

NEWSLETTER

March 2017



This newsletter offers an overview in brief of noticeable regulation updates on March regarding to issues for commercial mediation, traders importing automobile from 9 seaters or below, administrative procedures of House and Land Certificates and business on horse, greyhound racing and international soccer betting.

ALTERNATIVE CHOICE FOR COMMERCIAL DISPUTE RESOLUTION

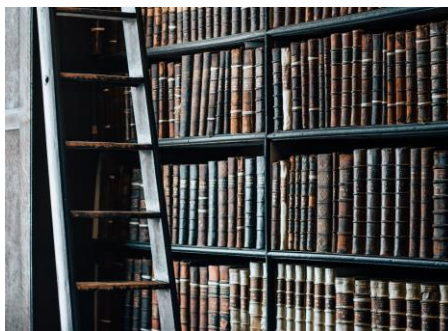
These days, in the past decades, commercial disputes have been increased significantly leading to the demand for various forms of dispute settlement which offer flexibility to be appropriate to particular cases. Among of these, mediation, a form of alternative dispute resolution (ADR) has been proven to be one of the most common methods of dispute settlement worldwide for its simplicity and flexibility that helps the parties save time and money compared with settling disputes in courts.

On 24 February 2017, the Government, for the first time, issued Decree No. 22/2017/ND-CP on Commercial Mediation that will come into force on 15 April 2017. The Decree provides a number of articles stipulating on scope, principle, mediation procedures for commercial dispute settlement, commercial mediators, foreign associations of commercial mediation in Vietnam and state management of commercial mediation activities. Accordingly, several remarkable points would be specified as follows:

(i) **Principles of mediation:** Dispute settlements via mediation may be commenced only if the parties *voluntarily participate* on the mediation process and on *equal ground* regarding rights and obligations. The information relating to the mediation must be kept *confidential*, except in the case of a written agreement between the parties or other regulations of the law. Additionally, provisions of a mediation agreement must not infringe the prohibition of laws, be contrary to social morality, evade obligation or violate the rights of the third party.¹

(ii) **Forms of mediation agreement:** A mediation agreement must be constituted in writing as a mediation article in a contract or as a separate agreement.²

(iii) **Commercial mediator(s):** The mediators can be selected by the parties from a list of commercial mediators published by the commercial



“...on 24 January 2017, Decree No. 06/2017/ND-CP issued by the Government regulating the business activities, management and administrative sanction of horse racing, greyhound racing and international soccer betting in Vietnam shall take effect on 31 March 2017.”

mediation association or a list of ad hoc commercial mediators announced by the Department of Justice at the provincial or municipal level.³

(iv) **Mediation performance:** Through the mediation, both parties may negotiate and consent on the entire process of mediation consisting of mediation orders, procedures, the number of mediators, time and location of mediation. If both parties cannot reach an agreement, the commercial mediator may decide any part of mediation process which is deemed to be appropriate to the case as well as the expectation and acceptance of the parties. Furthermore, at any time during the mediation efforts, the commercial mediator may bring a proposal for dispute settlement.⁴

(v) **Mediation result:** The parties may make a written agreement regarding successful mediation. Either party may request the Court to recognize the successful mediation agreement.⁵ This recognition shall be implemented immediately and shall not be appealed under appellate procedures.⁶

Decree No. 22/2017/ND-CP on Commercial Mediation dated 24 February 2017 will take effect as of 15 April 2017.

SIMPLIFYING PROCEDURE FOR IMPORT OF CARS FROM 9 SEATER AND BELOW.

Pursuant to Circular No. 04/2017/TT-BCT dated 09 March 2017, traders importing automobiles from 9 seater and below will no more be required to submit the certificate of qualified vehicles warranty and maintenance issued by the Ministry of Transport (a verified and certified true copy).⁷

Instead, the Circular requires the traders to provide a verified and certified true copy of 01 of the following documents:

- Appointment Letter or Power of Attorney as an importer, distributor of such vehicle manufacturer or the trader who trades such type of car; or
- The agency agreement of such automobile manufacturer or trader who trades such type of car consular legalized by a representative association of Vietnam in the foreign country as stipulated by law.

