

THE PRESIDENT

Order No. 29/2012/L-CTN of December 3, 2012, on the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the 10th National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 57 of the Law on Promulgation of Legal Documents,

PROMULGATES:

The Law Amending and Supplementing a Number of Articles of the Anti-Corruption Law,

which was passed on November 23, 2012, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 4th session.

President of the Socialist Republic of Vietnam
TRUONG TAN SANG

Law Amending and Supplementing a Number of Articles of the Anti-Corruption Law

(No. 27/2012/QH13)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Anti-Corruption Law No.55/2005/QH11, which was amended and supplemented under Law No. 01/2007/QH12.

Article 1.

To amend, supplement and annul a number of articles of the Anti-Corruption Law:

1. To amend and supplement Clause 2, Article 12 as follows:

“2. In case no form of publicity is provided by law, heads of agencies, organizations or units shall implement one or a number of forms of publicity specified at Points b, c, d, e and f, Clause 1 of this Article. In addition, heads of agencies, organizations or units may select forms of publicity specified at Points a and g, Clause 1 of this Article.”

2. To amend and supplement Point b, Clause 2, Article 13 as follows:

“b/ List of projects eligible for contractor appointment, reason for contractor appointment, information about appointed contractors; list of projects subject to restricted bidding, shortlist of bidders participating in restricted bidding, reason for restricted bidding, results of contractor selection;”

3. To amend and supplement Article 14 as follows:

“Article 14. Publicity and transparency in management of construction investment projects

1. In the management of construction investment projects, the following contents must be public and transparent:

a/ Prefeasibility reports, feasibility reports, reports on assessment of socio-economic impacts; objectives, expected results, groups of main activities and target beneficiaries during the process of project formulation;

b/ Project approval decisions, project implementation plans;

c/ Progress reports, project implementation reports, project implementation evaluation reports and project completion reports.

2. Construction investment planning projects must be put up for opinions of inhabitants in planned areas on the contents specified at Point a, Clause 1 of this Article and, after being approved, the contents specified at Points b and c, Clause 1 of this Article must be publicized.

3. Construction investment projects funded by local budgets must be considered and decided by People’s Councils.

4. Construction investment projects, after being decided and approved, must be publicized in terms of the contents specified at Points b and c, Clause 1 of this Article for public supervision.”

4. To add the following Clause 7 to Article 15:

“7. Tax agencies, customs agencies and other agencies, organizations and units which collect charges and fees shall publicize bases of calculation, actually collected amounts, subjects eligible for exemption and reduction and bases for exemption from and reduction of charges and fees.”

5. To amend and supplement Article 18 as follows:

“Article 18. Publicity and transparency in management of state enterprises

1. State enterprises shall publicize the following contents:

- a/ State capital and assets invested in the enterprises;
- b/ Their capital and assets invested in subsidiary companies and associated companies;
- c/ Investments outside their main business lines;
- d/ Preferential loans;
- e/ Financial statements and audit reports;
- f/ Formation and use of their funds;
- g/ Appointment of leading and managerial officers;
- h/ Full names, duties, salaries and other incomes of members of the Members’ Council or Board of Directors, Director General, Deputy Directors General, Director, Deputy Directors, controllers and chief accountant.

2. Annually, state enterprises established by the Prime Minister shall send reports on the contents specified in Clause 1 of this Article to the Ministry of Finance and ministries performing the state management of their main business lines, and the Government Inspectorate.

Annually, state enterprises established by ministers shall send reports on the contents specified in Clause 1 of this Article to the Ministry of Finance, ministries performing the state management of their main business lines, the Government Inspectorate and the inspectorates of their managing ministries.

Annually, state enterprises established by chairpersons of provincial-level People’s Committees shall send reports on the contents specified in Clause 1 of this Article to the provincial-level Departments of Finance, departments performing the state management of their main business lines, and the inspectorates of the provinces or centrally run cities.

6. To amend and supplement Clauses 1 and 2, Article 19 as follows:

“1. The equitization of state enterprises must be public and transparent; must not be conducted in a self-contained manner within the enterprises. Equitized enterprises shall disclose their financial statements, audit reports and equitization plans.

