

Unofficial Translation



Lao People's Democratic Republic Peace Independent Democratic Unity and Prosperity

Ministry of Post and Telecommunications

No. 590 / MPT
Vientiane Capital, Date: 18 Mar 2016

Decision On Approval to Operate Internet Data Center

- Pursuant the Law on Telecommunication (edited) Ref. no.09/NA, dated 21 December 2011,
- Pursuant the Law on Investment Promotion, No. 02/NA, dated 08 July 2009
- Pursuant the Prime Minister's Decree on the organization and responsibility of Ministry of Post and Telecommunications, No 303/PMO, dated 26 September 2011.

**The Minister of the Ministry of Post and Telecommunications Hereby issues the
following Decision:**

Chapter 1 General Provision

Article 1 Objectives

This decision defines the principles, regulations and measures for a license to operate an internet data center for management, promotion and ICT infrastructure development, in accordance with regulations, harmonisation, standards and quality to ensure the ease, speed and safety of the use and provision of the service of information on the internet network; and contribute to the national socio-economy development.

Article 2 Approval to Operate Internet Data Center

A license to operate an Internet Data Center is the approval for individuals or legal entities to conduct business on the leasing of rack space, server space, servers, applications, databases, etc, to other individuals, legal entities and organizations.

Article 3 Definitions

The terms used in this Decision have the following meanings:

1. **Internet Data Center** means a centralized infrastructure system that consists of necessary facilities to provide services on the leasing of rack space, server space, servers, applications, databases, etc;
2. **Server** means a high speed computer machine for the specific task of serving multiple concurrent tasks 24/7.
3. **TIA-942 Standard** means the Telecommunications Infrastructure Standard for Internet Data Centers, which focuses on details of location, building structure, room, power system, cooling-humidity system, power circuit - data cabling systems, access control security, surveillance system, alert-protection system, mark, data acquisition-backup system, which is divided was 4 tiers: Tier 1, Tier 2, Tier 3 and Tier 4 (Tier refers to the capability of the system).

Article 4 Scope of Applicability

This decision applies to individuals or legal entities providing Internet Data Center services in Lao PDR.

Chapter 2 Approval

Article 5 License to operate Internet Data Center

There are three types of licenses to operate Internet Data Centers:

Type 1: license for a big Internet Data Center provider that has its own building;

Type 2: license for a medium Internet Data Center provider that has rooms only (without its own building);

Type 3: license for Internet Data Center provider that uses the data center facilities of another.

Article 6 License period

A License to operate an Internet Data Center may be issued for different duration:

1. Period 1: issue temporary license, each Type is valid 01 year
2. Period 2: issue permanent license, each Type is valid as follows:
 - Type 1: 05 years;
 - Type 1: 03 years;
 - Type 1: 02 years;

Article 7 License issuance

Individuals or legal entities who wish to operate an Internet Data Center must seek an approval license from Post and Telecommunications sector.

A request to operate an Internet Data Center must include complete documentation as defined by the Post and Telecommunications sector.

- Application / Request form;
- Identity Card / Passport;
- Biography of Managers and technicians;
- Enterprise certificate;
- Feasibility study and technical proposal;
- Financial status report issued by a bank in Lao PDR;
- Agreement for leasing of network, infrastructure and others;
- Other documents as defined by the Post and Telecommunications sector;

Where the license is being applied for by a representative, an authorization letter and other related documents must be provided.

Article 8 Requirements for issuing license

The requirements for issuing a license to operate Internet Data Center are as follow:

1. The applicant must provide a complete set of documentation in accordance with Article 7;
2. The application must detail the required number of technicians as specified in the Post and Telecommunications sector's provision;
3. In case of using telecommunication resources, the approval from Post and Telecommunications sector must be obtained;
4. The applicant shall not be in process of trial for bankruptcy or has been judged bankrupt according to the law of Lao PDR;
5. The applicant shall operate according to criteria as specified by Post and Telecommunications sector.

Article 9 License processing duration

The Post and Telecommunications sector processes the issuance of license based on the following duration:

1. License registration:
 - License Type 1: 30 working days;
 - License Type 2: 20 working days;
 - License Type 3: 15 working days;
2. License renewal:
 - License Type 1: 15 working days;
 - License Type 2: 10 working days;
 - License Type 3: 05 working days;

Where the documents submitted are incomplete or inaccurate, the Post and Telecommunications sector will inform the applicant accordingly within 05 working days.

Article 10 Permanent License issuance process

The Post and Telecommunications sector will consider issuing a permanent license to an applicant holding a temporary license who has completed the implementation of 60% of their operation plan.

Article 11 License Renewal;

The License Renewal for operating an Internet Data Center requires the submission of a request at least 30 days before expiration and shall follow requirements below:

1. The applicant shall provide a complete set of documents as specified by the Post and Telecommunications sector;
2. The applicant shall provide a complete set of the tax payment records;
3. If using telecommunication resources, the fee and service payment records shall be provided;
4. An applicant holding a temporary license but unable to implement 60% of the plan within the first year, will get a license renewal approved for 01 year only. A letter describing the reasons why the applicant is unable to implement 60% of the plan shall be submitted to the Post and Telecommunications sector.

