

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

**LAW
ON
AMENDMENT OF AND ADDITION TO
A NUMBER OF ARTICLES OF THE
LAW ON PROMULGATION OF LEGAL INSTRUMENTS**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10 of the National Assembly dated 25 December 2001 at Legislature X, 10th 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 other competent State Central bodies in order to implement legal instruments of the National Assembly or of the Standing Committee of the National Assembly:
 - (a) Orders and decisions of the State President;
 - (b) Resolutions and decrees of the Government; decisions and directives of the Prime Minister of the Government;
 - (c) Decisions, directives and circulars of Ministers and of Heads of ministerial equivalent bodies;

(d) Resolutions of the Council of Judges of the People's Supreme Court; decisions, directives and circulars of the Chief Justice of the People's Supreme Court and of the Director of the People's Supreme Procuracy;

(dd) Joint resolutions and circulars between competent State bodies, and between a competent State body and a socio-political organization.

3. Legal instruments which a People's Council or a People's Committee promulgates in order to implement a legal instrument of the National Assembly, of the Standing Committee of the National Assembly or of a higher-level State body; instruments which a People's Committee promulgates also to implement a resolution of a higher-level People's Council:

(a) Resolutions of a People's Council;

(b) Decisions and directives of a People's Committee".

2. *To amend and add to article 3 as follows:*

"Article 3 *Participating by providing opinions on preparation of legal instruments*

1. The Vietnam Fatherland Front and its member organizations, and other social organizations, economic organizations, State bodies, units of the people's armed forces and individuals shall have the right to participate by providing opinions on building of legal instruments.

2. During the process of preparation of legal instruments, and depending on the nature and contents of a project or draft, the agency [and/or] organization concerned shall facilitate other agencies, organizations and individuals to participate by providing their opinions, and shall organize the taking of opinions from subjects directly effected by the legal instrument within the appropriate scope and by the appropriate form.

3. Opinions which are contributed on a project or draft of a legal instrument must be investigated in order to accept revision of the project or draft document".

3. *To amend and add to article 9 as follows:*

"Article 9 *Amending, supplementing, replacing, rescinding, abolishing and suspending enforcement of legal instruments*

1. Legal instruments may only be amended, supplemented, replaced, rescinded or abolished by a legal instrument of the same State body which promulgated the original legal instrument; or their enforcement may be suspended or they may be rescinded or abolished by the legal instrument of any competent State body.

A legal instrument which amends, supplements, replaces, rescinds, abolishes or suspends enforcement of another legal instrument must clearly confirm the name of the instrument, and the article, sub-article or clause of the legal instrument [it purports to] amend, supplement, replace, rescind, abolish or suspend enforcement.

Any legal instrument which has not yet been amended, supplemented, replaced, rescinded, abolished, or had enforcement suspended by a competent State body shall continue to have its original effect and must be strictly implemented.

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 People's Supreme Court may promulgate resolutions, and the Chief Justice of the People's Supreme Court and the Director of the People's Supreme Procuracy may promulgate decisions, directives and circulars".

6. *To amend and add to article 22 as follows:*

"Article 22 *Preparing a program for building laws and ordinances and passing such program*

1. A program for building laws and ordinances shall be prepared on the basis of the Party's path, line and policies, of the strategy for socio-economic development, of national security and defence, and of the requirements for State administration for time to time, ensuring the rights and obligations of the citizens.
2. Agencies, organizations and National Assembly delegates shall have the right to submit any law project prescribed in article 87 of the 1992 Constitution and to send their proposal for building a law or ordinance to the Standing Committee of the National Assembly with a copy to the Government. A proposal for building a law or ordinance must specify the necessity for its promulgation, the applicable subjects and governing scope of the instrument; the important points of the instrument and its main contents, its forecast socio-economic effect, the proposed manpower to enforce the instrument, and the conditions ensuring that the document will be drafted. Any recommendation of a National Assembly delegate on a law or ordinance shall also be forwarded to the Standing Committee of the National Assembly and to the Government.

The Government shall prepare the proposed program for building laws and ordinances on issues within the scope of its functions, duties and powers, and shall submit them to the Standing Committee of the National Assembly and present the opinions and proposals on

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 project or draft resolution is not submitted as scheduled in the program, a prompt report stating the reasons therefor must be made to the Standing Committee of the National Assembly.

