

**THE GOVERNMENT**

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No. 43/2010/ND-CP

**SOCIALIST REPUBLIC OF VIET NAM**

**Independence - Freedom – Happiness**

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*Hanoi, April 15, 2010*

**DECREE**

**ON ENTERPRISE REGISTRATION**

**THE GOVERNMENT**

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

*Pursuant to the November 29, 2005 Law on Enterprises;*

*Pursuant to the November 29, 2005 Law on Investment;*

*Pursuant to the November 29, 2006 Law on Tax Administration;*

*At the proposal of the Minister of Planning and Investment,*

**DECREES:**

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Decree provides in detail dossiers, order and procedures for registration of enterprises and business households; and specifies business registration offices and agencies in charge of state management of enterprise registration.

**Article 2. Subjects of application**

This Decree applies to the following subjects:

1. Domestic organizations and individuals and foreign organizations and individuals that make enterprise registration under Vietnamese law;
2. Individuals, groups of individuals and households that make registration of business households under this Decree;
3. Business registration offices;
4. Tax offices;
5. Other organizations and individuals involved in enterprise registration.

**Article 3. Interpretation of terms**

In this Decree, the terms below are construed as follows:

1. Enterprise registration provided in this Decree covers business registration and tax registration for enterprises established under the Law on Enterprises. Enterprise registration includes registration of the establishment of a new enterprise and registration of changes in enterprise registration.
2. Enterprise registration certificate means a written or electronic document granted by a business registration office to an enterprise, indicating information on business registration and tax registration declared by the enterprise.

An enterprise registration certificate serves concurrently as the business registration certificate and the tax registration certificate of an enterprise.

3. National enterprise registration information system means a specialized enterprise registration information system built and operated by the Ministry of Planning and Investment in coordination with concerned agencies to transmit, receive, store, display or otherwise process data for enterprise registration. The national enterprise registration information system consists of the national enterprise registration portal and the national enterprise registration database.

4. National enterprise registration portal means a website for online enterprise registration or access to enterprise registration information by organizations and individuals and used for the grant of enterprise registration certificates by business registration offices.

5. National enterprise registration database means a set of data on enterprise registrations made nationwide. Information in enterprise registration dossiers stored in the national enterprise registration database is legally valid as original information on enterprises.

#### **Article 4. Principles to be applied in carrying out enterprise registration procedures**

1. Enterprise founders shall themselves make declarations in their enterprise registration dossiers and be held responsible before law for the completeness, lawfulness, truthfulness and accuracy of information declared in these dossiers.

2. Business registration offices are responsible for the validity of enterprise registration dossiers but not responsible for violations committed by enterprises before and after enterprise registration.

3. Business registration offices will not settle disputes among members and shareholders of companies or between them and other organizations and individuals in the course of operation.

4. Coercive measures to enforce tax administrative decisions related to enterprise identification numbers shall be taken under the Law on Tax Administration and guiding documents.

#### **Article 5. The right of enterprise founders to establish enterprises and their obligation to make enterprise registration**

1. To establish enterprises in accordance with law is the right of individuals and organizations, which is protected by the State.

2. Enterprise founders are obliged to make enterprise registration under this Decree and relevant legal documents.

3. Business registration offices and other agencies are prohibited from troubling to organizations and individuals when receiving dossiers and making enterprise registration.

4. Ministries, ministerial-level agencies, People's Councils and People's Committees at all levels may not promulgate regulations on enterprise registration to be exclusively applied to their own branches or localities.

5. Enterprises shall register changes in their enterprise registrations within 10 working days after they decide on these changes, unless otherwise provided for by law.

6. Enterprises shall submit their financial statements to business registration offices under law.

#### **Article 6. Enterprise registration applications and certificates**

1. An enterprise registration application includes contents on business registration and those on tax registration.
2. Enterprise registration certificates shall be issued to enterprises operating under the Law on Enterprises. Contents of an enterprise registration certificate include those specified in Article 25 of the Law on Enterprises and Article 26 of the Law on Tax Administration and are consistent with information indicated in the enterprise registration application.
3. Forms of enterprise registration application and enterprise registration certificate shall be set by the Ministry of Planning and Investment and applied uniformly nationwide.
4. Enterprises which have been issued business registration certificates or business and tax registration certificates before the effective date of this Decree are not required to convert these certificates into enterprise registration certificates. Enterprises shall be issued new enterprise registration certificates when they register changes in their registration contents.
5. In case enterprises wish to convert their business registration certificates or business and tax registration certificates into enterprise registration certificates without changing business and tax registration contents, they shall submit their applications enclosed with original business registration certificates and original tax registration certificates or original business and tax registration certificates to business registration offices for the grant of enterprise registration certificates.

#### **Article 7. Business lines**

1. Business lines shall be written in enterprise registration certificates under level-four codes in the Vietnamese system of economic sectors, except for banned business lines.

Specific contents of sub-sectors of level-four economic sectors must comply with regulations on contents of the Vietnamese system of economic sectors promulgated by the Ministry of Planning and Investment.

The coding of business lines registered in enterprise registration certificates is only for the statistical purpose.

Based on the Vietnamese system of economic sectors, enterprise founders may select business lines and write the codes of these business lines in their enterprise registration applications. Business registration offices shall check and indicate these business lines and codes in enterprise registration certificates.

2. Conditional business lines that are stipulated in other legal documents shall be written in enterprise registration certificates according to those legal documents.
3. Business lines that are not yet included in the Vietnamese system of economic sectors but are stipulated in other legal documents shall be written in enterprise registration certificates according to those legal documents.
4. Business lines that are neither included in the Vietnamese system of economic sectors nor stipulated in other legal documents, business registration offices shall notify them to the Ministry of Planning and Investment (the General Statistics Office) for consideration and addition of new codes.
5. Conditional business lines are stipulated in laws of the National Assembly, ordinances of the National Assembly Standing Committee and decrees of the Government. It is prohibited to

stipulate conditional business lines or issue legal documents thereon ultra vires. Enterprises may conduct these business lines as soon as they fully satisfy the conditions prescribed by law. The state management of conditional business lines and inspection of satisfaction of business conditions by enterprises shall be performed by specialized agencies defined by specialized laws.

6. For business lines that require practicing certificates, conditions on the grant of relevant practicing certificates and use of these certificates in production and business operations of enterprises comply with specialized laws.

### **Article 8. Enterprise identification numbers**

1. Every enterprise shall be granted a sole identification number which is called enterprise identification number. Such an identification number serves concurrently as the business registration number and tax identification number of an enterprise.

2. An enterprise identification number will exist throughout the course of operation of the enterprise and must not be re-granted to another organization or individual. When the enterprise terminates its operation, its enterprise identification number will no longer be valid and must not be reused.

Private enterprise identification numbers comply with the tax law.

3. Enterprise identification numbers shall be stored in the national enterprise registration information system and written in enterprise registration certificates.

4. Throughout the course of operation, from the establishment to operation termination of an enterprise, an enterprise identification number shall be used for the declaration and payment of all payable taxes, even in case the enterprise conducts different business lines or production and business operations in different localities.

5. Identification numbers of affiliated units of an enterprise shall be granted to its branches, representative offices and business places.

## **Chapter II**

### **TASKS AND POWERS OF BUSINESS REGISTRATION OFFICES AND STATE MANAGEMENT OF ENTERPRISE REGISTRATION**

#### **Article 9. Business registration offices**

1. Business registration offices shall be organized in provinces and centrally run cities (below referred to as provincial level) and in urban districts, rural districts, towns and provincial cities (below referred to as district level), including:

a/ At the provincial level: Business registration offices under provincial-level Planning and Investment Departments (below referred to as provincial-level business registration offices).

For Ho Chi Minh City and Hanoi, one or two additional provincial-level business registration offices may be set up and numbered in numerical order. The setting up of additional provincial-level business registration offices shall be decided by the municipal People's Committees.

The People's Committees of Hanoi, Ho Chi Minh, Hai Phong, Da Nang and Can Tho cities shall, after reaching agreement with the Ministry of Home Affairs and the Ministry of Planning and Investment, consider and shift on a pilot basis provincial-level business registration offices to operate as non-business units with revenues.

b/ At the district level: Business registration offices shall be set up in urban districts, rural districts, towns and provincial cities in which the number of newly registered business households and cooperatives is 500 or more on annual average in the last two years.

For localities in which no district-level business registration office is set up, district-level People's Committees shall assign their finance-planning divisions to carry out business registration for business households stipulated in Article 11 of this Decree (below collectively referred to as district-level business registration offices).

2. Provincial- and district-level business registration offices have their own bank accounts and seals.

#### **Article 10. Tasks, powers and responsibilities of provincial-level business registration offices**

1. To directly receive enterprise registration dossiers; check the validity of enterprise registration dossiers, and grant or refuse to grant enterprise registration certificates.

