

**THE GOVERNMENT**

-----

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

-----

No. 48/2018/ND-CP

*Hanoi, March 21, 2018*

**DECREE**

**ON AMENDMENTS TO DECREE NO. 98/2013/ND-CP DATED AUGUST 28, 2013 ON PENALTIES FOR ADMINISTRATIVE VIOLATIONS IN INSURANCE BUSINESS AND LOTTERY BUSINESS**

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

*Pursuant to the Law on Penalties for administrative violations dated June 20, 2012;*

*Pursuant to the Law on Insurance Business dated December 9, 2000, Law on amendments to the Law on Insurance Business dated November 24, 2010;*

*At the request of the Minister of Finance;*

*The Government promulgates a Decree on amendments to Decree No. 98/2013/ND-CP dated August 28, 2013 on penalties for administrative violations in insurance business and lottery business.*

**Article 1. Certain articles of Decree No. 98/2013/ND-CP dated August 28, 2013 on penalties for administrative violations in insurance business and lottery business shall be amended as follows:**

1. Clause 1 Article 2 shall be amended as follows:

“1. Vietnamese, foreign organizations and individuals that commit administrative violations in insurance business and lottery business specified in this Decree.

Organizations subject to penalties for administrative violations in insurance business and lottery business prescribed in this Decree include: life insurers, non-life insurers, health insurers, reinsurers, insurance brokerages, branches of foreign non-life insurers, representative offices of foreign insurers, representative offices of foreign reinsurers, representative offices of insurance brokerages, insurance agencies which are lottery business firms, lottery agencies and other relevant organizations as prescribed in this Decree”.

2. Article 7 shall be amended as follows:

a) Clause 1 Article 7 shall be amended as follows:

“1. A warning shall be imposed for any of following violations:

a) Failing to have the mandatory information posted in 05 consecutive issues of a daily newspaper as per the law.

b) Announcing at variance with time limit about one of contents in the license for establishment and operation or representative office license as prescribed by law.

c) Failing to announce the contents or amending contents in the license to establish representative office as prescribed by law”.

b) Clause 4a shall be added after Clause 4 Article 7 as follows:

“4a. Additional penalty:

Confiscating exhibits of violations in case of violation prescribed in Point c Clause 2 of this Article”.

3. Clause 2, Clause 3, Clause 4 Article 9 shall be amended as follows:

a) Point d Clause 2 Article 9 shall be amended as follows:

“d) Appointing the General Director (Director), Deputy General Director (Deputy Director), branch manager, representative office manager of the insurer, reinsurer, insurance broker to concurrently hold the head position of more than one (01) branch or representative office of such insurer, reinsurer, insurance broker, or branch of foreign non-life insurer, or professional departments. Appointing Director, Deputy Director of foreign branch to concurrently hold the head position of more than one professional departments of such branch.”

b) Point dd shall be added after Point d Clause 2 Article 9 as follows:

“dd) Appointing actuaries of life insurer, health insurer, reserving actuaries of non-life insurer, reinsurer, or foreign branch to concurrently hold position of General Director (Director) or chief accountant”.

c) Point a Clause 3 Article 9 shall be amended as follows:

“a) Appointing Deputy General Director (Deputy Director), actuary, branch manager, representative office manager, chief of the control board, controller, internal audit chief, head of professional department, members of the Board of Directors or the Member assembly who fail to meet standards as prescribed by law”.

d) Point a, Point b Clause 4 Article 9 shall be amended as follows:

“a) Appointing an unqualified person as the President of the Board of Directors (the President of the Member assembly or the company’s president), General Director (Director); appointed actuary, or reserving actuary;

“b) Falling to appoint the President of the Board of Directors (the President of the Member assembly or the company’s president), General Director (Director); appointed actuary, or reserving actuary as per the law;”

4. Clause 2, Clause 3, Clause 4, Clause 5 Article 10 shall be amended as follows:

"2. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for life insurer actuary’s failure to comply with law in conducting one of following tasks:

- a) Calculating insurance premium of insurance products and formulating principles, terms and conditions of insurance products, or certifying insurance premium;
- b) Assessing the difference between the presumptive and actual costs of each product annually;
- c) Assessing reinsurance program, reinsurance contracts before submit them to General Director, Board of Directors (Board of members, President) for approval;
- d) Reporting on significant cases that possibly prejudice solvency ratio of the insurer to the Ministry of Finance directly.

3. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for failure of reserving actuary of non-life insurer, reinsurer, or foreign branch to comply with law in conducting one of following tasks:

- a) Calculating insurance premium and formulating principles, terms and conditions of insurance or reinsurance products, or certifying insurance premium;
- b) Evaluating payment of indemnities;
- c) Assessing reinsurance program, reinsurance contracts before submit them to General Director, Board of Directors (Board of members, President) for approval;
- d) Reporting on significant cases that possibly prejudice solvency ratio of the insurer to the Ministry of Finance directly.

4. A fine of from VND 90,000,000 to VND 100,000,000 shall be imposed for failure of appointed actuary of life insurer or health insurer to comply with law in conducting one of following tasks:

- a) Calculating to build up professional insurance reserve;
- b) Separating funds and distributing annual surplus of policyholder fund.

c) Assessing solvency ratio of life insurer or health insurer monthly, certifying it to solvency ratio report and send it to the Ministry of Finance.