2. Any National Assembly delegate who submits a law project or ordinance project shall have the duties and powers prescribed in clause 1 of this article. The Office of the National Assembly shall ensure the necessary conditions for the Drafting Committee of the law project or ordinance project submitted by a National Assembly delegate.
3. With respect to a law project or ordinance project of the National Assembly not submitted by the Government, 45 days at the latest prior to the opening of a National Assembly session, the agency, organization or National Assembly delegate who submitted the law project or ordinance project shall be responsible to send the project or draft to the Government for the latter to participate with its opinion.

With respect to an ordinance project or draft resolution of the Standing Committee of the National Assembly not submitted by the Government, 40 days at the latest prior to the opening of a session of the Standing Committee of the National Assembly, the agency, organization or National Assembly delegate who submitted the project or draft shall be responsible to send it to the Government for the latter to participate with its opinion."

10. *To add the following article 29a after article 29:*

"Article 29a *Evaluation of law projects, ordinance projects or draft resolutions*

1. The Ministry of Justice shall be responsible to evaluate law projects, ordinance projects and draft resolutions so that the Government may consider them in advance of a decision on submission to the National Assembly or to the Standing Committee of the National Assembly.

The Minister of Justice shall establish an Evaluation Council to evaluate law projects, ordinance projects and draft resolutions where the Ministry of Justice had presided over their drafting.

2. The evaluating body shall conduct an evaluation of the following matters:
 - (a) The necessity for promulgation of the law, ordinance or resolution; the applicable subjects and governing scope of the project or draft.
 - (b) Whether the contents of the project or draft conform with the Party's path, line and policies; whether it is constitutional, lawful, and consistent with the legal system.
 - (c) The feasibility of the instrument.
 - (d) Whether it conforms with the drafting procedure and order.
 - (dd) The language and technical matters in the draft document.
3. In necessary cases, the evaluating body may require the body presiding over drafting to report on issues appertaining to the contents of the law project, ordinance project or draft resolution; to itself organize, or to organize jointly with the body presiding over drafting, an actual survey of issues appertaining to the contents of the project or draft. The body presiding over drafting shall be responsible to supply information and data servicing the evaluation of a project or draft.

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, the former shall report same to the Government for its consideration and decision."

11. *To add the following article 34a after article 34:*

"Article 34a *The Legal Committee of the National Assembly shall ensure the constitutionality, legality and consistency with the legal system of any law project or ordinance project*

The Legal Committee of the National Assembly shall be responsible to ensure the constitutionality, legality and consistency with the legal system of any law project or ordinance project prior to its submission to the National Assembly or to the Standing Committee of the National Assembly to consider and pass, by taking the following actions:

1. Participating in verification of any law project or ordinance project where the Committee for Ethnic Minorities and other Committees of the National Assembly preside over verification.

If the Legal Committee of the National Assembly has an opinion different from that of the agency presiding over verification on the constitutionality, legality and consistency with the legal system of any law project or ordinance project, then the Legal Committee shall report its opinion to the National Assembly or to the Standing Committee of the National Assembly.

2. Participating in revision of the law project or ordinance project."

12. *To amend and add to article 45 to form [new] articles 45, 45a and 45b as follows:*

"Article 45 *Considering and passing a law project*

Depending on the nature and contents of a law project, the National Assembly shall consider and pass a law project at one or at two sessions of the National Assembly."

"Article 45a *Order for considering and passing a law project at the one session of the National Assembly*

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

1. A representative of an agency or organization or a National Assembly delegate shall submit a project brief on the project.
2. A representative of the evaluating body shall present a verification report.
3. The National Assembly shall discuss¹ 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.

¹ PF Note: Alternative translation is "debate", but discuss has been used throughout.

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.