2. To coordinate with one another in the development, management and operation of the national enterprise registration information system: to transfer data from local business registration databases to the national enterprise registration database: to provide information on enterprise registration within their localities to provincial-level People's Committees, local tax departments, concerned agencies and inquiring organizations and individuals.

3. To request enterprises to report on their business performance as provided for at Point c, Clause 1. Article 163 of the Law on Enterprises: and urge enterprises to implement the annual report regime.

4. To directly inspect or propose competent state agencies to inspect enterprises against the contents in their enterprise registration dossiers: to provide guidance on dossier, order and procedures for business household registration to district-level business registration offices: to provide guidance on dossier, order and procedures for enterprise registration to enterprises and enterprise founders.

5. To request enterprises to temporarily cease conditional business lines when finding out that they fail to fully satisfy the conditions as prescribed by law. and concurrently notify such to competent state agencies for handling under law.

6. To revoke enterprise registration certificates in the cases specified in Article 59 of this Decree.

7. To carry out registration for enterprises of other types as provided for by law.

#### **Article 11. Tasks, powers and responsibilities of district-level business registration offices**

1. To directly receive business household registration dossiers; check the validity of these dossiers, and grant or refuse to grant business household registration certificates.

2. To coordinate with one another in the development, management and operation of information systems for business households operating in their localities; to periodically report to district-level People's Committees, provincial-level business registration offices, and district level tax offices on business households in their localities.

3. To directly inspect business households in their localities against the contents in registration dossiers: to coordinate with competent state agencies in inspecting enterprises; to verify the

contents of business registration of enterprise-; and their branches and representative offices in their localities at the request of provincial-level business registration offices.

4. To request business households to report on their business performance when necessary

5. To request business households to temporarily cease conditional business lines when finding out that they fail to fully satisfy the conditions as required by law; and to concurrently notify such to competent state agencies for handling under law.

6. To revoke business household registration certificates in the cases specified in Article 61 of this Decree.

7. To carry out registration for enterprises of other types under law.

## **Article 12. State management of enterprise registration**

1. Tasks, powers and responsibilities of the

Ministry of Planning and Investment:

a/ To promulgate according to its competence or submit to competent authorities for promulgation legal documents on enterprise registration and business household registration; guiding documents on professional knowledge and operations, forms and reporting regime to serve the enterprise registration, business household registration and online registration;

b/ To provide professional guidance, training and retraining on enterprise registration for enterprise registration officers;

c/. To organize the development and management of the national enterprise registration information system to serve enterprise registration operations nationwide; to provide information on enterprise registration to concerned agencies of the Government or to inquiring organizations and individuals; to guide provincial-level business registration offices in transferring data to the national enterprise registration database. Funds for the operation of and development investment in the national enterprise registration information system come from the state budget and other sources;

d/ To assume the prime responsibility for, and coordinate with the Ministry of Finance in making the connection between the enterprise registration information and tax information systems;

e/ To distribute enterprise information publications containing information on enterprise registration and the setting up of branches and representative offices of enterprises nationwide;

f/ To perform international cooperation in enterprise registration.

2. Tasks, powers and responsibilities of the Ministry of Finance:

a/ To coordinate with the Ministry of Planning and Investment in making the connection between the national enterprise registration information and tax information systems for the purpose of granting enterprise identification numbers for use in enterprise registration and information exchange. To create and transfer enterprise identification numbers to the Ministry of Planning and Investment for subsequent transfer to provincial-level business registration offices for grant to enterprises:

b/ To assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding the collection and use of fees for enterprise or business household

registration, registration of the setting up of branches, representative offices or business places, and provision of enterprise registration information.

3. The Ministry of Home Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in guiding the organization and personnel of central, provincial- and district-level business registration offices; and setting criteria for business registration officers and managerial posts in the system of business registration offices.

4. The Ministry of Public Security shall assume the prime responsibility for, and coordinate with concerned ministries and branches in, guiding the verification of personal identities of enterprise founders and managers.

5. The Ministry of Culture, Sports and Tourism shall issue documents guiding the naming of enterprises not contrary to the history, culture, ethics and fine customs and traditions of the nation and the use of the names of great personalities in naming enterprises.

6. Ministries, ministerial-level agencies and government-attached agencies shall, within the ambit of their functions and tasks, guide conditional business lines and conditions for conducting these business lines; post on their websites the list of conditional business lines and send this list to the Ministry of Planning and Investment for posting on the national enterprise registration portal.

7. Provincial-level People's Committees shall perform the state management of enterprises and enterprise registration as provided in Article 162 of the Law on Enterprises.

### **Chapter III**

#### **REGISTRATION OF NAMES OF ENTERPRISES**

##### **Article 13. Names of enterprises**

1. Enterprise names must be written in Vietnamese and pronounceable, may include letters F, J, Z and W, numerals and symbols, and consists of the following two elements:

a/ Type of enterprise, including limited liability company, in which the phrase limited 'liability' {trach nhien huu han) can be abbreviated to 'TNHH'; joint-stock company, in which the word 'joint-stock' (cophan) can be abbreviated to 'CP'; partnership company, in which the word 'partnership' {hop danh) can be abbreviated to 'HD'; private enterprise, in which the word 'private' (tu nhan) can be abbreviated to 'TN'.

b/ Proper name of enterprise;

2. An enterprise can use its business line and investment form to form its proper name, provided that it has registered that business line or invested in that form.

3. Names of state economic groups shall be decided by the Prime Minister.

##### **Article 14. Prohibitions in enterprise naming**

1. An enterprise is not allowed to have a name which is identical or confusingly similar to that of another enterprise which has been registered nationwide, except enterprises with revoked enterprise registration certificates and dissolved enterprises. This provision will apply from January 1, 2011.

From the effective date of this Decree to December 31, 2010, the prevention of identical and confusing similar enterprise names shall be conducted within provinces and centrally run cities.

2. It is prohibited to use names of state agencies, people's armed forces units, political or socio-political organizations to form part or the whole of proper names of enterprises, unless it is permitted by those agencies, units or organizations.

3. It is prohibited to use words and signs in violation of historical and cultural traditions, ethics and fine customs of the nation and great personalities' names to form proper names of enterprises.

#### **Article 15. Identical names and confusingly similar names**

1. Having an identical name is the case in which the name of an enterprise applying for registration is written and read in Vietnamese in completely the same way as the name of a registered enterprise.

2. In the following cases, an enterprise name shall be considered confusingly similar to that of another enterprise:

a/ The name in Vietnamese of the enterprise applying for registration is read in the same way as the name of a registered enterprise:

b/ The name in Vietnamese of the enterprise applying for registration differs from the name of a registered enterprise only in the symbol "&"; the dash "-" or the word "and";

c/ The abbreviated name of the enterprise applying for registration is identical to that of a registered enterprise;

d/ The name in a foreign language of the enterprise applying for registration is identical to the name in that foreign language of a registered enterprise;

e/ The proper name of the enterprise applying for registration differs from that of a registered enterprise in one or several cardinal number(s), ordinal number(s). or one or several Vietnamese letter(s) (A. B. C,...) which stand(s) right after the enterprise name, unless the enterprise applying for registration is a subsidiary of the registered enterprise;

f/ The proper name of the enterprise applying for registration differs from that of a registered enterprise in the word "tan" (new) standing in front of or "mo/" (new) after the name of a registered enterprise;

g/ The proper name of the enterprise applying for registration differs from that of a registered enterprise only in the words meaning Northern. Southern. Central. Western. Eastern or words of similar meaning, unless the enterprise applying for registration is a subsidiary of the registered enterprise;

h/ The proper name of the enterprise is identical to that of a registered enterprise.

#### **Article 16. Other issues related to enterprise naming**

1. Enterprises that have registered their names in compliance with Decree No. 88/2006/ND-CP but not in compliance with Clause 1. Article 14 of this Decree are not required to register for renaming. Enterprises with identical or confusingly similar names are encouraged and facilitated to negotiate with one another and register to change their names or add geographical names as an element distinctive of their names.

2. Before registering their names, enterprises should refer to the names of all enterprises currently in operation on the national enterprise registration database.

3. Business registration offices may accept or reject proposed enterprise names in compliance with law and their decisions are final.

### **Article 17. Handling of cases in which enterprise names violate industrial property regulations**

1. It is prohibited to use trade names, marks or geographical indications of organizations and individuals already under protection to form proper names of enterprises, unless consent of owners of those trade names, marks or geographical indications is obtained. Before registering their names, enterprises may refer to registered marks or geographical indications already on the database on marks and geographical indications operated by the National Office of Industrial Property of the Ministry of Science and Technology.

2. Bases for identifying an enterprise name infringing upon industrial property rights comply with the law on intellectual property.

