

National Assembly of the Socialist Republic of Vietnam
Legislature XI, 2nd Session
(From 12 November to 16 December 2002)

th session;

This Law amends and adds to a number of articles of the *Law on Promulgation of Legal Instruments* passed by the National Assembly of the Socialist Republic of Vietnam on 12 November 1996.

Article 1

To amend and add to a number of articles of the *Law on Promulgation of Legal Instruments*:

1. To amend and add to article 1 as follows:

"Article 1 *Legal instruments*

A legal instrument means an instrument which a competent State body promulgates in accordance with a legally stipulated procedure and order, containing commonly applicable rules on behaviour which the State guarantees will be implemented aimed at regulating social relationships following the socialist orientation.

The system of legal instruments shall comprise:

1. Legal instruments promulgated by the National Assembly: the Constitution, laws and resolutions. Legal instruments promulgated by the Standing Committee of the National Assembly: ordinances and resolutions.
2. Legal instruments promulgated by the President of the Socialist Republic of Vietnam: decrees and resolutions.

2. Any body which promulgates a legal instrument shall identify and list any of its own previously promulgated legal instruments or articles, sub-articles or clauses of legal instruments which are inconsistent with the new legal instrument; and shall be responsible to amend or supplement such inconsistent legal instruments or inconsistent articles, sub-articles or clauses of the [previous] legal instrument."

4. *To add the following article 12a after article 12:*

"Article 12a *Supervision and checks of legal instruments*

1. Legal instruments shall be supervised and checked by competent State bodies.
2. Any State body authorized to promulgate legal instruments and any body which supervises and checks legal instruments shall, within the scope of its respective duties and powers, promptly detect and deal with any erroneous legal instrument.
3. The Vietnam Fatherland Front and its member organizations, other agencies, organizations and citizens shall have the right to supervise legal instruments and to make recommendations to a competent State body to deal with any erroneous legal instrument."

5. *To amend and add to article 17 as follows:*

"Article 17 *Authority to promulgate, and the form of a legal instrument of the People's Supreme Court and of the People's Supreme Procuracy*

Based on the Constitution, on laws and resolutions of the National Assembly, on ordinances and resolutions of the Standing Committee of the National Assembly, and on orders and decisions of the State President, the Council of Judges of the

building laws and ordinances from other agencies, from organizations and National Assembly delegates, and the recommendations on laws and ordinances of National Assembly delegates.

3. The Legal Committee of the National Assembly shall preside over co-ordination with the Committee for Ethnic Minorities and with other committees of the National Assembly to investigate the proposals of the Government on the program for building laws and ordinances, and on the proposals on building laws and ordinances from other agencies, organizations and National Assembly delegates, and the recommendations on laws and ordinances from National Assembly delegates.
 4. Based on the forecast of the Government; the proposals on building laws and ordinances from other agencies, organizations and National Assembly delegates; the recommendations on laws and ordinances of National Assembly delegates; and the evaluation opinion of the Legal Committee of the National Assembly, the Standing Committee of the National Assembly shall establish an project on the program for building laws and ordinances and shall submit it to the National Assembly for decision.
 5. The program for building laws and ordinances shall comprise a program for building laws and ordinances for each term of a National Assembly session and an annual program for building laws and ordinances.
 6. The National Assembly shall decide the program for building laws and ordinances both for the sessions in the initial year of each National Assembly legislature; and shall decide the annual program for building laws and ordinances at the end-of-year session in the previous year”.
7. *To amend and add to article 25 as follows:*

"Article 25 *Establishing a Drafting Committee*

1. The agency or organization which submits a law project or draft resolution of the National Assembly, or an ordinance project or draft resolution of the Standing Committee of the National Assembly, shall establish the Drafting Committee.
2. The Standing Committee of the National Assembly shall establish the Drafting Committee in the following cases:
 - (a) Where the law project, ordinance project or draft resolution has contents which relate to a number of industries [or] to a number of sectors;
 - (b) Where a National Assembly law project or draft resolution was submitted by the Standing Committee of the National Assembly;
 - (c) Where the law project, ordinance project or draft resolution was submitted by the Committee for Ethnic Minorities [of the National Assembly] or by any committee of the National Assembly;
 - (d) Where the law project or ordinance project was submitted by a National Assembly delegate.
3. A Drafting Committee shall include a chairman who shall be the head of the agency or organization in charge of the drafting, and its members shall be representatives of the agencies and organizations concerned, and experts and scientists.

