

*No.: 15/2012/QH13*

*Hanoi, June 20, 2012*

**LAW**  
**On Handling of Administrative Violations**

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

*The National Assembly promulgates the Law on Handling of Administrative Violations.*

**Part One**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Law provides the sanctioning of administrative violations and administrative handling measures.

**Article 2. Interpretation of terms**

In this Law, the terms below are construed as follows:

1. *Administrative violation* is a faulty act which is committed by an individual or organization in violation of the state management law but does not constitute a crime and, therefore, must be administratively sanctioned in accordance with law.

2. *Sanctioning of an administrative violation* means that a person with sanctioning competence imposes a sanction(s) on and applies a remedial measure(s) to an administrative violator in accordance with the law on sanctioning of administrative violations.

3. *Administrative handling measure* is a measure applicable to an individual who commit a violation of the law on security, order and social safety which does not constitute a crime. These measures include education in commune, ward or township; consignment to reformatory; consignment to compulsory education institution, and consignment to compulsory detoxification establishment.

4. *Measure in substitution for administrative violation handling* is an educational measure to be applied in substitution for an administrative sanction or administrative handling measure against juvenile administrative violators. These measures include admonition and management at home.

5. *Recidivism* means that an individual or organization that has been handled for an administrative violation and after completely executing the sanctioning decision or decision on application of an administrative handling measure or after the statute of

limitations for execution of such decision expires, re-commit the same violation, while the duration upon the expiration of which he/she/it will be regarded as having never been administratively handled has not expired.

6. *Repeated administrative violation* means a case in which an individual or organization repeats an administrative violation which he/she/it has previously committed without having been handled while the statute of limitations for handling such violation has not expired.

7. *Organized administrative violation* means that an individual or organization colludes with another individual or organization to jointly commit an administrative violation.

8. *License or practice certificate* is a paper granted by a competent state agency or person to an individual or organization in accordance with law so that the latter can do business, operate, practice a profession or use a tool or means. Licenses and practice certificates do not include business registration certificates and certificates linked with the personal backgrounds of holders not for the purpose of practice licensing.

9. *Place of residence* is a home, facility or another house used by a citizen for his/her residence. Places of residence may be owned by citizens, or leased or lent by agencies, organizations or individuals to citizens or allowed to be used by citizens for residence.

10. *Organization* is a state agency, political organization, socio-political organization, socio-politico-professional organization, social organization, socio-professional organization, economic organization, people's armed forces unit or another organization which is established in accordance with law.

11. *Emergency* is a circumstance in which an individual or organization that, for the purpose of warding off a practical threat to the interests of the State or another organization, his/her/its own or another party's legitimate interests, has no choice but to cause a damage smaller than the damage to be prevented.

12. *Legitimate defense* is an act of an individual who, for the purpose of protecting the interests of the State or an organization, his/her own or another person's rights and legitimate interests, fights in a necessary manner against a person who is committing an act of infringing upon such rights and interests.

13. *Unexpected event* is an event in which an individual or organization cannot foresee or is not obliged to foresee consequences of his/her/its act which is dangerous to the society.

14. *Force majeure event* is an event which occurs objectively and is unforeseeable and irresistible despite the exercise of all necessary measures and capabilities.

15. *Person having no administrative liability capacity* is a person who commits an administrative violation while suffering mental illness or another disease which deprives him/her of the ability to perceive or control his/her acts.

16. *Drug addict* is a habitual user of a narcotic, habit-forming or psychotropic drug who is dependent on such drug.

17. *Lawful representatives* include parents or guardian, lawyer and legal aid provider.

### **Article 3. Principles of handling of administrative violations**

1. Principles of handling of administrative violations include:

a/ All administrative violations must be detected, promptly stopped and strictly handled. All consequences of administrative violations must be remedied in strict accordance with law;

b/ The sanctioning of administrative violations must be conducted swiftly, publicly and objectively and in accordance with the sanctioning competence, in order to assure fairness and strict accordance with law;

c/ The sanctioning of administrative violations must be based on the nature, seriousness and consequences of these violations, violators and extenuating as well as aggravating circumstances;

d/ Administrative sanctioning may be conducted only when a law-prescribed administrative violation is committed.

Each administrative violation must be sanctioned only once.

If many persons jointly commit an administrative violation, each of them shall be sanctioned for such administrative violation.

If a person commits many administrative violations or repeatedly commits administrative violations, he/she shall be sanctioned for each violation;

e/ Persons with sanctioning competence shall bear the burden of proving administrative violations. Sanctioned individuals and organizations have the right to prove, on their own or through their lawful representatives, that they have not yet committed any administrative violation;

f/ For the same administrative violation, the fine to be imposed on an institutional violator is twice as heavy as that to be imposed on an individual violator.

2. Principles of application of administrative handling measures include:

a/ Individuals may only be subject to administrative handling measures if they fall into the categories specified in Articles 90, 92, 94 and 96 of this Law;

b/ Administrative handling measures must be applied in accordance with Point b, Clause 1 of this Article;

c/ The time limit for application of administrative handling measures shall be decided on the basis of the nature, seriousness and consequences of violations, personal backgrounds of violators and extenuating as well as aggravating circumstances;

d/ Persons competent to apply administrative handling measures shall bear the burden of proving administrative violations. Individuals subject to administrative handling measures have the right to prove, on their own or through their lawful representatives, that they have not yet committed any administrative violation.

**Article 4. Competence to stipulate the sanctioning of administrative violations in the fields of state management and the mechanism of application of administrative handling measures**

In pursuance to this Law, the Government shall specify administrative violations; sanctions, sanctioning levels and remedial measures for each administrative violation; sanctioning competence of and specific fines which can be imposed by each post holder, and competence to make minutes of administrative violations in each field of state management; and mechanism of application of administrative handling measures, and issue forms of minutes and decisions used in sanctioning administrative violations.

**Article 5. Subjects that may be handled for administrative violations**

1. Subjects that may be sanctioned for administrative violations include:

a/ Persons who are between full 14 and under 16 years old may be administratively sanctioned for intentional administrative violations; persons who are full 16 years or older may be administratively sanctioned for any administrative violations.

Servicemen of the People's Army or People's Public Security Force who commit administrative violations shall be handled like other citizens; in case of necessity to impose the sanction of deprivation of the right to use licenses or practice certificates or suspension of operation for a definite time in relation to national defense or security, sanctioning persons shall request competent agencies or units of the People's Army or People's Public Security Force to conduct the handling;

b/ Organizations may be administratively sanctioned for all administrative violations they commit;

c/ Foreign individuals and organizations that commit administrative violations in the territory, contiguous zone, exclusive economic zone or continental shelf of the Socialist Republic of Vietnam; or on aircraft with Vietnamese nationality or seagoing ships under the Vietnamese flag, shall be administratively sanctioned in accordance with Vietnamese law, unless otherwise provided by treaties to which Vietnam is a contracting party.

2. Subject to administrative handling measures are individuals specified in Articles 90, 92, 94 and 96 of this Law.

Administrative handling measures are not applicable to foreigners.

## **Article 6. Statute of limitations for handling administrative violations**

1. The statute of limitations for handling administrative violations is stipulated as follows:

a/ The statute of limitations for sanctioning an administrative violation is 1 year, except the following cases:

For administrative violations in accounting; tax, charge or fee procedures; insurance business; price management; securities; intellectual property; construction; protection of aquatic and marine resources; forest and forest product management; survey, planning, exploration, exploitation and utilization of water resources; exploration and exploitation of petroleum and other minerals; environmental protection; atomic energy; house and office management and development; land administration, dikes; press; publication; production, import, export and trading of goods; production and trading of banned goods and counterfeit goods; and management of overseas labor, the statute of limitations for sanctioning is 2 years.

For administrative violations which are acts of tax evasion, tax fraud, tax payment delay and inadequate declaration of tax obligations, the statute of limitations for sanctioning complies with the tax law;

b/ The statute of limitations for sanctioning an administrative violation specified at Point a, Clause 1 of this Article is counted as follows:

For a completed administrative violation, the statute of limitations is counted from the time when the violation stops.

For an in-progress administrative violation, the statute of limitations is counted from the time when the violation is detected;

c/ The statute of limitations for sanctioning administrative violations of individuals transferred by procedure-conducting agencies complies with Points a and b of this Clause. The time for these procedure-conducting agencies to accept and examine the cases shall be counted into such statute of limitations.

d/ Within the statute of limitations specified at Points a and b of this Clause, if violators intentionally shirk or obstruct the sanctioning, the statute of limitations for sanctioning their violations shall be recounted from the time when the act of shirking or obstructing the sanctioning stops.

2. The statute of limitations for applying administrative handling measures is stipulated as follows:

a/ The statute of limitations for applying the measure of education in commune, ward or township is 1 year after an individual commits a violation specified in Clause 1, Article 90; 6 months after an individual commits a violation specified in Clause 2, Article 90, or after an individual commits for the last time any of the violations specified in Clauses 3 and 5, Article 90; or 3 months after an individual commits a violation specified in Clause 4, Article 90 of this Law;

b/ The statute of limitations for applying the measure of consignment to reformatory is 1 year after an individual commits a violation specified in Clauses 1 and 2, Article 92; 6 months after an individual commits a violation specified in Clause 3, Article 92 or after an individual commits for the last time any of the violations specified in Clause 4, Article 92 of this Law;

c/ The statute of limitations for applying the measure of consignment to compulsory education institution is 1 year after an individual commits for the last time any of the violations specified in Clause 1, Article 94 of this Law;

d/ The statute of limitations for applying the measure of consignment to compulsory detoxification establishment is 3 months after an individual commits for the last time a violation specified in Clause 1, Article 96 of this Law.

**Article 7. Duration upon the expiration of which an individual or organization is regarded as having never been administratively handled**

1. If an individual or organization sanctioned for an administrative violation, within 6 months after completely executing a sanctioning decision to impose caution or 1 year after completely executing another administrative sanctioning decision or after the expiration of the statute of limitations for executing an administrative sanctioning decision, does not re-commit the administrative violation, he/she/it will be regarded as having never been administratively sanctioned for such violation.

2. If an individual subject to an administrative handling measure, within 2 years after completely executing the decision on application of the administrative handling measure or 1 year after the expiration of the statute of limitations for executing the decision on application of the administrative handling measure, does not re-commit an administrative violation, he/she will be regarded as having never been subject to such administrative handling measure.

**Article 8. Method of counting time, duration and statute of limitations in handling administrative violations**

1. The method of counting the duration and statute of limitations in handling administrative violation complies with the Civil Code, unless this Law specifies a workday-based period.

2. Nighttime is counted from 22:00 hours of a day to 6:00 hours of the following day.

**Article 9. Extenuating circumstances**

The following circumstances are regarded as extenuating ones:

1. An administrative violator has taken an act(s) to prevent or limit consequences of his/her/its violation or voluntarily remedies consequences and pay damages;

2. An administrative violator has voluntarily reported his/her/its violation or shown sincere repentance for the violation; or actively assisted functional agencies in detecting or handling administrative violations;

3. A person commits an administrative violation in the state of being emotionally provoked by an illegal act of another person; or acts beyond the legitimate defense limit or beyond requirements of an emergency circumstance;

4. A person commits an administrative violation under force or due to his/her material or spiritual dependence on another;

5. An administrative violator is a pregnant woman, a weak aged person or a person suffering an illness or disability which deprives him/her of the ability to perceive or control his/her acts;

6. A person commits an administrative violation due to his/her particularly difficult plight which is not attributable to his/her acts;

7. A person commits an administrative violation due to his/her ignorance;

8. Other extenuating circumstances stipulated by the Government.

#### **Article 10. Aggravating circumstances**

1. The following circumstances are regarded as aggravating ones:

a/ Committing an administrative violation in an organized manner;

b/ Repeatedly committing an administrative violation; recidivism;

c/ Inciting, enticing or using a minor to commit a violation; forcing one's materially or spiritually dependent person to commit an administrative violation;

d/ Using a person who, to the clear knowledge of the violator, suffers a mental illness or another illness which deprives such person of the ability to perceive or control his/her acts, to commit an administrative violation;

e/ Affronting or libeling a person on public duty; committing an administrative violation in a hooligan manner;

f/ Abusing one's position or powers to commit an administrative violation;

g/ Taking advantage of war conditions, a natural calamity, disaster, epidemic or other special difficulties of the society to commit an administrative violation;

h/ Committing an administrative violation while serving a penalty under a criminal judgment or while executing a decision of application of an administrative violation handling measure;

i/ Continuing to perform an act of administrative violation after being requested by a competent person to stop such act;

j/ Absconding or concealing an administrative violation after committing such violation;

k/ Committing an administrative violation on a large scale or involving a large quantity of goods or goods of large value;

l/ Committing an administrative violation against many persons, a child, an aged person, a disabled person or a pregnant woman.

2. The circumstances specified in Clause 1 of this Article are not regarded as aggravating ones if they are already defined as administrative violations.

### **Article 11. Cases not subject to administrative sanctioning**

The following cases are not subject to administrative sanctioning:

1. Committing an administrative violation in an emergency circumstance;

2. Committing an administrative violation for the legitimate defense purpose;

3. Committing an administrative violation due to an unexpected event;

4. Committing an administrative violation due to a *force majeure* event;

5. The administrative violator has no administrative liability capacity or has not attained the age for being administratively sanctioned stipulated at Point a, Clause 1, Article 5 of this Law.

### **Article 12. Prohibited acts**

1. Retaining a case of violation which shows signs of crime for administrative handling.

2. Abusing one's position or powers to harass for, demand or receive money or property of violators; tolerating, covering up or limiting the rights of administrative violators when sanctioning administrative violations or applying administrative handling measures.

3. Issuing *ultra vires* legal documents prescribing administrative violations, competence, sanctions and remedial measures for each administrative violation in a field of state management, and administrative handling measures.

4. Failing to sanction administrative violations or to apply remedial measures or administrative handling measures.

5. Failing to sanction administrative violations or to apply remedial measures or administrative handling measures in a timely and strict manner or according to vested competence, prescribed procedures or on right subjects specified in this Law.

6. Imposing sanctions or applying remedial measures against administrative violations in an improper or inadequate manner.



7. Illegally intervening in the handling of administrative violations.

8. Prolonging the application of administrative handling measures.

9. Using fines for administrative violations or for delayed execution of decisions on imposition of fines, proceeds from the sale or liquidation of confiscated material evidence and means used for commission of administrative violations and other sums of money collected from the sanctioning of administrative violations in contravention of the law on the state budget.

10. Forging or falsifying dossiers for sanctioning of administrative violations or dossiers on application of administrative handling measures.

11. Infringing upon the life, health, honor or dignity of administratively sanctioned persons or persons subject to administrative handling measures, persons subject to measures to deter and handle administrative violations or persons subject to measures to enforce decisions on handling administrative violations.

12. Resisting, shirking, delaying or obstructing the execution of decisions on sanctioning administrative violations, decisions on application of measures to deter and handle administrative violations, decisions to enforce decisions on sanctioning administrative violations or decisions on application of administrative handling measures.

### **Article 13. Compensations for damage**

1. Administrative violators, if causing damage, shall pay compensations. The payment of compensations for damage complies with the civil law.

2. Persons competent to handle administrative violations, agencies, organizations and individuals involved in the handling of administrative violations that cause damage shall pay compensations in accordance with law.

### **Article 14. Responsibility to prevent and combat administrative violations**

1. Individuals and organizations shall strictly abide by the law on handling of administrative violations. Organizations are obliged to educate their members to improve their sense of responsibility to protect and abide by law and rules of the social life, and promptly take measures to eliminate causes of and conditions for administrative violations in their organizations.

2. Upon detecting administrative violations, persons competent to handle administrative violations shall handle such violations in accordance with law.

3. Individuals and organizations shall detect, report, prevent and combat administrative violations.

### **Article 15. Lodging of complaints or denunciations and initiation of lawsuits in the handling of administrative violations**

1. Individuals and organizations that are handled for administrative violations may lodge complaints or initiate lawsuits about decisions on handling of administrative violations in accordance with law.

2. Individuals may lodge denunciations against illegal acts in the handling of administrative violations in accordance with law.

3. In the course of settlement of a complaint or lawsuit, if finding that the execution of the decision on handling of administrative violation subject to such complaint or lawsuit might lead to irremediable consequences, the person settling the complaint or lawsuit shall issue a decision to suspend the execution of such decision in accordance with law.

#### **Article 16. Responsibilities of persons competent to handle administrative violations**

1. In the course of handling administrative violations, persons competent to handle administrative violations shall comply with this Law and other relevant laws.

2. Persons competent to handle administrative violations who harass for bribes, demand or receive money or other property of violators, tolerate or cover up violators, fail to handle violations or fail to handle violations in a prompt manner or according to the nature and seriousness of violations or within their competence or in violation of other provisions of Article 12 of this Law and other provisions of law shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability.

#### **Article 17. Responsibility to manage the enforcement of the law on handling of administrative violations**

1. The Government shall uniformly manage the enforcement of the law on handling of administrative violations nationwide.

2. The Ministry of Justice is answerable to the Government for the management of the enforcement of the law on handling of administrative violations, and has the following tasks and powers:

a/ To assume the prime responsibility for, or coordinate with other agencies in, proposing or elaborating and submitting to competent agencies for promulgation or promulgating according to its competence legal documents on handling of administrative violations;

b/ To oversee and report on the enforcement of the law on handling of administrative violations; to make statistics, and build and manage a national database on handling of administrative violations;

c/ To assume the prime responsibility for, and coordinate with other agencies in, providing guidance on and professional training in the enforcement of the law on handling of administrative violations;

d/ To examine and coordinate with concerned ministries and sectors in inspecting the implementation of the law on handling of administrative violations.

3. Within the ambit of their respective tasks and powers, ministries and sectors shall perform or coordinate with the Ministry of Justice in performing the tasks specified in Clause 2 of this Article; promptly provide the Ministry of Justice with information on the handling of administrative violations for building a national database; and biannually and annually report to the Ministry of Justice on the handling of administrative violations falling under their respective management.

4. Within the ambit of its tasks and powers, the Supreme People's Court shall perform the tasks specified in Clause 2 of this Article and send to the Ministry of Justice biannual and annual reports on the handling of administrative violations falling under its management; direct people's courts at all levels in providing information on the handling of administrative violations; and assume the prime responsibility for, and coordinate with the Government in, promulgating legal documents to detail and guide the implementation of relevant regulations.

5. Within the ambit of their tasks and powers, People's Committees at all levels shall manage the enforcement of the law on handling of administrative violations in their respective localities and:

a/ Direct the organization of implementation of legal documents on handling of administrative violations; organize the dissemination of and education about the law on handling of administrative violations;

b/ Examine, inspect and handle violations and settle according to their competence complaints and denunciations about the implementation of the law on handling of administrative violations;

c/ Promptly provide the Ministry of Justice with information on the handling of administrative violations for building a national database; and biannually and annually report to the Ministry of Justice on the handling of administrative violations in their respective localities.