Enterprises shall be held responsible before law for naming themselves in violation of intellectual property regulations. In case an enterprise name violates regulations on protection of industrial property rights, the enterprise bearing that name shall register for change of its name.

3. Industrial property owners may request business registration offices to request enterprises whose names infringe upon their industrial property rights to change their names as appropriate. Industrial property owners shall supply to business registration offices necessary documents specified in Clause 4 of this Article.

4. Business registration offices shall issue notices requesting infringing enterprises to change their names upon being notified by industrial property owners of infringements upon industrial property rights. Enclosed with a notice of an industrial property owner must be the following:

a/ A true copy of a competent agency's written conclusion that the use of the enterprise name infringes upon industrial property rights;

b/ A true copy of the mark or geographical indication registration certificate or an excerpt of the national register of marks and geographical indications granted by the National Office of Intellectual Property for a mark or geographical indication; a true copy of the certificate of internationally registered mark protected in Vietnam or a copy of the international mark official gazette of the World Intellectual Property Organization or the industrial property official gazette with certification by the National Office of Intellectual Property for an internationally registered mark; a document proving that the trade name is used lawfully and continuously before the disputed enterprise name is registered.

5. Within 10 working days after receiving all papers specified in Clause 4 of this Article, a business registration office shall issue a notice requesting the enterprise with the infringing name to change that name and carry out renaming procedures within 2 months after the notice is issued. Past that time limit, if the enterprise fails to change its name as requested, the business registration office shall notify the case to a competent state agency for handling under the law on intellectual property.

### **Article 18. Names of branches, representative offices and business places**

1. Names of branches, representative offices and business places must be written in Vietnamese and pronounceable, and may include letters F, J, Z and W, numerals and symbols.

2. The name of a branch, representative office or business place must bear the enterprise name followed by the word "branch" (*chi nhanh*) for registration of the setting up of a branch, or the phrase "representative office" (*van phong dai dien*) for registration of the setting up of a representative office, or the organizational form of the business place.
3. Names of state enterprises transformed into dependent accounting units to meet reorganization requirements may be kept intact.

#### **Chapter IV**

### **DOSSIERS. ORDER AND PROCEDURES FOR ENTERPRISE REGISTRATION, REGISTRATION OF OPERATION OF BRANCHES AND REPRESENTATIVE OFFICES**

#### **Article 19. Enterprise registration dossier for a private enterprise**

1. An application for enterprise registration;
2. A valid copy of any of lawful personal identification papers of the private enterprise owner specified in Article 24 of this Decree;
3. Written certification of legal capital, issued by a competent agency or organization, for enterprises conducting business lines for which legal capital is required by law;
4. Valid copies of practicing certificates of one or several persons as required for enterprises conducting business lines for which practicing certificates are required by law.

#### **Article 20. Enterprise registration dossier for a limited liability company with two or more members, joint-stock company or partnership**

1. An application for enterprise registration;
2. The draft company charter, which must bear all signatures of general partners, for partnerships; of the representative at law and members or their authorized representatives; for limited liability companies with two or more members; of the representative at law and founding shareholders or their authorized representatives, for joint-stock companies. Members or founding shareholders shall take joint responsibility for the lawfulness of the company charter;
3. A list of members, for limited liability companies with two or more members and partnerships; or a list of founding shareholders, for joint-stock companies, made according to the form set by the Ministry of Planning and Investment. The list of members or list of founding members shall be enclosed with the following:
  - a/ A valid copy of any of lawful personal identification papers specified in Article 24 of this Decree, of founding members or founding shareholders who are individuals;
  - b/ A copy of the establishment decision; business registration certificate or enterprise registration certificate or an equivalent document: a valid copy of any of the personal identification papers of the authorized representative as specified in Article 24 of this Decree and the relevant authorization decision for founding members or founding shareholders that are legal entities.
4. Written certification of legal capital, issued by a competent agency or organization, for companies conducting business lines for which legal capital is required by law:

5. Valid copies of practicing certificates of general partners, for partnerships, of one or several individuals, for limited liability companies and joint-stock companies, in case these companies conduct business lines for which practicing certificates are required by law.

**Article 21. Enterprise registration dossier for a one-member limited liability company**

1. An application for enterprise registration;
2. The draft company charter, which must bear all signatures of the owner and the representative at law of the company in case the company owner is an individual: authorized representatives and representative at law in case the company owner is an organization. The company owner shall take responsibility for the lawfulness of the company charter;
3. A valid copy of any of personal identification papers specified in Article 24 of this Decree of the company owner who is an individual, or the establishment decision, business registration certificate, enterprise registration certificate or an equivalent document, the charter or an equivalent document of the company owner that is an organization (unless the company owner is the State);
4. A list of authorized representatives, for one- member limited liability companies organized and managed under Clause 3. Article 67 of the Law on Enterprises, made according to the form set by the Ministry of Planning and Investment. This list shall be enclosed with a valid copy of any of personal identification papers of each authorized representative as specified in Article 24 of this Decree.

A valid copy of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree for a one-member limited liability company organized and managed under Clause 4 Article 67 of the Law on Enterprises;

5. An authorization document issued by the company owner for the authorized representative, for companies whose owners are organizations;
6. Written certification of legal capital, issued by a competent agency or organization, for companies conducting business lines for which legal capital is required by law;
7. Valid copies of practicing certificates of one or several individuals required for companies conducting business lines for which practicing certificates are required by law.

**Article 22. Enterprise registration dossiers for companies established on the basis of division, separation or consolidation, and for merging companies**

1. In case a limited liability company or joint-stock company is divided into several companies of the same type, in addition to the papers specified in Articles 20 and 21 of this Decree, the enterprise registration dossier must comprise the company division decision as specified in Article 150 of the Law on Enterprises, the minutes of the Members' Council meeting, for limited liability companies with two or more members, the minutes of the Shareholders' General Meeting, for joint-stock companies, on the company division, and a valid copy of the business registration certificate or enterprise registration certificate or an equivalent paper of the company.
2. In case one or several new companies of the same type is/are formed by separation from an existing limited liability company or joint-stock company, in addition to the papers specified in Articles 20 and 21 of this Decree, the enterprise registration dossier of the separated company

must comprise the company separation decision as specified in Article 151 of the Law on Enterprises, the minutes of the Members' Council meeting, for limited liability companies with two or more members, the minutes of the Shareholders' General Meeting, for joint-stock companies, on the company separation, and a valid copy of the business registration certificate or enterprise registration certificate or an equivalent paper of the company.

3.. In case several companies of the same type are consolidated into a new company, in addition to the papers specified in Articles 20 and 21 of this Decree, the enterprise registration dossier must comprise the company consolidation contract as specified in Article 152 of the Law on Enterprises, the minutes and decision of the Members' Council meeting, for limited liability companies with two or more members, the minutes and decision of the Shareholders' General Meeting, for joint-stock companies on consolidation, for joint-stock companies, and business registration certificates or enterprise registration certificates or equivalent papers of all consolidated companies.

4.. In case one or several companies are merged into another company of the same type, in addition to the papers specified in Chapter V of this Decree, the enterprise registration dossier of the merging company must additionally comprise the merger contract as specified in Article 153 of the Law on Enterprises, the minutes and decision of the Members' Council meeting, for limited liability companies with two or more members, the minutes of the Shareholders' General Meeting on merger, for joint-stock companies, and business registration certificates or enterprise registration certificates of the merging company and all merged companies.

The announcement of the establishment of a new enterprise shall be published concurrently with the announcement of termination of the old enterprise's operation and the settlement of relevant rights and obligations.

### **Article 23. Enterprise registration dossiers for cases of enterprise transformation**

1. In case of transformation of a one-member limited liability company into a limited liability company with two or more members, a transformation registration dossier comprises:

a/ An application for enterprise transformation:

b/ The charter of the new company as specified in Article 22 of the Law on Enterprises;

c/ A list of members, made according to a form set by the Ministry of Planning and Investment, and a valid copy of any of personal identification papers of individual company members as specified in Article 24 of this Decree, and copies of business registration certificates or enterprise registration certificates of institutional company members;

d/ The transfer contract or written certification of donation of part of the company ownership in case the company owner transfers or donates part of his/her company ownership to one or several other individuals; the company owner's decision on mobilization of capital contributions from one or several other individuals.

When receiving the enterprise registration certificate of the new company, the company shall return the original enterprise registration certificate or an equivalent paper of the transformed company.

2. In case of transformation of a limited liability company with two or more members into a one-member limited liability company, a transformation registration dossier comprises:

- a/ An application for enterprise transformation;
- b/ The charter of the new company as specified in Article 22 of the Law on Enterprises;
- c/ A valid copy of the establishment decision or the enterprise registration certificate or an equivalent paper of institutional company owners or a copy of any of other personal identification papers specified in Article 24 of this Decree of individual company owners;
- d/ A list of authorized representatives, for one-member limited liability companies organized under Clause 3, Article 67 of the Law on Enterprises; a copy of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree, for one-member limited liability companies organized under Clause 4. Article 67 of the Law on Enterprises.
- e/ The contract on transfer of capital contributions within the company;
- f/ A written decision and a copy of the minutes of the Members' Council meeting on the company transformation.

