

DECREE No. 7: ABOVE AND BEYOND

PwC Belarus has prepared a short overview of the major changes introduced by the Decree of the President of the Republic of Belarus of 23.11.2017 No. 7 (Decree No. 7). Those changes, in our opinion, generally, shall make Belarusian business climate milder by simplifying the access to business conduct in certain spheres and decreasing the regulatory burden. Most of the changes enter into force as of 26 February 2018.

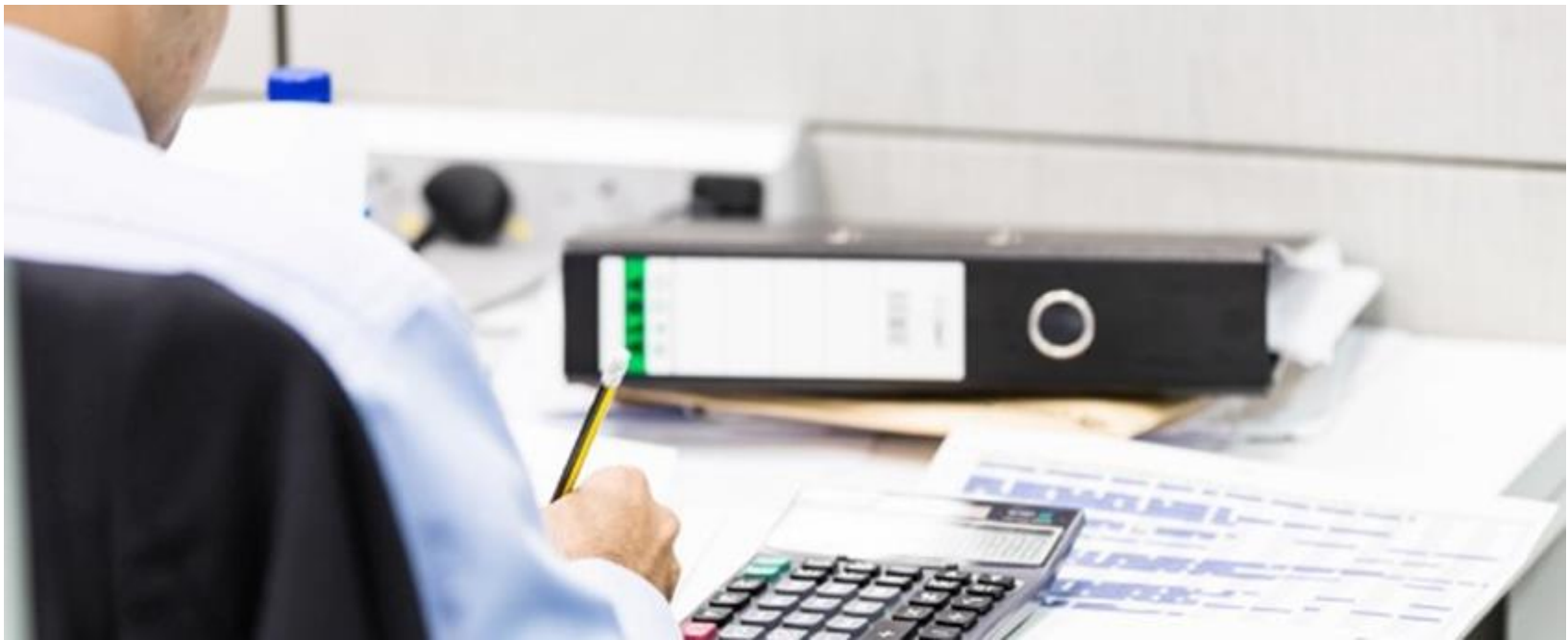
Notification as a single requirement to run a business

Decree No. 7 is a logical continuation of the last years' tendency to shorten the list of licensed activities and business requirements.

Decree No. 7 replaces the licensing requirement to a notification only order, e.g. in regard to automobile transportation of passengers and luggage in a non-regular connection (including taxi) and psychological aid. Additionally, touristic services, furniture, package and cloths manufacturing, as well as retail and wholesale trade, public catering may be carried out upon a notification submission through "one-stop shop". No more waiting for the data to be added to the registers, databases and completion of administrative formalities: businesses can commence their activity the next day after the notification was submitted.

Businesses refer to commercial and non-commercial entities, individual entrepreneurs.

Previously, the list of licenced activities was shortened in 2015 when licencing of activity related to manufacturing of certain metals, medical expert activity and some others was abolished.



Technical legal acts and legal acts of the USSR/BSSR

Decree No. 7 resolves conflict between technical legal acts (TLAs) adopted at the state level and the TLAs adopted in the Customs Union (CU) and Eurasian Economic Union (EAEU). According to Decree No. 7, Belarusian TLAs can be ignored, regardless of whether they were found void, if there are relevant TLAs adopted at the CU/EAEU level. However, one should be careful when applying CU/EAEU TLAs, since their transitional provisions sometimes make references to the national laws to be applicable within a certain period.

Decree No. 7 establishes accessibility of the technical documentation for businesses. As a general rule, TLAs shall be published at the National Legal Internet Portal of the Republic of Belarus. That shall significantly simplify searching for and obtaining necessary documents.

Besides, legal acts of the USSR and BSSR shall be no longer applicable.

