

THE XIth NATIONAL ASSEMBLY

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SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

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**THE LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE
LAW ON COMPLAINTS AND DENUNCIATIONS**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam (the Amendment

6. The complained shall include State agencies, organisations and individuals whose administrative decisions, administrative acts, disciplinary decisions are complained about.

7. The denounced shall include State agencies, organisations and individuals whose acts are denounced.

8. The complaint settler is a State agency, organisation or an individual whose competence is to settle complaints.

9. The denunciation settler is a State agency, organisation, or an individual whose competence is to settle denunciations.

10. Administrative decision is a written decision issued by a State administrative agency or a competent person therein applied once to one or several particular objects for a specific matter in administrative management activities.

11. Administrative act is an act of a State administrative agency or a competent person therein during the performance of task, public duties as provided by law.

12. Disciplinary decision is a written decision issued by the head of a State agency or organisation to apply one of such disciplinary forms as censuring, warning, lowering salary grade, demotion, sack or dismissal from office against cadres, public servants under his/her purview as stipulated by laws on cadres and public servants.

13. Complaint settlement is making verifications, conclusions and issuance of settlement decision by the complaint settler.

14. Denunciation settlement is making verifications, conclusions on denunciation contents and denunciation disposition by the denunciation settler.

15. Legally effective decision on complaint settlement is the complaint settlement decision in case where the complainant neither further complains nor initiates an administrative case in the court as stipulated by the administrative procedures laws within the defined time limit .

2- Article 17 shall be amended and supplemented as follows:

“Article 17

1. Complainant shall have the following rights:

a) to make complaints by himself (herself) or through his (her) representative as stipulated by law;

b) to know proof of settlement of his (her) complaint, to provide evidence and express his (her) own idea on that evidence;

c) to receive written replies on the acceptance of his (her) complaint for settlement; access information on order of procedure; to be sent a decision on settlement of his (her) complaint;

d) to be restored with his (her) legitimate rights and interests which have been infringed upon; to be compensated for damages as stipulated by law;

e) to continue his (her) complaint or initiate administrative case in court when his (her) complaint settled at administrative agencies as provided by the Law on Complaints and Denunciation and the administrative procedures law;

f) to withdraw his (her) complaints any time during the settlement proceeding.

2. Complainant shall have the following obligations:

- a) to make complaint to the right person who is competent to settle;
- b) to honestly present the matters, provide information and documents to the complaint settlers; to take responsibility before the law for the presented contents and the provision thereof;
- c) to strictly execute the legally effective decision on complaint settlement.”

3- Article 18 shall be amended and supplemented as follows:

“Article 18

1. The complained shall have the following rights:

- a) to know evidences provided

“Article 25

2. 2. The complainant does not have full capacity to act and does not have his (her) lawful representative;
3. 3. The representative status of the representative person is not legal;
4. 4. The prescription for making complaint and the time limit for continuing the complaint has expired;
5. 5. The complaint has been received for settlement by the court or the judgement or decision on the complaint has been rendered by the court.”

9- Article 37 shall be amended and supplemented as follows:

“ Article 37.

The first-time complaint settler shall meet and hold direct dialogues with the complainant and the complained to clarify about the contents of complaint, requirements of the complainant and the way for settlement of the complaint. The second-time complaint settler, when necessary or in case there is requirement of the complainant and the complained, shall meet and hold direct dialogues with the complainant and the complained.

The first-time complaint settler must issue the decision of complaint settlement in written form and send it to the complainant and the persons who have related rights and interests; he (she), where necessary, shall publicize the settlement decision of complaint to the complainant and the complained.”

10- Article 38 shall be amended and supplemented as follows:

“Article 38.

The first-time decision of complaint settlement shall contain the following contents:

1. 1. Day, month and year of issuance of the decision;
2. 2. Names and addresses of complainant and the complained;
3. 3. Contents of complaint;
4. 4. Results of examination of complaint contents; legal grounds for the settlement;
5. 5. Conclusion of complaint contents are fully correct, partly correct or completely wrong;
6. 6. Whether the administrative decision shall be remained, amended, abolished partly or fully; the administrative acts shall be brought to an end or not; and the settlement of specific matters in the contents of the complaint;
7. 7. Whether the compensation for the victim will be made or not (if any);
8. 8. The right for further complaint or to initiate an administrative case in the court under provisions of the administrative procedures law.”

11- Article 39 shall be amended and supplemented as follows:

“Article 39.

Within 30 days counted from the expiry date of settlement as stipulated in Article 36 of this Law, if the complaint is not yet settled, or within 30 days counted from the date complainant receives the decision of the first-time settlement, if he (she) does not agree, the complainant shall be entitled to make complaint to the subsequent complaint settlers or initiate an administrative case in the court as provided by law on administrative procedures. If the complainant initiates an administrative case in the court, he (she) shall not be entitled to make complaint to the subsequent complaint settlers; for the distant and remote areas with difficulty of travelling, the above-said time limit may be extended but shall not exceed 45 days.

In case of that the complainant does not agree with the first-time settlement decision of Ministers, Heads of ministerial level agencies, he (she) shall be entitled to initiate an administrative case in the people's court at the provincial level, except the other regulations provided by law.”

15- Article 47 shall be amended and supplemented as follows:

“Article 47.

1. The settlement of complaint must be filed into dossier. This dossier shall be composed of:

- a. a. The form of complaint or minute of the statement of complaint;
- b. b. Written replies by the complained;
- c. c. The minutes of Inspection, verification and conclusion, results of examination of expertise, minutes of meetings and dialogues;
- d. d. Complaint settlement decisions; and
- e. e. Other related documents.

2. The complaint settlement dossier must be numbered by pages upon the order of documents and stored as provided by law. In case where the complainant continues his (her) complaint or initiates an administrative case in the court, the dossier must be transferred, upon request, to the competent agencies or court of settlement.

Article 2.

This Law shall enter in force from...

For the complaints those have been being considered and settled before the date that this Law enters in force shall continue to be implemented under the provisions of the Law on Complaints and Denunciations ratified by the National Assembly of the Socialist Republic of Vietnam dated November 23rd 1998 and the Law Amending and Supplementing a Number of Articles of Law on Complaints and Denunciations ratified by the National Assembly of the Socialist Republic of Vietnam dated June 15th 2004.

The Government shall guide in detail the implementation of this Law./.