When receiving the enterprise registration certificate of the new company, the company shall return the original enterprise registration certificate or an equivalent paper of the transformed company.

3. In case of transformation of a private enterprise into a limited liability company, a transformation registration dossier comprises:

- a/ An application for enterprise transformation;
- b/ The charter of the company;
- c/ A list of creditors and unpaid debts, including also tax arrears, and payment deadlines: a list of existing employees: and a list of unliquidated contracts:
- d/ A list of members as specified in Article 23 of the Law on Enterprises, for transformation of private enterprises into limited liability companies with two or more members: a valid copy of any of personal identification papers of individual company members as specified in Article 24 of this Decree, or copies of business registration certificates or enterprise registration certificates of institutional company members;
- e/ The private enterprise owner's written commitment to bear personal liability for all unpaid debts of the private enterprise with all his/her assets and commitment to fully pay due debts:
- f/ Written agreements with parties to unliquidated contracts on the receipt and performance of these contracts by the new limited liability company;
- g/ The private enterprise owner's written commitment or an agreement between the private enterprise owner and other capital contributors on the receipt and employment of existing employees of the private enterprise.

When receiving the enterprise registration certificate of the new company, the enterprise shall return the original enterprise registration certificate or an equivalent paper of the transformed enterprise.

4. In case of transformation of a limited liability company into a joint-stock company or vice versa, a transformation registration dossier comprises:

- a/ An application for enterprise transformation;

b/ The company owner's decision or decision and minutes of the Members' Council meeting or the Shareholders' General Meeting on the company transformation:

c/ The charter of the company after transformation:

d/ A list of members or a list of founding shareholders or general shareholders and papers specified in Clause 3, Article 19 of the Law on Enterprises;

e/ The contract on transfer of capital contributions or an agreement on investment capital contribution.

When receiving the enterprise registration certificate of the new company, the company shall return the original enterprise registration certificate or an equivalent paper of the transformed enterprise.

#### **Article 24. Personal identification papers in an enterprise registration dossier**

1. Valid identity card or passport, for Vietnamese citizens.

2. Any of the following papers that is still valid, for overseas Vietnamese:

a/ Vietnamese passport;

b/ Foreign passport (or a paper that can substitute the foreign passport) and any of documents evidencing the Vietnamese origin of overseas Vietnamese.

3. Temporary residence registration certificate granted by a competent Vietnamese agency and a valid passport, for foreigners permanently residing in Vietnam.

4. Valid passport, for foreigners not permanently residing in Vietnam.

#### **Article 25. Receipt of enterprise registration dossiers**

1. Enterprise founders or their authorized representatives shall submit complete dossiers as specified in this Decree to provincial-level business registration offices in the localities where their enterprises are headquartered.

2. An enterprise registration dossier shall be received for inputting information into the national enterprise registration information system when:

a/ It comprises all papers specified in this Decree;

b/ The enterprise name is indicated in the enterprise registration application or enterprise transformation application;

c/ The address of the enterprise registration dossier submitter is indicated;

d/ The enterprise registration fee is paid under regulations.

3. Upon receipt of dossiers, business registration offices shall hand dossier receipt slips to dossier submitters.

4. After receiving enterprise registration dossiers, business registration offices shall check the validity of these dossiers and input adequate and accurate information in enterprise registration dossiers into the national enterprise registration information system.

In case dossiers are invalid or names of enterprises to be registered are incompliant with regulations, business registration offices shall clearly notify in writing contents to be modified or supplemented to enterprise founders within 5 working days after receiving the dossiers.

In case of online enterprise registration, business registration offices shall inform via the net enterprise registrants of the time of notifying enterprise registration results or contents to be supplemented or modified (if any).

#### **Article 26. Process of coordination in the creation and grant of enterprise identification numbers**

When enterprise registration dossiers satisfy the prescribed conditions for the grant of enterprise registration certificates, information on enterprise registration dossiers shall be transferred to the database of the General Department of Taxation (the Ministry of Finance). Within 2 working days after receiving information from the national enterprise registration database, the General Department of Taxation shall create enterprise identification numbers and transfer them to the national enterprise registration database to be granted by provincial-level business registration offices to enterprises. Information on the grant of enterprise registration certificates shall be transferred to the General Department of Taxation.

In case the General Department of Taxation refuses to grant enterprise identification numbers, it shall notify such to the Ministry of Planning and Investment, clearly stating reasons; for subsequent notification by provincial-level business registration offices to enterprises.

#### **Article 27. Online enterprise registration**

1. Online enterprise registration means enterprise registration conducted by enterprise founders through the national enterprise registration portal.
2. Business registration offices shall receive and examine dossiers, guide the modification and supplementation of dossiers and notify results of processing of enterprise registration procedures through the national enterprise registration information system.
3. In case enterprise founders have no e-signatures, online enterprise registration may be conducted according to the following procedures: After enterprise registration dossiers are accepted on the national enterprise registration information system, enterprises shall print out the certification of online submission of their enterprise registration dossiers from the system. Enterprises' representatives at law shall sign on the certification of online submission of their enterprise registration dossiers and send such certification to provincial-level business registration offices in localities where their enterprises are located. After receiving the certification of online submission of enterprise registration dossiers, provincial-level business registration offices shall examine the dossiers and grant enterprise registration certificates to enterprises.
4. Enterprise registration dossiers submitted through the national enterprise registration portal are legally valid as paper dossiers.

#### **Article 28. Time limit for grant of enterprise registration certificates**

Within 5 working days after receiving valid dossiers, provincial-level business registration offices shall grant enterprise registration certificates to applying enterprises, or carry out registration of changes in enterprise registration, division, separation, merger, consolidation or

transformation, registration of operation of branches or representative offices or notification of the setting up of business places of enterprises.

Past that time limit, if they receive neither an enterprise registration certificate nor a request for modification or supplementation of their enterprise registration dossiers, enterprise founders may lodge a complaint under the law on complaints and denunciations.

#### **Article 29. Grant of enterprise registration certificates**

1. Enterprises shall be granted enterprise registration certificates if they satisfy all the conditions specified in Article 24 of the Law on Enterprises.
2. Enterprises may receive enterprise registration certificates directly at business registration offices or register and pay a fee for receiving enterprise registration certificates via delivery service.
3. From the date of receiving enterprise registration certificates, all enterprises may commence their business operations, except those engaged in conditional business lines.
4. Enterprises may request business registration offices to grant copies of enterprise registration certificates and shall pay a fee as prescribed.
5. When receiving new enterprise registration certificates in case of registration of changes in enterprise registration, enterprises shall return old enterprise registration certificates or old business registration certificates or other equivalent papers.

#### **Article 30. Correction of information in enterprise registration certificates**

1. Upon detecting that contents of an enterprise registration certificate are inconsistent with those of the enterprise registration dossier, an enterprise may send a notice requesting the business registration office to correct contents of the enterprise registration certificate to be consistent with the submitted enterprise registration dossier.
2. Business registration offices shall receive notices, examine dossiers and re-grant enterprise registration certificates to enterprises within 2 working days after receiving the notices, provided information in such notices is accurate.

#### **Article 31. Provision of information on enterprise registration contents**

1. Periodically in the second week every month, provincial-level business registration offices shall send lists of enterprises registered in the last month enclosed with their information to agencies that manage economic and technical branches at the same level and district-level business registration offices. In localities where information technology infrastructure conditions permit, exchange of information on enterprise registration may be made online.
2. Organizations and individuals may request business registration offices to provide information on enterprise registration stored in the national enterprise registration information system and shall pay a fee as prescribed.

#### **Article 32. Enterprise registration fee**

1. Enterprise founders shall pay an enterprise registration fee at the time of submitting enterprise registration dossiers. This fee may be paid directly at business registration offices or remitted into accounts of business registration offices. It will not be refunded to enterprises that are not granted enterprise registration certificates.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding the fee levels and the use of the fee for the registration of enterprises and business households to partially pay expenses for the operation of business registration offices. The level of retention of the fee by business registration offices must not be lower than 50% of the total collected fee amount. The enterprise registration fee level shall be uniformly applied nationwide.