2. Agencies appointing representatives for state capital portions in enterprises shall publicize the values of equitized enterprises and adjusted enterprise values (if any).”

7. To amend and supplement Article 21 as follows:

“Article 21. Publicity and transparency in the state management of natural resources and environment

1. In the field of land, the following contents must be public and transparent:

a/ Land use master plans and plans. In the process of elaborating and adjusting land use master plans or plans, the elaborating agencies or organizations shall publicize such to inhabitants in the localities affected by the master plans and adjustments;

b/ Land use master plans and plans, land recovery, ground clearance, compensation levels, and resettlement upon land recovery after being decided, approved or adjusted by competent state agencies;

c/ The order, procedures and competence for the grant of land use rights certificates; detailed plans and division of residential land lots, subjects to be allocated land for building houses;

d/ Financial revenues of the state budget from land management and use, and exempted and reduced amounts of land use levies and land rents.

2. In the field of minerals and water resources, the following contents must be public and transparent:

a/ Mineral planning;

b/ The order, procedures and competence for the grant, extension and revocation of mining licenses, procedures for the appraisal and approval of mineral reserves and closure of mineral mines;

c/ Auction of the mining right and zoning of areas banned from or temporarily banned from mining and budget revenues from the management, exploitation and use of minerals;

d/ The order, procedures and competence for the grant, extension and revocation of licenses for exploration, exploitation and use of water resources, discharge of wastewater into water sources.

3. In the state management of environment, the following contents must be public and transparent:

a/ Waste management practicing conditions and procedures for compiling dossiers, registration and grant of waste management practicing licenses and codes;

b/ The order and procedures for appraisal and approval of reports on assessment of environmental impacts; decisions to approve reports on assessment of environmental impacts;

c/ Planning of waste collection, recycling and treatment.”

8. To amend and supplement Clauses 2 and 3, Article 23 as follows:

“2. Education administration agencies shall publicize the management and use of state budget funds and assets, physical facilities, cadres, civil servants and public employees and financial sources for educational activities; supports and investments for education and other revenues as prescribed by law.

3. Public educational institutions shall publicize their commitments on educational quality and results of accreditation of educational quality; conditions to ensure educational quality; collection, management and use of tuitions and enrollment fees, revenues from counseling and technology transfer activities, supports and investments for education and other financial revenues and expenditures as prescribed by law.”

9. To add the following Article 26a below Article 26:

“Article 26a. Publicity and transparency in the field of culture, information and communication

In the field of culture, information and communication, the following contents must be public and transparent:

1. The formulation and approval of master plans and plans on culture, information and communication;
2. The order, procedures and competence for the grant, extension and revocation of operation permits in the field of culture, information and communication.”

10. To add the following Article 26b below Article 26a:

“Article 26b. Publicity and transparency in the field of agriculture and rural development

In the field of agriculture and rural development, the following contents must be public and transparent:

1. Incentive policies on agriculture, forestry, fisheries and programs on agricultural and rural development;
2. Master plans and plans on forest development; conditions, order and procedures for allocation of forests, lease of forests, recovery of forests, change of forest use purposes, and registration of forest use rights;

3. The order, procedures and competence for the grant and revocation of licenses for trading plant protection drugs and veterinary drugs, and exploitation and processing of agricultural, forestry, aquatic and marine products.”

11. To add the following Article 26c below Article 26b:

“Article 26c. Publicity and transparency in the implementation of social security policies

In the implementation of social security policies, the following contents must be public and transparent:

1. Conditions and criteria of beneficiaries, level of benefits; the order, procedures and competence for the implementation of policies and laws on social insurance, health insurance, social relief, and preferences for persons with meritorious services;
2. The implementation of policies and laws on social insurance, health insurance, social relief, and preferences for persons with meritorious services.”

12. To add the following Article 26d below Article 26c:

“Article 26d. Publicity and transparency in the implementation of ethnic policies

In the implementation of ethnic policies, the following contents must be public and transparent:

1. Conditions and criteria of beneficiaries, level of benefits; the order, procedures and competence for the implementation of ethnic policies in disadvantaged or specially disadvantaged ethnic minority areas;
2. The implementation of programs and projects in disadvantaged and specially disadvantaged ethnic minority areas;
3. Reports on results of ethnic policy implementation.”