6. Agencies of persons competent to handle administrative violations and competent people's courts shall consider and decide on administrative handling measures, agencies executing sanctioning decisions or decisions to enforce sanctioning decisions and agencies executing decisions on application of administrative handling measures shall send documents and decisions specified in Article 70; Clause 2, Article 73; Clause 2, Article 77; Article 88; Clause 4, Article 98; Article 107; Clause 3, Article 111; the second paragraph, Clause 3, Article 112; and Clauses 1 and 2, Article 114, to the Ministry of Justice's agency managing the database on the handling of administrative violations and local justice agencies.

7. The Government shall detail this Article.

## **Article 18. Responsibilities of heads of agencies or units in the handling of administrative violations**

1. Within the ambit of their tasks and powers, heads of agencies or units competent to handle administrative violations shall:

a/ Regularly examine and inspect, and promptly handle violations of persons competent to handle administrative violations under their management; settle complaints and denunciations about the handling of administrative violations in accordance with law;

b/ Refrain from illegally intervening in the handling of administrative violations and bear joint responsibility for violations of persons competent to handle administrative violations under their direct management in accordance with law;

c/ Prevent persons competent to handle administrative violations under their management from committing acts of corruption;

d/ Other responsibilities prescribed by law.

2. Within the ambit of their tasks and powers, ministers and heads of ministerial-level agencies and chairpersons of People's Committees at all levels shall:

a/ Regularly direct and inspect the handling of administrative violations by persons competent to handle administrative violations under their management;

b/ Discipline persons who make mistakes or commit violations in handling administrative violations under their management;

c/ Promptly settle complaints and denunciations about the handling of administrative violations in the sectors or fields under their management in accordance with law;

d/ Other responsibilities prescribed by law.

3. Within the ambit of their tasks and powers, ministers, heads of ministerial-level agencies, chairpersons of People's Committees at all levels and heads of agencies or units competent to handle administrative violations shall detect erroneous decisions on the handling of administrative violations which are issued by themselves or their subordinates and promptly modify, supplement or cancel these decisions or issue new ones according to their competence.

### **Article 19. Supervision of the handling of administrative violations**

The National Assembly and its agencies, People's Councils at all levels, National Assembly and People's Council deputies, the Vietnam Fatherland Front and its member organizations and all citizens shall supervise activities of agencies and persons competent to handle administrative violations; and, may when detecting illegal acts of these agencies and persons, request or propose competent agencies or persons to examine, settle or handle these acts in accordance with law.

Agencies and persons competent to handle administrative violations shall consider and handle those illegal acts and issue replies to handling requests or proposals.

**Article 20. Application of the Law on Handling of Administrative Violations to administrative violations committed outside the territory of the Socialist Republic of Vietnam**

Vietnamese citizens or organizations that commit violations of the administrative law of the Socialist Republic of Vietnam outside the Vietnamese territory may be administratively sanctioned in accordance with this Law.

**Part Two**

**SANCTIONING OF ADMINISTRATIVE VIOLATIONS**

**Chapter I**

**SANCTIONS AND REMEDIAL MEASURES**

**Section 1**

**SANCTIONS**

**Article 21. Sanctions and principles of application**

1. Sanctions against administrative violations include:

a/ Caution;

b/ Fine;

c/ Deprivation of the right to use licenses or practice certificates for a definite time or suspension of operation for a definite time;

d/ Confiscation of material evidences of administrative violations or means used for commission of administrative violations (below collectively referred to as material evidences and means of administrative violations);

e/ Expulsion.

2. The sanctions specified at Points a and b, Clause 1 of this Article must only be determined and imposed as principal sanctions.

The sanctions specified at Points c, d and e, Clause 1 of this Article may be determined either as additional sanctions or principal sanctions.

3. For each administrative violation, a violator shall be imposed with only one principal sanction and may be imposed with one or several additional sanctions specified in Clause 1 of this Article. An additional sanction may only be imposed together with a principal sanction.

**Article 22. Caution**

Caution may be imposed on individuals and organizations that commit unserious administrative violations which involve extenuating circumstance(s) and are, under

regulations, subject to caution, or may be imposed for all administrative violations committed by minors who are between full 14 and under 16 years old. Caution must be decided in writing.

### **Article 23. Fine**

1. Fines to be imposed in the handling of administrative violations range from VND 50,000 to VND 1,000,000,000, for individuals, or from VND 100,000 to VND 2,000,000,000, for organizations, except the cases specified in Clause 3, Article 24 of this Law.

In inner areas of a centrally run city, a fine to be imposed for a violation may be higher but must not exceed two times the common fine applicable to the same violation in road traffic, environmental protection, social security, order and safety.

2. The Government shall set fine frames or levels applicable to specific administrative violations by any of the following methods, provided the highest fine frame does not exceed the maximum fine level specified in Article 24 of this Law:

a/ Determining the minimum fine and maximum fine;

b/ Determining the number of times or percentage of the value or quantity of infringing goods, material evidences or objects of, turnover or earnings from administrative violations.

3. Based on acts of violation, the fine frames or levels set in the Government's decrees and particular socio-economic management requirements of their respective localities, People's Councils of centrally run cities shall decide on fine frames or levels for violations in the fields specified in the second paragraph, Clause 1 of this Article.

4. A specific fine to be imposed for an administrative violation is the medium level of the fine frame set for such violation; if such violation involves an extenuating circumstance(s), the fine may be lower but must not be lower than the minimum level of the fine frame; if such violation involves an aggravating circumstance(s), the fine may be higher but must not be higher than the maximum level of the fine frame.

### **Article 24. Maximum fine levels applicable to different fields**

1. Maximum fine levels applicable to the fields of state management to be imposed on individuals are prescribed as follows:

a/ VND 30,000,000 for violations in the fields of marriage and family; gender equality; domestic violence; archive, religion; emulation and commendation; judicial administration; population; environmental sanitation; and statistics;

b/ VND 40,000,000 for violations in the fields of social security, order and safety; social evil prevention and control; enforcement of civil judgments; bankruptcy of enterprises and cooperatives; road traffic; e-transactions; and post;

c/ VND 50,000,000 for violations in the fields of fire prevention and fighting; cipher; management and protection of national borders; legal aid; preventive medicine; HIV/AIDS prevention and control; education; culture; sports; tourism; management of science and technology; technology transfer; child protection and care; social support and relief; natural calamity prevention and control; plant protection and quarantine; gene source management and preservation; livestock breed and plant seed production and trading; animal health; accounting; independent audit; charges and fees; management of public property; invoices; national reserves; electricity; chemicals; meteorology and hydrology; metrology and cartography; and business registration;

d/ VND 75,000,000 for violations in the fields of national defense and national security; labor; vocational training; railway transport; inland waterway navigation; health insurance; and social insurance;

e/ VND 100,000,000 for violations in the fields of management of irrigation works; dikes; medical examination and treatment; cosmetics; pharmaceuticals and medical equipment; animal feed and fertilizer production and trading; advertisement; betting and prize-winning games; management of overseas labor; maritime navigation; civil aviation transport; management and protection of traffic works; information technology; telecommunications; radio frequencies; press; publication; commerce; protection of consumer interests; customs and tax procedures; lottery business; insurance business; thrift practice and wastefulness combat; management of explosive materials; and protection of aquatic and marine resources;

f/ VND 150,000,000 for violations in the fields of price management; real estate business; exploitation, production and trading of construction materials; management of technical infrastructure facilities; management and development of houses and offices; bidding; and investment;

g/ VND 200,000,000 for violations in the fields of production and trading of banned goods or counterfeit goods;

h/ VND 250,000,000 for violations in the field of survey, planning, exploration, exploitation and use of water resources;

i/ VND 500,000,000 for violations in the fields of construction; management of forests and forest products; and land;

j/ VND 1,000,000,000 for violations in the fields of management of the sea areas, islands and continental shelf of the Socialist Republic of Vietnam; management of nuclear power, radioactive substances and atomic energy; money, precious metals, gems, banking and credit; exploration and exploitation of petroleum and other minerals; and environmental protection.

2. Maximum fine levels applicable to the fields of state management specified in Clause 1 of this Article to be imposed on organizations are two times those to be imposed on individuals.

3. Maximum fine levels applicable to the fields of taxation; metrology; intellectual property; food safety; quality of products and goods; securities; and competition restriction comply with relevant laws.

4. Maximum fine levels applicable to new fields not yet specified in Clause 1 of this Article shall be prescribed by the Government after consulting the National Assembly Standing Committee.

**Article 25. Deprivation of the right to use licenses or practice certificates for a definite time or suspension of operation for a definite time**

1. Deprivation of the right to use licenses or practice certificates for a definite time is a sanction applicable to individuals and organizations that seriously violate their licenses' or practice certificates' provisions on their operations. In the duration of deprivation of the right to use licenses or practice certificates, individuals and organizations may not conduct operations stated in such licenses or practice certificates.

2. Suspension of operation for a definite time is a sanction applicable to individuals and organizations that commit administrative violations in the following cases:

a/ Suspension of part of the operation which causes a serious consequence(s) or is likely to cause a serious consequence(s) on human life or health or the environment of a production, business or service establishment and is required by law to be licensed;

b/ Suspension of part or whole of the production, business or service operation or another operation which is not required by law to be licensed and causes a serious consequence(s) or is likely to cause a serious consequence(s) on human life or health, the environment or social order and safety.

3. The duration of deprivation of the right to use licenses or practice certificates or suspension of operation specified in Clauses 1 and 2 of this Article is between 1 month and 24 months from the date the sanctioning decision takes effect. Persons with sanctioning competence shall keep licenses or practice certificates in the duration of deprivation of the right to use such licenses or practice certificates.

**Article 26. Confiscation of administrative violation material evidences and means**

Confiscation of administrative violation material evidences and means is the forfeiture into the state budget of objects, money, goods and means directly related to administrative violations and applicable to serious administrative violations due to intentional faults of individuals and organizations.

The handling of confiscated administrative violation material evidences and means complies with Article 82 of this Law.

**Article 27. Expulsion**



1. Expulsion is a sanction which compels a foreigner who commits an administrative violation in Vietnam to leave the territory of the Socialist Republic of Vietnam.

2. The Government shall detail the application of the sanction of expulsion.

## **Section 2**

### **REMEDIAL MEASURES**

#### **Article 28. Remedial measures and principles of application**

1. Remedial measures include:

a/ Forcible restoration of the original state;

b/ Forcible dismantlement of construction works or construction work parts built without license or at variance with construction licenses;

c/ Forcible application of measures to remedy environmental pollution or spreading of epidemics or diseases;

d/ Forcible bringing out of the territory of the Socialist Republic of Vietnam or forcible re-export of goods, articles or means;

e/ Forcible destruction of goods or articles harmful to human health, domestic animals, plants and environment, or cultural products with harmful contents;

f/ Forcible correction of untruthful or misleading information;

g/ Forcible removal of infringing elements from goods, goods packages, business means or articles;

h/ Forcible recall of products or goods of inferior quality;

i/ Forcible refund of illicit profits earned through the commission of administrative violations or money amounts equivalent to the value of administrative violation material evidences or means which have been illegally sold, dispersed or destroyed;

j/ Other remedial measures provided by the Government.

2. Principles of application of remedial measures:

a/ For an administrative violation, in addition to being subject to a sanction, violators may also be subject to one or several remedial measures specified in Clause 1 of this Article;

b/ Remedial measures may be independently applied in the cases specified in Clause 2, Article 65 of this Law.

#### **Article 29. Forcible restoration of the original state**

Administrative violators shall restore the original state which is changed due to their administrative violations; if failing to voluntarily restore the original state, they shall be forced to do so.

**Article 30. Forcible dismantlement of construction works or construction work parts built without licenses or at variance with licenses**

Administrative violators shall dismantle construction works or construction work parts built without licenses or at variance with licenses; if failing to voluntarily conduct the dismantlement, they shall be forced to do so.

**Article 31. Forcible application of measures to remedy environmental pollution or spreading of epidemics or diseases**

Administrative violators shall apply measures to remedy environmental pollution or spreading of epidemics or diseases; if failing to voluntarily apply these measures, they shall be forced to do so.

**Article 32. Forcible bringing out of the territory of the Socialist Republic of Vietnam or forcible re-export of goods, articles or means**

Administrative violators shall bring out of the territory of the Socialist Republic of Vietnam or re-export goods, articles or means which have previously been brought into the territory of the Socialist Republic of Vietnam or imported into the country in contravention of law or temporarily imported for re-export but not yet re-exported in accordance with law.

This remedial measure is also applicable to imported or transited goods infringing upon intellectual property rights, goods imitating those subject to intellectual property rights, imported means, raw materials and materials used mainly for the production or trading of goods imitating those subject to intellectual property rights after the removal of infringing elements; if failing to voluntarily take this measure, they shall be forced to do so.

**Article 33. Forcible destruction of goods or articles harmful to human health, domestic animals, plants and environment, or cultural products with harmful contents**

Administrative violators shall destroy goods or articles harmful to human health, domestic animals, plants and environment, cultural products with harmful contents or other material evidences subject to destruction in accordance with law; if failing to voluntarily destroy these goods or articles, they shall be forced to do so.

**Article 34. Forcible correction of untruthful or misleading information**

Administrative violators shall correct untruthful or misleading information in the very mass media or websites in which they have published or provided such information; if failing to voluntarily to correct such information, they shall be forced to do so.

**Article 35. Forcible removal of infringing elements from goods, goods packages, business means or articles**

Individuals and organizations that produce or trade in goods or use business means or articles containing infringing elements on their goods, goods packages, business means or articles shall remove such infringing elements; if failing to voluntarily remove infringing elements, they shall be forced to do so.

**Article 36. Forcible recall of products or goods of inferior quality**

Individuals and organizations that produce or trade in products or goods of quality not up to registered or announced quality standards or other goods of inferior quality or with insufficient conditions for circulation shall recall such products or goods which are in market circulation; if failing to voluntarily recall products or goods of inferior quality, they shall be forced to do so.

**Article 37. Forcible refund of illicit profits earned through the commission of administrative violations or money amounts equivalent to the value of administrative violation material evidences or means which have been illegally sold, dispersed or destroyed**

Violators shall refund illicit profits being money, property, valuable papers and objects earned or obtained through the commission of their administrative violations for forfeiture into the state budget or return to victims who suffer losses or whose objects have been misappropriated; and shall refund money amounts equivalent to the value of administrative violation material evidences or means in case such evidences or means have been illegally sold, dispersed or destroyed; if failing to voluntarily refund illicit profits or money amounts, they shall be forced to do so.

**Chapter II**

**COMPETENCE TO SANCTION ADMINISTRATIVE VIOLATIONS AND  
APPLY REMEDIAL MEASURES**

**Article 38. Competence of chairpersons of People's Committees**

1. Chairpersons of commune-level People's Committees may:

a/ Impose caution;

b/ Impose fines of up to 10% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 5,000,000;

c/ Confiscate administrative violation material evidences or means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, b, c and e, Clause 1, Article 28 of this Law.

2. Chairpersons of district-level People's Committees may:

a/ Impose caution;

b/ Impose fines of up to 50% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 50,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

e/ Apply the remedial measures specified at Points a, b, c, e, f, h, i and j, Clause 1, Article 28 of this Law.

3. Chairpersons of provincial-level People's Committees may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the fields specified in Article 24 of this Law;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means;

e/ Apply the remedial measures specified in Clause 1, Article 28 of this Law.

### **Article 39. Competence of the Public Security Force**

1. Policemen who are on duty may:

a/ Impose caution;

b/ Impose fines of up to 1% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 500,000.

2. Station chiefs or team commanders of those mentioned in Clause 1 of this Article may:

a/ Impose caution;

b/ Impose fines of up to 3% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 1,500,000.

3. Chiefs of commune-level police offices and chiefs of police offices of border gates or export processing zones may:

a/ Impose caution;

b/ Impose fines of up to 5% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 2,500,000;

c/ Confiscate administrative violation material evidences or means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c and e, Clause 1, Article 28 of this Law.

4. Chiefs of district-level police offices; heads of the professional sections of the Road and Railway Traffic Police Bureau, heads of the professional sections of the Waterway Police Bureau; heads of sections of provincial-level Police Departments, including heads of police sections for administrative management of social order, heads of order police sections, heads of swift response police sections, heads of police sections for investigation of social order-related crimes, heads of police sections for investigation of economic management order and position-related crimes, heads of police sections for investigation of drug-related crimes, heads of road and railway traffic police sections, heads of waterway police sections, heads of safeguard and mobile police sections, heads of police sections for enforcement of criminal judgments and judicial assistance, heads of police sections for prevention and combat of environment-related crimes, heads of fire prevention and fighting, salvage and rescue police sections, heads of police sections for fire prevention and fighting and rescue on rivers, heads of immigration management sections, heads of internal political security sections, heads of economic security sections, heads of district-level fire prevention and fighting police sections of provincial-level fire prevention and fighting police departments; and heads of mobile police units of the company or higher level may:

a/ Impose caution;

b/ Impose fines of up to 20% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 25,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

e/ Apply the remedial measures specified at Points a, c, e and j, Clause 1, Article 28 of this Law.

5. Directors of provincial-level Police Departments and directors of fire prevention and fighting police departments may:

a/ Impose caution;

b/ Impose fines of up to 50% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 50,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

e/ Directors of provincial-level Police Departments may decide on application of the sanction of expulsion;

f/ Apply the remedial measures specified at Points a, c, e, i and j, Clause 1, Article 28 of this Law.

6. The director of the Internal Political Security Department, the director of the Economic Security Department, the director of the Cultural and Ideological Security Department, the director of the Information Security Department, the director of the Police Department for Administrative Management of Social Order, the director of Police Department for Investigation of Social Order-Related Crimes, the director of the Police Department for Investigation of Economic Management Order and Position-Related Crimes, the director of the Police Department for Investigation of Drug-Related Crimes, the director of the Road and Railway Traffic Police Department, the director of the Waterway Police Department, the director of the Fire Prevention and Fighting, Salvage and Rescue Police Department, the director of the Safeguard Police Department, the director of the Department for Criminal Judgment Enforcement Surveillance and Judicial Assistance, the director of the Police Department for Environmental Crime Prevention and Combat, and the director of the Police Department for Hi-Tech Crime Prevention and Combat may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means;

e/ Apply the remedial measures specified at Points a, c, e, i and j, Clause 1, Article 28 of this Law.

7. The director of the Immigration Management Department may impose sanctions according to Clause 6 of this Article and may decide on application of the sanction of expulsion.

#### **Article 40. Competence of border guards**

1. Border-guard soldiers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to 1% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 500,000.