**Article 33. Registration of the operation of branches or representative offices, and notification of the setting up of business places**

1. Dossiers of registration of the operation of branches or representative offices:

Upon setting up a branch or representative office, an enterprise shall send a notice of such setting-up to the provincial-level business registration office of the locality where the enterprise locates its branch or representative office. Such a notice has the following details:

- a/ Enterprise identification number;
- b/ Name and address of the head office of the enterprise;
- c/ Name of the branch or representative office to be set up;
- d/ Address of the branch or representative office;
- e/ The field and scope of operation of the branch or representative office;
- f/ Full name, residence, identity card or passport number or other legal personal identification papers as specified in Article 24 of this Decree, of the head of the branch or representative office;
- g/ Full name and signature of the representative at law of the enterprise.

The notice specified in this Clause must be enclosed with:

- A written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the company owner or the Members' Council or the company president, for one-member limited liability companies; of the Board of Directors, for joint-stock companies; or of general partners, for partnerships, on the setting up of a branch or representative office;
- A valid copy of the decision appointing the head of the branch or representative office;
- A valid copy of any of personal identification numbers specified in Article 24 of this Decree of the head of the branch or representative office;

With regard to branches planned to conduct business lines that require a practicing certificate, a valid copy of the practicing certificate of the head of the branch or another concerned person shall be included under specialized laws.

2. Notification of the setting up of business places:

Business places of enterprises can be outside their registered head offices. Enterprises may only set up business places in provinces or centrally run cities where their head offices or branches are based. Within 10 working days after making decisions to set up their business places, enterprises shall send notices of business places to provincial-level business registration offices. Such a notice has the following details:

- a/ Enterprise identification number;

b/ Name and address of the head office of the enterprise, name and address of the branch (in case the business place is attached to the branch);

c/ Name and address of the business place;

d/ The field of operation of the business place;

e/ Full name, residence, identity card or passport number or another legal personal identification paper specified in Article 24 of this Decree, of the head of the business place;

f/ Full name and signature of the representative at law of the enterprise.

3. After receiving valid dossiers of enterprises, provincial-level business registration office shall input information into the national enterprise registration information system to request identification numbers for branches, representative offices or business places, then grant branch or representative office operation registration certificates, or add business place addresses in the enterprise registration certificates or branch operation registration certificates of enterprises.

4. In case an enterprise sets up a branch or representative office outside the province or city where its head office is based, within 7 working days after being granted a branch or representative office operation registration certificate, it shall send a written notice thereof to the provincial-level business registration office of the locality where its head office is based in order to be added to the enterprise registration dossier and will be re-granted an enterprise registration certificate.

5. The setting up of overseas branches or representative offices by enterprises must comply with the laws of host countries.

Within 30 working days after officially opening an overseas branch or representative office, an enterprise shall send a notice thereof to the business registration office where it has registered its business. Such a notice shall be enclosed with a valid copy of the operation registration certificate of the branch or representative office or equivalent documents to be added to the enterprise registration dossier so that the enterprise shall be re-granted an enterprise registration certificate.

## **Chapter V**

### **DOSSIERS, ORDER AND PROCEDURES FOR REGISTRATION OF CHANGES IN ENTERPRISE REGISTRATION**

#### **Article 34. Registration of addition or change of business lines**

1. In case of change of its business line, an enterprise shall send a notice to the business registration office with which it has registered its business. Such a notice has the following details:

a/ The enterprise's name, identification number, tax identification number or the number of its business registration certificate (for enterprises having no identification number and tax identification number);

b/ The business line registered to be added or changed;

c/ The full name and signature of the enterprise's representative at law.

If the business line that is added or changed requires legal capital, a competent agency's written certification of the enterprise's legal capital shall be enclosed.

If the business line that is added or changed requires a practicing certificate, valid copies of practicing certificates of one or several persons defined in specialized laws shall be enclosed.

The notice shall be enclosed with the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the Shareholders' General Meeting, for joint-stock companies; of general partners, for partnerships; the decision of the company owner, for one-member limited liability companies, on the addition or change of the business line. Changes in the company charter must be clearly indicated in the decision and the meeting minutes.

2. Upon receipt of the notice, the business registration office shall issue a receipt and register the business line addition or change for the enterprise.

### **Article 35. Registration of change of addresses of enterprises' head offices**

1. Before registering the change of the address of its head office, an enterprise shall carry out relocation procedures with a tax office under the tax laws.

2. When relocating its head office to another place within the same province or centrally run city, an enterprise shall send a notice thereof to the business registration office with which it has registered its business. Such a notice has the following details:

a/ The enterprise's name, identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The address of the planned new head office:

c/ The full name and signature of the enterprise's representative at law.

This notice shall be enclosed with the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the Shareholders' General Meeting, for joint-stock companies; of general partners, for partnerships; the decision of the company owner, for one-member limited liability companies. Changes in the company charter must be clearly indicated in the decision and the meeting minutes.

Upon receipt of the notice, the business registration office shall issue a receipt and register the head office address change for the enterprise.

3. When relocating its head office to another province or city, the enterprise shall send a notice to the business registration office of the locality where it plans to base its new head office. Such a notice has the following details:

a/ The enterprise's name, identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The address of the planned new head office:

c/ The full name, the number of the identity card, passport or another lawful personal identification paper as specified in Article 24 of this Decree, the permanent residence address and signature of the enterprise's representative at law.

The notice sent to the business registration office of the locality where the enterprise plans to base its new head office shall be enclosed with copy of the amended company charter and the list

of members, for limited liability companies with two or more members; the list of authorized representatives, for one-member limited liability companies that are organized and managed under Clause 3, Article 67 of the Enterprise Law; the list of founding shareholders, for joint-stock companies; the list of general partners, for partnerships; the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the Shareholders General Meeting, for joint-stock companies; of general partners, for partnerships; or the decision of the company owner, for one-member limited liability companies.

Upon receipt of the notice, the business registration office of the locality where the enterprise plans to base its new head office shall issue a receipt, register the relocation of the head office and re-grant an enterprise registration certificate to the enterprise.

Within 5 working days after re-granting an enterprise registration certificate to the enterprise, the business registration office of the locality where the enterprise bases its new head office shall send a copy of the new enterprise registration certificate to the business registration office with which the enterprise previously registered its business.

4. Change of the address of an enterprise's head office does not alter the rights and obligations of the enterprise.

#### **Article 36. Registration of change of enterprise names**

1. In case of change of its name, an enterprise shall send a notice to the business registration office that has granted an enterprise registration certificate to it. Such a notice must contain the following details:

a/ The enterprise's current name, identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number):

b/ The expected new name:

c/ The full name and signature of the enterprise's representative at law.

This notice shall be enclosed with the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the Shareholders General Meeting, for joint-stock companies; of general partners, for partnerships; the decision of the company owner, for one-member limited liability companies. Changes in the company charter must be clearly indicated in the decision and the meeting minutes.

2. Upon receipt of the notice, the business registration office shall issue a receipt and register the change of the enterprise's name if the enterprise's new name is not against regulations on enterprise naming.

3. Change of an enterprise's name does not alter the rights and obligations of this enterprise.

#### **Article 37. Registration of change of general partners**

When a partnership admits a new general partner or terminates the membership of a general partner under Clauses 1. 2 and 3. Article 138 of the Enterprise Law. it shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

1. The enterprise's name, identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number):
2. The full name, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, and the permanent residence address of the new general partner or the one whose membership is terminated;
3. The signatures of all general partners or authorized general partners, except partners whose membership is terminated:
4. Amendments to the company's charter.

Enclosed with the notice must be a copy of the identity card or passport or another personal identification paper of the new general partner as specified in Article 24 of this Decree.

Upon receipt of the notice, the business registration office shall issue a receipt and register the general partner change for the partnership.

### **Article 38. Registration of change of representatives at law of limited liability companies or joint-stock companies**

In case a limited liability company or joint-stock company changes its representative at law. it shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

1. The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);
2. The full names, the numbers of identity cards, passports or other legal personal identification papers as specified in Article 24 of this Decree, posts and permanent residence addresses of the incumbent representative at law and the successive representative at law of the company;
3. The full name and signature of the chairman of the Members' Council, for limited liability companies with two or more members; of the company owner or chairman of the Members' Council or the company president, for one-member limited liability companies; or of the chairman of the Board of Directors, for joint-stock companies. If the chairman of the Members' Council, the president of the company or the chairman of the Board of Directors has absconded from his/her residence, is held in custody, suffers a mental disease or other ailments which render him/her unable to perceive or control him/herself or refuses to sign the company's notice, the notice must contain the full names and signatures of the members of the Members' Council or the company owner or the members of the Board of Directors, who have attended and unanimously voted for the change of the company's representative at law.

The notice must be enclosed with the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members, of the Shareholders General Meeting, for joint-stock companies in case the change of the company's representative at law leads to no change in the company charter, or of the Board of Directors, for joint-stock companies in case the change of the company's representative at law leads to no change in the company charter: the decision of the company owner, for one-member limited liability companies, on the change of the representative at law; a copy of the identity card or passport or

another personal identification paper of the substitute for the company's representative at law as specified in Article 24 of this Decree.

