registration of establishment**

1. The organization or individual that wants to establish a private social support facility shall submit an application as prescribed in Article 15 herein to the issuing authority.

2. The issuing authority shall consider the validity of application and issue a certificate of establishment to the applicant within duration of 05 working days from the receipt of a valid application. If an application is refused, the issuing authority shall give a written response which specifies reasons for refusal to the applicant.

3. A facility which is established under the law on enterprises or the law on organization, operation and management of social support associations or facilities in charge of less than 10 beneficiaries must not carry out procedures for registration of establishment mentioned in Section 2 Chapter III herein.

### **Article 18. Eligibility requirements and contents of a certificate of establishment**

1. Eligibility requirements

a) The facility's name is given in accordance with regulations in Article 5 herein;

b) The application for registration of establishment is valid in accordance with regulations in Article 15 herein.

2. Certificate of establishment

A certificate of establishment shall include main contents as specified in the Template No. 07 stated in the Appendix enclosed herewith. To be specific:

a) Name, head office's address, telephone number and fax number of the facility;

- b) Full name, permanent residence, nationality, number of Citizen Identity Card or ID card or passport or other personal identification paper of founders;
- c) Type of the facility;
- d) Tasks of the facility (specify one or several tasks mentioned in Article 7 herein);
- dd) Charter capital; capital contributed by the founding enterprise (investment capital);
- e) Information concerning tax registration.

#### **Article 19. Power to issue and revoke certificate of establishment, and dissolve the facility**

1. The Provincial Department of Labour, War Invalids and Social Affairs shall issue a certificate of establishment to the facility that operates within the scope of inter-provincial or inter-district/town/provincial city/city area and has its head office located in such province.
2. The District-level Department of Labour, War Invalids and Social Affairs shall issue a certificate of establishment to the facility that operates within the scope of a district, and has its head office located in such district.
3. The issuing authority shall have the power to revoke certificate of establishment, and dissolve the social support facility.

#### **Article 20. Application for change in contents of a certificate of establishment**

1. The change in contents of a certificate of establishment must be registered with the issuing authority.
2. An application for change in contents of a certificate of establishment shall include:
  - a) The application form for change in contents of a certificate of establishment;
  - b) The original of the issued certificate of establishment;
  - c) Relevant documents proving changed contents of the certificate of establishment.
3. Procedures for registration of change in contents of a certificate of establishment:
  - a) The social support facility shall submit an application for change in contents of certificate of establishment to the issuing authority;
  - b) The issuing authority shall consider the validity of application and issue a new certificate of establishment to the applicant within duration of 05 working days from the receipt of a valid application.

If an application is refused, the issuing authority shall give a written response to specify reasons for refusal or request the applicant to modify the application.

#### **Article 21. Revocation of a certificate of establishment**

1. A social support facility shall have its certificate of establishment revoked in the following cases:

- a) A certificate of establishment is issued inconsistently with regulations of law;
- b) After 12 months from the issuance of certificate of establishment, the facility fails to submit an application for operating license to the competent authority;
- c) Other cases as regulated by law.

2. The facility assumes responsibility to settle issues concerning benefits of its beneficiaries, employees and relevant parties in case its certificate of establishment is revoked.

#### **Article 22. Dissolution**

1. A social support facility shall be dissolved in the following cases:

- a) Its certificate of establishment is revoked;
- b) The facility fails to meet eligibility requirements for operation as prescribed by law and as petitioned by the local Department of Labour, War Invalids and Social Affairs;
- c) The applicant for registration of establishment of the facility petitions for dissolution;
- d) Other cases as regulated by law.

2. An application for dissolution shall include:

- a) The application form for dissolution of the facility which specifies reasons for dissolution using the Template No. 04b stated in the Appendix enclosed herewith;
- b) The list of assets, liabilities and equities of the facility, and handling methods;
- c) The list of beneficiaries, and methods of settlement for these beneficiaries when the facility is dissolved;
- d) Other relevant documents (if any);
- dd) Written comments on the facility's dissolution by competent authorities (if any).

