

THE GOVERNMENT

No.: 55/2019/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Hanoi, June 24, 2019

DECREE

PROVIDING LEGAL ASSISTANCE FOR SMALL AND MEDIUM-SIZED ENTERPRISES

Pursuant to the Law on government organization dated June 19, 2015;

Pursuant to the Law on assistance for small and medium-sized enterprises dated June 12, 2017;

At the request of the Minister of Justice;

The Government promulgates a Decree providing legal assistance for small and medium-sized enterprises.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree deals with legal assistance for small and medium-sized enterprises (SMEs), responsibility of ministries, ministerial agencies, provincial governments, other authorities, organizations and individuals involved in the provision of legal assistance for SMEs.

Article 2. Regulated entities

1. Ministries, ministerial agencies and provincial governments.
2. SMEs.
3. Enterprises' representative organizations.
4. Authorities, organizations and individuals providing legal assistance services for SMEs.
5. Other authorities, organizations and individuals involving in the provision of legal assistance for SMEs.

Article 3. Interpretation of terms

For the purposes of this Decree, these terms are construed as follows:

1. “provision of legal assistance for SMEs” means ministries, ministerial agencies and provincial governments’ acts of creating, managing, maintaining and updating law databases, establishing and implementing legal assistance programs with the aims of increasing SMEs’ knowledge and awareness of law, developing their habit of complying with law, minimizing legal risks and issues encountered by SMEs during their operation, and then improving the competitiveness of SMEs and effectiveness in law enforcement.
2. “legal assistance program for SMEs” means a series of actions that are performed by a regulatory authority or an organization in a specific form within a given period as regulated herein with the aims of improving legal knowledge and providing law-related information and legal advice for SMEs.
3. “legal consultant network” means a division of the consultant network as prescribed in the Law on assistance for small and medium-sized enterprises, including lawyers, law firms, legal consultants and legal consulting centers that are eligible for provision of legal advice in accordance with law regulations, voluntarily apply for participation in the network and are approved and published by ministries or ministerial agencies to provide legal assistance for SMEs (hereinafter referred to as “legal consultants”).
4. “law database” in this Decree includes database on legislative documents and database on legal cases and issues that are created, managed, maintained and updated by ministries, ministerial agencies and provincial People's Committees for the purpose of providing legal assistance for SMEs.

Article 4. Rules for provision of legal assistance for SMEs

1. Legal assistance shall be provided for SMEs with certain focuses within a limited period of time and conformable with legal assistance objectives and the capability of balancing resources; the provision of legal assistance for SMEs must ensure publicity, transparency and effectiveness, and avoid overlapping.
2. Legal assistance shall be provided for SMEs through the cooperation between regulatory authorities, representative organizations of SMEs, providers of legal assistance for SMEs and other relevant authorities, organizations and individuals.
3. The provision of legal assistance for SMEs through legal assistance service providers shall be given priority.
4. Authorities and organizations providing legal assistance for SMEs shall, based on their resources and assistance programs, decide the provision of legal assistance in the following order of priority:
 - a) Women-owned SMEs and SMEs using more women employees will be provided with legal assistance first if their applications for legal assistance are satisfactory;

b) SMEs in which 30% or more of their employees are the disabled as defined in the Disability Law;

c) SMEs that submit applications for legal assistance first shall be provided with legal assistance first if their applications are satisfactory.

5. The State encourages and adopts policies for assistance and facilitation of regulatory authorities, organizations, enterprises and individuals in provision of legal assistance for SMEs, and mobilizes private sector involvement in provision of legal assistance for SMEs.

Chapter II

PROVISION OF LEGAL ASSISTANCE FOR SMALL AND MEDIUM-SIZED ENTERPRISES

Section 1. CREATION, MANAGEMENT, MAINTENANCE, UPDATING AND USE OF LAW DATABASE

Article 5. Creation, management, maintenance, updating and use of database on legislative documents

1. The database on legislative documents shall be created, managed, maintained, updated and used in accordance with the Government's Decree No. 52/2015/ND-CP dated May 28, 2015 or its amending and/or superseding legislative documents.

2. The creation, management, maintenance, updating and use of database on commercial treaties to which the Socialist Republic of Vietnam is a signatory shall be governed by the Law on treaties and relevant legislative documents providing guidelines for this Law.

Article 6. Creation, management, maintenance, updating and use of database on legal cases and issues

1. The database on legal cases and issues contains:

a) Decisions and sentences of courts, judgments and decisions made by commercial arbitrators, decisions on competition cases, decisions on imposition of administrative penalties on enterprises that are in force and allowed to be published or posted on web portals;

b) Written responses given by ministries, ministerial agencies and provincial People's Committees to legal questions of SMEs during the law enforcement;

c) Documents providing legal advice by the legal consultant network about legal cases and issues at the request of SMEs.

2. The Ministry of Justice shall take charge of creating, managing and updating the database on legal cases and issues on the legal assistance website for SMEs; Ministries, ministerial agencies

and provincial People's Committees shall update relevant information as prescribed in Clause 5 Article 7 and Clause 1 Article 8 hereof on their websites and send it to the Ministry of Justice within 15 days from the updating date so that the Ministry of Justice posts such updated information on the legal assistance website for SMEs.

SMEs may access and use information on the database on legal cases and issues free of charge.

Article 7. Creation, management, maintenance, updating and use of data about decisions and sentences of courts, judgments and decisions made by commercial arbitrators, decisions on competition cases, decisions on imposition of administrative penalties on enterprises

1. Courts shall post their sentences and decisions that are in force on their websites in accordance with the Resolution No. 03/2017/NQ-HDTP dated March 16, 2017 of the Council of Justices of the Supreme People's Court or its amending or superseding documents.

2. Judgments and decisions made by commercial arbitrators shall be announced in accordance with the Law on commercial arbitration and as agreed upon by concerned parties of such judgments or decisions.

3. Decisions on competition cases shall be announced in accordance with the Competition Law and legislative documents providing guidelines for implementation of this Law.

4. Decisions on imposition of administrative penalties shall be announced in accordance with the Law on penalties against administrative violations and legislative documents providing guidelines for implementation of this Law.

5. Each ministry, ministerial agency or provincial People's Committee shall update and post any court's decision or sentence, commercial arbitrator's judgment or decision, decision on competition case or decision on imposition of administrative penalties on enterprise that is in force and allowed to be published and of which that ministry, ministerial agency or provincial People's Committee is a concerned party on its website or connect with relevant websites for publishing the mentioned document as regulated in Clauses 1, 2, 3 and 4 of this Article.

Article 8. Creation, management, maintenance, updating and use of data about written responses from regulatory authorities to SMEs' legal questions

1. Each ministry, ministerial agency or provincial People's Committee shall respond to the legal question faced by the SME in the course of application of law within the scope of its managed sector, field or area within 15 business days from the receipt of that question. Response to a complex question may be given within 30 business days from the receipt of that question.

Regulatory authorities mentioned in this Article shall not respond to SMEs' legal questions relating to their business and production. In such case, the relevant ministry, ministerial agency or provincial People's Committee shall inform and instruct the SME to use the legal consultant network as prescribed in Article 9 hereof.

2. Each ministry, ministerial agency or provincial People's Committee shall update data about its response to the SME's legal question arisen in the course of application of law on its website in a systematic manner within 15 days from the date on which that response is signed.

Article 9. Creation, management, maintenance, updating and use of data about written legal advice given by legal consultants and procedures for getting financial assistance in using legal consulting services

1. SMEs shall access the legal consultant network according to the sector managed by each ministry or ministerial agency via the list of legal consultants posted on the website of that ministry or ministerial agency.

2. After reaching an agreement on legal consulting service with a legal consultant selected from the legal consultant network as regulated in Clause 1 of this Article, the SME shall, directly, electronically or by post, submit an application for financial assistance in using legal consulting service to the relevant ministry or ministerial agency. That application includes:

a) The declaration of a micro-enterprise, small or medium-sized enterprise using the form provided in the Government's Decree No. 39/2018/ND-CP dated March 11, 2018 or its amending or superseding document;

b) The photocopy of Certificate of enterprise registration;

c) The agreement on legal consulting service entered into between the legal consultant and the SME, which specifies consulting contents and service fees.

Each ministry of ministerial agency must publish address of its contact point and electronic means for receiving applications on its website.

3. Within 10 business days from the receipt of a sufficient application as regulated in Clause 2 of this Article, the relevant ministry or ministerial agency shall give a written response to approve or refuse the SME's application for financial assistance in using legal consulting services according to the rules set forth in Article 4 and other provisions hereof. If an application is refused, reasons for refusal shall be given in writing.

If an application is approved, financial assistance in using legal consulting service shall be provided for as follows:

a) A micro-enterprise shall be provided with an assistance of 100% of service fees as defined in the written agreement on legal consulting service that it enters into with the legal consultant provided that assistance shall not exceed VND 03 million per year;

b) A small-sized enterprise shall be provided with an assistance of up to 30% of service fees as defined in the written agreement on legal consulting service that it enters into with the legal consultant provided that assistance shall not exceed VND 05 million per year;

c) A medium-sized enterprise shall be provided with an assistance of up to 10% of service fees as defined in the written agreement on legal consulting service that it enters into with the legal consultant provided that assistance shall not exceed VND 10 million per year;

d) Financial assistance in using legal consulting services offered to household businesses that are converted into SMEs, SMEs that are startups, SMEs joining business clusters or value chains shall abide by Chapter IV of the Government's Decree No. 39/2018/ND-CP dated March 11, 2018 or its amending or superseding documents.

4. In case an application for financial assistance in using legal consulting service is approved by the relevant ministry or ministerial agency, the SME shall, after obtaining the written legal advice from the legal consultant, submit an application for reimbursement of consulting service fees. Such application includes:

a) 01 complete copy of the document providing legal advice and 01 copy of the same that does not contain the SME's business secrets;

b) The application form for reimbursement of legal consulting service fees that contains certification of both the legal consultant and the SME using legal consulting service and the following contents: number and date of the relevant ministry or ministerial agency's written approval as prescribed in Clause 3 of this Article, beneficiary's name, account number and name of the beneficiary's bank;

c) Financial invoices as regulated by law.

5. Within 10 business days from the receipt of sufficient application as prescribed in Clause 4 of this Article, the relevant ministry or ministerial agency shall reimburse legal consulting service fees to the requesting SME. In case the provided legal advice is not subject to the scope of the agreement on legal consulting service signed by the legal consultant and the SME as prescribed in Point c Clause 2 of this Article, the relevant ministry or ministerial agency shall refuse to reimburse legal consulting service fees and notify both the legal consultant and the SME of this case.

Within 15 business days from the reimbursement date, the relevant ministry or ministerial agency shall send the copy of the document providing legal advice that does not contain business secrets of the SME as prescribed in Point a Clause 4 of this Article to the Ministry of Justice and the Ministry of Planning and Investment for publishing on the legal assistance website for SMEs and the national assistance portal for SMEs.

Section 2. ESTABLISHMENT AND IMPLEMENTATION OF LEGAL ASSISTANCE PROGRAMS FOR SMALL AND MEDIUM-SIZED ENTERPRISES

Article 10. Grounds for establishment and contents of a legal assistance program for SMEs

1. Grounds for establishment of a legal assistance program for SMEs:

- a) Demands for legal assistance for SMEs in each period of time and in each sector, field or area;
- b) Programs for formulation of laws and ordinances of the National Assembly and of the Standing Committee of National Assembly and plans for promulgation of legislative documents of the Government, the Prime Minister, ministries, ministerial agencies and provincial governments;
- c) Resources of the relevant ministry, ministerial agency or provincial government, and SMEs' representative organization.