4. The agency or organization presiding over drafting shall be responsible to ensure operating conditions for the Drafting Committee; and shall be responsible before the body which submitted the project or draft for the contents and quality of the project or draft and for the speed of drafting.
5. Any agency or organization with a member on a Drafting Committee shall be responsible to contribute its written opinion on the law project, ordinance project or draft resolution."

8. To amend and add to article 26 as follows:

"Article 26 *Duties of the Drafting Committee of a law project, ordinance project or draft resolution*

Whilst drafting a law project, ordinance project or draft resolution, the Drafting Committee shall have the following duties:

1. To review the status of implementation of law, and to assess the current legal instruments which relate to the project or draft; to investigate and assess the actual state of social relationships relative to the main contents of the project or draft.
2. To organize research on information and data related to the project or draft.
3. To prepare a design, to write and revise the project or draft.
4. To organize the obtaining of opinions from agencies, organizations and individuals concerned and from subjects directly effected by the instrument within the appropriate scope and form depending on the nature and contents of each project or draft.
5. To prepare a submission and the data related to the project or draft. To state in the submission the necessity for promulgation, the goals, requirements, scope, subjects and main contents of the project or draft, the issues on which it is necessary to seek opinions and instructions, and the issues on which there are differing opinions.
6. To c-ordinate with the agencies and organizations involved to prepare draft instruments containing detailed regulations and guidelines on implementation.
7. With respect to drafting a law project, ordinance project or draft resolution, to give consideration to the international treaties which the Socialist Republic of Vietnam has signed or to which it has acceded."

9. To amend and add to article 28 as follows:

"Article 28 *Duties and powers of agencies, organizations and National Assembly delegates in submission of law projects, ordinance projects and draft resolutions*

1. Any agency or organization which submits a law project, ordinance project or draft resolution shall have the following duties and powers:
 - (a) To instruct the Drafting Committee during the process of building of the project or draft.
 - (b) To request agencies, organizations and individuals concerned to supply data and information related to the project or draft.
 - (c) To consider and make a decision on submitting a law project or draft resolution to the National Assembly, or on submitting an ordinance project or draft resolution to the

Standing Committee of the National Assembly. In a case where a law project, ordinance

4. The body presiding over drafting shall be responsible to investigate the evaluating opinion and to revise the law project, ordinance project or draft resolution in order for it to be submitted to the Government.

If the opinion of the body presiding over drafting differs from the opinion of the evaluating body,

During the process of discussion, the agency, organization or National Assembly delegate who submitted the law project may make an additional presentation on issues relative to the project.

The Standing Committee of the National Assembly shall direct the secretarial group for the session to collate the opinions of National Assembly delegates.

In necessary cases, the National Assembly may vote on a number of contents of a law project to provide the grounds for revising it.

4. The Standing Committee of the National Assembly shall direct the agency presiding over verification, the agency which submitted the project, the Legal Committee, the Ministry of Justice and [other] bodies concerned to revise a law project based on the opinions of National Assembly delegates.

The Standing Committee of the National Assembly shall report to the National Assembly on the former's receipt and revision of a law project.

5. The National Assembly shall hear a reading of the draft as revised; and shall discuss, vote on and pass the items of a law project on which there are still differing opinions, and shall vote on and pass the law project.
6. A law project shall be [deemed] passed when more than one half of the total number of National Assembly delegates vote their approval. The Chairman of the National Assembly shall sign and attest the law.

If a law project remains unpassed or if only a part of it is passed, the revision and passing of the law project shall be implemented in accordance with the provisions in clauses 2 and 3 of article 45b of this Law."