2. Station chiefs or team commanders of those mentioned in Clause 1 of this Article may:

a/ Impose caution;

b/ Impose fines of up to 5% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 2,500,000.

3. Chiefs of border-guard stations, captains of border-guard flotillas, commanders of border-guard sub-zones and commanders of border-gate guards at ports may:

a/ Impose caution;

b/ Impose fines of up to 20% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c, e and j, Clause 1, Article 28 of this Law.

4. Provincial-level border-guard commanders, captains of border-guard ship fleets under the Border-Guard Command Post may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means;

e/ Apply the remedial measures specified at Points a, c, e, i and j, Clause 1, Article 28 of this Law.

#### **Article 41. Competence of marine police**

1. Marine policemen who are on duty may:

a/ Impose caution;

b/ Impose fines of up to 2% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 1,500,000.

2. Heads of professional operation teams of the Marine Police may:

a/ Impose caution;

b/ Impose fines of up to 5% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 5,000,000.

3. Heads of professional operation squads of the Marine Police and heads of marine police stations may:

a/ Impose caution;

b/ Impose fines of up to 10% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 10,000,000;

c/ Apply the remedial measures specified at Points a, c and e, Clause 1, Article 28 of this Law.

4. Captains of marine police flotillas may:

a/ Impose caution;

b/ Impose fines of up to 20% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c, d, e and j, Clause 1, Article 28 of this Law.

5. Captains of marine police ship fleets may:

a/ Impose caution;

b/ Impose fines of up to 30% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 50,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c, d, e and j, Clause 1, Article 28 of this Law.

6. Commanders of marine police zones may:

a/ Impose caution;

b/ Impose fines of up to 50% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 100,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c, d, e and j, Clause 1, Article 28 of this Law.



7. The director of the Marine Police Department may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means;

e/ Apply the remedial measures specified at Points a, b, c, d, e and j, Clause 1, Article 28 of this Law.

#### **Article 42. Competence of customs**

1. Customs officers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500,000.

2. Heads of customs teams of district-level Customs Departments and heads of customs teams of district-level Post-Customs Clearance Inspection Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 5,000,000.

3. Directors of district-level Customs Departments, directors of district-level Post-Customs Clearance Inspection Departments, heads of control teams of provincial, inter-provincial or municipal Customs Departments, heads of anti-smuggling control teams, heads of customs procedure teams, captains of marine control flotillas, and heads of control teams for protection of intellectual property rights of the Anti-Smuggling Investigation Department of the General Department of Customs may:

a/ Impose caution;

b/ Impose fines of up to VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points d, e, g, i and j, Clause 1, Article 28 of this Law.

4. The director of the Anti-Smuggling Investigation Department, the director of the Post-Customs Clearance Inspection Department of the General Department of Customs, and directors of provincial, inter-provincial and municipal Customs Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 50,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

e/ Apply the remedial measures specified at Points d, e, g, i and j, Clause 1, Article 28 of this Law.

5. The General Director of Customs may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Confiscate administrative violation material evidences and means;

d/ Apply the remedial measures specified at Points d, e, g, i and j, Clause 1, Article 28 of this Law.

#### **Article 43. Competence of the forest protection force**

1. Forest protection officers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500,000.

2. Heads of forest protection stations may:

a/ Impose caution;

b/ Impose fines of up to VND 10,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause.

3. Directors of district-level forest protection offices and heads of mobile ranger and forest fire prevention and fighting teams may:

a/ Impose caution;

b/ Impose fines of up to VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, c, e, i and j, Clause 1, Article 28 of this Law.

4. Directors of provincial-level Forest Protection Departments and heads of ranger task forces of provincial-level Forest Protection Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 50,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

e/ Apply the remedial measures specified at Points a, b, c, e, i and j, Clause 1, Article 28 of this Law.

5. The director of the Forest Protection Department may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine level applicable to the field of management of forests and forest products specified in Article 24 of this Law;

c/ Confiscate administrative violation material evidences and means;

d/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

e/ Apply the remedial measures specified at Points a, b, c, e, i and j, Clause 1, Article 28 of this Law.

#### **Article 44. Competence of tax agencies**

1. Tax officers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500,000.

2. Heads of tax teams may:

a/ Impose caution;

b/ Impose fines of up to VND 2,500,000.

3. Directors of district-level Tax Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

4. Directors of provincial-level Tax Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 70,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

5. The General Director of Taxation may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine level applicable to the field of taxation specified in Article 24 of this Law;

c/ Confiscate administrative violation material evidences and means;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

#### **Article 45. Competence of the Market Management Force**

1. Market controllers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500,000.

2. Heads of market management teams may:

a/ Impose caution;

b/ Impose fines of up to VND 25,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, e, f, g, h, i and j, Clause 1, Article 28 of this Law.

3. Directors of Market Management Sub-Departments of provincial-level Industry and Trade Departments, heads of anti-smuggling sections, heads of anti-counterfeit

goods sections and heads of goods quality control sections of the Market Management Department may:

- a/ Impose caution;
- b/ Impose fines of up to VND 50,000,000;
- c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;
- d/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;
- e/ Apply the remedial measures specified at Points a, c, d, e, f, g, h, i and j, Clause 1, Article 28 of this Law.

4. The director of the Market Management Department may:

- a/ Impose caution;
- b/ Impose fines of up to the maximum fine level applicable to the relevant fields specified in Article 24 of this Law;
- c/ Confiscate administrative violation material evidences and means;
- d/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;
- e/ Apply the remedial measures specified at Points a, c, d, e, f, g, h, i and j, Clause 1, Article 28 of this Law.

#### **Article 46. Competence of inspectorates**

1. Inspectors and persons assigned to perform specialized inspection tasks who are on duty may:

- a/ Impose caution;
- b/ Impose fines of up to 1% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 500,000.
- c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level mentioned at Point b of this Clause;
- d/ Apply the remedial measures specified at Points a, c and e, Clause 1, Article 28 of this Law.

2. Chief inspectors of provincial-level Departments, the chief inspector of the Civil Aviation Administration of Vietnam, the chief inspector of the Vietnam Maritime Administration, the chief inspector of the Vietnam Agency for Radiation and Nuclear Safety, the chief inspector of the State Securities Commission; directors of Food Safety

and Hygiene Sub-Departments, directors of Population and Family Sub-Departments of provincial-level Health Departments, directors of Sub-Departments for plant protection, animal health, fisheries, management of quality of agricultural, forest and aquatic products, irrigation, dikes, forestry and rural development of provincial-level Agriculture and Rural Development Departments, directors of Regional Frequency Centers and equivalent post holders who are assigned by the Government to perform the function of specialized inspection may:

a/ Impose caution;

b/ Impose fines of up to 50% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 5,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

e/ Apply the remedial measures specified in Clause 1, Article 28 of this Law.

3. Directors of regional State Reserve Departments, directors of Statistics Offices, directors of Pollution Control Departments, directors of State Treasury branches of provinces and centrally run cities and equivalent post holders who are assigned by the Government to perform the function of specialized inspection may:

a/ Impose caution;

b/ Impose fines of up to 70% of the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law, which must not exceed VND 250,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

e/ Apply the remedial measures specified in Clause 1, Article 28 of this Law.

4. Chief inspectors of ministries and ministerial-level agencies, the general director of the Vietnam Road Administration, the general director of the General Statistics Office, the general director of the Directorate for Standards, Metrology and Quality Control, the general director of the General Department of Vocational Training, the general director of the Directorate of Water Resources, the general director of the Vietnam Administration of Forestry, the general director of the Directorate of Fisheries, the general director of the General Department of Geology and Minerals of Vietnam, the general director of the Vietnam Environment Administration, the general director of the General Department of Land Administration, the director of the State Treasury, the chairman of the State Securities Commission, the general director of the General Department of State Reserves, the general director of the General Office for Population

and Family Planning, the director of the State Committee for Overseas Vietnamese, the head of the Central Committee for Emulation and Commendation, the head of the Government Committee for Religious Affairs, the director of the Department of Chemicals, the director of the Industrial Safety Techniques and Environment Agency, the director of the Vietnam Railway Administration, the director of the Vietnam Inland Waterway Administration, the director of the Vietnam Maritime Administration, the director of the Civil Aviation Administration of Vietnam, the director of the Vietnam Agency for Radiation and Nuclear Safety, the director of the Department of Animal Health, the director of the Plant Protection Department, the director of the Cultivation Department, the director of the Husbandry Department, the director of the National Agro-Forestry-Fisheries Quality Assurance Department, the director of the Department of Cooperatives and Rural Development, the director of the Department of Agro-Forestry-Fisheries Product Processing and Trading and Salt Production, the director of the Insurance Management and Supervision Department, the director of the Authority of Radio Frequency Management, the director of the Department of Telecommunications, the director of the Administration of Radio, Television and Electronic Information, the director of the Press Department, the director of the Publication Department, the director of the Drug Administration of Vietnam, the director of the Administration of Health Care, the director of the Health Department of Environmental Management, the director of the Department of Preventive Medicine, the director of the Department of Food Safety and Hygiene and equivalent post holders who are assigned by the Government to perform the function of specialized inspection may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means;

e/ Apply the remedial measures specified in Clause 1, Article 28 of this Law.

5. Heads of ministerial-level specialized inspection teams have the sanctioning competence provided in Clause 3 of this Article.

Heads of specialized inspection teams of provincial-level departments and of state management agencies assigned to perform the function of specialized inspection have the sanctioning competence provided in Clause 2 of this Article.

#### **Article 47. Competence of seaport authorities, airport authorities, inland waterway port authorities**

1. Chief representatives of seaport authorities, airport authorities and inland waterway port authorities may:

a/ Impose caution;

b/ Impose fines of up to VND 10,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause.

2. Directors of seaport authorities, airport authorities and inland waterway port authorities of the Vietnam Inland Waterway Administration may:

a/ Impose caution;

b/ Impose fines of up to VND 25,000,000;

c/ Deprive of the right to use licenses or practice certificates for a definite term or suspend operation for a definite time;

d/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause.

e/ Apply the remedial measures specified at Points a, b, c, e, i and j, Clause 1, Article 28 of this Law.

#### **Article 48. Competence of people's courts**

1. Judges who preside over court hearings may:

a/ Impose caution;

b/ Impose fines of up to VND 1,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause.

2. Judges assigned to settle cases of bankruptcy may:

a/ Impose caution;

b/ Impose fines of up to VND 5,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

3. Presidents of district-level people's courts, chief judges of specialized tribunals of provincial-level people's courts and presidents of regional military courts may:

a/ Impose caution;

b/ Impose fines of up to VND 7,500,000;



c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause.

4. Presidents of provincial-level people's courts, presidents of military courts of military zones or equivalent areas, the chief judge of the Appellate Court of the Supreme People's Court and the chief judges of specialized tribunals of the Supreme People's Court may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

c/ Confiscate administrative violation material evidences and means;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

#### **Article 49. Competence of civil judgment enforcement agencies**

1. Civil judgment enforcers who are on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500,000.

2. Directors of Civil Judgment Enforcement Sub-Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 2,500,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

3. Civil judgment enforcers who are heads of teams for management and liquidation of property of bankruptcy cases may:

a/ Impose caution;

b/ Impose fines of up to VND 5,000,000;

c/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

4. Directors of provincial-level Civil Judgment Enforcement Departments and heads of civil judgment enforcement sections of military zones may:

a/ Impose caution;

b/ Impose fines of up to VND 20,000,000;

c/ Confiscate administrative violation material evidences and means of a value not exceeding the fine level specified at Point b of this Clause;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

5. The director of the General Department of Civil Judgment Enforcement may:

a/ Impose caution;

b/ Impose fines of up to the maximum fine level applicable to the field of civil judgment enforcement specified in Article 24 of this Law;

c/ Confiscate administrative violation material evidences and means;

d/ Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

#### **Article 50. Competence of the Department of Overseas Labor**

The director of the Department of Overseas Labor may:

1. Impose caution;

2. Impose fines of up to the maximum fine level applicable to the field of management of overseas labor specified in Article 24 of this Law;

3. Confiscate administrative violation material evidences and means;

4. Deprive of the right to use licenses for a definite term or suspend operation for a definite time;

5. Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

#### **Article 51. Competence of diplomatic missions, consular offices and other agencies authorized to perform the consular function of the Socialist Republic of Vietnam overseas**

Heads of diplomatic missions, consular offices and other agencies authorized to perform the consular function of the Socialist Republic of Vietnam overseas may:

1. Impose caution;

2. Impose fines of up to the maximum fine levels applicable to the relevant fields specified in Article 24 of this Law;

3. Confiscate administrative violation material evidences and means;

4. Apply the remedial measures specified at Points a, i and j, Clause 1, Article 28 of this Law.

**Article 52. Principles of determination and division of competence to sanction administrative violations and apply remedial measures**

1. Competence of the persons defined in Articles 38 thru 51 of this Law to sanction administrative violations is the competence over an administrative violation of individuals; in case of imposition of fines, the competence to sanction organizations is twice higher than the competence to sanction individuals and is determined in a percentage specified in this Law for such persons.

In case of imposition of fines for administrative violations committed in inner cities in the fields specified in the second paragraph, Clause 1, Article 23 of this Law, the persons competent to impose fines for administrative violations as defined by the Government also have the competence to impose higher fines for administrative violations committed in inner cities as defined by People's Councils of centrally run cities.

2. The competence to impose fines specified in Clause 1 of this Article shall be determined based on the maximum fine level prescribed for each specific violation.

3. Chairpersons of People's Committees at all levels are competent to sanction administrative violations in the fields of state management in their localities.

Persons competent to sanction administrative violations defined in Articles 39 thru 51 of this Law are competent to sanction administrative violations in the fields or sectors under their management.

For an administrative violation falling under the sanctioning competence of many persons, the sanctioning of such administrative violation shall be conducted by the person who first accepts the case of violation.

4. In case of sanctioning a person who commits many administrative violations, the sanctioning competence shall be determined according to the following principles:

a/ If the sanctioning forms and levels for, value of confiscated material evidences and means of, and remedial measure(s) prescribed for all administrative violations fall under the competence of the sanctioning person, such person is competent to sanction these violations;

b/ If the sanctioning form and level for, value of confiscated material evidences and means of, and remedial measure(s) prescribed for any of such administrative violations fall beyond the competence of the sanctioning person, such person shall transfer the case of violation to an authority with sanctioning competence;

c/ If a violation falls under the administrative sanctioning competence of many persons in different sectors, the chairperson of the People's Committee at the competent level of the locality where the violation is committed is competent to sanction it.

### **Article 53. Changes in titles of post holders competent to sanction administrative violations**

In case post holders competent to sanction administrative violations defined in this Law have their titles changed, they still have the sanctioning competence.

### **Article 54. Empowerment for sanctioning**

1. Persons competent to sanction administrative violations defined in Article 38; Clauses 2, 3, 4, 5, 6 and 7, Article 39; Clauses 2, 3 and 4, Article 40; Clauses 3, 4, 5, 6 and 7, Article 41; Clauses 2, 3, 4 and 5, Article 42; Clauses 2, 3, 4 and 5, Article 43; Clauses 2, 3, 4 and 5, Article 44; Clauses 2, 3 and 4, Article 45; Clauses 2, 3 and 4, Article 46; Article 47; Clauses 3 and 4, Article 48; Clauses 2, 4 and 5, Article 49; and Articles 50 and 51 of this Law may empower their deputies to sanction administrative violations.

2. The empowerment for sanctioning administrative violations may be effected on a regular or case-by-case basis and must be expressed in writing, clearly defining the scope, contents and duration of empowerment.

3. Deputies empowered to sanction administrative violations shall take responsibility for their decisions on sanctioning administrative violations before their superiors and law. Empowered persons may neither further empower nor authorize any other persons.

## **Chapter III**

### **SANCTIONING PROCEDURES, EXECUTION OF SANCTIONING DECISIONS AND ENFORCEMENT OF SANCTIONING DECISIONS**

#### **Section 1**

#### **SANCTIONING PROCEDURES**

### **Article 55. Forcible stopping of administrative violations**

Forcible stopping of administrative violations shall be applied by competent persons who are on duty to in-progress administrative violations in order to immediately stop such violations. Orders for forcible stopping of administrative violations may be given in spoken or written words, by whistle, through sign commands or otherwise in accordance with law.

### **Article 56. Sanctioning of administrative violations without written record**

1. The sanctioning of administrative violations without written record shall be applied in case of imposition of caution or a fine of up to VND 250,000 on individuals or VND 500,000 on organizations, provided that persons with sanctioning competence issue decisions on on-the-spot sanctioning of administrative violations.

For administrative violations detected through the use of technical and professional means and equipment, written records thereof must be made.

2. A decision on on-the-spot sanctioning of an administrative violation must clearly state the date of issuance; the full name and address of the individual violator or the name and address of the institutional violator; the violation; the location where the violation is committed; evidences and circumstances related to the handling of the violation; the full name and position of the issuing person; and article(s) and clause(s) of the applicable legal document(s). In case of imposition of a fine, such a decision must specify the fine level.

#### **Article 57. Sanctioning of administrative violations with written records and sanctioning dossiers**

1. The sanctioning of administrative violations with written records shall be applied to administrative violations of violators not falling into the cases specified in the first paragraph, Clause 1, Article 56 of this Law.

2. For the sanctioning of administrative violations with written records, persons with sanctioning competence shall make sanctioning dossiers. Such a dossier must comprise the written record of the administrative violation, sanctioning decision and relevant documents and papers, and be marked with signs for filing.

Sanctioning dossiers shall be archived in accordance with the law on archive.

#### **Article 58. Making of written records of administrative violations**

1. Upon detecting administrative violations in the fields under their respective management, competent persons who are on duty shall promptly make written records thereof, except cases of sanctioning without written records specified in Clause 1, Article 56 of this Law.

For administrative violations detected through the use of technical or professional means and equipment, written records shall be made immediately when violators are identified.

For administrative violations committed on airplanes, seagoing ships or trains, airplane commanders, shipmasters or trainmasters shall organize the making of written records and promptly hand them to persons competent to sanction administrative violations upon the arrival of the airplanes, seagoing ships or trains at airports, seaports or railway stations.

2. A written record of an administrative violation must clearly state the date and place of making; the full name and position of the maker; the full name, address and occupation of the individual violator or the name and address of the institutional violator; time, date and location of the violation; the violation; the measure(s) applied to stop the violation and assure the handling; the state of temporarily seized material evidences and means; statements of the individual violator or the representative of the institutional violator; full names, addresses and statements of witness(es) and individual victim(s) or representative(s) of institutional victim(s) (if any); the right of the individual violator or the representative of the institutional violator to make and time limit for making explanations about the administrative violation; and the agency receiving explanations.

In case the individual violator or the representative of the institutional violator is absent from the location of the violation or intentionally shirks to sign the written record or is unable to sign it for an objective reason, the written record must contain the signature of the representative of the local administration of the location where the violation is committed or signatures of two witnesses.