13. To amend and supplement Clause 2, Article 27 as follows:

“2. The following documents and decisions must be publicized, unless otherwise provided by law:

- a/ Inspection decisions, inspection conclusions, decisions on inspection handling;
- b/ Decisions on complaint settlement;
- c/ Conclusions on denunciations, decisions on handling of denounced violations;

d/ Audit reports; reports on implementation of audit conclusions and recommendations of the State Audit.”

14. To amend and supplement Article 30 as follows:

“Article 30. Publicity and transparency in organization and personnel work
In organization and personnel work, the following contents must be public and transparent:

1. Recruitment of cadres, civil servants, public employees and other employees into agencies, organizations and units;
2. Planning, training, retraining and assessment of cadres, civil servants and public employees;
3. Appointment, relief from duty, removal from office, dismissal, job discontinuation, discontinuation of holding a position, retirement of cadres, civil servants and public employees;
4. Rank transfer, rank promotion, rotation, transfer and seconding of cadres, civil servants and public employees;
5. Salary increase, reward, commendation and disciplining of cadres, civil servants, public employees and other employees;
6. Establishment, merger, split, separation and dissolution of attached units.”

15. To amend and supplement Clause 3, Article 32 as follows:

“3. Within 10 days as from the date of receiving a request, the requested person shall provide information; in case he/she can not provide information yet, or the requested content has been publicized, he/she shall give a reply to the requesting person.”

16. To add the following Article 32a below Article 32:

“Article 32a. Responsibility for explanation

1. When requested, competent state agencies shall explain their decisions or acts in the implementation of their assigned duties and powers to the agencies, organizations or persons whose lawful rights and benefits have been directly affected by such decisions or acts.
2. The Government shall stipulate in detail responsibilities of agencies having the obligation to give explanation; and the order and procedures for explanation.”

17. To add the following Article 46a below Article 46:

“Article 46a. Publicity of written property declarations

Written property declarations of persons having the property declaration obligation must be publicized as follows:

1. The written property declarations of persons having the property declaration must be publicized in agencies, organizations or units where such persons permanently work.

Persons competent to manage cadres, civil servants and public employees shall decide on publicization in the form of announcement in a meeting or posting of the written declarations at the head offices of their agencies, organizations or units. The time of publicization is from January 1 to March 31 every year. In case of publicization in the form of posting, the minimum time of publicization is 30 consecutive days.

2. The written property declarations of persons being candidates in the election of National Assembly deputies or People's Council deputies must be publicized at conferences of voters in the working places of such persons. The time and form of publicity comply with regulations of the Election Council;

3. The written property declarations of persons expected to be voted or approved by the National Assembly or People's Councils must be publicized among National Assembly deputies or People's Council deputies at their sessions. The time and form of publicity comply with regulations of the National Assembly Standing Committee or the standing bodies of People's Councils.”

18. To add the following Article 46b below Article 46a:

“Article 46b. The obligation to explain sources of increased property

1. Property declarers have the obligation to explain sources of increased property specified in Clause 2, Article 44 of this Law.

2. The Government shall stipulate the value of increased property and the valuation of increased property, the competence to request explanation, responsibilities of explainers, and the order and procedures for explanation.”

19. To amend and supplement Article 47 as follows:

“Article 47. Property verification

1. Grounds for property verification include:

a/ When there is a denunciation about dishonesty in the property declaration of the declarer;

b/ When it is considered that more information is needed to serve the election, appointment, dismissal, relief from duty, removal from office, or disciplining of the declarer;

c/ When there is a ground for presuming that the explanation about the source of the increased property is unreasonable;

d/ When there is a request of a competent agency, organization or person specified in Article 47a of this Law.

2. When there is one of the grounds specified in Clause 1 of this Article, persons competent to manage cadres, civil servants or public employees who have the property declaration obligation shall issue decisions on property verification.”