3. Procedures for dissolution:

a) With regard to the cases mentioned in Point a, Point b and Point d Clause 1 Article 22 herein, the local Department of Labour, War Invalids and Social Affairs shall cooperate with the social support facility to submit a written request for dissolution of the facility, enclosed with the application for dissolution of social support facility specified in Clause 2 Article 22 herein, to the authority that has the power to make decision on dissolution. With regard to the case mentioned in Point c Clause 1 Article 22 herein, the organization or individual shall submit an application for dissolution of social support facility specified in Clause 2 Article 22 herein to the authority that has the power to make decision on dissolution.

b) Within duration of 15 working days as from the receipt of sufficient application, the competent authority shall issue a decision on dissolution of the social support facility. If an application for dissolution of the facility is refused, the competent authority shall give a written response, which indicates the reasons for refusal, to the applicant. The social support facility may not itself dissolve without obtaining a decision on approval for dissolution from a competent authority.

## **Chapter IV**

### **OPERATION OF PUBLIC AND PRIVATE SOCIAL SUPPORT FACILITIES**

#### **Section 1. MATERIAL FACILITIES AND PERSONNEL REQUIREMENTS**

##### **Article 23. Environment and location**

A social support facility must be located at a place which must be convenient for travel and access to schools or hospitals, have a fresh air helpful for beneficiaries, and water and electrical systems available.

##### **Article 24. Material facilities**

A social support facility must meet the following material facilities requirements:

1. Land area: The average land area is 30m<sup>2</sup>/person if the social support facility is located in a rural area, and 10m<sup>2</sup>/person is it is located in an urban area. With regard to a social protection facility for caring and rehabilitating people with mental health problems, the minimum land area is 80m<sup>2</sup>/person if it is located in a rural area, 100m<sup>2</sup>/person is it is located in an urban area, and 120 m<sup>2</sup>/person is it is located in a mountainous area.
2. Rooms of a social support facility must provide a space of at least 6m<sup>2</sup>/person. With respect of beneficiaries of 24/7 healthcare service, the facility's rooms must ensure a space of at least 8m<sup>2</sup>/person. All rooms must be equipped with daily living tools and aids for beneficiaries.
3. A facility must have living area, kitchen area, working area for its personnel, playground, water supply and drainage systems, electrical systems, and internal lanes; production area and therapeutic work area (if any).

4. Facilities and tools must be accessible and convenient for the elderly, disabled people and children.

#### **Article 25. Social support workers**

1. A social support worker must meet the following standards:

- a) Be fit to provide social assistance for beneficiaries;
- b) Have full legal capacity;
- c) Have good virtuous character; do neither commit any social evils nor face a criminal prosecution or a sentence but the criminal record has not been expunged;
- d) Have skills to provide social assistance for beneficiaries.

2. A facility must have its social support workers ensured in terms of quantity and professional qualifications so as to fulfill its tasks.

#### **Section 2. OPERATION**

#### **Article 26. Eligibility requirements for operating license**

A facility shall be granted an operating license when it satisfies all of the following eligibility requirements:

1. It must be a public social support facility which is established in accordance with regulations in Section 1 Chapter III herein, or a private social support facility which is granted a certificate of establishment in accordance with regulations in Section 2 Chapter III herein, or a social support facility which is duly established under the law on organization, operation and management of social support associations or facilities, or the law on enterprises.

2. The facility's manager must have full legal capacity and good virtuous character and do neither commit any social evils nor face a criminal prosecution or a sentence but the criminal record has not been expunged.

3. The facility's workers must be available to give advice and take care of beneficiaries.

4. If a facility provides caring and nurturing services for beneficiaries, in addition to the eligibility requirements mentioned in Clause 1, Clause 2 and Clause 3 Article 26 herein, it must also satisfy all material facilities and personnel requirements mentioned in Section 1 Chapter IV herein.

#### **Article 27. Operating license**

1. An operating license is issued using the Template No. 08 stated in the Appendix enclosed herewith, and includes the following contents:

- a) Name, head office's address, telephone number and fax number of the facility;
- b) Full name of the facility's manager;
- c) Type of the facility;
- d) Scope of operation, and tasks of the licensed facility.

2. If there is any change in the name, head office's address, the facility's manager, type of the facility, its tasks and/or scope of operation, the facility must carry out procedures for modification of the operating license. If a facility is restructured, partially or fully divided, merged or consolidated, it must carry out procedures for re-issuance of an operating license.