3. A written record of an administrative violation must be made in at least 2 copies and signed by its maker and the individual violator or the representative of the institutional violator; in case the violator cannot sign, his/her fingerprint is required; if there are witness(es), individual victim(s) or representatives of institutional victim(s), they shall all sign the written record; in case the written record consists of many pages, the persons specified in this Clause shall sign every page. If the individual violator or the representative of the institutional violator, witness(es), individual victim(s) or representatives of institutional victim(s) refuse to sign, the record maker shall clearly write the reason(s) in the written record.

Upon completion, a copy of the written record of an administrative violation must be handed to the violator. For administrative violations not falling under or falling beyond the sanctioning competence of the persons who make their written records, such records must be forwarded to persons with sanctioning competence for sanctioning the administrative violations.

In case administrative violators are minors, written records of their violations must also be sent to their parents or guardians.

#### **Article 59. Verification of circumstances of administrative violations**

1. In case of necessity, a person with sanctioning competence, when considering issuing a decision to sanction an administrative violation, shall verify the following circumstances:

- a/ Whether or not there is an administrative violation;
- b/ The individual or organization that commits the administrative violation, fault, personal records of the individual violator;
- c/ Extenuating circumstances, aggravating circumstances;
- d/ Nature and extent of the damage caused by the administrative violation;
- e/ Cases in which he/she does not issue a decision to sanction the administrative violation as specified in Clause 1, Article 65 of this Law;
- f/ Other circumstances which are significant for the consideration of and decision on sanctioning.

In the course of consideration and issuance of a sanctioning decision, a person with sanctioning competence may solicit expertise. The expertise solicitation must comply with the law on expertise.

2. The verification of circumstances of administrative violations must be presented in writing.

**Article 60. Determination of value of administrative violation material evidences for use as a basis for determination of fine frames and sanctioning competence**

1. In case of necessity to determine the value of administrative violation material evidences for use as a basis for determination of fine frames and sanctioning competence, competent persons who are settling cases of violation shall valueate such material evidences and take responsibility for the valuation.

2. Depending on specific categories of material evidence, the valuation must be based on different grounds in the following order of priority:

a/ Posted prices or prices quoted in sale and purchase contracts or invoices or import declarations;

b/ Prices notified by local finance agencies; in case there is no price notice, local market prices at the time of commission of administrative violations must be used;

c/ Cost prices of material evidences, for goods not yet marketed;

d/ For material evidences being counterfeit goods, market prices of genuine goods or goods with the same properties, technical specifications or utilities in the locations where administrative violations are detected.

3. In case it is impossible to apply the grounds specified in Clause 2 of this Article to determine the value of administrative violation material evidences for use a basis for determination of fine frames and sanctioning competence, competent persons who are settling cases of violation may issue decisions on temporary seizure of such evidences and set up valuation councils. A valuation council is composed of the person issuing the decision on temporary seizure of administrative violation material evidences as its chairman, and representatives of the same-level finance agency and related professional agencies as its members.

The duration of temporary seizure of material evidences for valuation is 24 hours after the issuance of the decision on temporary seizure. In case of particular necessity, this duration may be prolonged but must not exceed another 24 hours. All expenses related to the temporary seizure and valuation and damage caused by the temporary seizure shall be borne by agencies of persons competent to issue decisions on temporary seizure. The procedures for and written records of temporary seizure comply with Clauses 5 and 9, Article 125 of this Law.

4. The grounds for and documents related to the valuation of administrative violation material evidences must be stated in administrative violation sanctioning dossiers.

**Article 61. Explanations**

1. For administrative violations which are prescribed by law to be subject to the sanction of deprivation of the right to use licenses or practice certificates for a definite term or suspension of operation for a definite time or subject to a fine frame prescribed for such violations with the maximum level of VND 15,000,000 or more for individuals or VND 30,000,000 for organizations, violators may give verbal or written explanations to persons competent to sanction their administrative violations. Persons with sanctioning competence shall take into account explanations of administrative violators before issuing sanctioning decisions, unless violators do not wish to give explanations within the time limit specified in Clauses 2 and 3 of this Article.

2. In case of giving written explanations, administrative violators shall send written explanations to persons competent to sanction their administrative violations within 5 days after written records of these violations are made.

For a case of violation involving many complicated circumstances, the competent person may, at the request of the violator, prolong the time limit for giving explanations for another 5 days.

Administrative violators may give by themselves or authorize their lawful representatives to give written explanations.

3. In case of giving verbal explanations, administrative violators shall send written requests for doing so to persons competent to sanction administrative violations within 2 working days after written records of their administrative violations are made.

Persons with sanctioning competence shall notify in writing violators of the time and place for giving verbal explanations within 5 days after receiving the latter's request.

Persons with sanctioning competence shall organize sessions for verbal explanations at which they shall state the legal grounds and circumstances as well as evidences related to administrative violations, sanctions and remedial measures expected to be imposed or applied for administrative violations. Administrative violators and their lawful representatives may attend explanation sessions and give opinions and evidences to protect their rights and legitimate interests.

Verbal explanations shall be recorded in writing with the signatures of involved parties. In case a written record consists of many pages, involved parties shall sign every page. Such a written record shall be included in the administrative violation sanctioning dossier and one copy thereof shall be handed to the violator or his/her/its lawful representative.

## **Article 62. Transfer of case files of violations showing signs of crime for examination for penal liability**

1. When considering a case of administrative violation for sanctioning decision, if a person with sanctioning competence finds that the administrative violation shows signs of crime, he/she shall promptly transfer the violation case file to a criminal procedure-conducting agency.



2. In the course of executing a decision to sanction an administrative violation, if finding that such violation shows signs of crime and the statute of limitations for penal liability examination has not expired, the person who has issued the sanctioning decision shall issue a decision to suspend the execution of the sanctioning decision and, within 3 days after deciding on the suspension, transfer the violation case file to a criminal procedure-conducting agency. In case the sanctioning decision has been completely executed, the person who has issued such decision shall transfer the violation case file to a criminal procedure-conducting agency.

3. Within the time limit specified by the criminal procedure law, the criminal procedure-conducting agency shall consider and make conclusions on the case and notify in writing settlement results to the competent person who has transferred the case file. In case of not instituting a criminal case, this agency shall, within 3 days after issuing a decision not to institute a criminal case, return the case file to the competent person who has transferred the case file.

In the case specified in Clause 2 of this Article, if the criminal procedure-conducting agency issues a decision to institute a criminal case, the person competent to sanction administrative violations shall cancel the sanctioning decision and transfer all administrative violation material evidences and means and documents related to the execution of the sanctioning decision to the criminal procedure-conducting agency.

4. The transfer of case files of violations showing signs of crime for penal liability examination must be notified in writing to individual violators.

#### **Article 63. Transfer of case files of violations for administrative sanctioning**

1. For cases accepted for settlement by criminal procedure-conducting agencies for which decisions not to institute criminal cases, decisions to cancel decisions to institute criminal cases, decisions to stop investigation or decisions to stop criminal cases are issued later, if acts of violation show signs of administrative violation, these agencies shall, within 3 days after issuing these decisions, transfer such decisions together with the case files, material evidences and means of the violations to persons competent to sanction administrative violations and request the latter to administratively sanction these violations.

2. The sanctioning of administrative violations must be based on violation case files transferred by criminal procedure-conducting agencies.

In case of necessity, persons with sanctioning competence shall verify additional circumstances for use as a basis for issuing sanctioning decisions.

3. The time limit for issuing a decision to sanction an administrative violation is 30 days after receiving any of the decisions specified in Clause 1 of this Article together with the violation case file. In case of necessity to verify additional circumstances as stated in Clause 2 of this Article, this time limit is 45 days.

#### **Article 64. Use of technical and professional means and equipment for detecting administrative violations**

1. Agencies and persons competent to sanction administrative violations may use technical and professional means and equipment for detecting administrative violations in the fields of traffic order and safety and environmental protection.

2. The management and use of technical and professional means and equipment and drawing up of a list thereof must adhere to the following principles:

a/ Respect for the freedom, honor, dignity and privacy secrets of citizens, other rights and legitimate interests of individuals and organizations;

b/ Strict observance of processes and rules on use of technical and professional means and equipment;

c/ Information collected through technical and professional means and equipment must be recorded in writing and may only be used in sanctioning administrative violations;

d/ Technical and professional means and equipment must conform to technical standards and regulations promulgated by competent agencies.

3. The Government shall stipulate the management, use and lists of technical and professional means and equipment which can be used for detecting administrative violations.

**Article 65. Cases in which no decision to sanction an administrative violation is issued**

1. No decision to sanction an administrative violation shall be issued in the following cases:

a/ The cases specified in Article 11 of this Law;

b/ The administrative violator is unidentifiable;

c/ The statute of limitations for sanctioning an administrative violation specified in Article 6 or the time limit for issuing a sanctioning decision specified in Clause 3, Article 63 or Clause 1, Article 66 of this Law that has expired;

d/ The individual administrative violator dies or is missing or the institutional administrative violator is dissolved or bankrupt while the issuance of a sanctioning decision is considered;

e/ The case file of the violation showing signs of crime is transferred in accordance with Article 62 of this Law.

2. For the cases specified at Points a, b, c and d, Clause 1 of this Article, a competent person shall not issue a decision to sanction an administrative violation but may issue a decision to confiscate and forfeit into the state budget or destroy administrative violation material evidences banned from circulation and apply a remedial measure(s) specified in Clause 1, Article 28 of this Law.

Such a decision must specify the reason(s) for non-issuance of a sanctioning decision; material evidences to be confiscated or destroyed; remedial measure(s) to be applied, and the responsibility and time limit for execution.

#### **Article 66. Time limit for issuing a decision to sanction an administrative violation**

1. A person competent to sanction administrative violations shall issue a decision to sanction an administrative violation within 7 days after making a written record of the administrative violation. For a case involving many complicated circumstances but ineligible for explanation or a case eligible for explanation as specified in Clauses 2 and 3, Article 61 of this Law, the time limit for issuing a sanctioning decision is 30 days after the written record of the violation is made.

For a particularly serious case involving many complicated circumstances and eligible for explanation as specified in the second paragraph, Clause 2 or Clause 3, Article 61 of this Law and for which more time is needed for verification and collection of evidences, the competent person who is handling the case shall report such in writing to his/her direct superior for time limit prolongation. The time limit prolongation must be decided in writing and must not exceed another 30 days.

2. Past the time limit specified in Clause 1 of this Article or Clause 3, Article 63 of this Law, persons with sanctioning competence shall not issue a sanctioning decision but may still decide on the application of remedial measures specified in Clause 1, Article 28 of this Law or on confiscation and forfeiture into the state budget or destruction of administrative violation material evidences which are banned from circulation.

Persons competent to sanction administrative violations who fail to issue sanctioning decisions within the prescribed time limit due to their fault shall be handled in accordance with law.

#### **Article 67. Issuance of decisions to sanction administrative violations**

1. For an individual or organization that commits many administrative violations and is sanctioned only once, only one sanctioning decision must be issued, stating the sanctioning forms and levels for each of the administrative violations.

2. For many individuals or organizations that jointly commit an administrative violation, one or more than one sanctioning decision may be issued to determine the sanctioning form and level to be imposed on each individual or organization.

3. For many individuals or organizations that commit different administrative violations in the same case of violation, one or more than one sanctioning decisions may be issued to determine the sanctioning form and level to be imposed on each individual or organization for each violation.

4. A sanctioning decision takes effect on the date of its signing, unless it states another effective date.

#### **Article 68. Contents of decisions to sanction administrative violations**

1. A decision to sanction an administrative violation must have the following principal contents:

a/ Place and date of issuance;

b/ Legal ground(s) for issuance;

c/ Written record of the administrative violation, results of verification, written explanations of the violator or minutes of the meeting for explanations, and other documents (if any);

d/ Full name and position of the issuer;

e/ Full name, address and occupation of the individual violator or name and address of the institutional violator;

f/ Administrative violation; extenuating circumstances and aggravating circumstances;

g/ Applicable articles and clauses of legal documents;

h/ Principal sanction, additional sanctions and remedial measures (if any);

i/ Right to lodge a complaint or initiate a lawsuit about the sanctioning decision;

j/ Effect, time limit and place of execution of the decision, and place of fine payment;

k/ Full name and signature of the issuer;

l/ Responsibility to execute the decision and enforcement in case the administratively sanctioning individual or organization fails to voluntarily execute the decision.

2. The time limit for execution of a sanctioning decision is 10 days after it is received. In case a sanctioning decision states a time limit of more than 10 days, the decision must be executed within such time limit.

3. In case of issuance of a common decision to administratively sanction many individuals or organizations that jointly commit an administrative violation or many individuals or organizations that commit different administrative violations in the same case of violation, the acts of violation, sanctioning form and level to be imposed on each individual or organization must be specified.

## **Section 2**

### **EXECUTION OF DECISIONS TO SANCTION ADMINISTRATIVE VIOLATIONS**

#### **Article 69. Execution of sanctioning decisions without written record**

1. One copy of the decision to sanction an administrative violation without written record shall be handed to the sanctioned individual or organization. For a minor subject to the sanction of caution, the sanctioning decision shall also be sent to his/her parents or guardian.

2. Violators shall pay fines on the spot to persons with sanctioning competence. Fine collectors shall hand fine receipts to fine payers and remit collected fine amounts directly into the State Treasury or into the State Treasury's account within 2 working days after the collection of fines.

In case violators are unable to pay fines on the spot, they may pay fines at the State Treasury or into the State Treasury's account as indicated in the sanctioning decisions within the time limit specified in Clause 1, Article 78 of this Law.

#### **Article 70. Sending of decisions to sanction administrative violations for execution**

Within 2 working days after issuing a decision to sanction an administrative violation which is recorded in writing, a competent person shall send it to the sanctioned individual or organization, fine-collecting agency and other related agencies (if any) for execution.

Sanctioning decisions must be handed directly or sent by post as registered mail and notified to sanctioned individuals or organizations.

In case a sanctioning decision is handed directly to the sanctioned violator but the latter intentionally refuses to receive, the competent person shall make a written record of the refusal and have it certified by the local administration. In this case, this decision is regarded as having been handed.

In case a sanctioning decision is sent by post as registered mail, if the sanctioned violator intentionally refuses to receive this decision within 10 days after it is sent and returned for the third time, it shall be posted up at the place of residence of the sanctioned individual or the office of the sanctioned organization. In case there is a ground to believe that the violator shirks receiving the sanctioning decision, this decision is regarded as having been handed.

#### **Article 71. Transfer of sanctioning decisions for organization of execution**

1. In case an individual or organization commits an administrative violation in a provincial-level locality but resides or locates its office in another provincial-level locality and has no conditions for executing the sanctioning decision at the place of sanctioning, the sanctioning decision shall be transferred to the counterpart agency in the locality where the individual resides or the organization locates its office for execution. In case the locality where the individual resides or the organization locates its office has no counterpart agency, the sanctioning decision shall be transferred to the district-level People's Committee for execution.

2. In case an administrative violation is committed in a district-level locality but the individual violator resides or institutional violator locates its office in another

district-level locality of a difficult-to-access mountainous, island, remote or deep-lying province and the violator has no conditions for executing the sanctioning decision at the place of sanctioning, the sanctioning decision shall be transferred to the counterpart agency in the locality where the individual resides or the organization locates its office for execution.

3. Agencies competent to sanction administrative violations in the cases specified in Clauses 1 and 2 of this Article shall transfer all the case files and related papers; and administrative violation material evidences and means (if any) to agencies receiving sanctioning decisions for execution in accordance with this Law. Violators shall pay expenses for transportation of administrative violation case files, material evidences and means.

## **Article 72. Public notification of the sanctioning of administrative violators in the mass media**

1. For administrative violations in the fields of food safety; product and goods quality; pharmaceuticals; medical examination and treatment; construction; social insurance; health insurance; environmental protection; taxation; securities; intellectual property; metrology; counterfeit goods production and trading which cause serious consequences or bad social impacts, agencies of persons competent to sanction administrative violations shall publicly notify the sanctioning.

2. Contents to be publicly notified include violators, violations, sanctions and remedial measures.

3. Public notifications shall be made on the websites or newspapers of ministerial-level or provincial department-level management agencies or provincial-level People's Committees of localities where administrative violations are committed.

## **Article 73. Execution of decisions to sanction administrative violations**

1. An individual or organization sanctioned for an administrative violation shall abide by the sanctioning decision within 10 days after receiving such decision. In case the sanctioning decision specifies an execution time limit of more than 10 days, the decision must be executed within such time limit.

Sanctioned individuals or organizations that lodge complaints or initiate lawsuits about their sanctioning decisions shall still abide by such decisions, except the case specified in Clause 3, Article 15 of this Law. Their complaints and lawsuits shall be settled in accordance with law.

2. Persons with sanctioning competence who have issued sanctioning decisions shall monitor and inspect the abidance of sanctioning decisions by sanctioned individuals or organizations and notify results of complete execution of such decisions to the Ministry of Justice's agency managing the database on handling of administrative violations and local judicial agencies.

## **Article 74. Statute of limitations for execution of decisions to sanction administrative violations**

1. The statute of limitations for execution of a decision to sanction an administrative violation is 1 year after the issuance of such decision. Upon the expiration of this statute of limitations, the decision must not be executed, except the case the decision contains the sanction of confiscation of administrative violation material evidences and means or application of remedial measure(s) in which material evidences and means banned from circulation must be confiscated or necessary remedial measures must be applied to protect the environment and assure uninterrupted traffic, construction, security or social order and safety.

2. In case sanctioned individuals or organizations intentionally shirk or delay the execution, the above statute of limitations must be counted from the time when the act of shirking or delaying the execution stops.

**Article 75. Execution of decisions to sanction administrative violations in case sanctioned individuals are dead or missing or sanctioned organizations are dissolved or bankrupt**

In case a sanctioned individual is dead or missing or a sanctioned organization is dissolved or bankrupt, the decision on imposition of fine must not be executed but the sanction of confiscation of administrative violation material evidences or means and remedial measure(s) stated in the sanctioning decision must still be executed.

The Government shall detail this Article.

**Article 76. Postponement of execution of decisions on imposition of fine**

1. A decision on imposition of fine may be postponed from execution in case the individual subject to a fine of VND 3,000,000 or more encounters a special or unexpected economic difficulty due to a natural calamity, disaster, fire, epidemic, dangerous illness or accident as certified by the commune-level People's Committee of the locality where he/she resides by the agency or organization where he/she studies or works.

2. Individuals shall send written requests for postponement of execution of sanctioning decisions to agencies of persons who have issued such decisions. Within 5 days after receiving a written request, the person who has issued the sanctioning decision shall consider and decide to postpone the execution of such decision.