- (d) The Standing Committee of the National Assembly shall direct the secretarial group for the session to collate the opinions of National Assembly delegates and to prepare the

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 revised; and shall discuss, vote on and pass the items on which there are still differing opinions, and shall vote on and pass the draft ordinance.
 - (g) A draft ordinance shall be [deemed] passed when more than one half of the total number of members of the Standing Committee of the National Assembly vote their approval. The Chairman of the National Assembly shall sign the ordinance.
3. The Standing Committee of the National Assembly shall consider and pass an ordinance project at two sessions in accordance with the following order:
- (a) At the first session, submission and discussion shall be implemented in accordance with the order prescribed in clauses 2 (a), (b) and (c) of this article. The Standing Committee of the National Assembly shall discuss and vote on a number of issues in an ordinance project to provide grounds for revising it.
 - (b) In the period between two sessions, 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 bodies concerned to revise the ordinance project.
 - (c) At the second session, the agency presiding over verification shall report to the National Assembly on revision of the ordinance project.

The National Assembly shall hear a reading of the draft as revised; and shall discuss, vote on and pass the items of an ordinance project on which there are still differing opinions, and shall vote on and pass the ordinance project.
 - (d) An ordinance project 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 the ordinance.
4. If an ordinance project remains unpassed or if only a part of it is passed, the ordinance project shall be considered and passed at the following session as decided by the National Assembly on the proposal of the agency presiding over verification."

14. *To amend and add to article 60 as follows:*

"Article 60 *Establishing a Drafting Committee of a draft resolution or decree*

- 1. The Government shall make a decision on the agency presiding over drafting of a draft resolution or decree.

The agency presiding over drafting shall establish the Drafting Committee.

With respect to a decree prescribed in article 56.2(b) of this Law, the Government shall make a decision on establishing the Drafting Committee.

- 2. A Drafting Committee shall include a chairman who shall be a representative of the agency [presiding over or] in charge of the drafting, and its members shall be representatives of the evaluating body and of agencies and organizations concerned, and experts and scientists.

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.
 4. Any Ministry, ministerial equivalent body or Government body with a member on a Drafting Committee shall be responsible to contribute its written opinion on the contents in the document which relate to its sector or work, and shall be liable for its opinion”.
15. *To amend and add to article 61 as follows:*

"Article 61 *Duties of the Drafting Committee of a draft resolution or decree*

During drafting of a draft resolution or decree, 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 draft; to investigate and assess the actual state of social relationships relative to the main contents of the draft.
 2. To organize research on information and data related to the draft.
 3. To prepare a design, to write and revise the 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 draft.
 5. To prepare a submission and the data related to the draft. To state in the submission the necessity for promulgation, the goals, requirements, scope, subjects and main contents of the draft, the issues on which it is necessary to seek opinions and instructions, and the issues on which there are differing opinions.
 6. To co-ordinate with the agencies and organizations involved to prepare draft instruments containing detailed regulations and guidelines on implementation”.
16. *To amend and add to article 62 as follows:*

"Article 62 *Participating by providing opinions on a draft resolution or decree*

1. Depending on the nature and contents of a draft resolution or decree, the drafting agency shall send a copy of the draft to the Committee for Ethnic Minorities, the Vietnam Fatherland Front, the Vietnam Labour Federation, the People’s Supreme Court, the People’s Supreme Procuracy, agencies and organizations concerned, and to People’s Councils and People’s Committees of provinces and cities under central authority (hereinafter both referred to as provincial) in order to organize the obtaining of opinions.
2. Depending on the nature and contents of a draft resolution or decree, the Prime Minister of the Government may assign the Government Office to publish the draft on the mass media and on the internet so that agencies, organizations and individuals can participate with their opinions.

Individuals may contribute opinions on a draft resolution or decree via their agencies or organizations, directly or by sending a letter to the Government Office or to the drafting agency or via the mass media.

3. The drafting agency of a draft resolution or decree shall be responsible to research opinions which are contributed in order to accept revision of the draft resolution or decree and shall report and explain their receipt of opinions”.

17. *To amend and add to article 63 as follows:*

"Article 63 *Evaluation of a draft resolution or decree*

1. The Ministry of Justice shall be responsible to evaluate a draft resolution or decree prior to its submission to the Prime Minister of the Government.

The Minister of Justice shall establish an Evaluation Council to evaluate draft resolutions or decrees for which the Ministry of Justice presides over drafting.

