

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No.: 106/2017/ND-CP

Hanoi, September 14, 2017

DECREE

AMENDMENTS TO THE GOVERNMENT’S DECREE NO. 67/2013/ND-CP DATED JUNE 27, 2013 ELABORATING CERTAIN ARTICLES AND MEASURES FOR IMPLEMENTING THE LAW ON TOBACCO HARM PREVENTION AND CONTROL WITH RESPECT OF TOBACCO TRADING

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

Pursuant to the Law on Tobacco Harm Prevention and Control dated June 18, 2012;

At the request of Minister of Industry and Trade;

The Government promulgates a Decree to introduce amendments to the Government’s Decree No. 67/2013/ND-CP dated June 27, 2013 elaborating certain articles and measures for implementing the Law on Tobacco Harm Prevention and Control with respect of tobacco trading.

Article 1. Amendments to the Government’s Decree No. 67/2013/ND-CP dated June 27, 2013 elaborating certain articles and measures for implementing the Law on Tobacco Harm Prevention and Control with respect of tobacco trading

1. Amendments to Clause 3 Article 3:

“3. “tobacco shreds" refers to materials which are shredded strips of tobacco leaves and used for producing tobacco products.”

2. Amendments to Clause 10 Article 3:

“10. “tobacco distributors” refers to traders that purchase tobacco products directly from tobacco suppliers or other tobacco distributors and sell them to tobacco wholesalers and tobacco retailers.”

3. Amendments to Clause 12 Article 3:

“12. “tobacco retailers” refers to traders that purchase tobacco products directly from tobacco distributors or tobacco wholesalers and sell them to consumers.”

4. Addition of Clause 15 to Article 3:

“15. “tobacco traders” refers to tobacco distributors, tobacco wholesalers and tobacco retailers.”

5. Amendments to Clause 2 Article 4:

“2. Tobacco trading is in the list of conditional business lines. Any organizations and individuals that manufacture and/or trade in tobacco products, process and/or trade in tobacco ingredients, or make investments in tobacco cultivation must obtain license as regulated by law.”

6. Addition of Clause 7 to Article 8:

“7. The list of tobacco farmers, growing location and area with certification made by the Commune-level People’s Committee.”

7. Amendments to Clause 3 Article 10:

“3. The declaration of the area, floor plan of the warehouse, office and other ancillary sites.”

8. Amendments to Point a, Point c and Point d Clause 1 Article 26:

“a) The applicant must be an enterprise that is duly established under the laws of Vietnam;”

“c) Its tobacco distribution system covers at least 02 provinces (at least 01 tobacco wholesaler in each province).”

“d) There is a letter of introduction which is made by the tobacco supplier and specifies the intended business location;”

9. Amendments to Point a and Point d Clause 2 Article 26:

“a) The applicant must be an enterprise that is duly established under the laws of Vietnam;”

“d) There is a letter of introduction which is made by the tobacco supplier or the tobacco distributor and specifies the intended business location;”

10. Amendments to Point a and Point d Clause 3 Article 26:

“a) The applicant must be a tobacco trader that is duly established under the laws of Vietnam;”

“d) There is a letter of introduction which is made by the tobacco distributor or the tobacco wholesaler and specifies the intended business location;”

11. Amendments to Point c and Point dd Clause 1 Article 27:

“c) Copies of letters of introduction which are made by tobacco suppliers or tobacco distributors and specify the intended business location;”

“dd) The enterprise’s income statements (in case of application for re-issuance or modification of a license);”

12. Amendments to Point c and Point dd Clause 2 Article 27:

“c) Copies of letters of introduction which are made by tobacco suppliers or tobacco distributors and specify the intended business location.”

“dd) The enterprise’s income statements (in case of application for re-issuance or modification of a license);”

13. Amendments to Point c Clause 3 Article 27:

“c) Copies of letters of introduction which are made by tobacco distributors or tobacco wholesalers and specify the intended business location;”

14. Amendments to Point b Clause 2 Article 28:

“b) Within 15 working days from the receipt of a valid application, the licensing authority shall consider and verify the received application, and issue the License to distribute, wholesale or retail tobacco products to the qualified applicant. If an application is refused, a written response which specifies reasons for refusal shall be given to the applicant;”

15. Amendments to Clause 4 Article 29:

“4. Tobacco distributors are entitled to purchase tobacco products directly from tobacco suppliers or other tobacco distributors and sell them to tobacco traders or retail them at their retail outlets within the licensed regions.”

16. Amendments to Clause 7 Article 29:

“7. Tobacco retailers are entitled to purchase tobacco products from tobacco distributors or tobacco wholesalers and sell them at the licensed retailing locations.”

17. Addition of Clause 4 to Article 31:

“4. An enterprise that is granted the License to manufacture tobacco products and wishes to import tobacco into Vietnam to serve its research and experimental production activities must submit an application by hand or by post or through the internet network to the Ministry of Industry and Trade. The application includes:

- The application for approval for import of tobacco.
- Documents proving the origin of imported tobacco samples.

Within 07 working days from the receipt of a valid application, Ministry of Industry and Trade shall consider the application and give a written response to the applicant. If an application is refused, the written response shall specify reasons for refusal.”

18. Amendments to Clause 1 Article 32:

“1. Both counterfeit tobacco products and smuggled tobacco products shall be confiscated and destroyed, except special cases which shall be subject to the Prime Minister’s decision.”

19. Addition of Clause 13 to Article 45:

“13. Ministry of Industry and Trade shall take charge and cooperate with relevant ministries, ministerial-level agencies and organizations to formulate and submit rational regulations on management of e-cigarettes to the Prime Minister for consideration.”

20. Amendments to Clause 3 Article 49:

“3. Inspect the investment in tobacco cultivation, manufacture and sale of tobacco ingredients, and sale of tobacco products in regions within the scope of their management.”

Article 2. Abrogation of certain articles of the Government’s Decree No. 67/2013/ND-CP dated June 27, 2013 elaborating certain articles and measures for implementing the Law on Tobacco Harm Prevention and Control with respect of tobacco trading

The following regulations shall be abrogated:

1. Point a Clause 3 Article 9.
2. Point e Clause 1 Article 26.
3. Point e Clause 2 Article 26.
4. Point c Clause 3 Article 26.
5. Point g Clause 1 Article 27.
6. Point g Clause 2 Article 27.
7. Clause 3 Article 46.

Article 3. Transition provision

Licenses to trade tobacco products which have been issued to tobacco traders in accordance with the Government’s Decree No. 67/2013/ND-CP dated June 27, 2013 will remain valid until their expiration date.

Article 4. Entry into force and implementation

1. This Decree shall come into force as from November 01, 2017.
2. Minister of Industry and Trade shall instruct the implementation of this Decree.
3. Ministers, heads of ministerial agencies, heads of the Government's affiliates, and Chairpersons of people's committees of central-affiliated cities or provinces shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc