



## LEGAL UPDATE

### DECREE 105 ON ALCOHOLIC BEVERAGE TRADING

On 14 September 2017 the Vietnamese Government adopted Decree 105/2017/ND-CP on alcoholic beverage trading (**New Decree**) which will take effect on 1 November 2017.

In this update we would like to highlight the most important points of this New Decree, particularly in relation to the sale of alcohol beverages for on-site consumption in restaurants and bars. The New Decree gives clear guidance on how the activity to sell and serve alcoholic beverages in restaurants and bars should be registered and licensed.

#### 1. Registration and licensing

Currently, there are no specific requirements for restaurants or bars to obtain a licence to serve alcoholic beverages on-site. However, in practice, the local authority at district level asks restaurants and bars to submit a notification on the sale of alcoholic beverages for consumptions at their business location.

In the New Decree the sale of alcoholic beverages for on-site consumption is defined as an act of selling alcoholic beverages directly to customers for consumption at the place of sale. This means that for example serving wine at a restaurant is covered by the New Decree, even though serving alcoholic beverages at restaurants and bars is not really trading.

#### 2. Requirements

To be able to serve alcoholic beverages (other than beer and fermented juice with less than 5% alcohol per volume) in your bars and restaurants, you must:

- be duly registered with the business registration office to carry out a restaurant or bar business;
- have the right to use the business location;
- have a sub-licence to sell alcoholic beverages for on-site consumption at your premises;
- post a copy of the sub-licence at your premises;
- purchase alcoholic beverages from duly licensed *domestic* wine traders, wine distributors, wine wholesalers and wine retailers;

- sell alcohol beverages directly to customers for on-site consumption at your premises; and
- comply with the fire prevention and fighting and environmental protection regulations.

Important is that that the definition of alcoholic beverages *excludes* beer and fermented juice with less than 5% alcohol by volume. This means that when you serve the excluded group of alcoholic beverages you do not have to comply with the provisions of the new decree.

The Economy Division of the local district's People's Committee has the authority to consider the application dossier and issue the license to sell the alcoholic beverages. The decision is taken within 10 business days from receipt of a valid application dossier.

#### 3. Licence: validity, number and revocation

The licence is valid for five years from the date of issuance and can be extended. You need to submit a request to the authority at least 30 days prior to the expiration of the existing licence.

Positive is that the New Decree does not seem to impose any limitation or quota on the number of licenses which can be issued within a geographic area contrary to other wine trading licences.

It is also important to know that in case a licensed seller has not operated for 12 consecutive months, the authority may revoke the licence.

#### 4. Transitional period

Finally, we would like to point out that you have three months starting on 1 November 2017 to apply for a licence for each of your existing business locations.

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