Article 12 Update, suspension or withdraw

An Internet Data Center service provider that wishes to update the content of, suspend or withdraw their license shall seek approval from the Post and Telecommunications sector together with a request letter explaining their reasons.

Article 13 Service Scope of License

Individuals or legal entities requesting a license to operate an Internet Data Center may choose the type of service as defined in document attached.

An Internet Data Center service provider holding a license may only conduct services as defined in the service type of their license.

Chapter 3 Standard Technical and Safety

Article 14 Location Standards

1. Standard of Location.

An Internet Data Center must be located in an appropriate location, a location that is not congested, and which shall be accessible to a fire truck.

2. Standard of Building.

The building structure of an Internet Data Center must include: wall thickness of at least 20 centimeters, a fire protection system, and other standards as specified in the TIA-942 standard or equivalent.

3. Standard of room.

- An Internet Data Center must include: main-backup power, cooling-humidity system, ventilation systems, power-data cabling system, server rack system, mark, and others as specified in the TIA-942 standard or equivalent;
- Room floor must be able to support weight of at least 800 kilogram/m²;
- A service provider must inform about the standard to be used and define their own standard level such as: Tier1, Tier2, Tier3 and Tier4 of an Internet Data Center.

Article 15 Technical Standards

1. Network Connection

- An Internet Data Center service provider must directly connect to the Lao National Internet Center or internet service provider in order to facilitate connection with other network providers.

2. Data Storage

- Those holding a license must have tools for monitoring and data storage for all customer data. The tools must ensure the ability to store data on a regular basis, in an accurate and reliable manner according to the standards defined by the Ministry of Post and Telecommunications.
- Must have an adequate data backup storage system, which is ready to operate when the main system fails.

3. Equipment

- Equipment used in an Internet Data Center service must align with technique standards through inspection processes as defined in the MPT;
- Those holding a license must maintain, repair and improve their internet network and equipment in good condition and be ready to use and service; must prepare spare parts and necessary equipment in order to provide good quality service; as well as follow the Decisions, Advises and Notifications of MPT.
- All equipment that assembles the system must be located in Lao PDR;
- Data center facilities and equipment must be energy-saving and not creating air and noise pollution according to related regulations.

4. Network plan of Internet Data Center

A licensee must provide network plan for equipment and hardware installed in the Internet Data Center. In addition, all operating systems shall comply with technologies and standards as defined by MPT.

5. Improvement and expansion of Internet Data Center of network system

For the improvement and expansion of the Internet Data Center of a network system that may impact the service to user, licensee shall notify MPT in advance and shall find mechanism to prevent any impact to the service while implementing the improvement or expansion.

Article 16 Safety Measures

Licensee of the Internet Data Center must implement safety measures that include the following:

- rules/policies for management, maintenance and emergency response system;
- access control, video surveillance and monitoring system;
- alarm and fire protection system;
- appropriate and timely method to ensure the safety and protection of user information;
- Attack prevention systems (Firewall, Anti-DDOS and others) both from internal and external sources to ensure the information of user;
- Data filtering system in order to prevent being used to attack other parties.

Article 4

Rights and Obligations of Service Provider and User of Internet Data Center

Article 17 Rights and Obligations of Service Provider

A service provider of an Internet Data Center has the following rights and obligations:

1. request to renew, change, suspend and terminate the business;
2. suspend service to user when they are in breach of an agreement or behave against national defense-public-security;
3. implement regulations of the Ministry of Post and Telecommunications related to domestic and international network connection.;
4. respect the rights and keep user's information by having regulations/policies and technical measures in order to keep information of user;
5. do not disseminate user's information, except when requested by related government authorities;
6. maintain a website for publishing notification to users about such information as: pricing, service types, and ensure the accuracy of information on a regular basis;
7. ensure the quality of service and accuracy, as published in the website;
8. publish to a website or clearly specify in contract with user about measurements for solving problems and technical issues for users;
9. report on internet data center service on a regular basis as defined by the Post and Telecommunications sector;
10. be under the administration and management of the Post and Telecommunications sector;

11. pay duty to the government as specified in law;
12. implement other rights and obligations as specified in laws and regulations.

Article 18 Obligation of Users

Users of the Internet Data Center have the following rights and obligations:

1. receive quality, convenient, quick and safe service;
2. to request and petition a service provider according to jurisdiction procedures in order to provide a fair service to users;
3. to propose to the administration and inspection organization about quality, technical standards, and service fees of the service provider;
4. to take responsibility of their own information that would affect individuals, legal entities, organizations and communities which are incompliant with the regulations;
5. to pay service fees accordingly;
6. to implement other rights and obligations as specified in laws and regulations.