The duration of postponement of execution of a sanctioning decision must not exceed 3 months, counting from the date of issuance of the postponement decision.

3. Individuals who enjoy postponement of execution of sanctioning decisions may receive back administrative violation papers, material evidences and means which are temporarily seized in accordance with Clause 6, Article 125 of this Law.

**Article 77. Fine reduction or exemption**

1. Individuals who fall into the case specified in Clause 1, Article 76 of this Law and are unable to execute sanctioning decisions may be considered for reduction of or exemption from remaining fine amounts stated in such decisions.

2. Individuals mentioned in Clause 1 of this Article shall send written requests for reduction of or exemption from remaining or whole fine amounts to persons who have issued sanctioning decisions. Within 3 days after receiving a written request, the person who has issued the sanctioning decision shall transfer such request enclosed with the case file to his/her direct superior. Within 5 days after receiving a written request, the direct superior shall consider, decide and notify the fine reduction or exemption to the person who has issued the sanctioning decision and the requester. If disapproving the fine reduction or exemption, he/she shall clearly state the reason for disapproval.

In case chairpersons of provincial-level People's Committees have issued sanctioning decisions, these provincial-level People's Committees shall consider and decide on fine reduction or exemption.

3. Individuals entitled to fine reduction or exemption may receive back papers, material evidences and means which are temporarily seized in accordance with Clause 6, Article 125 of this Law.

#### **Article 78. Procedures for payment of fines**

1. Within 10 days after receiving a sanctioning decision, the sanctioned individual or organization shall pay the fine at the State Treasury or into the State Treasury's account indicated in the sanctioning decision, unless he/she/it has paid the fine in accordance with Clauses 2 or 3 of this Article. Past this time limit, he/she/it shall be forced to execute the sanctioning decision and additionally pay 0.05% of the total unpaid fine amount for each day of delayed payment.

2. In difficult-to-access deep-lying, remote, border or mountainous areas, sanctioned individuals or organizations may pay fines to persons with sanctioning competence, who shall collect fines on the spot and remit collected fine amounts at the State Treasury or into the State Treasury's account within 7 days after the date of fine collection.

In case the sanctioning is conducted at sea or outside administrative working hours, persons with sanctioning competence may directly collect fines and remit collected fine amounts at the State Treasury or into the State Treasury's account within 2 working days after the date of landing or the date of fine collection.

3. Administrative violators that are fined shall pay their fines in lump sum, except the cases specified in Article 79 of this Law.

In all cases of fine collection, fine collectors shall hand fine receipts to fine payers.

4. The Government shall detail this Article.

#### **Article 79. Payment of fines in installments**

1. A fine payer may pay a fine in installments when fully satisfying the following conditions:



a/ He/she is imposed a fine of VND 20,000,000 or more, for individuals, or it is imposed a fine of VND 200,000,000 or more, for organizations;

b/ He/she/it is encountering a special economic difficulty and files a written request for payment of the fine in installments. A written request of an individual must have certification by the commune-level People's Committee of the locality where he/she resides or the agency or organization where he/she studies or works of his/her special economic difficulty. A written request of an organization must be certified by the tax office directly managing it or its direct superior agency or organization.

2. The time limit for payment of a fine in installments is 6 months after the sanctioning decision takes effect. A fine may be paid in maximum 3 installments.

The first installment of fine payment must be at least equal to 40% of the total fine amount.

3. Persons who have issued decisions on imposition of fine may decide on the payment of fines in installments. Decisions to allow payment of fines in installments must be in writing.

**Article 80. Procedures for deprivation of the right to use licenses or practice certificates for a definite time or suspension of operation for a definite time**

1. In case the deprivation of the right to use licenses or practice certificates for a definite time is stated in the sanctioning decisions, persons with sanctioning competence shall recover and preserve licenses or practice certificates and promptly notify such to agencies that have granted such licenses or practice certificates. Upon the expiration of the duration of deprivation stated in the sanctioning decisions, persons with sanctioning competence shall return licenses or practice certificates to individuals or organizations that have been deprived of the right to use such licenses or certificates.

2. In case of suspension of operation for a definite time, violators shall immediately stop part or the whole of their production, business or service operations or other operations as stated in sanctioning decisions.

3. In the duration of deprivation of the right to use licenses or practice licenses or suspension of operation for a definite time, production, business or service establishments may not conduct operations stated in sanctioning decisions.

4. In the cases specified in Clauses 1 and 2 of this Article, if production, business or service establishments are highly likely to cause harms to human life or health or the environment, competent persons shall notify in writing the deprivation of licenses or practice certificates or suspension of operation for a definite time to related agencies.

5. Upon detecting that licenses or practice certificates have been granted *ultra vires* or contain unlawful details, persons with sanctioning competence shall promptly recover such licenses or practice certificates according to their competence and concurrently notify such in writing to agencies that have granted such licenses or practice certificates. In case such licenses or practice certificates fall beyond their recovering competence, persons with sanctioning competence shall report to competent agencies for handling.

## **Article 81. Procedures for confiscation of administrative violation material evidences and means**

1. Upon confiscating administrative violation material evidences and means in accordance with Article 26 of this Law, persons with sanctioning competence shall make written records of confiscation. A written record must clearly state names, quantities, categories, registration numbers (if any), state and quality of confiscated objects, money, goods and means involved in an administrative violation, and bear the signatures of the confiscator, the sanctioned individual or the representative of the sanctioned organization and the witness. In case the sanctioned individual or the representative of the sanctioned organization is absent, signatures of two witnesses are required. For administrative violation material evidences and means which need to be sealed, the sealing must be promptly made in the presence of the sanctioned individual or the representative of the sanctioned organization or the witness and recorded in writing.

If persons with sanctioning competence find any change in the state of temporarily seized administrative violation material evidences and means as compared to the time of issuance of temporary seizure decisions, they shall make written records of such change. Such a written record must bear the signatures of its maker, person responsible for temporary seizure and a witness.

2. Confiscated administrative violation material evidences and means must be managed and preserved under the Government's regulations.

## **Article 82. Handling of confiscated administrative violation material evidences and means**

1. Confiscated administrative violation material evidences and means must be handled as follows:

a/ Administrative violation material evidences which are Vietnamese currency, foreign currencies, valuable certificates, gold, silver, gems or precious metals must be remitted into the state budget;

b/ Papers and documents related to administrative violation material evidences and means must be transferred to agencies assigned to manage and use property defined at Point d of this Clause;

c/ Administrative violation material evidences and means which are drugs, weapons, explosive materials, supporting tools, objects of historical or cultural value, national treasures, antiques, precious and rare forest products, objects banned from circulation and other property must be transferred to specialized state management agencies for management and handling in accordance with law;

d/ Administrative violation material evidences and means for which competent authorities have issued decisions on transfer to state agencies for management and use, must be transferred by agencies that have issued confiscation decisions in coordination with finance agencies to these state agencies for management and use;

e/ For confiscated administrative violation material evidences and means other than those specified at Points a, b, c and d of this Clause, professional auctioning organizations in provinces or centrally run cities where violations are committed must be hired to auction these evidences and means. If no auctioning organization can be hired, an auction council shall be set up.

The auction of confiscated administrative violation material evidences and means complies with the law on auction;

f/ For confiscated administrative violation material evidences and means which are no longer usable or cannot be auctioned, agencies of persons competent to issue confiscation decisions shall set up a handling council which is composed of representatives of state agencies concerned. The handling of confiscated administrative violation material evidences and means must be recorded in writing with the signatures of all handling council members. The handling method, order and procedures comply with the law on management and use of state property.

2. Procedures for handling confiscated administrative violation material evidences and means specified in Clause 1 of this Article are as follows:

a/ For the cases specified at Points a, b, c and d, Clause 1 of this Article, confiscation-deciding agencies shall make written records of the handover and transfer of material evidences and means. The handover and receipt of administrative violation material evidences and means specified at Points a, b, c and d, Clause 1 of this Article comply with the law on management and use of state property;

b/ For the case specified at Point e, Clause 1 of this Article, reserve prices of auctioned property must be determined in accordance with Article 60 of this Law when transfer procedures are carried out. In case the determined value of confiscated administrative violation material evidences and means changes at the time of transfer, agencies that have issued confiscation decisions shall decide to set up a council for property valuation before carrying out procedures for transfer. The composition of such valuation council complies with Clause 3, Article 60 of this Law.

3. Within 30 days after the issuance of a decision to confiscate administrative violation material evidences and means, a competent agency shall handle confiscated evidences and means in accordance with Clause 1 of this Article. Past this time limit, if failing to do so, the competent agency shall bear responsibility before law.

4. Warehousing charge, wharfage, charge for preservation of confiscated administrative violation material evidences and means, auction fee and other expenses prescribed by law shall be cleared against proceeds from the auction of these evidences and means.

Proceeds from the auction of confiscated administrative violation material evidences and means, after being cleared against expenses, charges and fee specified in this Clause in accordance with law, must be remitted into the state budget.

**Article 83. Management of amounts collected from the sanctioning of administrative violations, fine receipts and remittance papers**

1. Amounts collected from the sanctioning of administrative violations include fines for administrative violations; fines for delayed execution of decisions on imposition of fine; proceeds from the sale or liquidation of confiscated administrative violation material evidences and means, and other sums of money.

2. Amounts collected from the sanctioning of administrative violations must be wholly remitted into the state budget and managed and used in accordance with the law on the state budget.

Fine receipts and remittance papers must be managed in accordance with the Government's regulations.

#### **Article 84. Procedures for expulsion**

1. Before being executed, expulsion decisions must be notified to the Ministry of Foreign Affairs, diplomatic missions or consular offices of countries of which expelled persons are citizens or countries where expelled persons reside before going to Vietnam.

2. Competent police offices shall organize the execution of expulsion decisions and application of measures to deter administrative violations and assure the handling thereof specified in Chapter I, Part Four of this Law.

#### **Article 85. Execution of remedial measures**

1. The time limit for execution of a remedial measure is that for execution of decisions on sanctioning administrative violations or decisions on application of remedial measures specified at Point b, Clause 2, Article 28 of this Law.

2. Administrative violators shall execute remedial measures stated in above decisions in accordance with law and bear all expenses for the execution of such measures.

3. Persons competent to issue above decisions shall monitor, urge and inspect the execution of remedial measures by violators.

4. In case administrative violators are unidentifiable as specified in Clause 2, Article 65 of this Law or individual violators are dead or institutional violators are dissolved or bankrupt without any organization taking over their rights and obligations in accordance with Article 75 of this Law, agencies of persons with sanctioning competence who have accepted and are examining administrative violation case files shall organize the execution of remedial measures specified in Clause 1, Article 28 of this Law.

Funds for organizing the execution of remedial measures under decisions of agencies of persons with sanctioning competence come from reserve budgets allocated to such agencies.

5. In case of emergency where consequences should be promptly remedied in order to protect the environment and assure traffic, agencies of persons with sanctioning competence who have accepted and are examining administrative violation case files

shall organize the execution of remedial measures. Administrative violators shall pay expenses for the execution of remedial measures to agencies that have executed such measures or, in case they fail to pay such expenses, be forced to do so.

### **Section 3**

#### **ENFORCEMENT OF DECISIONS TO SANCTION ADMINISTRATIVE VIOLATIONS**

##### **Article 86. Enforcement of decisions to sanction administrative violations**

1. Enforcement of decisions to sanction administrative violations shall be applied in case administrative violators fail to voluntarily execute these decisions in accordance with Article 73 of this Law.

2. Coercive measures include:

a/ Withholding of part of salaries or incomes or deduction of money from accounts of violators;

b/ Distrainment of property of a value equivalent to the imposed fine for auction;

c/ Collection of money or other property of entities subject to enforcement of sanctioning decisions currently held by other individuals or organizations in case violators intentionally disperse property after committing violations;

d/ Forcible execution of remedial measures specified in Clause 1, Article 28 of this Law.

3. The Government shall specify the enforcement of decisions to sanction administrative violations.

##### **Article 87. Competence to decide on enforcement**

1. The following persons are competent to issue enforcement decisions:

a/ Chairpersons of People's Committees at all levels;

b/ Chiefs of police stations, chiefs of district-level police offices, directors of provincial-level Fire Police Departments, directors of provincial-level Police Departments, the director of the Internal Political Security Department, the director of the Economic Security Department, the director of the Cultural and Ideological Security Department, the director of the Information Security Department, the director of the Police Department for Administrative Management of Social Order, the director of the Police Department for Investigation of Social Order-Related Crimes, the director of the Police Department for Investigation of Economic Management Order- and Position-Related Crimes, the director of the Police Department for Investigation of Drug-Related Crimes, the director of the Road and Railway Traffic Police Department, the director of the Waterway Traffic Police Department, the director of the Police Department for Fire Prevention and Fighting, Salvation and Rescue, the director of the Immigration Management Department, the director of the Safeguard and Judicial Assistance Police

Department, the director of the Police Department for Environmental Crime Prevention and Combat, and the director of the Police Department for Hi-Tech Crime Prevention and Combat;

c/ Chiefs of border-guard stations, port border-guard commanders, provincial-level border-guard commanders, commanders of border-guard ship fleets of the Border-Guard Command Post; commanders of marine police zones and the director of the Marine Police Department;

d/ Directors of district-level Customs Departments, directors of provincial, inter-provincial or municipal Customs Departments, the director of the Post-Customs Clearance Inspection Department, the director of the Anti-Smuggling Investigation Department of the General Department of Customs, and the General Director of Customs;

e/ Directors of provincial-level Forest Protection Offices and the director of the Forest Protection Department;

f/ Directors of district-level Tax Departments, directors of provincial-level Tax Departments and the General Director of Taxation;

g/ Directors of provincial-level Market Management Offices and the director of the Market Management Department;

h/ The director of the Overseas Labor Management Department; heads of diplomatic missions, consular offices and other agencies authorized to perform the consular function of Vietnam overseas;

i/ Other post holders defined in Clauses 2, 3 and 4, Article 46 of this Law;

j/ Directors of seaport authorities, directors of internal waterway port authorities and directors of airport authorities;

k/ Presidents of district-level people's courts, presidents of provincial-level people's courts, presidents of regional liminary courts; presidents of liminary courts of liminary zones or equivalent level, chief judges of specialized tribunals of the Supreme People's Court; directors of district-level Civil Judgment Enforcement Sub-Departments, directors of provincial-level Civil Judgment Enforcement Departments, heads of judgment enforcement sections of military zones, and the General Director of the General Department of Civil Judgment Enforcement.

2. Persons competent to decide on enforcement specified in Clause 1 of this Article may empower their deputies. The empowerment can only be made when heads are absent and must be in writing, clearly stating the scope, contents and duration of empowerment. Empowered deputies shall bear responsibility for their decisions before their heads and law. Empowered persons may neither further empower nor authorize any other persons.

## **Article 88. Execution of enforcement decisions**

1. Persons issuing enforcement decisions shall immediately send these decisions to related individuals and organizations and organize the enforcement of their and their subordinates' sanctioning decisions.

2. Individuals and organizations that receive enforcement decisions shall strictly abide by these decisions and bear all expenses for the execution of coercive measures.

3. Responsibilities of agencies and organizations to coordinate with one another in executing enforcement decisions:

a/ Related individuals and organizations shall coordinate with persons competent to issue enforcement decisions in applying measures to execute enforcement decisions;

b/ The People's Police shall assure order and safety in the course of execution of enforcement decisions of chairpersons of People's Committees at the same level or enforcement decisions of other state agencies upon receiving requests;

c/ Credit institutions where individuals or organizations subject to enforcement open their accounts shall keep in such accounts money amounts equal to those payable by such individuals or organizations at the request of persons competent to issue enforcement decisions. In case the balances of deposit accounts are smaller than money amounts payable by individuals or organizations subject to enforcement, credit institutions shall retain, deduct and transfer them. Within 5 working days before making deductions and transfers, credit institutions shall notify individuals or organizations subject to enforcement of the deduction and transfer. The deduction and transfer do not require consent of such individuals or organizations.

### **Part Three**

## **APPLICATION OF ADMINISTRATIVE HANDLING MEASURES**

### **Chapter I**

## **ADMINISTRATIVE HANDLING MEASURES**

### **Article 89. The measure of education in commune, ward or township**

1. Education in commune, ward or township is an administrative handling measure applicable to the subjects specified in Article 90 of this Law to educate and manage them at their places of residence in case it is unnecessary to separate them from the community.

2. The duration of the measure of education in commune, ward or township is between 3 and 6 months.

### **Article 90. Persons subject to education in commune, ward or township**

1. Persons who are between full 12 and under 14 years old and commit acts showing signs of very serious intentional crime prescribed in the Penal Code.

2. Persons who are between full 14 and under 16 years old and commit acts showing signs of serious intentional crime prescribed in the Penal Code.

3. Persons who are between full 14 and under 18 years old and commit for twice or more in 6 months an act of thievery, swindling, gambling or public order disturbance which is not serious enough for penal liability examination.

4. Drug addicts who are full 18 years or older and have stable places of residence.

5. Persons who are full 18 years or older and commit an act of infringing upon property of agencies or organizations, or property, health, honor or dignity of citizens or foreigners; or disturbing social order and safety for twice or more in 6 months, which is not serious enough for penal liability examination.

6. Persons specified in Clauses 1, 2 and 3 of this Article who have no stable places of residence shall be consigned to social relief establishments or child care establishments for management and education in the duration of execution of the measure of education in commune, ward or township.

#### **Article 91. The measure of consignment to reformatory**

1. Consignment to reformatory is an administrative handling measure applicable to persons who commit the violations specified in Article 92 of this Law in order to help them receive general education or vocational training, labor and live under the management and education of a reformatory.

2. The duration of application of this measure is between 6 and 24 months.

#### **Article 92. Persons subject to the measure of consignment to reformatory**

1. Persons who are between full 12 and under 14 years old and commit acts showing signs of particularly serious intentional crime prescribed in the Penal Code.

2. Persons who are between full 14 and under 16 years old and commit acts showing signs of very serious intentional crime prescribed in the Penal Code.

3. Persons who are between full 14 and under 16 years old, commit acts showing signs of serious intentional crime prescribed in the Penal Code and have previously been subject to the measure of education in commune, ward or township.

4. Persons who are between full 14 and under 18 years old, commit for twice or more within 6 months an act of thievery, swindling, gambling or public order disturbance which is not serious enough for penal liability examination, and have previously been subject to the measure of education in commune, ward or township.

5. The measure of consignment to reformatory is not applicable to the following persons:

a/ Persons who have no civil liability capacity;

b/ Pregnant women with hospital certification;



c/ Women or persons who are lonely nursing under 36-month infants as certified by commune-level People's Committees of localities where they reside.