2. The scope of evaluation of a draft resolution or decree shall be as stipulated in article 29a.2 of this Law.
3. In necessary cases, the evaluating body may require the body presiding over drafting to report on issues appertaining to the contents of the draft resolution or decree; to itself organize, or to organize jointly with the body presiding over drafting, an actual survey of issues appertaining to the contents of the draft resolution or decree. The body presiding over drafting shall be responsible to supply information and data servicing the evaluation of the draft resolution or decree.
4. The agency presiding over drafting shall be responsible to research the evaluation opinion, and revise the draft resolution or decree for submission to the Government. If the opinion of the agency presiding over drafting differs from the opinion of the evaluating body, the former shall report same to the Government for its consideration and decision.
5. The Government Office shall forward the draft resolution or decree together with the written evaluation to all Government members prior to a Government meeting. The Government shall only consider and discuss a draft resolution or decree which already has a written evaluation."

18. *To amend and add to article 64 as follows:*

"Article 64 *Order for considering and passing draft resolutions or decrees*

1. Depending on the nature and contents of a draft resolution or decree, the Government may consider and pass a draft resolution or decree at one or at two meetings of the Government.
2. At a meeting of the Government, a representative of the drafting body shall speak on the draft; the evaluating body shall present its evaluation opinion on the draft; and representatives from any agencies and organizations invited to attend the meeting shall give a speech with their opinions.
3. Government members shall discuss the issues on which there remain differing opinions.
4. A draft resolution or decree shall be [deemed] passed by the Government when more than one half of the total number of Government members vote their approval.
5. The Prime Minister of the Government shall sign a resolution or decree.

6. If a draft resolution or decree remains unpassed, the Government shall provide its opinion on the matters which need to be revised and shall fix a time within which the draft should be re-submitted."

19. *To amend and add to article 65 as follows:*

"Article 65 *Drafting and promulgating a decision or directive of the Prime Minister of the Government*

1. The Prime Minister of the Government shall assign and preside over the drafting of a draft decision or directive of the Prime Minister of the Government.
2. The body to whom the drafting is assigned shall be responsible to prepare the draft.
3. Depending on the nature and contents of a draft decision or directive, the drafting agency shall forward the draft to and obtain opinions from the Committee for Ethnic Minorities, Government members, the Chairman of the People's Council, the Chairman of a provincial people's committee, and from agencies, organizations and individuals concerned.
4. Depending on the nature and contents of a draft decision or directive, the Prime Minister of the Government may assign the Government Office to publish the draft on the mass media and on the internet so that agencies, organizations and individuals can participate with their opinions.
5. The Ministry of Justice shall be responsible to evaluate a draft decision or directive of the Prime Minister of the Government.
6. The drafting body shall revise the draft and report to the Prime Minister of the Government on the opinions of agencies, organizations and individuals.
7. The Prime Minister of the Government shall consider and sign the decision or directive".

20. *To amend and add to article 69 as follows:*

"Article 69 *Decisions, directives and circulars of the Chief Justice of the People's Supreme Court and of the Director of the People's Supreme Procuracy*

1. A decision, directive or circular of the Chief Justice of the People's Supreme Court may be promulgated in order to exercise administration of the organization of local people's Courts and of military courts; and to make provisions on other issues within the authority of the Chief Justice of the People's Supreme Court.
2. A decision, directive or circular of the Director of the People's Supreme Procuracy may be promulgated in order to provide for measures to ensure the implementation of the duties and powers of People's Procuracies at all levels; and to make provisions on other issues within the authority of the Director of the People's Supreme Procuracy".

21. *To amend and add to article 70 as follows:*

"Article 69 *Drafting and promulgating decisions, directives and circulars of the Chief Justice of the People's Supreme Court and of the Director of the People's Supreme Procuracy*

1. The Chief Justice of the People's Supreme Court shall organize and direct the drafting of a decision, directive or circular of the Chief Justice of the People's Supreme Court.

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, directive or circular, the Director of the People's Supreme Procuracy shall decide whether to send the draft to the following to obtain their opinions: the People's Supreme Court, the Ministry of Justice, local People's Procuracies, the Military Procuracy and the agencies, organizations and individuals concerned.

The Director of the People's Supreme Procuracy shall sign a decision, directive or circular”.