3. The facility must also apply for re-issuance of operating license if it is lost or damaged.

#### **Article 28. Power to issue, suspend and revoke an operating license**

1. Each Provincial Department of Labour, War Invalids and Social Affairs shall consider issuing operating license to:

a) a social support facility which is affiliated to a Ministry, or a ministerial agency, or a central-level agency of an socio-political organization, or a central-level agency of socio-professional organization, and has its head office located in such province; or

b) a social support facility which is established or granted a certificate of establishment by a provincial-level agency or organization.

2. Each District-level Department of Labour, War Invalids and Social Affairs shall consider issuing operating license to a social support facility that has its head office located in such district, and is not mentioned in Clause 1 Article 28 herein.

3. The authority that has the power to issue operating license shall have the power to re-issue, modify, suspend or revoke operating licenses.

#### **Article 29. Application for an operating license**

1. An application for operating license shall include:

a) The application form for an operating license using the Template No. 09 stated in the Appendix enclosed herewith;

b) The certified copy of the certificate of establishment or decision on establishment of the social support facility as prescribed by law.

2. An application for modification or re-issuance of an operating license includes:

- a) The application form for modification or re-issuance of an operating license;
- b) The issued operating license;
- c) Documents proving the change in the name, head office's address, the facility's manager, type of the facility, its tasks and/or scope of operation.

### **Article 30. Procedures for issuance of an operating license**

1. Procedures for issuance, re-issuance or modification of an operating license with respect to the case prescribed in Clause 1 Article 28 herein:

- a) The facility shall submit an application as prescribed in Article 29 herein to the Provincial Department of Labour, War Invalids and Social Affairs that shall appraise the facility's satisfaction of eligibility requirements for operating license within duration of 10 working days;
- b) Within 05 working days from the date on which appraisal result is made, the Provincial Department of Labour, War Invalids and Social Affairs shall issue, re-issue or modify the operating license as requested.

2. Procedures for issuance, re-issuance or modification of an operating license with respect to the case prescribed in Clause 2 Article 28 herein:

- a) The facility shall submit an application as prescribed in Article 29 herein to the District-level Department of Labour, War Invalids and Social Affairs;
- b) Within 15 working days from the receipt of sufficient application as regulated, the District-level Department of Labour, War Invalids and Social Affairs shall issue, re-issue or modify the operating license as requested. If an application is refused, a written response which specifies reasons for refusal shall be given to the applicant.

3. Within duration of 30 working days from the issued date of an operating license, the facility's manager is responsible for promulgating and announcing or posting its regulations on operating and expenditures as regulated by law.

### **Article 31. Operation disclosure by public and private social support facilities**

1. Within 30 working days from the issued date of its operating license, the social support facility must publish its operation information on three consecutive editions in region where its head office is located. Information to be publicly disclosed:

- a) The facility's name in Vietnamese and foreign language (if any);
- b) The head office's address, telephone number, email or website (if any);

- c) The facility's beneficiaries;
- d) Type of the facility;
- dd) Tasks of the facility;
- e) Scope of operation;
- g) Account number, name and address of the bank where its account is opened;
- h) Full name, number of ID card or Citizen Identity Card or Passport of the facility's legal representative;
- i) Number, sign, issued date and issuing authority of establishment decision or certificate of establishment.

2. If there is any change in its establishment decision, or certificate of establishment, or operating license, the facility must publicly disclose such change within the time limit and by the method of disclosure stated in Clause 1 of this Article.

### **Article 32. Suspension or revocation of an operating license**

1. During its operation, a facility shall be suspended up to 6 months if it fails to maintain the satisfaction of eligibility requirements mentioned in Article 26 herein.

2. A social support facility shall have its operating license revoked in the following cases:

- a) An operating license is issued to the facility improperly or inconsistently with the laws;
- b) 12 months after the issuance of its operating license, the facility fails to run operation as regulated;
- c) The facility changes its operating purposes in contravention of laws;
- d) The suspension period is over but the facility fails to satisfy eligibility requirements as regulated;
- dd) The facility commits serious violations against regulations on its activities specified in the operating license.

3. The facility must settle benefits for all beneficiaries when it is suspended or has its operating license revoked.

### **Article 33. Responsibility to suspend or revoke an operating license**



1. A competent authority mentioned in Article 28 herein shall make decision on suspension of partial or entire activities specified in the operating license of a facility, depending on the nature and severity of violation, upon discovery that such facility fails to maintain the satisfaction of eligibility requirements as regulated by laws.