Stamps as an abolished rudiment

With Decree No. 7 entering into effect, companies may go without stamps. In contrast to individual entrepreneurs, companies are now required by law to use stamps to verify documents. Currently, there are plenty of reporting forms, e.g. accounting documents that have “Stamp Here” requisites. It is still unclear, whether they will be soon brought into compliance with Decree No. 7 or “Stamp Here” requisite will no longer be mandatory simply due to Decree No. 7 standing higher in the hierarchy of legal acts than the legal acts approving the majority of forms.

Retail and public catering: what is new?

Decree No. 7 permits, in particular:

- establishing new retail facilities, public catering facilities with no regard to the planning schemes maintained by the authorities; in contrast, currently, the schemes are to be followed;
- choosing the working hours for retail trade facilities, public catering facilities without getting any approval from the authorities. However, if the facilities are to operate after 11 p.m. and before 7.00 a.m. approval by the authorities is still mandatory;
- establishing public catering facilities without determining their type and class, as well as developing for them the assortment lists regardless of the mandatory assortment lists established by the Ministry of Antimonopoly Regulation and Trade (MART). Currently, any assortment list shall contain minimum set of products and goods defined by the MART (i.e. certain quantity of Belarusian-made goods);
- manufacturing and selling products with ethanol share exceeding 7% in public catering facilities by way of mixing/infusing alcohol drinks with other food substances without a licence;
- opening a shop or a café in office premises without changing their designated use. Now it is required to change designated use of the real estate object.

Other important changes

Decree No. 7 in construction means, inter alia, abolishing of permission documentation for construction works within major repair and technical modernisation; abolition of the requirement on customer certificate for major repair and technical modernisation; shortening the list of cases when state sanitary-hygienic and ecological expertise is carried out.

Decree No. 7 in transportation means, inter alia, abolition of waybills in automobile transportation; carrying out waste transportation without accompanying certificate of transportation; new conditions of international transportation admittance for drivers.

Decree No. 7 in advertising means, inter alia, outdoor advertising without developing the project documentation; placing outdoor advertising and advertisements on transport without authorities' approval.

Alongside with these changes, Decree No. 7 establishes general requirements in fire safety, sanitation and epidemiology, environmental protection and veterinary towards placing, equipping, maintaining buildings and other premises. The new requirements are a way simpler and more systematic than they are now.

Bankruptcy and subsidiary liability

Untimely submission of the bankruptcy application or inaction that led to bankruptcy shall not be a ground for subsidiary liability any more. Decree No. 7 provides that owners and directors of a bankrupt will be subject to liability only if bankruptcy was the result of their guilty deliberate actions.

Taxation

Decree No. 7 formalises the long-discussed moratorium on tax rates rise and introduction of new taxes through to 2020. The exception refers to Belarus obligations under international treaties and readjustment of rates established in Belarusian roubles.

Online shops starting from 1 January 2018 will be again entitled to use the simplified taxation system (STS). Previously (as of 1 January 2016) online shops were deprived of such an opportunity. Return to the STS option should positively influence businesses operating through online shops, since STS means not only decrease in tax burden, but also decrease in time and operation expenditures for supporting the documentation flow.

Statute of limitation for tax collection is limited to 5 years from the date when tax payment term expires (there is no statute of limitation under current laws). However, if a tax audit is carried out with regard to a period exceeding 5 years and tax returns for this period were amended or supplemented, the taxes can be collected for the whole period under the audit.

In regard to tax audits, Decree No. 7 states that tax amount payable on a cumulative basis shall be calculated at the end of the tax period and with account of all the underpayments and overpayment for this tax in reporting periods. This means that overpayments can be credited against underpayments even after 3 years from overpayment date. Late payment interest shall also be calculated taking into account overpayment. Therefore, de facto, a taxpayer in certain cases can receive overpayment offset even after the 3-year term currently established by law is over.

Currently, overpayment offset can be carried out not later than 3 years after the overpayment took place.

General preclusive term for an administrative penalty for tax non-payment is 3 years from the date the administrative offence was committed, but no later than 6 months from the detection date.

For Belarusian businesses further decrease in tax burden can be introduced in connection to creation of new workplaces, conducting business at the territory of small and medium towns and rural areas, or reinvesting profit into manufacturing development. Decree No. 7 contains instructions to develop pieces of legislation in this regard.

Director liability

Despite certain warming that is seen through Decree No. 7 novelties, a special accent is made to naming company director personally liable for everything happening to the company. Practically, it means that the director is liable for taking no measures to organise the company's activity in a way that could eliminate damage to the public interest. Liability is established in the form of a fine of 10 to 200 basic amounts (approx. EUR 95-1,920).

If directors' actions and/or inaction can be qualified as an administrative offence or a crime, liability form and amount can be different.



How PwC Belarus can help?

Should you have any questions, PwC Belarus team would be happy to provide you with a tailor-made advice or give any other legal support that may be required concerning the Decree No. 7.

Key contacts:

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- **Individual approach tailored to a business case of each of our clients**, which include **419** companies from Fortune Global 500 and **100 000+** entrepreneurial and private businesses
- **Global team** operating in **158** countries.
- More than **236 000** professionals with different backgrounds united by **premium quality of services and passion to their work**.
- **Successful history** of PwC dates back to **1849**.



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