2. Contents of a legal assistance program for SMEs include:

- a) Provision of information, including information relating to domestic law, foreign laws, international laws, legal risk warnings and the relevant ministry or provincial government's policies for SMEs(if any);
- b) Improvement of legal knowledge, including legal knowledge improvement programs for SMEs, those for persons providing legal advice for SMEs, and those for the legal consultant network;
- c) Provision of legal advice, including talks, response to legal questions of SMEs and other legal consulting activities which must be conformable with law and suitable for demands of SMEs and resources available as prescribed in Point c Clause 1 of this Article.

Article 11. Period for implementing a legal assistance program for SMEs

- 1. The maximum duration of a legal assistance program for SMEs is 05 years from the date on which it is approved.
- 2. The authority or organization in charge of the legal assistance program for SMEs shall make a consolidated report on the program implementation for using as a basis for establishing or suggesting another legal assistance program for SMEs based on SMEs' demands and its available resources.

Article 12. Establishment and approval for a legal assistance program for SMEs

- 1. With regard to inter-agency legal assistance programs for SMEs:
 - a) Ministries, ministerial agencies, provincial People's Committees, representative organizations of SMEs and providers of legal assistance for SMEs shall, proactively or at the request of the Ministry of Justice, suggest legal assistance activities for SMEs to the Ministry of Justice for consolidating and establishing inter-agency legal assistance programs for SMEs;
 - b) The Ministry of Justice shall take charge and cooperate with the Ministry of Planning and Investment, the Ministry of Finance, representative organizations of SMEs and other relevant

organizations and individuals in establishing and submitting inter-agency legal assistance programs for SMEs to the Prime Minister for approval.

2. With regard to a legal assistance program for SMEs within the scope of a ministry or ministerial agency, that ministry or ministerial agency shall include contents of that legal assistance program for SMEs in its Scheme for provision of assistance for SMEs as prescribed in the Government's Decree No. 39/2018/ND-CP dated March 11, 2018 or its amending or superseding documents.

3. With regard to provincial legal assistance programs for SMEs:

a) The Provincial Department of Justice shall take charge and cooperate with other provincial departments, authorities, representative organizations of SMEs, and other relevant organizations and individuals establishing and suggesting provincial legal assistance program for SMEs to the Chairperson of the Provincial People's Committee for approval;

b) Chairperson of the Provincial People's Committee shall consider giving approval for its provincial legal assistance program for SMEs at the request of the Provincial Department of Justice;

c) The Provincial People's Council shall allocate funding for implementing its provincial legal assistance program for SMEs.

4. Decisions on approval for legal assistance programs for SMEs as prescribed in Clause 1 and Clause 3 of this Article and contents of legal assistance programs for SMEs as prescribed in Clause 2 of this Article must be sent to the Ministry of Justice, relevant ministries and ministerial agencies and published on the website of the authority in charge of the program.

5. Any modifications of a legal assistance program for SMEs or contents of a legal assistance program for SMEs included in the Scheme for provision of assistance for SMEs after the approval shall be made in accordance with regulations of Clauses 1, 2, 3 and 4 of this Article.

Article 13. Implementation of legal assistance programs for SMEs

1. After a legal assistance program for SMEs has been approved by a regulatory authority, the relevant ministry, ministerial agency or provincial People's Committee shall organize the implementation of the approved program within the ambit of its assigned functions and duties or assign providers of legal assistance for SMEs to implement that approved program.

The authority in charge of implementing the legal assistance program for SMEs shall develop and publish the plan for implementation thereof on its website and the legal assistance website for SMEs of the Ministry of Justice.