20. To add the following Article 47a below Article 47:

“Article 47a. Competence to request property verification

1. When there is one of the grounds specified at Points a, b and c, Clause 1, Article 47 of this Law, the following agencies, organizations and individuals may request persons competent to manage cadres, civil servants and public employees to issue decisions on property verification:

a/ The National Assembly Standing Committee or the Standing Bodies of People’s Councils, for persons expected to be voted or approved by the National Assembly or People’s Councils;

b/ The standing bodies of political organizations or socio-political organizations, for persons expected to be voted at congresses of these organizations;

c/ The Prime Minister, chairpersons of provincial- or district-level People’s Committees, for persons expected to be voted by People’s Councils;

d/ The Election Council, Election Committees, or Fatherland Front Committees, for candidates in the election of National Assembly deputies or People’s Council deputies;

e/ The President, for persons expected to be appointed as deputy prime ministers, ministers, heads of ministerial-level agencies, vice presidents of the Supreme People’s Court, judges of the Supreme People’s Court, vice chairpersons of the Supreme People’s Procuracy and procurators of the Supreme People’s Procuracy;

f/ The National Assembly Standing Committee, for persons expected to be appointed as Deputy State Auditor General.

2. Inspection, state audit and investigation agencies, procuracies and other competent agencies and organizations may request property verification if

in the course of inspection, examination, audit, investigation or supervision, there are conclusions on the responsibility of persons having the property declaration obligation related to acts of corruption.”

21. To add the following Clause 6 to Article 48:

“6. The Government shall stipulate in detail the order and procedures for property verification.”

22. To add the following Article 53a to Section 5, Chapter II, preceding Article 54:

“Article 53a. Responsibilities of heads of agencies, organizations and units in the suspension of work or temporary transfer to other working positions for cadres, civil servants and public employees

1. When there are grounds for presuming that cadres, civil servants or public employees having acts of violation related to corruption, heads of agencies, organizations or units shall, according to their competence or at the request of persons competent to manage cadres, civil servants or public employees, suspend from working or temporarily transfer to other working positions such cadres, civil servants or public employees in order to verify and make clear acts of corruption if considering that if such persons continue working, it may cause difficulties to consideration and handling activities.

2. Heads of agencies, organizations or units, or persons competent to manage cadres, civil servants and public employees shall consider work suspension or temporary transfer to other working positions for cadres, civil servants or public employees, when receiving requests of inspection, state audit or investigation, agencies or procuracies, if in the course of inspection, audit, investigation or supervision, they detect that there are grounds for presuming that such persons commit acts of corruption, aiming to verify and make clear acts of corruption.

3. Heads of agencies, organizations or units, or persons competent to manage cadres, civil servants and public employees shall cancel decisions on work suspension or temporary transfer to other working positions and publicize these decisions and restore the lawful rights and benefits of cadres, civil servants or public employees among all of their cadres, civil servants and public employees, after competent agencies conclude that such persons commit no act of corruption.

4. The Government shall detail the order and procedures for and duration of work suspension or temporary transfer to other working positions; enjoyment of salaries and allowances, other rights and benefits, and compensation for and restoration of lawful rights and interests of cadres,

civil servants and public employees, after competent agencies or organizations conclude that such persons commit no act of corruption.”

23. To amend and supplement Clause 4, Article 55 as follows:

“4. Inspection conclusions, audit reports and investigation conclusions on corruption matters or cases must clearly state the responsibilities of heads of agencies, organisations or units for the occurrence of acts of corruption to the following extents:

- a/ Poor management capability;
- b/ Irresponsibility in management;
- c/ Covering of persons committing acts of corruption.

The conclusions and reports must be sent to agencies, organizations and persons with personnel management competence.”

24. To amend and supplement Article 77 as follows:

“Article 77. Responsibilities of the State Audit

The State Audit shall, within the ambit of its tasks and powers, organize audit in order to prevent and detect, and coordinate the handling of, acts of corruption; in case of detecting acts of corruption, it shall transfer their dossiers to investigation agencies, procuracies or competent agencies or organizations for handling.”

25. To annul Article 73.

Article 2.

1. This Law takes effect on February 1, 2013.
2. The Government shall in detail and guide the implementation of articles and clauses as assigned in the Law.

This Law was passed on November 23, 2012, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 4th session.-

Chairman of the National Assembly
NGUYEN SINH HUNG