5. A fine of from VND 90,000,000 to VND 100.000.000 shall be imposed for failure of reserving actuary of non-life insurer, reinsurer, or foreign branch to comply with law in conducting one of following tasks:

a) Calculating to build up professional insurance reserve;

b) Separating the owner's equity and insurance premium as per the law;

c) Assessing solvency ratio of non-life insurer or health reinsurer quarterly, certifying it to solvency ratio report and send it to the Ministry of Finance.”

5. Point b Clause 2 Article 12 shall be amended as follows:

“b) Retaining the maximum liability for each risk or separate damage in excess of 10% of the owner's equity”

6. Clause 3 Article 14 shall be amended as follows:

“3. A fine of from VND 90,000,000 VND to VND 100,000,000 shall be imposed for frauds in insurance business with appropriated amount of under VND 20,000,000 or causing damage of under VND 50,000,000 or not to a degree subject to criminal prosecution, in particular:

a) Collaborating with beneficiary of insurance benefits to pay indemnities or insurance payout against the law;

b) Forging documents, deliberately falsifying information to refuse indemnities or insurance payout upon occurrence of insured events;

c) Forging documents, deliberately falsifying information in the claim on compensation or insurance payout;

d) Causing damage to assets and health for the purpose of claiming insurance benefit unless otherwise prescribed by law”.

7. Point dd shall be added after Point d Clause 2 Article 17 as follows:

“dd) Forcing entities to buy insurance in any manner”.

8. Clause 2, Clause 3 Article 18 shall be amended as follows:

“2. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for one of the following violations:

- a) Failing to report the list of new products that are provided in the previous month;
- b) Announcing insurance products before the competent authority grants an approval as per the law;
- c) Announcing inadequate contents of insurance products obtaining approval as per the law.

3. A fine of from VND 60,000,000 to VND 70,000,000 shall be imposed for one of the following violations:

- a) Initiating principles, terms, and schedule of premiums of insurance products of motor vehicles lines before registration approved by the Ministry of Finance;
- b) Initiating life insurance products and health insurance before the Ministry of Finance grants an approval;
- c) Failing to comply with principles, terms and schedule registered with the Ministry of Finance;
- d) Failing to comply with principles, terms and schedule approved by the Ministry of Finance;
- dd) Amending principles, terms, and schedule without written consent of the Ministry of Finance;
- e) Failing to report the Ministry of Finance the non-life insurance products that do not ensure financial safety as prescribed by law.”

9. Clause 5 Article 24 shall be added as follows:

“5. Additional penalty:

- a) Suspending insurance agency certificates from 2 to 3 months (in case of individuals) or mandatorily suspending insurance agency certificates from 2 to 3 months (in case of organizations) applied to violations prescribed in Clause 2 of this Article.
- b) Mandatorily suspending operation of agency training facilities from 1 to 3 months in case of violations prescribed in Clause 3 of this Article”.

10. Point a Clause 1 Article 26 shall be amended as follows:

“a) Owner’s equity is lower than legal capital as prescribed by law;”

11. Clause 2 Article 29 shall be amended as follows:

“2. A fine of from VND 60,000,000 to VND 70,000,000 shall be imposed for one of the following violations:

- a) Making investments from capital sources other than those allowed investing as prescribed by law;
- b) Investing idle capital from professional reserve against the law;
- c) Investing over 30% of investment capital in companies in a same corporation or group of companies having mutual proprietorial relation as per the law;
- d) Investing from owner's equity against the law".

12. Article 31 shall be amended as follows:

- a) The title of Article 31 shall be amended as follows:

**“Article 31. Penalties for violations against regulations on separation of equity source and insurance premium, surplus distribution”**

- b) Clause 1, Clause 2, Clause 3 Article 31 shall be amended as follows:

“1. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for one of the following violations:

- a) Insurer/foreign branch's failure to register with the Ministry of Finance principles of distributing assets, sources of funds, revenue, and expenses associated with equity fund and policyholder fund before application.

- b) Life insurer applying distributing annual surplus of funds to owners before the Ministry of Finance grants an approval.

2. A fine of between VND 30,000,000 and 40,000,000 for transferring assets and financing deficit of policyholder fund of life insurer against the law.

3. A fine of from VND 60,000,000 to VND 70,000,000 shall be imposed for one of the following violations:

- a) Separating owner's equity and insurance premium of insurer/foreign branch against the law,

- b) Distributing annual surplus of funds to owners of life insurer against the law”.

**Article 2. Certain articles of Decree No. 98/2013/ND-CP dated August 28, 2013 on penalties for administrative violations in insurance business and lottery business shall be annulled:**

1. Clause 1 Article 9.

2. Point b Clause 2 Article 14.

3. Point a Clause 3 Article 23.

4. Point d Clause 6 Article 24.

5. Point b, Point c, Point d and Point dd Clause 1 Article 26.

**Article 3. Entry in force and implementation:**

1. This Decree comes into force as of May 10, 2018.

2. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of People's Committees of provinces and central-affiliated cities, and regulated entities of this Decree shall implement this Decree./.

**PP THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

---

*This translation is made by **LawSoft** and for reference purposes only. Its copyright is owned by **LawSoft** and protected under Clause 2, Article 14 of the Law on Intellectual Property. Your comments are always welcomed*