2. Selection, conclusion of contract, evaluation of implementation results and termination of contract signed with the qualified provider of legal assistance for SMEs for implementing the

approved legal assistance program for SMEs shall comply with the Law on bidding and relevant laws.

3. Based on contents and resources of the legal assistance program for SMEs as prescribed in Clause 1 of this Article as well as demands for legal assistance of participating SMEs, the representative organization of SMEs can suggest a legal assistance program for SMEs that it will take charge and contains contents prescribed in Clause 1 of this Article. To be specific:

a) Based on contents and resources of the legal assistance program for SMEs as prescribed in Clause 1 of this Article, the relevant ministry, ministerial agency or provincial People's Committee shall provide funding which is derived from the funding for implementing the legal assistance program for SMEs prescribed in Clause 1 of this Article and shall not exceed 50% of the funding for implementing the legal assistance program for SMEs suggested by the representative organization of SMEs. The remaining funding shall be covered by the representative organization of SMEs or the funding from private sector involvement, other authorities, organizations and SMEs;

b) Selection, conclusion of contract, evaluation of implementation results and termination of contract signed with the representative organization of SMEs for implementing the legal assistance program for SMEs as prescribed in this Clause shall comply with the Law on bidding and relevant laws.

Chapter III

RESPONSIBILITY FOR PROVISION OF LEGAL ASSISTANCE FOR SMES

Article 14. Responsibility for implementation

1. The Ministry of Justice shall:

a) perform the state management of the provision of legal assistance for SMEs nationwide;

b) formulate and submit legislative documents and/or guiding documents on the provision of legal assistance for SMEs to competent authorities for promulgation or itself promulgate such documents within its competence;

c) give opinions about the provision of legal assistance for SMEs by ministries, ministerial agencies and provincial People's Committees if requested, including opinions about the establishment, approval and implementation of legal assistance programs for SMEs or contents thereof within the scope of a ministry, ministerial agency or provincial People's Committee;

d) establish and implement inter-agency legal assistance programs for SMEs;

dd) organize the creation, management and updating of the legal assistance website for SMEs;

e) make independent assessment of the provision of legal assistance for SMEs;

g) prepare and submit consolidated reports on the provision of legal assistance for SMEs to the Government and/or the Prime Minister on the basis of every 05 years or ad hoc basis upon request.

2. The Ministry of Finance shall take charge and cooperate with the Ministry of Justice in instructing the estimation, management, use and statement of funding derived from state budget for the provision of legal assistance for SMEs.

3. Ministries and ministerial agencies shall:

a) update law databases within the scope of their managing sectors relating to SMEs and send them to the Ministry of Justice;

b) formulate and implement contents of legal assistance programs for SMEs for improving legal knowledge and providing law-related information and legal advice for SMEs within the scope of their managing sectors included in their Schemes for provision of assistance for SMEs as regulated in the Government's Decree No. 39/2018/ND-CP dated March 11, 2018 or its amending or superseding documents;

c) create columns on legal assistance for SMEs on their websites and connect them with the legal assistance website for SMEs;

d) prepare and submit consolidated reports on the provision of legal assistance for SMEs in their managing sectors at the request of the Ministry of Justice for consideration and preparation of reports submitted to the Government and/or the Prime Minister.

4. Provincial governments shall:

a) Each provincial People's Council shall promulgate policies on provision of legal assistance for SMEs in that province; allocate funding from its provincial-government budget for provision of legal assistance for SMEs;

b) Each provincial People's Committee shall organize the provision of legal assistance for SMEs in that province; submit consolidated reports on legal assistance for SMEs in the province at the request of Ministry of Justice for consideration and preparation of reports submitted to the Government and/or the Prime Minister.