2. A competent authority mentioned in Article 28 herein shall make decision on revocation of the facility's operating license upon discovery that such facility commits any of the violations prescribed in Clause 2 Article 32 herein.

### **Section 3. SOCIAL SUPPORT STANDARDS**

#### **Article 34. Social support process**

A facility's social support process shall include the following steps: Receipt of petitions of persons in need of social support; selection and classification of beneficiaries; evaluation of psychophysiological status, health status and needs of beneficiaries; formulation and implementation of social support plans; analysis and assessment of beneficiaries' performance; formulation of plan to terminate social support and assist beneficiaries in community integration.

#### **Article 35. Environmental, precinct and accommodation standards**

1. A social support facility must be located at a convenient place, in a green and clean environment, and have its precinct and accommodation area conformable with particular conditions in rural, mountainous or urban area.

2. It must have material facilities conformable with construction standards and suitable for its beneficiaries.

#### **Article 36. Healthcare, hygienic, clothing and nutritional standards**

The facility must meet minimum standards of healthcare, hygiene, clothing and nutrition so as to take care of its beneficiaries and serve beneficiaries with special needs such as newborn babies, children with disabilities, children infected with HIV, diseased children or malnourished children, the elderly and persons following strict regimens by clinical need, ethical or religious beliefs.

#### **Article 37. Educational and vocational training standards**

The facility must ensure that its beneficiaries may attend educational classes or vocational training courses according to their capacity and needs and in accordance with the laws.

#### **Article 38. Cultural, sports and entertainment standards**

The facility must facilitate its beneficiaries' access to cultural, sports and entertainment activities in conformity with their traditions, beliefs or religions within the scope of the law of Vietnam as well as in harmony with the age and features of each beneficiary.

### **Article 39. Acts of violation**

1. Misusing the establishment of a social support facility for:
  - a) infringing legal rights and benefits of individuals, organizations or communities; or
  - b) infringing historical, cultural or ethical traditions or fine customs and practices of the nation;  
or
  - c) committing other violations against the law.
2. Forging, erasing, transferring, leasing, lending, pledging, or mortgaging a certificate of establishment, or an operating license in any forms.
3. Beating, confining or tying beneficiaries up.
4. Preventing beneficiaries from eating, drinking or sleeping.
5. Compelling beneficiaries to wear strange, ill-fitting or unconformable clothes.
6. Stopping providing medical care for beneficiaries improperly.
7. Using a beneficiary for disciplining another one; threatening or reviling or offending beneficiaries with impolite or vulgar words.
8. Overworking beneficiaries.
9. Compelling beneficiaries to following or abandoning a religion.

### **Chapter V**

#### **MANAGEMENT PROCEDURES AND DOSSIER**

### **Article 40. Power and dossier required to receive people into a social support facility**

1. Power to receive people into a social support facility: People shall be received into social support facility according to its manager's decision.
2. Dossier on receipt of a social protection beneficiary who faces special difficulties as prescribed in Clause 1 Article 25 of the Decree No. 136/2013/ND-CP:
  - a) The application form made by the beneficiary or his/her guardian using the Template No. 10 stated in the Appendix enclosed herewith;

- b) The copy of birth certificate if the beneficiary is a child; in case of an abandoned infant, procedures for birth registration must be carried out in accordance with the law on civil registration;
- c) The written certification of an authorized health facility if a beneficiary is infected with HIV;
- d) The written record of the Assessment Board using the Template No. 11 stated in the Appendix enclosed herewith, and the written request made by the Commune-level People's Committee;
- dd) Other relevant documents (if any);
- e) The written request of the Chairperson of the District-level People's Committee, which is sent to the facility's governing agency (if a beneficiary is sent to a provincial social support facility);
- g) The decision on receipt of beneficiary made by the facility's manager.

3. Dossier on receipt of a person in need of emergency protection as prescribed in Clause 2 Article 25 of the Decree No. 136/2013/ND-CP:

- a) The application form made by the beneficiary or his/her guardian;
- b) The copy of ID card or personal identification paper of the beneficiary (if any);
- c) The written record of the emergency case where the beneficiary's life is threatened;
- d) The written request made by the Chairperson of the People's Committee of commune where the beneficiary is living or it's discovered that the beneficiary needs an emergency protection;
- dd) The written request of the Chairperson of the District-level People's Committee, which is sent to the facility's governing agency (if the beneficiary is sent to a provincial social support facility);
- e) The decision on receipt of the beneficiary made by the facility's manager.