Changes in the company charter shall be clearly indicated in the decision and the minutes of the meeting of the Members' Council or the Shareholders' General Meeting, or the decision of the company owner.

Upon receipt of the notice, the business registration office shall issue a receipt and register the change of the representative at law of the limited liability company or joint-stock company.

### **Article 39. Registration for change of investment capital of private enterprise owners**

In case of increase or decrease in the registered investment capital, the owner of a private enterprise shall send a notice on the change to the business registration office with which the enterprise has registered its business. Such a notice must contain the following details:

1. The enterprise's name, identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);
2. The registered investment capital, new investment capital level and the time of investment capital change;
3. The full name and signature of the private enterprise owner:

Upon receipt of the notice, the business registration office shall issue a receipt and register the investment capital change for the enterprise.

### **Article 40. Registration of change of charter capital or in capital contribution proportions**

1. In case of increase or decrease in its charter capital or change in its capital contribution proportions, a company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The full name, address, nationality, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree or the number of the establishment decision and enterprise identification number of each member, for limited liability companies with two or more members, of the owner and the authorized person, for one-member limited liability companies, of founding shareholders, for joint-stock companies, of general partners, for partnerships;

c/ The capital contribution proportion of each member, for limited liability companies with two or more members, or of each founding shareholder, for joint-stock companies, or the authorized ownership proportion of each authorized representative, for one-member limited liability companies organized and managed under Clause 3, Article 67 of the Law on Enterprises:

d/ The registered charter capital and the proposed new charter capital: the time and form of capital increase or reduction:

e/ The full name, nationality, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, the permanent residence address

and signature of the representative at law of the company or of the authorized general partner, for partnerships, of the chairman of the Members'

Council, for limited liability companies, of the chairman of the Board of Directors, for joint-stock companies.

The notice must be enclosed with the written decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members, of the Shareholders General Meeting, for joint-stock companies; the decision of the company owner, for one-member limited liability companies on the change of charter capital of the company. Changes in the company charter shall be clearly indicated in the decision, and the minutes of the meeting of the Members' Council or Shareholders General Meeting and the decision of the company owner.

In case of charter capital reduction, the enterprise shall make a commitment to ensure the payment of all debts and other asset liabilities after the capital reduction, and attach the notice with the latest financial statement available following the time of decision to reduce its charter capital. For a company with foreign-owned capital accounting for more than 50%. its financial statement shall be verified by an independent auditor.

Upon receipt of the notice, the business registration office shall issue a receipt and register the capital increase or reduction for the company.

2. Registration of charter capital increase or reduction does not apply to one- member limited liability companies.

3. In case of capital reduction for enterprises conducting business lines that require legal capital, registration of charter capital reduction shall be effected for enterprises only when their registered capital level after the reduction is not lower than the legal capital level applicable to such business lines.

4. Charter capital of a joint-stock company is exclusive of the value of shares allowed to be offered for sale.

#### **Article 41. Registration of change of founding shareholders of joint-stock companies**

1. Registration of change of founding shareholders of a joint-stock company in the case specified in Clause 3, Article 84 of the Law on Enterprises:

The company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number):

b/ The name, head office address, enterprise identification number or number of establishment decision, for institutional founding shareholders, or the full name, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, for individual founding shareholders who fail to fulfill their capital contribution commitments and their uncontributed capital portions:

c/ The name, head office address, enterprise identification number or number of establishment decision, for institutions, or the full name, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, for individuals who

make additional capital contribution and the capital contribution portion after additional contribution.

d/ The full name, number of the identity card.

passport or another legal personal identification paper as specified in Article 24 of this Decree and signature of the representative at law of the company;

The notice shall be enclosed with the written decision, a copy of the minutes of the Shareholders' General Meeting on the change of a founding shareholder due to failure to fulfill the capital contribution commitment: the list of founding shareholders after the change; copies of the establishment decision and enterprise registration certificate or equivalent papers, and a valid copy of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree and the relevant authorization decision, for institutions, or a copy of the identity card or passport or another legal personal identification paper specified in Article 24 of this Article, for individuals who make additional capital contribution.

Amendments to the company charter must be clearly indicated in the decision or minutes of the Shareholders' General Meeting.

Upon receipt of the notice, the business registration office shall issue a receipt and register the founding shareholder change for the company.

2. Registration of change of founding shareholders in the case specified in Clause 5. Article 84 of the Law on Enterprises:

The company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The name, head office address, enterprise identification number or number of establishment decision, for institutional founding shareholders, or the full name, the number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, for individual founding shareholders, capital contribution portions of the transferor and transferee;

c/ The full name, number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree and signature of the representative at law of the company.

The notice shall be enclosed with the written decision, a copy of the minutes of the Shareholders' General Meeting on the change of the founding shareholder; the list of founding shareholders after the change; the share transfer contract and written certifications of transfer completion; a copy of the establishment decision and valid copies of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree and the relevant authorization decision, for institutional founding shareholders receiving the transferred shares, or a copy of the identity card or passport or another legal personal identification paper specified in Article 24 of this Article, for individuals receiving transferred shares. Amendments to the company charter must be clearly indicated in the decision or minutes of the Shareholders' General Meeting.

Upon receipt of the notice, the business registration office shall issue a receipt and register the founding shareholder change for the company.

3. Registration of change of founding shareholders due to donation of shares:

Registration of change of founding shareholders due to donation of shares shall be made under the provisions applicable to registration of founding shareholders due to transfer of shares, with transfer contracts and written certifications of transfer completion replaced with share donation contracts.

**Article 42. Registration of change of members of limited liability companies with two or more members**

1. In case of admission of a new member, the company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number):

b/ The name, enterprise identification number and head office address, for institutional members; full name, nationality, number of the identity card or passport or another legal personal identification number as specified in Article 24 of this Decree, for individual members; capital contribution value, portions and timing, kinds of assets used for capital contribution, quantity and value of each kind of asset contributed as capital by new members;

c/ The newly changed capital contribution portions of all members after admission of the new member;

d/ The company's charter capital after the admission of the new member:

e/ The full name and signature of the representative at law of the company.

The notice shall be enclosed with the written decision and a copy of the minutes of the Members' Council meeting on the admission of the new member, and the written certification of the capital contribution of the new member to the company; a copy of the establishment decision and a valid copy of any personal identification papers of the authorized representative as specified in Article 24 of this Decree and the relevant authorization decision, for institutional members, or a copy of the identity card or passport or another legal personal identification paper as specified in Article 24 of this Decree, for individual members. Amendments to the company charter shall be clearly indicated in the decision, and the minutes of the Members' Council meeting.

Upon receipt of the notice, the business registration office shall issue a receipt and register the member change and charter capital increase for the company.

2. In case of change of members due to the transfer of a capital contribution portion, the company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The name and head office address, for organizations, or the full name, nationality, number of the people's identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, for individuals; and the capital contribution portions of the transferor and transferee;

c/ The capital contribution portions of the members after the transfer;

d/ The timing of the transfer;

e/ The full name and signature of the representative at law of the company.

The notice shall be enclosed with the transfer contract and written certifications of the transfer completion by the company; a copy of the establishment decision and a valid copy of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree and the relevant authorization decision, for new institutional members, or a copy of the identity card or passport or another personal identification paper as specified in Article 24 of this Decree, for new individual members.

Upon receipt of the notice, the business registration office shall issue a receipt and register the member change for the company.

3. In case of change of a member due to inheritance, the company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having no enterprise identification number and tax identification number);

b/ The full name, number of the identity card, passport or another legal personal identification paper as specified in Article 24 of this Decree, nationality and the capital contribution portion of the member that left the inheritance and of every heir;

c/ The timing of inheritance;

d/ The full name and signature of the representative at law of the company.

The notice shall be enclosed with a written certification of lawful inheritance by the heir: a copy of the identity card or passport or another personal identification paper of the heir as specified in Article 24 of this Decree.

Upon receipt of the notice, the business registration office shall issue a receipt and register the member change for the company.

4. In case of registration of member change due to a member's failure to fulfill the capital contribution commitment under Clause 3. Article 39 of the Law on Enterprises, the company shall send a notice to the business registration office with which it has registered its business. Such a notice must contain the following details:

a/ The company's name, enterprise identification number and tax identification number or the number of its business registration certificate (for enterprises having enterprise identification number and tax identification number);

b/ The name and head office address, for organizations, or the full name and number of the identity card, passport or another legal personal identification paper as specified in Article 24 of

this Decree, nationality and the capital contribution portions of the member who fails to fulfill the capital contribution commitment and of the person who agrees to make supplementary contribution;

c/ The full name and signature of the representative at law of the company.