### **Article 93. The measure of consignment to compulsory education institution**

1. Consignment to compulsory education institution is an administrative handling measure applicable to persons who commit a violation specified in Article 94 of this Law for labor, general education, vocation training or living under the management of a compulsory education institution.

2. The duration for application of the measure of consignment to compulsory education institution is between 6 and 24 months.

### **Article 94. Persons subject to the measure of consignment to compulsory education institution**

1. Subject to the measure of consignment to compulsory education institution are persons who commit an act of infringing upon property of domestic or foreign organizations, property, health, honor or dignity of citizens or foreigners; or disturbing social order and safety for twice or more within 6 months which is not serious enough for penal liability examination, and have previously been subject to this measure or have never been subject to this measure but have no stable places of residence.

2. The measure of consignment to compulsory education institution is not applicable to the following persons:

a/ Persons who have no administrative liability capacity;

b/ Persons who are under 18 years old;

c/ Female persons who are over 55 years old and male persons who are over 60 years old;

d/ Pregnant women with hospital certification;

e/ Women or person who are lonely nursing under 36-month infants as certified by commune-level People's Committee of localities where they reside.

### **Article 95. The measure of consignment to compulsory detoxification establishment**

1. Consignment to compulsory detoxification establishment is an administrative handling measure applicable to persons who commit a violation specified in Article 96 of this Law for medical treatment, labor, general education or vocational training under the management of a compulsory detoxification establishment.

2. The duration of application of the measure of consignment to compulsory detoxification establishment is between 12 and 24 months.

### **Article 96. Persons subject to the measure of consignment to compulsory detoxification establishment**

1. Subject to the measure of consignment to compulsory detoxification establishment are drug addicts who are full 18 years or older and still addicted to drugs after having been subject to the measure of education in commune, ward or township or have not yet been subject to this measure and have no stable places of residence.

2. The measure of consignment to compulsory detoxification establishment is not applicable to the following persons:

a/ Persons who have no administrative liability capacity;

b/ Pregnant women with hospital certification;

c/ Women or persons who are lonely nursing under 36-month infants as certified by commune-level People's Committees of localities where they reside.

## **Chapter II**

### **PROCEDURES FOR MAKING DOSSIERS OF REQUEST FOR APPLICATION OF ADMINISTRATIVE HANDLING MEASURES**

#### **Article 97. Making of dossiers of request for application of administrative handling measures**

1. Chiefs of commune-level police offices of localities where violators specified in Article 90 of this Law reside or where they commit illegal acts shall make, at their own will or at the request of chairpersons of commune-level Fatherland Front Committees or representatives of agencies, organizations or population units at the grassroots level, dossiers of request for application of the measure of education in commune, ward or township.

2. In case violators specified in Article 90 of this Law are detected, investigated or accepted for handling in violation cases directly by district-level police offices or provincial-level police departments but their violations are not serious enough for penal liability examination, police offices or departments that have accepted and are handling these cases shall verify evidences, collect documents and make dossiers of request for application of the measure of education in commune, ward or township against these persons.

3. A dossier of request comprises a resume, documents on illegal acts, health records (if any) and written explanations of the violator and other relevant documents.

For minors who are considered for application of the measure of education in commune, ward or township, a dossier of request must contain remarks of the school, agency or organization where such minor is learning or working (if any), and opinions of his/her parents or guardian.

4. After completely making dossiers of request specified in Clauses 1, 2 and 3 of this Article, dossier-making agencies shall send them to chairpersons of commune-level People's Committees and concurrently notify the making of dossiers to persons subject to the measure requested to be applied. For minors, the making of dossiers of request

shall also be notified to their parents or guardians. These persons may read dossiers and take notes of necessary contents within 5 days after being notified.

**Article 98. Decisions to apply the measure of education in commune, ward or township**

1. Within 15 days after receiving a dossier of request for application of the measure of education in commune, ward or township, the chairperson of the commune-level People's Committee shall assign a civil servant in charge of justice and civic registration work to examine such dossier and organize a consultation meeting.

The chairperson of the commune-level People's Committee shall chair the consultation meeting with the participation of the chief of the commune-level police office, the civil servant in charge of justice and civic registration work, representatives of the Vietnam Fatherland Front Committee and a number of relevant same-level social organizations and representative(s) of local people. The person requested to be subject to the measure of education in commune, ward or township and their parents or lawful representatives shall be invited to participate in the meeting and give their opinions on the application of this measure.

2. Within 3 days after the conclusion of the consultation meeting specified in Clause 1 of this Article, the chairperson of the commune-level People's Committee shall consider the application of the measure of education in commune, ward or township. Depending on each type of person, the chairperson of the commune-level People's Committee shall decide to consign the to-be-educated person to an agency, organization or his/her family for management and education. If this person has no stable place of residence, he/she shall be consigned to a social relief or child care establishment for management and education.

3. A decision on application of the measure of education in commune, ward or township must clearly state the date of issuance; full name and position of the issuer; full name, date of birth, place of residence and violation of the to-be-educated person; applicable article(s) and clause(s) of legal document(s); application duration; date of execution of the decision; responsibilities of the agency, organization or family assigned to manage and educate this person; right to lodge complaints or initiate lawsuits as provided by law.

4. A decision on application of the measure of education in commune, ward or township takes effect on the date of its signing and must be promptly sent to the to-be-educated person, his/her family, the commune-level People's Council and relevant agencies and organizations.

5. Dossiers on application of the measure of education in commune, ward or township must be marked with signs for filing and archived in accordance with the law on archive.

**Article 99. Making of dossiers of request for application of the measure of consignment to reformatory**

1. The making of dossiers of request for application of the measure of consignment to reformatory for the persons specified in Article 92 of this Law shall be as follows:

a/ For minor violators who have stable places of residence, chairpersons of commune-level People's Committees of localities where they reside shall make dossiers of request for application of this measure.

A dossier of request comprises a resume and documents on illegal acts of the violator; applied educational measures; written explanations of the violator; opinions of his/her parents or lawful representatives, and of the school, agency or organization where he/she is learning or working (if any) and other relevant documents;

b/ For minor violators who have no stable places of residence, chairpersons of commune-level People's Committees of localities where they commit their violations shall make dossiers of request for application of this measure.

A dossier of request comprises the written record of the violation; a resume and documents on the illegal act of the violator; a summary of his/her criminal records; the applied educational measure(s) (if any); written explanations of the violator and opinions of his/her parents or lawful representative;

c/ Commune-level police offices shall help chairpersons of same-level People's Committees collect documents and make dossiers of request specified at Points a and b, Clause 1 of this Article.

2. In case minor violators who are subject to the measure of consignment to reformatory as specified in Article 92 of this Law are detected, investigated or accepted for handling in violation cases directly by district-level police offices or provincial-level police departments but their violations are not serious enough for penal liability examination, police offices or departments that have accepted and are handling these cases shall verify evidences, collect documents and make dossiers of request for application of the measure of consignment to reformatory against these persons.

A dossier of request comprises a resume and documents on illegal acts of the violator; applied educational measure(s); written explanations of the violator and opinions of his/her parents or lawful representative.

3. After completely making dossiers of request specified in Clauses 1 and 2 of this Article, dossier-making agencies shall notify the making of dossiers to persons subject to the measure requested to be applied. These persons may read dossiers and take notes of necessary contents within 5 days after being notified. After persons subject to the measure requested to be applied and their parents or lawful representatives fully read the dossiers, these dossiers shall be sent to heads of district-level justice sections.

Within 5 days after receiving dossiers, heads of district-level justice sections shall examine the legality of these dossiers and send them to same-level police office chiefs.

**Article 100. Consideration of and decision on transfer of dossiers of request application of the measure of consignment to reformatory by district-level people's courts**

1. Within 7 days after receiving a dossier specified in Article 99 of this Law, the chief of a district-level police office shall consider and decide to transfer such dossier to the district-level people's court, requesting the latter to apply the measure of consignment to reformatory. In case the dossier is incomplete, it shall be returned to the dossier-making agency for further collection of documents to complete the dossier.

2. A dossier of request for consideration and decision on application of the measure of consignment to reformatory by a district-level people's court comprises:

a/ A dossier of request for application of the measure of consignment to reformatory specified in Article 99 of this Law;

b/ A written request of the chief of the district-level police office for consideration and application of the measure of consignment to reformatory.

3. Dossiers of request for application of the measure of consignment to reformatory must be marked with signs for filing and archived in accordance with the law on archive.

**Article 101. Making of dossiers of request for application of the measure of consignment to compulsory education institution**

1. The making of dossiers of request for application of the measure of consignment to compulsory education institution for the persons specified in Article 94 of this Law is as follows:

a/ For violators who have stable places of residence, chairpersons of commune-level People's Committees of localities where they reside shall make dossiers of request for application of this measure.

A dossier of request comprises a resume and documents on illegal acts of the violator; the applied measure of education in commune, ward or township; written explanations of the violator or his/her lawful representatives, and other relevant documents;

b/ For violators who have no places of residence in localities where they commit illegal acts, chairpersons of commune-level People's Committees verify their places of residence. In case places of residence of violators can be identified, chairpersons of commune-level People's Committees shall transfer these violators together with written records of violations to their localities for handling. In case places of residence of violators are unidentifiable, they shall make dossiers of request for application of the measure of consignment to compulsory education institution.

A dossier of request comprises the written record of the violation; a resume and documents on illegal acts of the violator; a summary of his/her criminal records; the applied educational measure(s) (if any); written explanations of the violator or his/her lawful representative;

c/ Commune-level police offices shall help chairpersons of same-level People's Committees collect documents and make dossiers of request specified at Points a and b, Clause 1 of this Article.

2. In case minor violators who are subject to the measure of consignment to compulsory education institution as specified in Article 94 of this Law are detected, investigated or accepted for handling in violation cases directly by district-level police offices or provincial-level police departments but their violations are not serious enough for penal liability examination, police offices or departments that have accepted and are handling these cases shall verify evidences, collect documents and make dossiers of request for application of the measure of consignment to compulsory education institution against these persons.

A dossier of request comprises a resume and documents on illegal acts of the violator; the applied measure of education in commune, ward or township; written explanations of the violator or his/her lawful representative.

3. After completely making dossiers of request specified in Clauses 1 and 2 of this Article, dossier-making agencies shall notify the making of dossiers to persons subject to the measure requested to be applied or their representatives. These persons may read dossiers and take notes of necessary contents within 5 days after being notified. After persons subject to the measure requested to be applied or their lawful representatives fully read the dossiers, these dossiers shall be sent to heads of district-level justice sections.

Within 5 days after receiving dossiers, heads of district-level justice sections shall examine the legality of these dossiers and send them to same-level police office chiefs.

**Article 102. Consideration of and decision on transfer of dossiers of request application of the measure of consignment to compulsory education institution by district-level people's courts**

1. Within 7 days after receiving a dossier specified in Articles 101 and 118 of this Law, the chief of a district-level police office shall consider and decide on transfer of such dossier to the district-level people's court, requesting the latter to apply the measure of consignment to compulsory education institution. In case the dossier is incomplete, it shall be returned to the dossier-making agency for further collection of documents to complete the dossier.

2. A dossier of request for consideration and decision on application of the measure of consignment to compulsory education institution by a district-level people's court comprises:

a/ A dossier of request for application of the measure of consignment to compulsory education institution specified in Articles 101 and 118 of this Law;

b/ A written request of the chief of the district-level police office for consideration and application of the measure of consignment to compulsory education institution.

3. Dossiers of request for application of the measure of consignment to compulsory education institution must be marked with signs for filing and archived in accordance with the law on archive.

**Article 103. Making of dossiers of request for application of the measure of consignment to compulsory detoxification establishment**

1. The making of dossiers of request for application of the measure of consignment to compulsory detoxification establishment for the persons specified in Article 96 of this Law is as follows:

a/ For drug addicts who have stable places of residence, chairpersons of commune-level People's Committees of localities where they reside shall make dossiers of request for application of this measure.

A dossier of request comprises a resume and documents evidencing the addiction state of the violator; documents evidencing that the violator has been subject to the measure of education in commune, ward or township for his/her addiction; written explanations of the violator or his/her lawful representative, and other relevant documents;

b/ For drug addicts who have no places of residence in localities where they commit illegal acts, chairpersons of commune-level People's Committees verify their places of residence. In case places of residence of violators can be identified, chairpersons of commune-level People's Committees shall transfer these persons together with written records of violations to their localities for handling. In case places of residence of violators are unidentifiable, they shall make dossiers of request for application of the measure of consignment to compulsory detoxification establishment.

A dossier of request comprises the written record of the violation; a resume and documents evidencing the addiction state of the addict; documents evidencing that the addict has been subject to the measure of education in commune, ward or township for his/her addiction; and written explanations of the addict;

c/ Commune-level police offices shall help chairpersons of same-level People's Committees collect documents and make dossiers of request specified in Clauses 1 and 2 of this Article.

2. In case addicts who are subject to the measure of consignment to compulsory detoxification establishment as specified in Article 96 of this Law commit violations which are detected, investigated or accepted for handling in violation cases directly by district-level police offices or provincial-level police departments, police offices or departments that have accepted and are handling these cases shall verify evidences, collect documents and make dossiers of request for application of the measure of consignment to compulsory detoxification establishment against these persons.

A dossier of request comprises a resume and documents evidencing the addiction state of the violator; documents evidencing that the violator has been subject to the measure of education in commune, ward or township for his/her addiction; and written explanations of the violator or his/her lawful representative.

3. After completely making dossiers of request specified in Clauses 1 and 2 of this Article, dossier-making agencies shall notify the making of dossiers to persons subject to the measure requested to be applied or their representatives. These persons may read

dossiers and take notes of necessary contents within 5 days after being notified. After persons subject to the measure requested to be applied or their lawful representatives fully read the dossiers, these dossiers shall be sent to heads of district-level justice sections.

Within 5 days after receiving dossiers, heads of district-level justice sections shall examine the legality of these dossiers and send them to heads of same-level Labor, War Invalids and Social Affairs sections.

**Article 104. Consideration of and decision on transfer of dossiers of request application of the measure of consignment to compulsory detoxification establishment by district-level people's courts**

1. Within 7 days after receiving a dossier specified in Article 103 of this Law, the head of a district-level Labor, War Invalids and Social Affairs section shall consider and decide on transfer of such dossier to the district-level people's court, requesting the latter to apply the measure of consignment to compulsory detoxification establishment. In case the dossier is incomplete, it shall be returned to the dossier-making agency for further collection of documents to complete the dossier.

2. A dossier of request for consideration and decision on application of the measure of consignment to compulsory detoxification establishment by a district-level people's court comprises:

a/ A dossier of request for application of the measure of consignment to compulsory detoxification establishment specified in Articles 103 of this Law;

b/ A written request of the head of the district-level Labor, War Invalids and Social Affairs section for consideration and application of the measure of consignment to compulsory detoxification establishment.

3. Dossiers of request for application of the measure of consignment to compulsory detoxification establishment must be marked with signs for filing and archived in accordance with the law on archive.

### **Chapter III**

#### **COMPETENCE AND PROCEDURES FOR CONSIDERING AND DECIDING ON THE APPLICATION OF ADMINISTRATIVE HANDLING MEASURES**

**Article 105. Competence for deciding on the application of administrative handling measures**

1. Chairpersons of commune-level People's Committees are competent to decide on the application of the measure of education in commune, ward or township.

2. District-level people's courts are competent to decide on the application of the measures of consignment to reformatory, consignment to compulsory education institutions and consignment to compulsory detoxification establishment.



**Article 106. Order of and procedures for considering and deciding on the application of administrative handling measures**

The National Assembly Standing Committee shall specify the order and procedures for people's courts to consider and decide on the application of the measures of consignment to reformatory, consignment to compulsory education institution and consignment to compulsory detoxification establishment.

**Chapter IV**

**EXECUTION OF DECISIONS ON APPLICATION OF ADMINISTRATIVE HANDLING MEASURES**

**Article 107. Sending of decisions on application of the measures of consignment to reformatory, consignment to compulsory education institution and consignment to compulsory detoxification establishment**

Within 3 days after a decision on application of an administrative handling measure takes effect, the people's court that has issued such decision shall send it to the person to be subject to such measure, the chief of the district-level police office or the head of the district-level Labor, War Invalids and Social Affairs section that has sent the dossier of request for application of the administrative handling measure, the commune-level People's Committee of the locality where the person to be subject to the measure resides, and related agencies for execution in accordance with law. A decision on application of the measure of consignment to reformatory shall also be sent to parents or lawful representative of the person to be subject to the measure.

**Article 108. Statute of limitations for execution of decisions on application of administrative handling measures**

1. The statute of limitations for execution of decisions on application of the measure of education in commune, ward or township and decisions on application of the measure of consignment to reformatory is 6 months after these decisions take effect.

2. The statute of limitations for execution of decisions on application of the measure of consignment to compulsory education institution and decisions on application of the measure of consignment to compulsory detoxification establishment is 1 year after these decisions take effect.

3. In case persons obliged to execute these decisions intentionally shirk the execution, the statute of limitations specified in Clauses 1 and 2 of this Article shall be counted from the time when the act of shirking stops.

**Article 109. Execution of decisions on application of the measure of education in commune, ward or township**

1. After receiving a decision on application of the measure of education in commune, ward or township, an agency or organization assigned to educate and manage the person to be subject to the measure shall:

- a/ Organize the execution of the measure against the to be-educated person;
  - b/ Assign a person to directly help the to be-educated person;
  - c/ Record in a monitoring book and periodically report to the chairperson of the commune-level People's Committee on the execution of the decision;
  - d/ Help and encourage the to be-educated person and propose the commune-level People's Committee to create favorable conditions for him/her to seek a job.
2. Persons assigned to help to be-educated persons shall prepare plans on management and education of and assistance for the latter and enjoy financial supports for the management, education and assistance in accordance with law.
  3. To be-educated persons shall make written commitments to execute decisions on education in commune, ward or township.
  4. Families of to be-educated persons shall closely collaborate with persons assigned to help to be-educated persons in the management and education of to be-educated persons.

**Article 110. Execution of decisions on consignment to reformatory, decisions on consignment to compulsory education institution and decisions on consignment to compulsory detoxification establishment**

1. Within 5 days after receiving a decision on consignment to reformatory, a decision on consignment to compulsory education institution or a decision on consignment to compulsory detoxification establishment, the agency that has sent a dossier of request shall organize the execution of such decision as follows:
  - a/ The district-level police office shall consign the person obliged to execute the decision to a reformatory or compulsory education institution;
  - b/ The district-level Labor, War Invalids and Social Affairs section shall coordinate with the district-level police office in consigning the person obliged to execute the decision to a compulsory detoxification establishment.
2. The duration of execution of the decision is counted from the date when the person obliged to execute the decision is held in temporary custody before consignment to a reformatory, compulsory education institution or compulsory detoxification establishment.
3. The Government shall detail the execution of decisions on consignment to reformatory, decisions on consignment to compulsory education institution and decisions on consignment to compulsory detoxification establishment.