4. Dossier on receipt of a voluntary beneficiary:

- a) The written agreement on provision of social support services using the Template No. 12 stated in the Appendix enclosed herewith;
- b) The copy of ID card or Citizen Identity Card or Passport or other personal identification paper of the beneficiary.

**Article 41. Procedures for receipt of people into a social support facility**

1. Procedures for receipt of a social protection beneficiary who faces special difficulties as prescribed in Clause 1 Article 25 of the Decree No. 136/2013/ND-CP:

a) The beneficiary or his/her guardian shall send the dossier prescribed in Points a, b, c Clause 2 Article 40 herein to the Chairperson of the Commune-level People's Committee;

b) Within 15 working days from the receipt of the beneficiary's dossier, the Commune-level Assessment Board shall assess and post the assessment results at the head office of the Commune-level People's Committee within 07 working days, excluding HIV-related information of the beneficiary;

c) Within 07 working days from the receipt of the beneficiary's dossier and the written request of the Chairperson of the Commune-level People's Committee, the District-level Department of Labour, War Invalids and Social Affairs shall appraise and request the Chairperson of the District-level People's Committee to consider making decision;

d) Within 03 working days from the receipt of the written request of the District-level Department of Labour, War Invalids and Social Affairs, the Chairperson of the District-level People's Committee shall make a decision on receipt of the beneficiary into a social support facility under its management or send a written request to the manager of a certain facility to receive such beneficiary;

dd) Within 07 working days from the receipt of the beneficiary's dossier and the written request of the Chairperson of the District-level People's Committee, the manager of the requested social support facility shall make decision on receipt of the beneficiary into that facility;

e) If a beneficiary is refused, the facility's manager must give a written response to specify reasons for refusal.

2. Procedures for receipt of a person in need of emergency protection as prescribed in Clause 2 Article 25 of the Decree No. 136/2013/ND-CP:

a) The social support facility must immediately receive a person who needs an emergency protection and complete the following procedures:

Step 1. Prepare a written record of receipt of beneficiary which must bear the signature of the individual or representative of the agency that discovers the beneficiary (if any), the government (or the police agency) of commune, or the facility's representative. If the received beneficiary is a victim of domestic violence or sexual assault, a trafficking victim, or a victim of forced labour, the written record of receipt must bear the signature of the received beneficiary (if possible);

Step 2. Evaluate injury level, recuperative ability and support needs of the beneficiary so as to formulate an appropriate support plan;

Step 3. Ensure safety and provide timely treatment for physical and psychological injuries for the beneficiary; in case of an abandoned child, a notice must be published on mass media means within duration of 25 working days;

Step 4. Make decision to give support for the beneficiary at the facility or send the beneficiary to his/her family or community;

Step 5. Complete procedures and dossier for the beneficiary in accordance with regulations. In case of an abandoned child, the facility must carry out procedures for birth registration in accordance with the law on civil registration;

b) Persons in need of emergency protection must be immediately received into the facility. All procedures for receipt must be completed within 10 working days from the receipt of a beneficiary. The extension of this time limit requires the decision of the governing agency.

3. Procedures for making decision on receipt of a voluntary beneficiary:

A voluntary beneficiary shall enter into a written agreement on provision of social support services with the facility's manager and submit the copy of his/her ID card or Citizen Identity Card or Passport of other personal identification paper.

#### **Article 42. Preparing management dossier**

The social support facility must prepare and manage personal dossier of each beneficiary. Beneficiary's personal dossier includes:

1. Dossier on receipt of the beneficiary into the facility as prescribed in Article 40 herein.
2. The social support plan and relevant documents.
3. The Decision on termination of social support or finalization of the written agreement on provision of social support services.
4. Other documents concerning the beneficiary.

#### **Article 43. Power, cases and procedures for termination of social support**

1. Power to terminate social support: The manager of a social support facility shall make decision on termination of social support.