22. *To amend and add to article 75 as follows:*

"Article 69 *Date of effectiveness of legal instruments*

1. Laws and resolutions of the National Assembly and ordinances and resolutions of the Standing Committee of the National Assembly shall be of full force and effect as from the date on which the State President signs an order of proclamation, unless such instrument provides for some other effective date.
2. Legal instruments of the State President shall be of full force and effect as from the date on which they are published in the Official Gazette, unless such instrument provides for some other effective date.
3. Legal instruments of the Government, the Prime Minister of the Government, Ministers, Heads of ministerial equivalent bodies, the People's Supreme Court, the People' Supreme Procuracy and joint legal instruments shall be of full force and effect fifteen days after the date on which they are published in the Official Gazette, or on a later date if such instrument so provides. With respect to a legal instrument of the Government or of the Prime Minister of the Government which provides for implementing measures in an emergency situation, the instrument may provide for an earlier effective date”.

23. *To add article 80a before article 81 as follows:*

"Article 80a *Purpose of supervision and checking*

1. Supervision and checking of legal instruments shall be conducted aimed at detecting any erroneous contents in order to promptly suspend their enforcement, or to amend, rescind or abolish such instrument in order to ensure that the legal system is constitutional, lawful and uniform and also to recommend that the competent body determine the responsibility of the agency or individual who promulgated the erroneous instrument”.

24. *To add article 80b before article 80a as follows:*

"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.

supervise and check legal instruments of the Government, the Prime Minister of the Government, Ministers, Heads of ministerial equivalent bodies, and joint legal instruments between competent State Central bodies or between a competent State body and a Central body of a socio-political organization belonging to the sector for which the Committee for Ethnic Minorities [and/or] a committee is responsible.

The Legal Committee of the National Assembly shall also supervise legal instruments of the People's Supreme Court and of the People's Supreme Procuracy.

2. At the latest three days as from the date of promulgation of a legal instrument, any promulgating body subject to supervision by the Committee for Ethnic Minorities and committees of the National Assembly shall forward such legal instrument to the Committee for Ethnic Minorities and committees of the National Assembly.

If it is discovered that a legal instrument of the Government, the Prime Minister of the Government, the People's Supreme Court or the People's Supreme Procuracy has signs of inconsistency with the constitution or with a law or resolution of the National Assembly or an ordinance or resolution of the Standing Committee of the National Assembly, the Committee for Ethnic Minorities and committees of the National Assembly shall request the promulgating body to reconsider the instrument in order to suspend its enforcement or to amend or rescind it. Within a time-limit of thirty days as from the date of receipt of the request, the body which promulgated the instrument shall be responsible to reply to the Committee for Ethnic Minorities and committees of the National Assembly; if the body which promulgated the instrument fails to suspend its enforcement or to amend or rescind it, the Committee for Ethnic Minorities and committees of the National Assembly shall propose to the Standing Committee of the National Assembly that the latter consider the matter and make a decision.

If it is discovered that a legal instrument of Ministers, Heads of ministerial equivalent bodies, or a joint legal instrument between competent State bodies at the Central level or between a competent State body and a Central body of a socio-political organization has signs of inconsistency with the constitution or with a law or resolution of the National Assembly or an ordinance or resolution of the Standing Committee of the National Assembly, the Committee for Ethnic Minorities and committees of the National Assembly shall request the promulgating body to reconsider the instrument in order to suspend its enforcement or to amend or rescind it. Within a time-limit of thirty days as from the date of receipt of the request, the body which promulgated the instrument shall be responsible to reply to the Committee for Ethnic Minorities and committees of the National Assembly; if the body which promulgated the instrument fails to suspend its enforcement or to amend or rescind it, the Committee for Ethnic Minorities and committees of the National Assembly shall propose to the Prime Minister of the Government that the latter consider the matter and deal with it in accordance with his authority.

27. *To amend and add to article 83 as follows:*

"Article 83 *The Government shall check and deal with any instrument contrary to the law*

1. The Government shall check any legal instrument of a Ministry, ministerial equivalent body, or provincial People's Council or People's Committee.
2. The Prime Minister of the Government shall consider and make a decision on the rescission or suspension of enforcement of the legal instrument of a Minister, Head of a ministerial equivalent body or provincial People's Committee which is inconsistent with the constitution or with a law or legal instrument of a higher-level State body; and shall consider and make a decision on the suspension of enforcement of part or the whole of the resolution of a People's Council which is inconsistent with the constitution or with a law or legal instrument of a higher-

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

