

THE XIth NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Session No.

Independence – Freedom – Happiness

Law No.58

(Draft 7)

Hanoi, ~~June~~ 29 November 2005

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 under the Resolution No. 51/2001/QH10 promulgated on December 25, 2001 bythThe XI National Assembly);

This law amends and supplements a number of articles of the Law on Complaints and Denunciations which was promulgated by the National Assembly of the Socialist Republic of Vietnam on June 15, 2004.

Article 1

To amend and supplement a number of articles of the Law on Complaints and Denunciations:

1- Article ~~2~~16 shall be amended and supplemented as follows:

~~“16. Legally effective complaint settling decisions shall include first-time complaint settling decisions, second-time complaint settling decisions that during th~~

~~4. Eligible complaining agencies, organisations include State agencies, political organisations, socio-political societies, social organisations, socio-professional organisations, economic organisations, people's armed force units.~~

~~5. Denouncers are citizens who ~~are~~ exercise their right to denunciate.~~

~~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, ~~organi~~ or an individual whose competence~~

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

edd) 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 an administrative case in court when his (her) complaint settled at administrative agencies~~ provided by the Law on Complaints and Denunciation and the administrative procedures law;

eg) to withdraw his (her) complaints at 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 such information and documents

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 by the complainer; to provide evidences proving the legality of the complained administrative decision or complained administrative act and express his (her) own idea on that evidence with the following complaint settler

b) to receive a complaint settlement decision issued by the following complaint settlers for the second time or the award or decision of the court, regarding the complaint he/she which has been settled, but the complainant have furthered continued lodging a complaint or initiated an
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d) to compensate for damages, overcome the consequences caused by his (her) illegal administrative decisions or administrative acts as provided by this Law.”

4- Article 23 is amended and supplemented as follows:

“Article 23

Chairperson of People's Committee of province and city directly under the central authority (generally referred to as provincial level) shall have the competence:

1. to settle complaints about his (her) administrative decisions, administrative acts;
2. to settle the complaint which has been settled by Chairman of People's Committee at district level but continue to be complained.
3. to settle the complaints which have been settled by Directors of functional provincial Departments or of equivalents under provincial People's Committee the first time but continue to be complained the contents of which fall under the scope of management of the provincial People's Committee's

5- Article 25 shall be amended and supplemented as follows:

“Article 25

~~1-~~ Ministers, Heads of ministerial level agencies and Heads of agencies under the Government shall have the competence:

- ~~1~~a) to settle complaints about the administrative decisions, administrative acts of their own, or of officers and public servants under their direct management;
- ~~2~~b) to settle complaints which have been settled by the persons as stipulated in Article 24 of the Law on Complaints and denunciations but continued to be complained;
- ~~3~~c) to settle the complaints the contents of which fall under the scope of management power

~~And the Inspector General shall have the right to make a proposal to the Prime Minister or to the competent authorities for application of necessary measures to stop the breach, identify the responsible persons and decide settlement methods where any act of violation of the laws causing damage to the interest of the State, or the legitimate rights and benefits of citizens, organizations or agencies.~~

7- Article 28 shall be amended and supplemented as follows:

“Article 28

The Prime Minister shall ~~be~~ have the responsible for competence of

1. leading the settlement by Ministries, ministerial level agencies, agencies under the Government, the People's Committees at all levels;

2. ~~guiding Ministers, Heads of ministerial level agencies to settle complaints related to various localities and fields of State management and entrusting the dealing with the proposals made by the Inspector General with monitoring and speeding up that settlement stipulated in Article 26.2 of the Law on Complaints and Denouncements~~

2. If a complaint fails to be settled within the time limit set in clause 1 of this Article by the competent person, then such competent person shall be considered for disciplines. The complainant shall have the right to claim to the direct superior body of the person who so fails to settle his/her claim for consideration of disciplines on such persons."

10. Article 37 shall be amended and supplemented as follows:

" Article 37.

During the settlement of a complaint for the first time, 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.

Where the complainant hires lawyers for legal services then the lawyers shall have the right to participate in the complaint settling process. —The second-time complaint settler, when no

to the ~~subsequent second-time~~ 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 settler,~~ or in the distant and remote areas with difficulty of ~~travelling~~traveling 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, ~~es, chairmen of provincial People's Committees,~~ she (she) shall be entitled to initiate an administrative case in the people's court at the provincial level ~~except the unless~~ other ~~wise regulations~~ provided by law.”

13 - Article 40 shall be amended and supplemented as follows:

“Article 40

Where a complaint is continued the complainant must attach the application a copy of the first-time settlement decision and other relevant documents if any to the competent second-time settler.”

14- Article 41 shall be amended and supplemented as follows:

“Article 41

Within 10 days as of receipt of complaints falling under one's scope of authority but out of cases set out in Article 32 of the Law on Complaints and Denouncements, the second-time settler must receive for settlement and send written notice to the complainant and the first-time settler for information; in case of refusal of settlement the written notice clearly stating the reasons for such refusal shall be set to the complainant.”

15 - Article 42 shall be amended and supplemented as follows:

“Article 42

During the second-time complaint settling process, if there is ground to believe that the

16 - Article 43 shall be amended and supplemented as follows:

“Article 43

1. The period for second-time complaint settlement shall not exceed 45 days as of the date of receipt for settlement; in complicated cases, such period may be extended provided that it will not exceed 60 as of the date of receipt for settlement.

In remote and out-of-the-way areas with difficulties in traveling, the time limit for settling a

~~2. Subsequent~~ ~~The second-time~~ complaint settlers must issue a decision of settlement in written form. Contents of this decision shall be composed of:

- a. day, month, year of issuance of decision;
- b. names, addresses of complainant and the complained;
- c. complained contents;
- d. conclusion on the first-time settlement;
- dd. results of verification;
- e. legal grounds for settlement,
- gf. conclusion on whether the complained contents are correct, partially correct or totally wrong. If the complain is correct or partially correct, then there must be provisions on requesting the issuer of such complained administrative decision or administrative act to amend, abolish partially or wholly such administrative decision or administrative act and on the settlement by the previous complaint settler, as

~~said period of time, the complainant issue is not yet settled or the complainant does not agree with the complaint settlement decision, he or she shall be entitled to initiate an administrative case in the court as provided by the law on administrative procedure for the distant and remote areas with difficulty for ~~travelling~~traveling the time limit may be extended but shall not exceed 45 days.”~~

~~1520~~ Article 47 shall be amended and supplemented as follows:

“Article 47.

1. There must be a file for each case of settlement of complaint. This dossier shall be composed of:

a.