2. Cases of termination

- a) Social support is terminated according to decision of the facility's manager;
- b) The beneficiary's guardian or family, or family or individual taking charge of caring or nurturing the beneficiary submits a written request for termination of social support;
- c) A beneficiary is adopted in accordance with the law on child adoption;

d) The beneficiary reaches the age of 18. In case a beneficiary aged 18 or older is studying at upper secondary school or vocational training institution, or attending second-year or three-year college course, or higher education course, he/she may receive social support services at the facility until he/she obtains the first diploma but not later than the age of 22;

dd) The facility is unable to provide suitable social support services for the beneficiary;

e) The beneficiary fails to contact the facility for one month;

g) The beneficiary makes request for termination of social support;

h) The beneficiary died or went missing as defined by law;

i) The written agreement on provision of social support services expires;

k) Other cases as regulated by law.

### 3. Procedures for termination of social support

a) The beneficiary or his/her guardian, relative or family member, or the individual taking charge of caring and nurturing the beneficiary, or the adoptive parent as prescribed in Points b, c, d, g Clause 2 of this Article shall prepare and send the written request for termination of social support using the Template No. 13 stated in the Appendix enclosed herewith to the facility's manager (if any);

b) Within 07 working days from the receipt of the written request, the facility's manager shall make decision on termination of social support;

c) A written record shall be made to record the transfer of the beneficiary to his/her family or community with certification of the Commune-level People's Committee, or record the finalization of the written agreement on provision of social support services.

## **Chapter VI**

### **SOCIAL SUPPORT FACILITY IN CHARGE OF LESS THAN 10 BENEFICIARIES**

#### **Article 44. Eligibility requirements for registration of social support activities**

A social support facility in charge of less than 10 beneficiaries who face difficulties shall be granted a certificate of registration of social support activities when it satisfies all of the following eligibility requirements:

1. The facility's manager and employees must have full legal capacity and good virtuous character, and do neither commit any social evils nor face a criminal prosecution or a sentence but the criminal record has not been expunged;

2. Its employees must be available to provide social assistance for beneficiaries;
3. It must satisfy minimum standards of accommodation, kitchen, electrical and water systems so as to serve daily activities of beneficiaries.

#### **Article 45. Power to issue certificate of registration of social support activities**

Chairperson of a Commune-level People's Committee shall have the power to issue certificate of registration of social support activities to the facility whose head office is located in such commune.

#### **Article 46. Application for registration of social support activities**

1. The application form for registration of social support activities using the Template No. 14 stated in the Appendix enclosed herewith.
2. The criminal records of the facility's manager and employees.
3. The copies of ID cards or Citizen Identity Cards or Passports or other personal identification papers of the facility's manager and employees.

#### **Article 47. Procedures for registration of social support activities**

1. The facility's manager shall submit an application for registration of social support activities as regulated in Article 46 herein to the People's Committee of commune where its head office is located.
2. Within 10 working days from the receipt of the application, the Commune-level People's Committee shall consider the application and issue certificate of registration of social support activities using the Template No. 15 stated in the Appendix enclosed herewith to the eligible facility. If an application is refused, a written response which specifies the reasons for refusal shall be given.

#### **Article 48. Revocation of certificate of registration of social support activities**

1. A certificate of registration of social support activities shall be revoked in the following cases:
  - a) A certificate of registration of social support activities is issued inconsistently with regulations of law;
  - b) The facility commits serious violations against regulations on its activities specified in the certificate of registration of social support activities;
  - c) Other cases as regulated by law.

2. When discovering any of the cases mentioned in Clause 1 Article 48 herein, a commune-level official in charge of Labour, War Invalids and Social Affairs shall request the Commune-level People's Committee to make decision on revocation of certificate of registration of social support activities of the violating facility.

3. The Commune-level People's Committee shall have the power to make decision on revocation of certificate of registration of social support activities.

## **Chapter VII**

### **POWERS AND RESPONSIBILITIES OF GOVERNMENTAL AUTHORITIES**

#### **Article 49. Responsibility of relevant Ministries**

1. Ministry of Labour, War Invalids and Social Affairs shall assist the Government in consistently performing state management of social support facilities nationwide and discharge the following responsibilities:

a) Provide guidance on organizational structure and number of employees of a social support facility; standards of professional-title holders and part-time employees of a social support facility; social support process and standards, and other regulations herein.

b) Formulate plan for development of social support facilities network, and build models of social support points;

c) Apply information technology to management of social support facilities;

d) Provide training and drilling courses for full-time and part-time employees of social support facilities;

dd) Conduct inspection of social support facilities;

e) Prepare and submit consolidated reports on performance of social support facilities to the Prime Minister.