The notice shall be enclosed with the written decision and a copy of the minutes of the Members' Council meeting on the change of the member due to the unfulfilled commitment of capital contribution and the list of the remaining members of the company. Amendments to the company charter shall be clearly indicated in the decision and the minutes of the Members Council meeting.

Upon receipt of the notice, the business registration office shall issue a receipt and register the member change for the company.

5. Registration of member change due to donation of capital contribution portions:

Registration of member change due to donation of capital contribution portions shall be made like the registration of member change due to transfer of capital contribution portions, with transfer contracts and written certifications of transfer completion replaced with contracts on donation of capital contribution portions.

#### **Article 43. Registration of change of owners of one-member limited liability companies**

In case a company owner transfers the whole charter capital to an individual or organization, the transferee shall make registration of change of the company owner. A dossier for registration of change comprises:

A notice of change in enterprise registration jointly signed by the old owner or his/her/its representative at law and the new owner or his/ her/its representative at law.

A valid copy of any of personal identification papers of the transferee as specified in Article 24 of this Decree in case the transferee is an individual or a valid copy of the business registration certificate or enterprise registration certificate or establishment decision in case the transferee is an institution: and a valid copy of any of personal identification papers of the authorized representative as specified in Article 24 of this Decree.

The amended or supplemented company charter;

The capital transfer contract and documents evidencing the completion of capital transfer.

Upon receipt of dossiers for registration of a change, the business registration office shall issue receipts and register the change of the company owner.

#### **Article 44. Registration of change of private enterprise owners in case of sale or donation of enterprises or death or missing of enterprise owners**

In case a private enterprise owner sells or donates his/her enterprise or is dead or missing, the purchaser, recipient or heir shall register the change of private enterprise owner. A dossier for registration of such change comprises:

1. A notice of change of private enterprise owner bearing the signatures of the seller or donor and the purchaser or recipient of the private enterprise in case of sale or donation of the private enterprise: or the signature of the heir in case the private enterprise owner is dead or missing.

2. A valid copy of any of personal identification papers of the private enterprise purchaser, recipient or heir as specified in Article 24 of this Decree.
3. The enterprise sale and purchase or donation contract and documents evidencing the completion of the transfer or donation in case of sale or donation of the private enterprise: the death certificate or declaration of missing of the private enterprise owner issued by the court in case the private enterprise owner is dead or missing, and the written certification of the heir's lawful right to inheritance.

Upon receipt of a private enterprise's dossier for registration of change, the business registration office shall issue a receipt and register the change of the private enterprise owner.

#### **Article 45. Registration of changes in tax registration**

1. In case an enterprise changes its tax registration contents without changing its business registration contents, it shall send a notice to the provincial-level business registration office in the locality where its head office is based.

Such a notice must contain the following details:

a/ The name, head office address, enterprise identification number and date of grant of the business registration certificate, tax registration certificate or enterprise registration certificate;

b/ Changes in tax registration information.

2. The business registration office shall receive the notice, input data into the national enterprise registration information system for transmission to the database of the General Department of Taxation, and concurrently file the notice in the enterprise registration dossier.

#### **Article 46. Registration of changes in enterprise registration or operation registration under court rulings**

In case of a change in its enterprise registration or operation registration under a court ruling, an enterprise shall register such change. A registration dossier must contain a valid copy of the court judgment or ruling which has taken legal effect.

#### **Article 47. Registration of change in operation registration or notices of termination of operation of branches, representative offices or business places**

1. When changing registration contents of their branches, representative offices or business places, enterprises shall send notices thereof to provincial-level business registration offices in localities where their branches or representative offices are based in order to have their branch or representative office operation registration certificates renewed.

2. In case of relocation of their branches or representative offices to other provinces or centrally run cities different from registered locations, enterprises shall send notices thereof to provincial-level business registration offices in localities to which their branches or representative offices are planned to move and provincial-level business registration offices in localities where their branches or representative offices are based. Provincial-level business registration offices in localities to which branches or representative offices are planned to move shall receive notices and grant operation registration certificates to these branches or representative offices.

3. Upon termination of operation of their branches, representative offices or business places, enterprises shall send notices thereof to business registration offices that have granted operation registration certificates to their branches or representative offices or have been notified by enterprises of the setting up of their business places. Business registration offices shall receive notices and carry out procedures for revocation of operation registration certificates of branches or representative offices or deletion of business places from enterprise registration certificates or operation registration certificates of branches or representative offices.

**Article 48. The right of enterprises to complain**

If after 5 working days from the date of sending its notice of change in enterprise registration to the business registration office, an enterprise does not have the change in its business registration registered under regulations or receives no request for modification or supplementation of the enterprise registration dossier from the business registration office, it may lodge a complaint under the law on complaints and denunciations.

**Chapter VI**

**REGISTRATION OF BUSINESS HOUSEHOLDS**

**Article 49. Business households**

1. A business household owned by an individual who is a Vietnamese citizen or a group of individuals or a household may only register business at one location, employ 10 laborers at most but may not have a seal and shall be held liable with all of its assets for its business operation
2. Households engaged in agricultural production, forestry, fishery or salt making, street vendors, small vendors, shipment traders, mobile traders or service providers who have low incomes are not required to register their business except for conditional business lines. People's Committees of provinces and centrally run cities shall set low income levels in their respective localities.
3. Business households which regularly employ more than 10 laborers shall register themselves as enterprises.

**Article 50. The right to set up business households and the obligation of business households to register their business**

1. Vietnamese citizens who are full 18 years of age or older and have the full legal capacity and civil act capacity and households have the right to set up business households as well as the obligation to register their business households under this Chapter.
2. Individuals and households defined in Clause 1 of this Article may each register only one business household nationwide.

**Article 51. Business household registration certificates**

Business household registration certificates shall be granted to business households founded and operating under this Decree.

Business household registration certificates shall be granted based on information declared in business registration dossiers by business household founders who shall take responsibility for such declarations.

**Article 52. Order of and procedures for registration of business households**

1. An individual or a group of individuals or a representative of a household shall send an application for business household registration to the business registration office of the district where the business place is to be located. Such an application must contain the following details:

a/ The name of the business household and address of the business place;

b/ Business lines;

c/ Business capital;

d/ Full names, numbers and dates of grant of identity cards, residence addresses and signatures of individuals who found the business household, for business households founded by a group of individuals; full name, number and date of issue of the identity card, residence address and signature of the founding individual or representative of the founding household of the business household, for business households founded by individuals or households.

Enclosed with the application must be copies of the identity cards of individual members of the business household or a copy of the identity card of the representative of the founding household.

and minutes of the group of individuals" meeting on founding the business household, for business households founded by a group of individuals.

For business lines which require a practicing certificate, apart from the papers specified in Clause 1 of this Article, a valid copy of the practicing certificate of the individual or representative of the founding household shall be included.

For business lines which require legal capital, apart from the papers specified in Clause 1 of this Article, a valid copy of the written certification of legal capital, issued by a competent agency or organization, shall be included.

2. Upon receipt of the dossier, the district-level business registration office shall hand over a receipt and issue a business household registration certificate to the business household within 5 working days from the date of receipt of the dossier, provided that all the following conditions are satisfied:

a/ The business lines are not banned;

b/ The business household name intended for registration complies with Article 56 of this Decree;

c/ The business registration fee is fully paid as prescribed.

In case the dossier is improper, within 5 working days from the date of receipt thereof, the business registration office shall inform in writing the business household founder of details that need to be modified or supplemented.

3. After 5 working days from the date of submission of the business registration dossier, if the applicant for business household registration receives no business household registration certificate or no request for modification or supplementation of the business registration dossier, he/she may lodge a complaint under the law on complaints and denunciations.

4. In the first week of every month, a district-level business registration office shall send a list of registered business households of the previous month to the tax office at the same level, provincial-level business registration office and economic-technical branch management agency.

### **Article 53. Business timing**

Business households may conduct business operations after they receive business household registration certificates, except in case they conduct conditional business lines.

#### **Article 54. Business places of business households**

A business household that conducts shipment or mobile trading operations shall select a fixed place for business household registration. This place can be a registered permanent or temporary residence or where business operations are most frequently conducted or where trade transactions are conducted. A business household that conducts shipment or mobile trading operations may carry out its business operations outside the place registered with the business registration office but shall inform the tax office and market management authority in the locality where it has registered its head office and where it conducts business operations.

#### **Article 55. Registration of change in business household registration**

When changing registered business registration contents, a business household shall inform the change to the district-level business registration office with which it has registered its business.

In case of temporary cessation of its business operations for at least 30 days, a business household shall inform the district-level business registration office with which it has registered its business and the direct managing tax office. The duration of business operation cessation must not exceed one year.

3. In case of termination of business operations, a business household shall return the-original business registration certificate to the district-level business registration office with which it has registered its business and pay all debts, including tax arrears and unfulfilled financial obligations.