"Article 45b *Order for considering and passing a law project at two sessions of the National Assembly*

The National Assembly shall consider and pass a law project at two sessions in accordance with the following order:

1. At the first session:
 - (a) A representative of an agency or organization or a National Assembly delegate shall submit a project brief on the project.
 - (b) A representative of the verifying body shall present a verification report.
 - (c) The National Assembly shall discuss in a plenary session the basic contents of the law project and the major issues on which there are differing opinions. The law project may be discussed in a cell or group of National Assembly delegates prior to its being discussed in a plenary session.

During the process of discussion, the agency, organization or National Assembly delegate who submitted the law project may make an additional presentation on issues relative to the project.

basic contents of the law project for submission to the National Assembly to vote on as grounds for revision.

2. In the period between two sessions of the National Assembly, the Standing Committee of the National Assembly shall direct the agency presiding over verification, the agency which submitted the project, the Legal Committee, the Ministry of Justice and [other] bodies concerned to revise the law project based on the opinions of National Assembly delegates.
3. At the second session:
 - (a) The Standing Committee of the National Assembly shall report to the National Assembly on the former's receipt and revision of the law project.
 - (b) The National Assembly shall hear a reading of the draft as revised; and shall discuss, vote on and pass the items of a law project on which there are still differing opinions, and shall vote on and pass the law project.
 - (c) A law project shall be [deemed] passed when more than one half of the total number of National Assembly delegates vote their approval. The Chairman of the National Assembly shall sign and attest the law.

If a law project remains unpassed or if only a part of it is passed, the law project shall be considered and passed at the following session as decided by the National Assembly on the proposal of the Standing Committee of the National Assembly."

13. *To amend and add to article 47 as follows:*

"Article 47 *Order for considering and passing ordinance projects*

1. Depending on the nature and contents of an ordinance project, the Standing Committee of the National Assembly shall consider and pass an ordinance project at one or at two sessions of the National Assembly.
2. The Standing Committee of the National Assembly shall consider and pass an ordinance project at the one session in accordance with the following order:
 - (a) A representative of an agency or organization or a National Assembly delegate shall submit a project brief on the project.
 - (b) A representative of the verifying body shall present a verification report.
 - (c) Representatives from any agencies and organizations or individuals invited to attend a session shall give a speech with their opinions.
 - (d) The Standing Committee of the National Assembly shall discuss the ordinance project, the Chairman of the session shall provide conclusions, and the Standing Committee of the National Assembly shall vote on and pass the draft ordinance.
 - (dd) If there are differing opinions on the draft ordinance, the Standing Committee of the National Assembly shall provide its opinion on the matters which need to be revised and shall direct the agency presiding over verification, the agency which submitted the project, the Legal Committee, the Ministry of Justice and [other] bodies concerned to revise the draft ordinance.

The agency presiding over verification shall report to the Standing Committee of the National Assembly with the revised draft ordinance.

- (e) The Standing Committee of the National Assembly shall hear a reading of the draft as

3. The agency presiding over drafting shall be responsible to ensure operating conditions for the Drafting Committee; and shall be responsible before the Government for the contents and quality of the draft and for the speed of drafting.

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3. The drafting agency of a draft resolution or decree shall be responsible to research opinions

The Council of Judges of the People's Supreme Court shall discuss and provide their opinion on a draft decision, directive or circular of the Chief Justice of the People's Supreme Court. Depending on the nature and contents of a draft decision, directive or circular, the Chief Justice of the People's Supreme Court shall decide whether to send the draft to the following to obtain their opinions: the Ministry of Defence, the Standing Committee of provincial People's Councils, local People's Courts and the agencies, organizations and individuals concerned.

The Chief Justice of the People's Supreme Court shall sign a decision, directive or circular.

2. The Director of the People's Supreme Procuracy shall organize and direct the drafting of a decision, directive or circular of the Director of the People's Supreme Procuracy.

The Procuracy Control Committee shall discuss and provide their opinion on a draft decision, directive or circular of the Director of the People's Supreme Procuracy. Depending on the nature and contents of a draft decision(i)-1.m d8ci

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"Article 80b *Matters to be supervised and checked*

Matters to be supervised and checked shall comprise:

1. Whether the instrument conforms with the Constitution, resolutions of the National Assembly and instruments of higher level State bodies.
2. Whether the form of the instrument conforms with the its contents.
3. Whether the contents of the instrument conform with the authority of the body promulgating it.