5. Representative organization of SMEs shall:

a) participate in the creation of law databases, take charge, formulate and implement legal assistance programs for SMEs;

b) represent and protect legitimate rights and benefits of SMEs in the course of using legal assistance for SMEs; mobilize resources for provision of legal assistance for member SMEs;

c) formulate, defend and implement policies on provision of legal assistance for SMEs; participate in assessment of law databases and legal assistance programs for SMEs;

d) provide legal assistance for SMEs in accordance with law regulations and its charter.

6. Legal consultants shall maintain their satisfaction of eligibility requirements for practice as a legal consultant and perform their rights and obligations in accordance with laws relating to such legal consultants when they join the legal consultant network.

7. SMEs shall:

a) cooperate with regulatory authorities and representative organizations of SMEs in the course of provision of legal assistance for SMEs in accordance with regulations herein;

b) strictly and fully comply with relevant regulations and procedures for receiving legal assistance for SMEs in accordance with regulations herein;

c) use legal assistance services for SMEs in an affective and economic manner so as to serve their business.

Article 15. Resources for provision of legal assistance for SMEs

1. Each legal department affiliated to a ministry or ministerial agency shall take charge of the provision of legal assistance for SMEs in accordance with regulations herein and establish the legal consultant network for that ministry or ministerial agency.

Each provincial Department of Justice shall take charge of the provision of legal assistance for SMEs in accordance with regulations herein, and assist the provincial People's Committee in establishing and implementing legal assistance programs for SMEs in that province.

2. Funding for provision of legal assistance for SMEs shall be covered by state budget and included in the annual estimate of expenditures covered by state budget on the basis of plans for provision of legal assistance for SMEs of ministries, ministerial agencies and provincial People's Committees in accordance with regulations of the Law on state budget.

3. Ministries, ministerial agencies and provincial People's Committees are allowed to use funds mobilized from domestic and foreign organizations and individuals to cover costs of provision of legal assistance for SMEs in accordance with law regulations.

Article 16. Inspection of provision of legal assistance for SMEs

1. Authorities in charge of implementing legal assistance programs for SMEs are entitled to inspect the provision of legal assistance for SMEs in accordance with applicable law regulations.

2. Contents to be inspected:

- a) Quality and beneficiaries of legal assistance services for SMEs;
- b) Performance of procedures and legal assistance services provided for SMEs; receipt and response to SMEs' feedbacks on such legal assistance services;
- c) Adherence to relevant laws when managing and using funding for provision of legal assistance for SMEs.

Article 17. Assessment of provision of legal assistance for SMEs

1. Authorities in charge of creating, managing, maintaining and updating law databases or legal assistance programs for SMEs shall organize assessment of implementation results thereof, impacts of legal assistance on beneficiaries and publish assessment results on the columns on legal assistance for SMEs on their websites.
2. Effectiveness of the provision of legal assistance for SMEs shall be assessed on the basis of SMEs' feedbacks on provided legal assistance services.
3. The Ministry of Justice shall, on the periodical basis of 05 years, organize assessment of provision of legal assistance for SMEs and submit reports thereof to the Government and/or the Prime Minister.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 18. Transition

Legal assistance services provided for SMEs before the effective date of this Decree shall be continued according to the approved legal assistance contents, programs, plans or projects until corresponding approval decisions issued by regulatory authorities expire.

Article 19. Provision of legal assistance for entities other than SMEs

Ministries, ministerial agencies, provincial People's Committees, and representative organizations of SMEs shall, depending on their resources available, decide application of regulations on provision of legal assistance for SMEs to traders and businesses other than SMEs.

Article 20. Effect

This Decree comes into force from August 16, 2019 and supersedes the Government's Decree No. 66/2008/ND-CP dated May 28, 2008.

Article 21. Responsibility for implementation

1. The Ministry of Justice shall cooperate with relevant ministries, ministerial agencies and provincial People's Committees in implementing this Decree and submitting reports thereof to the Government and/or the Prime Minister.

2. Ministers, heads of ministerial agencies and provincial People's Committees shall be responsible for the implementation of this Decree./.

**FOR THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

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