#### **Article 56. Naming of business households**

1. Business households must have their own names. The name of a business household must contain the following two elements:

a/ Type of business: "household business":

b/ Own name of the business household.

The own name must be in Vietnamese and pronounceable, and may include numerals and symbols.

2. Letters, words and signs that violate national historical traditions, culture, morality and fine customs must not be used in names of business households.

3. Own names of business households must not be identical to those of other business households already registered in the same district.

### **Chapter VII**

#### **ORDER OF AND PROCEDURES FOR REGISTRATION OF TEMPORARY CESSATION OF BUSINESS OPERATION, RE-GRANT OR REVOCATION OF ENTERPRISE REGISTRATION CERTIFICATES OR BUSINESS HOUSEHOLD REGISTRATION CERTIFICATES**

#### **Article 57. Temporary cessation of business operation**

An enterprise or a business household that temporarily ceases its business operation shall send a written notice thereof to the business registration office with which it has registered its business and the tax office at least 15 days before the temporary cessation. Such a notice must contain the following details:

1. The enterprise's name, head office address, enterprise identification number and date of grant of its enterprise registration certificate or another equivalent paper, for enterprises; or the business household registration certificate, for business households.
2. Its business lines.
3. The temporary business cessation duration, the starting and ending dates thereof. The temporary business cessation duration indicated in the notice must not exceed one year. After the temporary cessation duration indicated in the notice, if the enterprise or business household sustains its operation cessation, a further notice shall be sent to the business registration office. The total time of temporary cessation must not exceed 2 years.
4. The reasons for temporary business cessation.
5. The full name and signature of the enterprise's representative at law or the business household's representative.

This notice must be enclosed with the decision and a copy of the minutes of the Members' Council meeting, for limited liability companies with two or more members; of the company owner, for one-member limited liability companies, of the Shareholders General Meeting, for joint-stock companies; or of general partners, for partnerships.

Business registration offices shall receive notices and input information into the national enterprise registration information system for monitoring.

District-level business registration offices shall receive notices of business households and file them in business household registration dossiers for monitoring.

#### **Article 58. Re-grant of enterprise registration certificates**

In case its enterprise registration certificate is lost, burnt, torn, ragged or otherwise destroyed, an enterprise may send an application for the re-grant of an enterprise registration certificate to the business registration office that granted the old enterprise registration certificate to it.

Business registration offices shall receive applications for the re-grant of enterprise registration certificates and consider and re-grant enterprise registration certificates within 5 working days after receiving the applications.

#### **Article 59. Revocation of enterprise registration certificates**

1. Cases of revocation of enterprise registration certificates are specified in Clause 2. Article 165 of the Law on Enterprises. Point g. Clause 1. Article 93 of the Law on Tax Administration.
2. The order of and procedures for revoking enterprise registration certificates under court rulings comply with the guidance of competent state agencies.

#### **Article 60. Order of and procedures for revoking enterprise registration certificates**

1. In case a business registration office detects forged declarations in an enterprise registration dossier:

If the business registration office detects forged declarations in an enterprise registration dossier of a newly founded enterprise, it shall issue a notice of the violation of the enterprise and a decision to revoke its registration certificate;

If the business registration office detects forged declarations in a dossier of registration of a change in enterprise registration, it shall issue a notice of the violation of the enterprise and cancel the change based on untruthful information and restore the enterprise registration certificate granted based on the latest valid dossier, and concurrently notify such to a competent agency for handling under law.

2. If a private enterprise owner, a member of a limited liability company, a founding shareholder of a joint-stock company or a general partner of a partnership falls into the category of those who are banned from founding an enterprise under Clause 2. Article 13 of the Law on Enterprises:

a/ For a private enterprise or one-member limited liability company owned by an individual: The business registration office with which the enterprise has registered its business shall issue a notice of the violation and a decision to revoke its registration certificate.

b/ For a limited liability company with two or more members, one-member limited liability company owned by an organization, joint-stock company or partnership: The business registration office with which the enterprise has registered its business shall make a written request for the enterprise to change members or shareholders who do not have the right to found an enterprise within 30 days from the date of notification. Past that time limit, if the enterprise fails to register the change of members or shareholders, the business registration office shall issue a notice of the violation of the enterprise and a decision to revoke its registration certificate.

3. For enterprises that violate Points c. d. e and f, Clause 2. Article 165 of the Law on Enterprises, the business registration office shall issue a notice of the violation and request the representative at law of the enterprise to give explanations. After 10 working days from the deadline stated in the notice, if the requested person does not show up or his/her explanations are unreasonable, the business registration office shall issue a decision to revoke the enterprise registration certificate.

4. When an enterprise fails to send a report as required at Point g. Clause 2. Article 165 of the Law on Enterprises, within 10 working days from the expiration of the time limit for sending reports, the business registration office shall send a notice of the violation and request the representative at law of the enterprise to give explanations. After 10 working days from the date of appointment for giving explanations indicated in the notice, if the representative does not show up or his/her explanations are unreasonable, the business registration office shall issue a notice of the violation of the enterprise and issue a decision to revoke its registration certificate.

5. If the business registration office detects that the enterprise has conducted a banned business line, it shall issue a notice of the violation and a decision to revoke the enterprise registration certificate and concurrently inform competent state agencies for handling under law.

6. In case an enterprise is subject to enforcement of a tax administrative decision specified at Point g. Clause 1. Article 93 of the Law on Tax Administration, after receiving a written request of the head of the tax administration office defined at Point b. Clause 2. Article 102 of the Law on Tax Administration for revocation of the enterprise registration certificate, the business registration office shall carry out procedures for revoking the enterprise registration certificate according to the order and procedures specified in Clause 3 of this Article.

7. After receiving the decision on revocation of its enterprise registration certificate, an enterprise shall carry out its dissolution under Article 158 of the Law on Enterprises. Within 6 months from the date of issuance of the decision to revoke the enterprise registration certificate, if the dissolution dossier of the enterprise is not received, the enterprise shall be considered having been dissolved and the business registration office shall deregister the enterprise. In this case, the representative at law and all members, for limited liability companies with two or more members; the company owner, for one-member limited liability companies; the enterprise owner, for private enterprises; all members of the Board of Directors, for joint-stock companies; and all general partners, for partnerships, shall be held jointly responsible for all debts and unfulfilled asset obligations.

8. Information on revocation of an enterprise registration certificate shall be input into the national enterprise registration information system and transmitted to tax offices within 2 working days after the issuance of a decision on revocation.

#### **Article 61. Cases of revocation of business household registration certificates**

A business household has its business household registration certificate revoked in the following cases:

1. It fails to commence business operation within 6 months after being granted a business household registration certificate;
2. It ceases business operation for 6 consecutive months without notifying such to the district-level business registration office with which it has registered business;
3. It relocates its business place to another district;
4. It conducts a banned business line.
5. It has been founded by persons who are not allowed to found a business household.

### **Chapter VIII**

#### **IMPLEMENTATION PROVISIONS**

#### **Article 62. Handling of violations, commendation**

1. Cadres and civil servants who request business founders to submit papers and impose enterprise registration procedures or conditions which are against this Decree; or cause difficulties or troubles to organizations and individuals when processing the enterprise registration or checking enterprise registration contents shall be handled under law.
2. Business registration offices and officers that well fulfill their assigned tasks will be commended and rewarded under regulations.

#### **Article 63. Transfer of data on enterprise registration**

1. The Ministry of Planning and Investment shall guide the transfer of data from provincial-level business registration offices to the national enterprise registration database.
2. Information in business registration certificates, business and tax registration certificates archived at all provincial-level business registration offices shall be transferred to the national enterprise registration information system.

3. Information registered with provincial-level business registration offices is original information on enterprises when the transfer of data is conducted.

4. Based on data on enterprise registration after being transferred and data on tax registration, provincial-level business registration offices shall send a notice to each enterprise and request it to:

a/ Register its tax identification number within 30 days after receiving the notice in case it has been granted a business registration certificate without having made tax registration. Failing to do so, it shall be handled under the tax law and have its enterprise registration certificate revoked under Point c. Clause 2, Article 165 of the Law on Enterprises;

b/ Report on and register a change in its registration contents within 3 months after receiving the notice in case its business registration and tax registration contents are inconsistent. Failing to do so, it will have its enterprise registration certificate revoked under Point g. Clause 2. Article 165 of the Law on Enterprises.

#### **Article 64. Effect**

1. This Decree takes effect on June 1, 2010. All previous stipulations which are contrary to this Decree are annulled.

2. This Decree replaces the Government's Decree No. 88/2006/ND-CP of August 29, 2006, on business registration.

#### **Article 65. Responsibility to implement the Decree**

Ministers, heads of ministerial agencies, heads of government-attached agencies, chairpersons of People's Committees of provinces and centrally run cities, and subjects of application of this Decree shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**