Chapter 5 Fees and Service Charges

Article 19 Fees and Service Charges

Fees and service charges for issuing a license to operate an Internet Data Center are according to the regulation on fees and service charges as promulgated from time to time.

Chapter 6 Prohibition

Article 20 General Prohibition

The service provider of an Internet Data Center is prohibited to:

1. operate without approval from the Post and Telecommunications sectors;
2. lend, lease or transfer the license to others;
3. operate not according to service type registered, license type or out of the scope of defined technical standard.
4. connect the network without authorization;
5. accuse other Internet Data Center service providers;
6. conduct operations in breach of this Decision or other relevant regulations;
7. monopolise and withhold new service providers;
8. support, dominate or abuse power in the market on retailers.

Article 21 Prohibited for Management Staff

The management staff that operate an Internet Data Center is prohibited to:

1. slow, impede, and forge the document on an Internet Data Center of service;
2. use the power under their authority to gain personal benefits with a service provider;
3. disseminate the confidential information of a service provider;
4. other behavior violating the law.

Chapter 7

Measures for Violator

Article 22 Measures for Violator

Any individual or legal entity that violates this Decision shall be sent to trainings, may be fined, have their license to operate an Internet Data Center suspended or withdrawn, depending on the severity of the case as well as be liable to provide compensation for the loss incurred.

Article 23 Training Measures

Any individual or legal entity violating this Decision shall be sent to training and warned, as follows:

1. Government officials that do not provide convenience, are slow, who unreasonably impede the process of issuing license, or use inappropriate words;
2. A service provider of an Internet Data Center that do not provide convenience to users or who violates the Prohibition lightly.

Article 24 Fine

Any individual or legal entity violating this Decision shall be fined, as follows:

1. Operating business without approval from MPT shall be fined 50,000,000 kip;
2. Lending, leasing or transferring license to others, shall be fined 20,000,000 kip;
3. Providing service out of scope of license type shall be fined 10,000,000 Kip;
4. Expanding an Internet Data Center or network connection without authorization shall be fined 20,000,000 Kip;
5. Imputation to other service providers shall be fined 5,000,000 Kip;
6. Supplying network connection information and contract/agreement on network connection that is not complete and accurate to the Post and Telecommunications sector shall be fined 10,000,000 Kip;
7. Not backing up data and report to the Post and Telecommunications sector as defined shall be fined 10,000,000 Kip;
8. Improvement and expansion to the Internet Data Center that may affect users without notifying the Post and Telecommunications sector shall be fined 10,000,000 Kip;
9. Not operate within 1 year or cannot implement as planned at least 60% shall be fined 20,000,000 Kip;

10. Disseminating user's private information without the approval of the owner shall be fined 20,000,000 Kip;
11. Service provider of Internet Data Center not providing services as specified in the Agreement or as informed to users through media shall be fined 20,000,000 Kip;
12. Renewal of license 30 days later than specified timeframe shall be fined 20,000,000 Kip.

Article 25 Measures on suspension and withdrawal of license

The Post and Telecommunications sector may suspend a license to operate an Internet Data Center as follows:

1. Where the licensee is providing services not to specification in the license;
2. Imitation or provide information not aligned with the Post and Telecommunication sector's specifications;
3. Where the licensee has not paid the relevant telecommunication resources fees;
4. Where the licensee has not renewed its license as specified in this Decision;
5. Where the licensee is collecting service fees not conforming with related laws;
6. Where the licensee has not paid fees, service charge or taxes to the government;
7. Where the licensee has been fined in accordance with Article 24 of this Decision 2 times;
8. Where the licensee has violated other related laws.

The Post and Telecommunications sector may withdraw a license to operate an Internet Data Center as follows:

1. Where the licensee has received suspension of license, but no improvement as defined criteria of the Post, and Telecommunications sector;
2. Where the licensee has lent, leased or transferred the license to others;
3. Where the licensee has not operated within 1 year after renewing temporary license;
4. Where the licensee has been fined in accordance with Article 24 of this Decision 2 times;
5. Where the licensee has violated other related laws.

Chapter 8 Final Provision

Article 26 Implementation

Assigned to the Department of Information Technology, the Ministry of Post and Telecommunications, together with other related parties, shall strictly implement this Agreement.

Article 27 Effectiveness

This Decision comes into force from the date of signature and fifteen days after announcement by the Government.

Minister
Ministry of Post and Telecommunications

Attachment

Service Type

The service provider of an Internet Data Center may prepare request document for different types of services as follows:

1. Established Internet Data Center office of rent areas service (License type 1 only);
2. Co-Location hardware of rent areas service (License type 1&2);
3. Rack of rent areas service in order to set up dedicated server;
4. Rent service of Virtual private server and simulation;
5. Cloud computing service;
6. Others service such as: Web Hosting, Mail Hosting.

Director

Department of Information Technology