2. Ministry of Home Affairs shall provide guidance on establishment, restructuring and dissolution of public service providers.

3. Ministry of Health shall provide guidance on healthcare, orthopedics and rehabilitation for beneficiaries with disabilities or mental disorder, or children facing special difficulties, and other beneficiaries of social support facilities.

4. Ministry of Education and Training shall provide guidance on exemption from tuition fees and other contributions; instruct the organization of inclusive education classes for students who are beneficiaries of social support facilities.



5. Ministry of Finance shall provide operating funding for social support facilities in accordance with regulations of the Law on state budget and relevant legislative documents.

6. Ministry of Planning and Investment shall take charge of appraising sources of invested capital and balancing capacity of projects on social support facility using funding allocated by central-government state budget, national bonds, government bonds. ODA loans or concessional loans from foreign sponsors; take charge of balancing and allocating development investment capital according to medium-term and annual plans for implementing appraised projects upon the completion of investment procedures in accordance with regulations of the Law on public investment.

7. Ministries, ministerial-level agencies and the Government's affiliates shall organize the implementation of this Decree within the ambit of assigned functions and duties, and perform state management of social support facilities within their competence, and submit consolidated reports on performance of social support facilities to the Ministry of Labour, War Invalids and Social Affairs by December 15 every year.

#### **Article 50. Responsibility of People's Committees at all levels**

People's Committees at all levels shall perform state management of social support facilities in their managing regions, and discharge the following responsibilities:

1. Allocate operating funding for public social support facilities in accordance with regulations of the Law on state budget and relevant legislative documents.
2. Allocate funding for nurturing social protection beneficiaries at public and private social support facilities in accordance with law.
3. Review, arrange and strengthen local social support facilities to meet operating standards and eligibility requirements mentioned herein.
4. Instruct competent authorities to issue operating license to eligible public and private social support facilities.
5. Carry out procedures for merger or dissolution of a social support facility if it fails to meet operating standards and eligibility requirements within duration of 01 year.

#### **Article 51. Responsibility of social support facilities**

1. Organize and strengthen their organizational structure and personnel, and ensure the satisfaction of material facilities and equipment requirements as mentioned herein.
2. Suggest plans for strengthening social support facilities to governing agencies.

3. Prepare and submit 6-months reports (by June 15), annual reports (by December 15) and extraordinary reports to Department of Labour, War Invalids and Social Affairs of same level on their performance.

## **Chapter VIII**

### **IMPLEMENTATION PROVISIONS**

#### **Article 52. Entry into force**

1. This Decree shall come into force as from November 01, 2017.

2. The Government's Decree No. 68/2008/ND-CP dated May 30, 2008 on eligibility requirements and procedures for establishment, organizational structure, operation and dissolution of social protection facilities; Article 1 of the Government's Decree No. 81/2012/ND-CP dated October 08, 2012 on amendments to Government's Decree No. 68/2008/ND-CP dated May 30, 2008 on eligibility requirements and procedures for establishment, organizational structure, operation and dissolution of social protection facilities, and the Government's Decree No. 109/2002/ND-CP dated December 27, 2002 on amendments to the Government's Decree No. 195/CP dated December 31, 1994 elaborating and guiding the implementation of certain articles of the Labour Code regarding working time and rest hours; Article 28, Article 30 and Article 31 of the Government's Decree No. 136/2013/ND-CP dated October 21, 2013 on social support policies for social protection beneficiaries; Chapter V of the Government's Decree No. 28/2012/ND-CP dated April 10, 2012 elaborating and guiding the implementation of certain articles of the Law on disabled people; Chapter II of the Government's Decree No. 06/2011/ND-CP dated January 14, 2011 elaborating and guiding the implementation of certain articles of the Law on the Elderly shall be null and void as from the date of entry into force of this Decree.

#### **Article 53. Implementation responsibility**

Ministers, heads of ministerial agencies, heads of the Government's affiliates, and Chairpersons of people's committees of central-affiliated cities or provinces shall be responsible for implementing this Decree./.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**