**Article 111. Postponement of or exemption from execution of decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment**

1. A person obliged to execute a decision on consignment to reformatory, compulsory education institution or compulsory detoxification establishment is eligible for postponement of the execution of such decision in the following cases:

a/ He/she is seriously ill as certified by a hospital;

b/ His/her family is encountering a special difficulty as certified by the chairperson of the commune-level People's Committee of the locality where he/she resides.

When the condition for postponement of the execution of such decision no longer exists, such decision will continue to be executed.

2. A person obliged to execute a decision on consignment to reformatory, compulsory education institution or compulsory detoxification establishment but has not yet been consigned to such reformatory, institution or establishment is exempt from execution of such decision in the following cases:

a/ He/she is infected with a very dangerous disease as certified by a hospital;

b/ He/she makes a remarkable progress in abiding by law or records a merit or is no longer addicted to drugs during the execution postponement duration specified in Clause 1 of this Article;

c/ She is pregnant as certified by a hospital.

3. District-level people's courts that have issued decisions on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment shall consider and decide on postponement of or exemption from the execution of such decisions on the basis of written requests of persons obliged to execute such decisions or their lawful representatives. In case of necessity, they may consult agencies which have sent dossiers of request, before issuing decisions.

Decisions on execution exemption or postponement shall be sent to agencies enforcing and persons obliged to execute decisions on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment. For minors eligible for postponement of or exemption from the execution of decisions on consignment to reformatory, postponement or exemption decisions shall be sent to their parents or lawful representatives.

**Article 112. Reduction of duration, temporary suspension of or exemption from execution of consignment decisions for the remaining duration in reformatories, compulsory education institutions or compulsory detoxification establishments**

1. A person who has executed a consignment decision in a reformatory, compulsory education institution or compulsory detoxification establishment for half of the prescribed duration and made a remarkable progress or recorded a merit may be considered for reduction of or exemption from execution for the remaining duration.

2. In case a person who is executing a consignment decision in a reformatory, compulsory education institution or compulsory detoxification establishment falls seriously ill and is transferred to his/her family for treatment, he/she may be eligible for suspension of the execution of such decision. The treatment period shall be counted into the duration of execution of the decision. When his/her health recovers, if the remaining execution duration is 3 months or more, he/she shall continue the execution. If during the period of suspension, he/she makes a remarkable progress or records a merit, he/she is exempted from execution for the remaining duration. Persons infected with a very dangerous disease and pregnant women are also exempt from execution for the remaining duration.

3. District-level People's Committees of localities where reformatories, compulsory education institutions or compulsory detoxification establishments are located shall decide to shorten the period of suspension or execution exemption specified in Clauses 1 and 2 of this Article at the request of principals of reformatories or directors of compulsory education institutions or compulsory detoxification establishments.

A decision on suspension of or exemption from execution of a decision on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment shall be sent to the people's court having issued the consignment decision, the agency having sent the dossier of request, the commune-level People's Committee of the locality where the person eligible for the suspension or exemption resides, the reformatory, compulsory education institution or compulsory detoxification establishment concerned, the person eligible for the suspension or exemption and his/her family.

4. A person who is seriously ill or infected with a very dangerous disease and eligible for suspension of or exemption from execution of a consignment decision for the remaining duration as specified in Clause 2 of this Article and whose place of residence is unidentifiable, may be transferred to a medical establishment of the locality where his/her reformatory, compulsory education institution or compulsory detoxification establishment is located for treatment.

**Article 113. Management of persons eligible for postponement or suspension of execution of decisions on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment**

1. Persons eligible for postponement or suspension of execution of decisions on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment shall show themselves up at commune-level People's Committees of localities where they reside.

2. During the period of postponement or suspension of execution of decisions on consignment to reformatory or compulsory education institution, if persons eligible for postponement or suspension repeat their handled violations or there is a ground to believe that they have absconded, district-level people's courts that have issued

postponement or suspension decisions shall cancel such decisions and issue decisions to enforce decisions on consignment to reformatory or compulsory education institution.

During the period of postponement or suspension of execution of decisions on consignment to compulsory detoxification establishment, if persons eligible for postponement or suspension continue using drugs or there is a ground to believe that they have absconded, district-level people's courts that have issued postponement or suspension decisions shall cancel such decisions and issue decisions to enforce decisions on consignment to compulsory detoxification establishment.

3. Decisions to enforce decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment shall be sent to police offices or departments at the same level with courts that have issued such decisions. Immediately after receiving these decisions, police offices or departments shall organize the escorted transfer of consigned persons.

#### **Article 114. Expiration of the duration of execution of decisions on application of administrative handling measure**

1. When violators completely execute decisions on education in commune, ward or township, chairpersons of commune-level People's Committees shall grant execution completion certificates to them and send copies of such certificates to their families.

2. When violators completely execute decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment, principals of reformatories or directors of compulsory education institutions or compulsory detoxification establishments shall grant execution completion certificates to them and send copies of such certificates to their families, district-level people's courts that have issued consignment decisions, agencies managing reformatories, compulsory education institutions or compulsory detoxification establishments, and commune-level People's Committees of localities where the violators reside.

3. Upon the expiration of the duration of execution of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment, consigned persons whose places of residence are unidentifiable and who are minors or weak persons incapable of working shall be transferred to social relief establishments in localities where those reformatories, compulsory education institutions or compulsory detoxification establishments are located.

### **Chapter V**

#### **OTHER PROVISIONS CONCERNING THE APPLICATION OF ADMINISTRATIVE HANDLING MEASURES**

**Article 115. Temporary transfer of persons currently executing the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment out of places of execution of such administrative handling measure at the request of criminal procedure-conducting agencies**

1. At the request of competent criminal procedure-conducting agencies, principals of reformatories or directors of compulsory education institutions or compulsory detoxification establishments shall decide to temporarily transfer persons currently executing the administrative handling measure out of places of execution of such measure for participation in the procedures in the cases involving such persons.

2. The period of temporary transfer of persons out of places where these persons are executing an administrative handling measure shall be included in the duration of execution of such measure.

**Article 116. Transfer of dossiers of persons subject to administrative handling measures for violations showing signs of crime for penal liability examination**

1. When examining dossiers of violators for decision on application of administrative handling measures, if finding that these persons' violations show signs of crime, competent persons shall promptly transfer such dossiers to competent criminal procedure-conducting agencies.

2. If violations of persons subject to administrative handling measures are detected to have signs of crime after decisions on application of such measures are issued and the statute of limitations for penal liability examination has not expired, chairpersons of People's Committees or people's courts that have issued decisions on application of administrative handling measures shall cancel such decisions and, within 3 days after the cancellation, transfer dossiers of these persons to competent criminal procedure-conducting agencies.

In case persons subject to the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment have been sentenced to imprisonment by courts, the duration for which these persons have executed the measure shall be subtracted from the duration of execution of the imprisonment penalty, with 1.5 days of execution of the measure of consignment equal to 1 day of execution of the imprisonment penalty.

**Article 117. Penal liability examination of crimes committed before or during the execution of administrative handling measures**

In case of detecting that persons subject to administrative handling measures commit a crime before or during their execution of decisions on application of such measures, at the request of competent criminal procedure-conducting agencies, chairpersons of commune-level People's Committees of localities where the measure of education in commune, ward or township is currently executed or principals of reformatories or directors of compulsory education institutions or compulsory detoxification establishments shall issue decisions to suspend the execution of the decisions on application of administrative handling measures for these persons and transfer their dossiers to criminal procedure-conducting agencies. If these persons have been sentenced to imprisonment by courts, they will be exempt from executing the decisions on application on administrative handling measures for the remaining duration stated in such decisions. If the sentenced penalty is not imprisonment, these persons may

be required to continue to execute decisions on application of administrative handling measures.

**Article 118. Handling of the case in which a person is subject to both consignment to compulsory education institution and consignment to compulsory detoxification establishment**

1. In case a person committing an illegal act is subject to both consignment to compulsory education institution and consignment to compulsory detoxification establishment, he/she shall be consigned to a compulsory detoxification establishment.

2. Drug addicts who are aggressive gangsters shall be consigned to compulsory education institutions. Compulsory education institutions shall apply detoxification to these persons.

3. In the stage of reduction of hunger for drugs or recovery of health, if persons currently staying in a compulsory detoxification establishment commit violations specified in Article 94 of this Law, they shall be consigned to a compulsory education institution.

Directors of compulsory detoxification establishments shall make dossiers of request for consignment to compulsory education institutions of persons committing the violations specified in the first paragraph of this Clause based on available dossiers and written records of new violations, then send them to chiefs of district-level police offices of localities where compulsory detoxification establishments are located. Chiefs of district-level police offices shall consult heads of justice sections on the legality of these dossiers before considering and sending dossiers requesting people's courts of localities where compulsory detoxification establishments are located to decide on application of the measure of consignment to compulsory education institution.

Procedures for considering the application of the measure of consignment to compulsory education institution against these persons comply with law.

**Part Four**

**MEASURES TO DETER ADMINISTRATIVE VIOLATIONS AND ASSURE THE HANDLING THEREOF**

**Chapter I**

**GENERAL PROVISIONS ON MEASURES TO DETER ADMINISTRATIVE VIOLATIONS AND ASSURE THE HANDLING THEREOF**

**Article 119. Measures to deter administrative violations and assure the handling thereof**

In case of necessity to promptly deter administrative violations or to assure the handling of administrative violations, competent persons may apply the following measures according to administrative procedures:

1. Holding of persons in temporary custody;
2. Escorted transfer of violators;
3. Temporary seizure of administrative violation material evidences and means, licenses and practice certificates;
4. Search of persons;
5. Search of means of transport and objects;
6. Search of places where administrative violation material evidences and means are hidden;
7. Management of foreigners violating the Vietnamese law pending the completion of expulsion procedures;
8. Consignment of persons requested to be subject to administrative handling measures to their families or organizations for management pending the completion of procedures for application of such measures;
9. Pursuit of persons obliged to execute decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment in case they abscond.

**Article 120. Principles of application of measures to deter administrative violations and assure the handling thereof**

1. When applying measures to deter administrative violations and assure the handling thereof, competent persons shall strictly comply with the provisions of Articles 120 thru 132 of this Law. If violating these provisions, they shall be handled in accordance with law.
2. Measures to deter administrative violations and assure the handling thereof shall only be applied in necessary cases specified in Chapter II of this Part.
3. Persons issuing decisions on application of measures to deter administrative violations and assure the handling thereof shall take responsibility for their decisions.
4. The use of weapons and supporting tools in the application of measures to deter administrative violations and assure the handling thereof must comply with law.

**Article 121. Cancellation or replacement of measures to deter administrative violations and assure the handling thereof**

1. In case the application of measures to deter administrative violations and assure the handling thereof is no longer appropriate to the application purposes and conditions provided in this Law, decisions on application of such measures shall be cancelled.



2. Persons competent to decide on application of a measure to deter administrative violations and assure the handling thereof shall decide to cancel this measure when finding it no longer necessary, or to replace it with another.

## **Chapter II**

### **COMPETENCE AND PROCEDURES FOR APPLICATION OF MEASURES TO DETER ADMINISTRATIVE VIOLATIONS AND ASSURE THE HANDLING THEREOF**

#### **Article 122. Holding of persons in temporary custody according to administrative procedures**

1. The holding of persons in temporary custody according to administrative procedures shall be applied only in case of necessity to promptly prevent or stop acts of disturbing public order and inflicting injury on others.

2. Every case of holding a person in temporary custody must have a written decision, a copy of which must be handed to the person held in temporary custody.

3. The maximum duration of holding of persons in temporary custody according to administrative procedures is 12 hours. In case of necessity, this duration may be prolonged but must not exceed 24 hours from the beginning of the holding.

For persons violating the border regulation or commit administrative violations in remote mountainous areas or islands, the duration of holding in temporary custody may be prolonged but must not exceed 48 hours from the beginning of the holding.

Persons temporarily held in airplanes or seagoing ships shall be promptly transferred to competent agencies upon the arrival of these airplanes or seagoing ships at airports or seaports.

4. At the request of persons held in temporary custody, persons issuing decisions on holding in temporary custody shall notify their families or organizations where they work or learn of the temporary custody. In case of holding minor violators in temporary custody at nighttime or for over 6 hours, persons issuing decisions on holding in temporary custody shall promptly notify their parents or guardians of the temporary custody.

5. Places for holding of persons in temporary custody according to administrative procedures are administrative temporary custody houses or rooms arranged at offices of agencies or units where persons competent to issue decisions on holding administrative violators in temporary custody work. In case there is no administrative temporary custody house or room, the reception room or another room at the workplace may be used for temporary custody, provided general regulations are complied with.

Agencies that have the function of prevention and combat of illegal acts and have to regularly hold administrative violators in temporary custody shall arrange or design and build separate administrative temporary custody houses or rooms, including separate

places for minors, women or foreigners, and assign full-time management and safeguarding staffs.

For airplanes, seagoing ships and trains that have departed from airports, seaports or railway stations, depending on the specific conditions and violators, airplane commanders, shipmasters or trainmasters shall decide on places of temporary custody and assign persons to take charge of temporary custody.

6. It is prohibited to hold administrative violators in criminal temporary custody or temporary detention rooms or places which are unhygienic and unsafe for persons held in temporary custody.

7. The Government shall stipulate the holding of persons in temporary custody according to administrative procedures.

**Article 123. Competence to hold persons in temporary custody according to administrative procedures**

1. When there is an act of disturbing public order or inflicting injury on another person specified in Clause 1, Article 122 of this Law, the following persons may decide on holding persons committing such act in temporary custody according to administrative procedures:

a/ Chairpersons of commune-level People's Committees, chiefs of ward police offices;

b/ Chiefs of district-level police offices;

c/ Chiefs of police offices for administrative management of social order, chiefs of order police offices, chiefs of road and railway traffic police offices, chiefs of waterway police offices, chiefs of police offices for investigation of economic management order and position-related crimes, chiefs of police offices for investigation of social order-related crimes, chiefs of police offices for investigation of drug-related crimes, heads of immigration management sections of provincial-level Police Departments; chiefs of police offices for criminal judgment enforcement and judicial assistance, and chiefs of police offices for environmental crime prevention and combat;

d/ Chiefs of mobile police units at the company or higher level, heads of border-gate public security stations;

e/ Directors of district-level forest protection offices, heads of mobile forest protection teams;

f/ Directors of district-level Customs Departments, heads of control teams of provincial-level Customs Department, heads of anti-smuggling control teams, and captains of marine control flotillas of the Anti-Smuggling Investigation Department of the General Department of Custom;

g/ Heads of market management teams;

h/ Commanders of border-guard sub-zones, commanders of port border guards, commanders of border-guard fleets, commanders of border-guard flotillas, heads of border-guard stations and heads of border-guard units stationed in border areas and islands;

i/ Captains of marine police flotillas, captains of marine police fleets, commanders of marine police zones;

j/ Persons in command of aircraft, shipmasters and trainmasters in case aircraft, ships or trains have departed from airports, seaports or railway stations;

k/ Judges chairing court hearings.

2. Persons competent to hold persons in temporary custody specified at Points a thru i, Clause 1 of this Article may empower their deputies. The empowerment shall be made only when heads are absent and expressed in writing, clearly stating the scope, contents and duration of empowerment. Empowered deputies shall take responsibility for their decisions before their heads and law. Empowered persons may not further empower or authorize any other persons.

#### **Article 124. Escorted transfer of violators**

1. Violators who fail to voluntarily abide by requests of competent persons shall be transferred with escorts in the following cases:

a/ They are held in temporary custody according to administrative procedures;

b/ They are transferred back to reformatories, compulsory education institutions or compulsory detoxification establishments in accordance with Clause 2, Article 132 of this Law.

2. Competent persons who are on duty shall organize the escorted transfer of violators.

3. The Government shall specify the escorted transfer of violators.

#### **Article 125. Temporary seizure of material evidences, means, licenses or practice certificates according to administrative procedures**

1. The temporary seizure of material evidences, means, licenses or practice certificates according to administrative procedures must be applied only in the following cases of particular necessity:

a/ For verifying circumstances to have grounds for issuing sanctioning decisions. In case of temporary seizure of administrative violation material evidences for valuation to have as a basis for determination of the fine frame or sanctioning competence, Clause 3, Article 60 of this Law applies;

b/ For immediately stopping administrative violations which might cause serious consequences to the society;

c/ For assuring the execution of sanctioning decisions in accordance with Clause 6 of this Article.

2. The temporary seizure of material evidences and means specified in Clause 1 of this Article must be terminated immediately after circumstances serving as grounds for issuing sanctioning decisions are verified, violations are no longer dangerous to the society or sanctioning decisions are executed.

In case fines are allowed to be paid in installments in accordance with Article 79 of this Law, after the first installment of fine payment, violators may receive back temporarily seized material evidences and means.

3. Persons competent to apply the sanction of confiscation of administrative violation material evidences and means specified in Chapter II, Part Two of this Law are also competent to temporarily seize material evidences and means used for commission of administrative violations.

4. When there is a ground to believe that if temporary seizure is not promptly applied, administrative violation material evidences and means may be dispersed or destroyed, direct superiors of people's police officers, marine police officers, border guard soldiers, forest protection officers, customs officers or market controllers who are on duty shall promptly seize administrative violation material evidences and means. Within 24 hours after making written records of violations, record makers shall report to their heads who are competent to temporarily seize administrative violation material evidences and means specified in Clause 1 of this Article for consideration and issuance of temporary seizure decisions. For material evidences being perishable goods, persons who temporarily seize them shall promptly report to their direct superiors for handling and pay compensations in accordance with law in case these goods decay or are lost. In case no decision on temporary seizure is issued, temporarily seized material evidences and means must be immediately returned to their owners.

5. Persons issuing decisions on temporary seizure of administrative violation material evidences and means shall preserve such material evidences and means. In case temporarily seized material evidences and means are lost, sold, exchanged or damaged or partially lost or replaced, persons issuing decisions of temporary seizure thereof shall pay compensations and be handled in accordance with law.

In case temporarily seized material evidences and means must be sealed, the sealing must be carried out in the presence of violators. If violators are absent, the sealing must be carried out in the presence of representatives of families, organizations and local administrations and witnesses.

The temporary seizure of administrative violation material evidences and means must have written decisions enclosed with written records of temporary seizure and shall be handed to individual violators or representatives of institutional violators, one copy each.

6. In case only the sanction of fine is imposed on individual or institutional administrative violators, persons with sanctioning competence may temporarily seize

any of the following papers in the following order: driver's license or vehicle circulation permit or another necessary paper related to the material evidences and means, pending the complete execution of sanctioning decisions. If individual or institutional violators have none of the above papers, persons with sanctioning competence may temporarily seize administrative violation material evidences and means, except in the case specified in Clause 10 of this Article.