25. *To amend and add to article 82 as follows:*

"Article 82 *The Standing Committee of the National Assembly shall supervise and deal with any instrument contrary to the law²*

1. The Standing Committee of the National Assembly shall exercise the right to supervise legal instruments of State bodies within the scope of its duties and powers.
2. The Standing Committee of the National Assembly may of its own accord or on the proposal of the Committee for Ethnic Minorities, another committee of the National Assembly or a National Assembly delegate, rescind part or all of a legal instrument of the Government, Prime Minister of the Government, the People's Supreme Court or the People' Supreme Procuracy which is inconsistent with an ordinance or resolution of the Standing Committee of the National Assembly; and may suspend enforcement of part or all of a legal instrument of the Government, Prime Minister of the Government, the People's Supreme Court or the People' Supreme Procuracy which is inconsistent with the constitution or a law or resolution of the National Assembly and shall submit it to the National Assembly to decide on the rescission of part or all of such legal instrument.
3. The Standing Committee of the National Assembly may of its own accord or on the proposal of the Prime Minister of the Government, the Committee for Ethnic Minorities, another committee of the National Assembly or a National Assembly delegate, rescind part or all of an erroneous resolution of a provincial People's Council.
4. At the latest three days as from the date of signing the promulgation of a legal instrument, any promulgating body subject to supervision by the Standing Committee of the National Assembly shall forward such legal instrument to the Standing Committee of the National Assembly.

If the Standing Committee of the National Assembly discovers that a legal instrument is inconsistent with the constitution, or with a law or resolution of the National Assembly, or with one of its own ordinances or resolutions, it shall suspend enforcement of the instrument and require the promulgating body to either amend it or rescind it in accordance with the authority of the promulgating body. The promulgating body must accept the opinion of the Standing Committee of the National Assembly".

26. *To add article 82a after article 82 as follows:*

"Article 82a *The Committee for Ethnic Minorities and other committees of the National Assembly shall supervise and check legal instruments*

1. The Committee for Ethnic Minorities and committees of the National Assembly shall

² The Vietnamese expression here is slightly different from the expression "erroneous" in article 80a above.

level State body, and at the same time shall propose that the Standing Committee of the National Assembly rescind such instrument.

3. The Ministry of Justice shall assist the Government to exercise uniform State administration of the work of checking legal instruments, and shall assist the Prime Minister of the Government to check and deal with any instrument contrary to the law of a Ministry, ministerial equivalent body, or provincial People's Council or People's Committee".

Article 2

1. To amend and add to the terms in a number of articles of the *Law on Promulgation of Legal Instrument* as follows:
 - (a) Repeal the expression "Government body" in the name of Chapter V and in articles 18, 71, 72, 74 and 84.2
 - (b) Repeal the expression "Heads of ministerial equivalent bodies" in the name of sections I and II of Chapter V and in articles 16, 58, 66 and 84.
 - (c) Replace the expression "State budget allocation" with the expression "central budget allocation" in article 20.2.
 - (d) Replace the expression in article 30.2 "...then the drafting body shall be responsible to forward the draft law or draft ordinance to the Vietnam Fatherland Front and its member organizations in order to obtain their opinions" with the expression "...then the drafting body shall be responsible to forward the draft law or draft ordinance to the Central Committee of the Vietnam Fatherland Front and to the Central Executive Committee of its member organizations in order to obtain their opinions".
 - (dd) Add the words "draft resolution" to all these expressions in article 29: "law project and ordinance project", "law project", and "ordinance project".
 - (e) Repeal the expression "control" in the name of Chapter IX.
2. Repeal articles 27.2, 29.3, 31, 32.3 and 85 of the *Law on Promulgation of Legal Instrument*.

Article 3

This Law shall be of full force and effect as from the date of its proclamation.

Article 4

The Government shall provide detailed regulations and guidelines for the implementation of this Law.

This Law was passed by the National Assembly of the Socialist Republic of Vietnam, Legislature XI, 2nd Session on 16 December 2002.

Chairman of the National Assembly
(signed) NGUYEN VAN AN