Circular No. 04/2017/TT-BCT dated 09 March 2017 took effect as of 09 March 2017.





TRUST

UNDERSTANDING CLIENT'S BUSINESS; &

LEGAL SOLUTION

REDUCING DURATION OF ADMINISTRATIVE FOR ISSUING LAND AND HOUSE CERTIFICATES

According to Decree 01/2017/ND-CP issued on 06 January 2017, which has been come into force as of 03 March 2017, the duration for administrative procedure of land has reduced considerably comparing to the previous regulations. In specific:

- The duration of registration and issuance for Certificate of land use rights, house ownership and other assets attached to land, construction works of building investment institution is shorten to 15 days instead of the previous 30 days.⁸

- The duration for re-issuance procedure for such Certificates of land use right, house ownership and ownership of construction works shall also drop dramatically up to 20 days, from 30 days in the previous rules to 10 days.⁹

Decree 01/2017/ND-CP dated 06 January 2017 took effect as of 03 March 2017.

OFFICIAL REGULARIZATION FOR THE BUSINESS OF HORSE, GREYHOUND RACING AND INTERNATIONAL SOCCER BETTING

Due to the illegal betting, which is considered as a critical issue of the society, it is necessary to establish a legal base for management of the betting business activities. As a result, after many years drafting, on 24 January 2017, Decree No. 06/2017/ND-CP issued by the Government regulating the business activities, management and administrative sanction of horse racing, greyhound racing and international soccer betting in Vietnam shall take effect on 31 March 2017. The Decree is expected to foster the investment on business of these betting as well as the reduction of credible loss of the society asset. The main points of the Decree as summarized below:

(i) **Players:** Players aged full 21 years or older and have full legal capacity in accordance with law shall be entitled to participate in horse, greyhound racing and international soccer betting at a rate from VND 10,000 each bet up to VND 1 million per day for each betting product at a betting service enterprise.¹⁰

(ii) **Business conditions:** The enterprise wishing to do business in this field must satisfy conditions: (a) Completing the construction of horse and/or greyhound racecourses with respect to Investment Registration

Contact Us

V-Lead Law Firm

201A Lake View Building
D10 Giang Vo, Ba Dinh, Hanoi
Vietnam

Telephone: +844 3772 7218

Email: cst@v-lead.vn

Website: www.v-lead.vn

Certificate or the written decision of investment policy; (b) fully equipping with technology system, technical equipment, business software for organization of horse and/or greyhound racing activities; (c) having a feasible plan on the business of horse and/or greyhound betting, the method and location of betting tickets distribution.¹¹

(iii) **Service betting pilot:** In terms of the business on international soccer betting, meanwhile, the service betting provider shall be allowed to pilot with the minimum charter capital of VND 1.000 billion in the period of 5 years. After such period, the Government shall consider and decide the continuance of business on international soccer betting of the enterprise based on the evaluation of the collected results.¹²

Decree No. 06/2017/ND-CP dated 24 January 2017 will take effect as of 31 March 2017.

FOOTNOTES:

1. Article 4 Decree No. 22/2017/ND-CP

2. Article 11 Decree No. 22/2017/ND-CP

3. Article 12 Decree No. 22/2017/ND-CP

4. Article 14 Decree No. 22/2017/ND-CP

5. Article 417 of the Civil Proceedings Code

6. Clause 8 Article 419 of Civil Proceedings Code

7. Clause 2 Article 1 Circular No. 20/2011/TT-BCT & Article 1 Circular No. 04/2017/TT-BCT

8. Point 61.2.b Clause 40 Article 2 Decree 01/2017/ND-CP & Point b Clause 2 Article 61 Decree 43/2014/ND-CP

9. Point 61.2.q Clause 40 Article 2 Decree 01/2017/NC-CP & Point q Clause 2 Article 61 Decree 43/2014/ND-CP

10. Article 7, Article 8, Clause 4 Article 3 Decree No. 06/2017/ND-CP

11. Clause 1 Article 31 Decree No. 06/2017/ND-CP

12. Clause 1 Point a Clause 2 Article 38 Decree No. 06/2017/ND-CP