7. Individual or institutional administrative violators that are subject to the sanction of deprivation of the right to use licenses or practice certificates may have their licenses or practice certificates temporarily seized to assure the execution of sanctioning decisions. The temporary seizure of licenses or practice certificates pending the issuance of decisions does not affect the right of such individuals or organizations to use these licenses or practice certificates.

8. The time limit for of temporary seizure of administrative violation material evidences, means, licenses or practice certificates is 7 days, counting from the first date of temporary seizure. This time limit may be prolonged for cases involving complicated circumstances which require verification, but must not exceed 30 days, counting from the first date of temporary seizure of material evidences, licenses or practice certificates.

For cases specified in the second paragraph, Clause 1, Article 66 of this Law in which more verification time is needed, competent persons who are handling the cases shall report such in writing to their heads to ask for prolongation of the duration of temporary seizure. The prolongation must be decided in writing and must not exceed 30 days.

The time limit for temporary seizure of administrative violation material evidences, means, licenses or practice certificates is counted from the time when such administrative violation material evidences, means, licenses or practice certificates are physically seized.

The time limit for temporary seizure of administrative violation material evidences, means, licenses or practice certificates must not exceed the time limit for issuance of decisions on sanctioning administrative violations specified in Article 66 of this Law, except the case specified at Point c, Clause 1 of this Article.

9. All cases of temporary seizure of material evidences, means, licenses or practice certificates must be recorded in writing. A written record of temporary seizure must clearly state the names, quantities, categories and state of temporarily seized material evidences and means and bear the signatures of the person issuing the decision on temporary seizure and of the violator. In case the violator is unidentifiable or absent or refuses to sign, there must be signatures of two witnesses. A written record must be made in two copies, one to be kept by the person competent to conduct temporary seizure and another to be kept by the violator.

10. For means of transport involved in administrative violators and subject to temporary seizure to assure the execution of sanctioning decisions, individual or institutional violators that have clear addresses and warehousing conditions for

preservation of these means of transport or deposit a bail may keep these means of transport under the management by competent state agencies.

The Government shall detail this Clause.

**Article 126. Handling of material evidences, means, licenses or practice certificates temporarily seized according to administrative procedures**

1. Persons issuing decisions on temporary seizure shall handle temporarily seized material evidences, means, licenses or practice certificates by methods stated in sanctioning decisions or return them to individual or institutional violators in case the sanction of confiscation of temporarily seized material evidences and means or deprivation of the right to use licenses or practice certificates is not applied.

Temporarily seized material evidences and means which are illegally appropriated or used for commission of administrative violations subject to confiscation must be returned to their lawful owners, managers or users. In this case, individual or institutional violators shall pay a sum of money equal to the value of violation material evidences and means into the state budget.

In case owners, managers or users intentionally let violators use administrative violation material evidences and means in accordance with Article 26 of this Law, such material evidences and means shall be forfeited into the state budget.

2. Material evidences, means, licenses or practice certificates temporarily seized to assure the execution of sanctioning decisions in accordance with Clause 6, Article 125 of this Law shall be returned to sanctioned violators immediately after they completely execute sanctioning decisions.

3. For administrative violation material evidences and means which are perishable goods or articles, persons issuing decisions on temporary seizure shall organize the sale thereof at market prices and make written records of the sale. Proceeds from the sale shall be deposited in the custody account opened at the State Treasury. If such material evidences are subsequently confiscated under decisions of competent persons, proceeds from the sale shall be remitted into the state budget. In case such material evidences are not confiscated, proceeds from the sale shall be refunded to their lawful owners, managers or users.

4. Upon the expiration of the duration of temporary seizure, if violators do not come to claim administrative violation material evidences and means without any plausible reason or if violators are unidentifiable, persons issuing decisions on temporary seizure shall make announcements on the mass media and post up notices at offices of persons competent to conduct temporary seizure. Within 30 days after making an announcement or posting up a notice, if the violator does not come to claim, the competent person shall issue a decision to confiscate administrative violation material evidences and means for handling in accordance with Article 82 of this Law.

5. For administrative violation material evidences and means being goods or articles harmful to human health, domestic animals, plants or the environment, or

harmful cultural products, destruction shall be conducted in accordance with Article 33 of this Law.

6. Narcotics and objects banned from circulation must be confiscated or destroyed in accordance with Articles 33 and 82 of this Law.

7. Persons who have administrative violation material evidences and means temporarily seized shall pay warehousing expenses, wharfage and charge for preservation of material evidences and means and other expenses for the temporary seizure in accordance with Clause 8, Article 125 of this Law.

No warehousing expenses, wharfage and preservation charge shall be collected for temporarily seized material evidences and means if their owners are not at fault in administrative violations or the measure of confiscation of material evidences and means is applied.

The Government shall detail charge rates for temporary seizure of material evidences and means specified in Article 125 of this Law.

#### **Article 127. Search of persons according to administrative procedures**

1. The search of persons according to administrative procedures may only be conducted when there is a ground to believe that these persons hide in their bodies objects, documents or means used for commission of administrative violations.

2. Persons specified in Clause 1, Article 123 of this Law may decide on search of persons according to administrative procedures.

In case there is a ground to believe that unless search is promptly conducted, objects, documents or means used for commission of administrative violations may be dispersed or destroyed, in addition to the persons specified in Clause 1, Article 123 of this Law, people's police officers, marine police officers, border guard soldiers, forest protection officers, customs officers or market controllers who are on duty may search persons according to administrative procedures and shall promptly report the search in writing to their heads who are specified in Clause 1, Article 123 of this Law, and shall take responsibility before law for the search of persons.

3. The search of persons shall be conducted under written search warrants, except the case of necessity to immediately conduct the search specified in the second paragraph, Clause 2 of this Article.

4. Before conducting the search of persons, searching persons shall notify to be-searched persons of search warrants. In a search, male persons shall be searched by male persons, female by female and in the presence of witnesses of the same gender.

5. All cases of search of persons must be recorded in writing. A copy of the warrant and written record of search of a person must be handed to the searched person.

#### **Article 128. Search of means of transport and objects according to administrative procedures**

1. The search of means of transport and objects according to administrative procedures may only be conducted when there is a ground to believe that administrative violation material evidences are hidden in such means of transport and objects.

2. Persons specified in Clause 1, Article 123 of this Law may search means of transport and objects according to administrative procedures.

3. In case there is a ground to believe that unless search is promptly conducted, administrative violation material evidences may be dispersed or destroyed, in addition to the persons specified in Clause 2 of this Article, people's police officers, marine police officers, border guard soldiers, forest protection officers, tax officers, customs officers or market controllers and inspectors who are on duty may search means of transport and objects according to administrative procedures and shall promptly report the search to their heads and take responsibility for the search.

4. The search of means of transport and objects shall be conducted under written search warrants, except the case specified in Clause 3 of this Article.

The search of a means of transport or an object shall be conducted in the presence of its owner or the driver of such means of transport and one witness. In case the owner of means of transport or object or driver of means of transport is absent, there must be 2 witnesses.

5. All cases of search of means of transport and objects must be recorded in writing. A copy of the warrant and written record of the search of a means of transport or an object must be handed to its owner or the driver of the means of transport.

#### **Article 129. Search of places where administrative violation material evidences and means are hidden**

1. The search of places where administrative violation material evidences and means are hidden may only be conducted when there is a ground to believe that administrative violation material evidences are hidden in such places.

2. Persons specified in Clause 1, Article 123 of this Law may decide on search of places where administrative violation material evidences and means are hidden. In case administrative violation material evidences and means are hidden at places of residence, these persons shall request chairpersons of district-level People's Committees to consider and decide on the search.

3. The search of a place where administrative violation material evidences and means are hidden shall be conducted in the presence of its owner or his/her family's adult member(s) and a witness. In case the owner of the searched place and his/her family's adult member(s) are absent and the search cannot be delayed, there must be a representative of the local administrative and 2 witnesses.

4. The search of places where administrative violation material evidences and means are hidden must not be conducted at nighttime, unless it is conducted in the case of emergency or is in progress and the reason for it to be conducted is stated in the written record.



5. All cases of search of places where administrative violation material evidences and means are hidden must be conducted under written search warrants and recorded in writing. A copy of the warrant and written record of the search of a place where administrative violation material evidences and means are hidden must be handed to its owner.

**Article 130. Management of foreigners violating the Vietnamese law pending the completion of expulsion procedures**

1. The management of foreigners violating the Vietnamese law pending the completion of expulsion procedures shall be organized when there is a ground to believe that unless this measure is applied, such foreigners may shirk or obstruct the execution of expulsion decisions or to prevent these persons from relapsing into violations.

2. Heads of immigration management agencies or directors of provincial-level Police Departments that have made dossiers of request for expulsion shall issue decisions on management of foreign violators pending the completion of expulsion procedures by any of the following methods:

a/ Restricting the movement of managed persons;

b/ Designating compulsory places of dwelling for managed persons;

c/ Temporarily seizing passports or other personal identity papers in substitution for passports of managed persons.

3. The Government shall detail this Article.

**Article 131. Consignment of persons requested to be subject to administrative handling measures to their families or organizations for management pending the completion of procedures for application of such measures**

1. Pending the completion of the procedures for considering and deciding on the application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment, chairpersons of commune-level People's Committees that have made dossiers of request shall decide to consign violators subject to such measure to their families or social organizations for management.

2. Violators who have stable places of residence may be consigned to their families for management. Those who have no stable places of residence shall be consigned to social organizations for management.

3. The duration of management shall be counted from the time of making dossiers to the time when competent persons apply administrative handling measures against violators under court rulings.

4. A decision to consign a violator to his/her family or a social organization for management must clearly state the date of issuance; full name and position of the issuer; full name, date of birth and place of residence of the person or name and address of the

social organization assigned to manage the consigned person; full name, date of birth and place of residence of the managed person; reason for and duration of management and responsibilities of the managed person, the managing person or organization and the commune-level People's Committee of the locality where the managed person resides; and signature of the person deciding on the consignment. Such decision shall be promptly sent to the person to be managed and the family or social organization undertaking to manage him/her.

5. In the duration of management, families or social organizations assigned to manage violators shall:

a/ Prevent managed persons from relapsing into violations;

b/ Assure that managed persons are present when decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment are issued;

c/ Promptly report to chairpersons of commune-level People's Committees that have issued decisions to consign persons for management in case the managed persons abscond or commit violations.

6. In the duration of management, managed persons shall:

a/ Strictly abide by the regulations on temporary residence and temporary absence; and, when leaving their communes, wards or townships for stay in other localities, notify their families or social organizations of the address and duration of stay;

b/ Promptly show themselves up at commune-level People's Committees when so requested by chairpersons of commune-level People's Committees.

7. In the duration of management, chairpersons of commune-level People's Committees that manage persons specified in Clause 1 of this Article shall:

a/ Notify managed persons and families or social organizations assigned to manage them of their rights and obligations in the duration of management;

b/ Apply measures to support families or social organizations assigned to manage these persons in managing and supervising them in their places of residence;

c/ When being notified of managed persons' absconding from their places of residence or commission of violations, promptly notify such to district-level police offices for taking timely handling measures prescribed by law.

8. The Government shall detail this Article.

**Article 132. Pursuit of persons obliged to execute decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment in case they abscond**

1. In case persons obliged to execute decisions on consignment to reformatory, compulsory education institution or compulsory detoxification establishment abscond

before being consigned, district-level police offices that have made dossiers shall issue decisions on pursuit of these persons.

2. In case persons who are consigned to reformatories, compulsory education institutions or compulsory detoxification establishments abscond, principals of reformatories or directors of compulsory education institutions or compulsory detoxification establishments shall issue decisions on pursuit of these persons. Police offices shall coordinate with these reformatories, institutions or establishments in pursuing and sending these persons back to their reformatories, institutions or establishments.

3. If persons who are consigned to reformatory or are executing consignment decisions in reformatories as specified in Clause 1 of this Article reach full 18 years of age when they are pursued, principals of reformatories shall request district-level people's courts of localities where reformatories are located to consider and apply the measure of consignment to compulsory education institution if these persons are eligible for consignment to a compulsory education institution.

4. The absconding period is not included in the duration of execution of decisions on application of the measure of consignment to reformatory, compulsory education institution or compulsory detoxification establishment.

## **Part Five**

### **PROVISIONS APPLICABLE TO MINORS COMMITTING ADMINISTRATIVE VIOLATIONS**

#### **Chapter I**

#### **GENERAL PROVISIONS ON HANDLING OF ADMINISTRATIVE VIOLATIONS OF MINORS**

##### **Article 133. Scope of application**

The handling of minors committing administrative violations complies with the provisions of Part Five and other relevant provisions of this Law.

##### **Article 134. Handling principles**

In addition to the principles of handling of administrative violations specified in Article 3 of this Law, the handling of minors must also adhere to the following principles:

1. The handling of minors committing administrative violations may only be conducted in cases of necessity to educate and help them correct their wrongdoings, healthily develop and become citizens useful for the society.

In the course of considering and handling minors committing administrative violations, persons competent to handle administrative violations shall guarantee the best

interests of minors. The measure of consignment to reformatory may be applied only when no other handling measure is deemed more appropriate;

2. The handling of minors committing administrative violations must also be based on the ability of these minors to perceive the danger to the society of their violations and circumstances in which they commit violations before a sanction is decided or an appropriate administrative handling measure is applied;

3. Sanctions to be imposed and sanctioning levels to be decided on minors committing an administrative violation must be lighter than those imposed on adults committing the same administrative violation.

For administrative violators who are between full 14 and under 16 years old, fines must not be imposed.

In case administrative violators who are between full 16 and under 18 years old are imposed fines, the fine level must not exceed half of that applicable to adults. In case they have no money to pay fines or are unable to execute remedial measures, their parents or guardians shall do so on their behalf;

4. In the course of handling minors committing administrative violations, their privacy secrets must be respected and protected;

5. Measures in substitution for administrative violation handling shall be considered for application when the conditions specified in Chapter II of this Part are fully satisfied. The application of measures in substitution for administrative violation handling is not regarded as handling of administrative violations.

### **Article 135. Application of sanctions and remedial measures**

1. Sanctions applicable to minors include:

a/ Caution;

b/ Fine;

c/ Confiscation of administrative violation material evidences and means.

2. Remedial measures applicable to minors include:

a/ Forcible restoration of the original state;

b/ Forcible application of measures to remedy environmental pollution or spreading of epidemics or diseases;

c/ Forcible destruction of goods and articles harmful to human health, domestic animals, plants and the environment, and cultural products with harmful contents;

d/ Forcible refund of illicit profits earned through the commission of administrative violations or money amounts equivalent to the value of administrative violation material evidences or means which have been illegally sold, dispersed or destroyed.

### **Article 136. Application of administrative handling measures**

1. The measure of education in commune, ward or township must be applied to minors committing violations in accordance with Chapter I, Part Three of this Law. Minors subject to the measure of education in commune ward or township shall be managed by their parents or guardians. In case they have no stable places of residence, they shall live in social relief establishments or child care establishments. They may go to school or participate in other learning or vocational programs and community-based programs on life skill counseling and development.

2. The measure of consignment to reformatory is applicable to minors committing violations in accordance with Chapter II, Part Three of this Law.

### **Article 137. Duration upon the expiration of which a minor is regarded as having never been administratively handled**

1. A minor shall be regarded as having never been sanctioned for an administrative violation if he/she, within 6 months after completely executing the sanctioning decision or after the expiration of the statute of limitations for executing an administrative sanctioning decision, does not commit recidivism.

2. If a minor subject to an administrative handling measure, within 1 year after completely executing the handling decision or after the expiration of the statute of limitations for executing a handling decision, does not commit recidivism, he/she will be regarded as having never been subject to such administrative handling measure.

## **Chapter II**

### **MEASURES IN SUBSTITUTION FOR ADMINISTRATIVE VIOLATION HANDLING OF MINORS**

#### **Article 138. Measures in substitution for administrative violation handling**

Measures in substitution for administrative violation handling of minors include:

1. Admonition;
2. Management at home.

#### **Article 139. Admonition**

1. Admonition is a measure in substitution for administrative violation handling to point out violations committed by minors and must be applied to minors committing administrative violations which are subject to administrative sanctioning when the following conditions are fully satisfied:

- a/ Their administrative violations are subject to the sanction of caution;
- b/ Minors have voluntarily reported their violations and shown their sincere repentance for their violations.

2. Pursuant to Clause 1 of this Article, persons with sanctioning competence shall decide on application of the measure of admonition.

Admonition shall be given verbally and on the spot.

#### **Article 140. Management at home**

1. Management at home is a measure in substitution for administrative violation handling applicable to minors specified in Clause 3, Article 90 of this Law when the following conditions are fully satisfied:

a/ Violating minors have voluntarily reported their violations and shown their sincere repentance for their violations;

b/ They have a living environment favorable for the execution of this measure;

c/ Their parents or guardians have sufficient conditions for their management and voluntarily undertake to manage them at home.

2. Pursuant to Clause 1 of this Article, chairpersons of commune-level People's Committees shall decide on application of this measure.

3. The duration of application of this measure is between 3 and 6 months.

4. Within 3 days after a decision on application of the measure of management at home takes effect, the chairperson of the commune-level People's Committee that has issued such decision shall send it to the family of the minor and assign an organization(s) and individual(s) in the locality where the minor resides to collaborate with his/her family in managing him/her and supervise the management.

Minors under management at home may go to school or participate in learning or vocational programs or community-based programs on life skills counseling and development.

5. In the duration of management at home, if minors relapse into violations, competent persons specified in Clause 2 of this Article shall decide to terminate the application of this measure and handle them in accordance with law.

### **Part Six**

#### **IMPLEMENTATION PROVISIONS**

##### **Article 141. Effect**

1. This Law takes effect on July 1, 2013. Particularly, the provisions concerning the application of administrative handling measures under rulings of people's courts take effect on January 1, 2014.

2. Ordinance No. 44/2002/PL-UBTVQH10 on Handling of Administrative Violations, Ordinance No. 31/2007/PL-UBTVQH11 Amending a Number of Articles of the 2002 Ordinance on Handling of Administrative Violations, and Ordinance No.

04/2008/UBTVQH12 Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations cease to be effective on the effective date of this Law, except the provisions concerning the application of the measure of consignment to reformatory, educational institution or medical treatment establishment which continue to be effective through December 31, 2013.

**Article 142. Implementation and detailing guidance**

The Government and Supreme People's Court shall detail and guide the implementation of articles and clauses of this Law as assigned to them.

*This Law was passed on June 20, 2012, by the XIII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 3<sup>rd</sup> session.-*

**Chairman of the National Assembly**

**NGUYEN SINH HUNG**