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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 under the Resolution No. 51/2001/QH10 promulgated on December 25, 2001 by The XIth 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 shall be amended and supplemented as follows:

“Article 2

In this Law, the following terms shall be construed as follows:

1. Complaint means that citizens, State agencies, organisations or public servants according to the procedures prescribed by the Law on Complaints and Denunciations, the Law amending and supplementing a number of articles of the Law on Complaints and Denunciations and this Law (hereinafter called the Law on Complaints and Denunciations) propose competent agencies, organisations and individuals to review administrative decisions or administrative acts or disciplinary decisions against cadres, public servants when it is reasonable to consider that such decisions or acts are illegal and infringe upon their legitimate rights and interests.

2. Denunciation means that citizens according to the procedures prescribed by the Law on Complaints and Denunciations report to competent State agencies, organisations or individuals on illegal acts committed by any State agencies, organisations and individuals, which cause damages or threaten to cause damages to the interests of the State, the legitimate rights and interests of citizens, State agencies and organisations.

3. Complainants are citizens, State agencies, organisations or public servants who exercise their right to complaint.

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 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, 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;

đ) to continue his (her) complaint or initiate an 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;

e) 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;
- 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, regarding the complaints he/she has settled, but the complainants have furthered.

2. The complained shall have the following obligations:

- a) to receive and settle complaints about administrative decisions or administrative acts, send written replies of the acceptance for settlement and the settlement decision thereof to the complainants and take responsibility before laws for the settlement; in case where the complaints are forwarded by competent agencies, organisations or individuals, the settlement or the result thereof must be informed to such agencies, organisations or individuals as provided by the Law on Complaints and Denunciations;
- b) to present on the administrative decisions or administrative acts which is complained about, provide related information and documents upon request by competent agencies, organisations or individuals.
- c) to strictly abide by the legally-effective decision of complaint settlement;
- d) to compensate for damages, recover 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 still continued.
3. to settle the complaints which have been settled by Directors of Professional Departments or of equivalent level agencies under provincial People’s Committee but still continued.”

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:

a) to settle complaints about the administrative decisions, administrative acts of their own made, or of cadres, public servants under their direct management;

b) to settle complaints which have been settled by the persons as stipulated in Article 24 of the Law on Complaints and denunciations but still continued;

c) to settle the complaints which, with those contents fall under the management power of their respective ministries or branches, have been settled by the chairman of Provincial People’s Committee for the first time but still continued;.

2. Ministers, Heads of ministerial level agencies preside or take part in settling complaints related to various localities and fields of State management as guidance of the Prime Minister.”

6- Article 26 shall be amended and supplemented as follows:

“Article 26

The Inspector General shall have the competence:

1. to settle the complaints which have been settled by Heads of agencies under the Government but still continued;

2. to assist the Prime Minister in monitoring, speeding up the settlement of complaints related to various localities and fields of State management by Ministries and ministerial level agencies.”

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

“Article 28

The Prime Minister shall be responsible for:

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 Inspector General with monitoring and speeding up that settlement.”

8- Article 32 shall be amended and supplemented as follows:

“Article 32.

Complaints which fall under one of the following cases shall not be received for settlement:

1. 1. The complained administrative decision or administrative act does not directly relate to the legitimate rights and interests of the complainant;

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.”

12- Article 44 shall be amended and supplemented as follows:

“Article 44.

1. 1. In the complaint settlement proceeding for the following times, the subsequent complaint settler shall be entitled to:
 - a. a. request the complainant to provide information, documents and other evidence related to the complained issues;
 - b. b. request the complained to present in written form on the complained issues;
 - c. c. request the previous complaint settlers and relevant individuals and agencies or organizations to provide information, documents and other evidences related to the complained issues;
 - d. d. where necessary, request the presence of the complained and the complainant for holding dialogues or when there is requirement of the complained or the complainant;
 - e. e. make on-spot verification;
 - f. f. request for examination of expertise and adopt other measures as provided by law;
2. 2. In receiving the requests as stipulated in paragraph 1 of this Article, relevant individuals, agencies and organizations must observe those requests.”

13- Article 45 shall be amended and supplemented as follows:

“Article 45.

1. 1. Subsequent complaint settlers must issue the decision of settlement in written form. Contents of this decision shall be composed of:

- a. a. day, month, year of issuance of decision;
 - b. b. names, addresses of complainant and the complained;
 - c. c. complained issues;
 - d. d. results of verification;
 - e. e. legal grounds for settlement,
 - f. f. conclusion on complained issues and on the settlement by the previous complaint settlers;
 - g. g. whether the administrative decision shall be remained, amended or requested to revise or abolish 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;
 - h. h. whether the compensation for the victim shall be made or not (if any);
 - i. i. The right for further making complaint or to initiate an administrative case in the court of the complainant as stipulated by the law on administrative procedures; for those complaint settlement decisions stipulated in provisions 2 and 3 of Article 23; items b, c of provision 1 Article 26 of the Law on Complaints and Denunciations, it is compulsory to clarify the right to initiate an administrative case in the court as stipulated by the law of administrative procedures.
2. 2. The complaint settlement decisions of the following times shall be sent to the complainant, the previous complain settlers, the persons who have related rights and interests, and the person who sends the complaint in the period of no more than 7 days counted from the issuance date of the settlement decision

Where necessary, the subsequent complaint settlers shall publicize the complaint settlement decision to the complainant, the complained and persons who have related rights and interests (if any).”

14- Article 46 shall be amended and supplemented as follows:

“Article 46.

Within the period of 30 days, counted from the date the time limit of settlement has expired as provided in Article 43 of the Law on Complaints and Denunciations, if the complaint is not yet settled, or within the period of 30 days counted from the date the complainant receives the decision on settlement of his (her) complaint, 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 stipulated by the law on administrative procedures; if the complainant initiates an administrative case in the court, he or she shall not be entitled to make complaint to the subsequent complaint settlers; for the complaint settlement decision stipulated in provisions 2 and 3 of Article 23; item b, c of provision 1 Article 25 and provision 1 of Article 26 of the Law on Complaints and Denunciations, if in the above-said period of time, the complained 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 procedures; for the distant and remote areas with difficulty for travelling, the time limit may be extended but shall not exceed 45 days.”

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./.